



## **ANTI-MONEY LAUNDERING POLICY**

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## POLICY AND PROCEDURE

### 1. INTRODUCTION

- 1.1 The Council already has high standards of conduct when ensuring it is not used by third parties for the purposes of money laundering. This policy, however, sets out procedures to be followed to enable the Council to comply with its legal obligations. The policy applies to all employees and members of the Council.
- 1.2 The policy needs to be considered in conjunction with the ***Whistleblowing Policy*** and the ***Anti-Fraud, Corruption and Bribery Strategy***.

### 2. LEGISLATION RELATING TO MONEY LAUNDERING

- 2.1 Requirements of the UK anti-money laundering regime are set out in:
- The Terrorism Act 2000, as amended
  - The Proceeds of Crime Act 2002, as amended
  - **The EU's 5<sup>th</sup> Money Laundering Directive**
- 2.2 Not all of the provisions of the legislation set out above relate to local authorities. Solicitors and accountants employed by local authorities can in certain circumstances, where the services provided amount to a 'regulated activity,' have greater responsibilities than other employees in relation to money laundering activities, and must exercise 'customer due diligence' and 'enhanced due diligence' where the circumstances dictate. It is not intended to go into any detail of these in this policy and guidance, as those persons should have knowledge of their position.

### 3. WHAT IS MONEY LAUNDERING?

- 3.1 When the proceeds of crime are converted into assets which appear to have a legitimate source the "dirty" money is said to be laundered. The criminal has converted the proceeds of crime into either an asset such as a house or business or a legitimate investment or the money has passed through a number of transactions making it very difficult to track.
- 3.2.1 When the Council (i.e. any of its employees or members) is accepting or dealing with money or other assets, therefore, there is a risk that such money or assets could come from a criminal source. In the majority of cases this is unlikely, but everyone should bear in mind that they could contravene the law if they become aware of or suspect

criminal activity/property and continue to be involved in the matter without reporting their concerns.

#### 4. RECOGNISING MONEY LAUNDERING

- 4.1 Possible indicators of money laundering may involve:-
- Cash based businesses which are more likely to be able to add criminal funds to legitimate business takings;
  - Large cash receipts generally;
  - A person who is reluctant to supply evidence of identity or address;
  - Large overpayments of fees or money on account;
  - Cancelled transactions without good reason, requiring a repayment;
  - Requests to forward balances on to third parties;
  - Information received about an individual which may reveal criminality or association with criminality;
  - The use of over complicated financial systems or funds received from third parties;
  - A buyer's or seller's financial profile not "fitting" the transaction they are undertaking;
  - Unexplained use of an out of area solicitor/agent in relation to a property transaction.
- 4.2 This list is not exhaustive but simply gives examples of when employees (or members) should consider whether their suspicions should be aroused.
- 4.3 Such circumstances should suggest to the employee/member that they should be asking themselves questions such as e.g.

*Would I expect this individual to have this amount of cash; why do they wish to pay in cash; why is this person offering to pay more than the going rate for this item/service, etc.*

#### 5. REPORTING

- 5.1 If an employee/member suspects money laundering then they must report their suspicions to the Chief Finance Officer who is the Council's Money Laundering Reporting Officer (MLRO).
- 5.2 They will need to supply as much information as possible to the Chief Finance Officer as to the individual or company etc. concerned, i.e. names, addresses, and previous addresses if relevant, any bank account details if known, evidence of identification, reasons for suspicions. If any other employees/members have been involved with

the transaction the names of these persons should also be passed to the Chief Finance Officer.

- 5.3 In the event that the Chief Finance Officer is not available then any disclosure must be made to the Monitoring Officer or Chief Executive.
- 5.4 No discussion with colleagues should take place regarding disclosure. Disclosures should be kept confidential. It is important to ensure that the person(s) suspected of money laundering is not “tipped-off” regarding the disclosure.
- 5.5 Failure to report a suspected case of money laundering or concealing the same is a criminal offence punishable on summary conviction with up to 6 months imprisonment and/or a fine, or on indictment with up to 5 years imprisonment or a fine or both.

## **6. TIPPING OFF**

- 6.1 Once a disclosure has been made or an individual suspects that a disclosure has been made to the Chief Finance Officer it is an offence for anyone to “tip off” the suspected money launderer. This is because such “tipping off” could prejudice any investigation to be undertaken. Penalties for this criminal offence are up to 6 months imprisonment or a fine or both if the matter is dealt with as a summary offence or up to 5 years prison or a fine or both if dealt with on indictment.
- 6.2 Employees should also be aware that failure to comply with the procedures set out herein may lead to disciplinary action being taken against them.

## **7. AFTER DISCLOSURE**

- 7.1 Employees/members making a disclosure report to the Chief Finance Officer as the Money Laundering Reporting Officer of the Council, will be informed if a report is made to the National Crime Agency (NCA).
- 7.2 NCA is the body responsible for handling investigations and generally dealing with money laundering, as set out in the legislation.

No transactions can be completed where it is believed that money laundering is involved until clearance has been received from NCA, or seven days have elapsed since the disclosure was made to them and no instructions have been received. Employees must always check the position with the Chief Finance Officer before taking any action.

## **8. TERRORISM ACT 2000**

8.1 For the sake of completeness, mention is included of the above Act under which there are similar provisions for anyone becoming aware or suspicious of money laundering activity allied to terrorism to report the same.

### Meaning of Terrorism

8.2 Terrorism is defined as:

- (a) the use or threat of serious violence against a person or persons; or
- (b) serious damage to property; or
- (c) an act which endangers a person's life; or
- (d) the creation of a risk to the health or safety of the public; or
- (e) action designed seriously to interfere with or seriously disrupt an electronic system

in order to influence government; intimidate the public; or to advance a political, religious or ideological cause.

8.3 Terrorist property is money or other assets likely to be used for the purposes of terrorism, proceeds of acts carried out for the purpose of terrorism or, more mundanely, it covers money set aside by terrorists for non-violent purposes e.g. for paying rent.

### Offences under S15-18 of the Act

8.4 The relevant offences in relation to the above are in respect of:-

- (a) fundraising;
- (b) using or possessing terrorist funds; and
- (c) entering into a funding arrangement with a proscribed terrorist organisation.

8.5 There is a need to report any suspicion which arises at work that someone is laundering terrorist money or dealing with it in any of the ways set out above.

8.6 Failure to do so could mean committing an offence under section 18 by becoming concerned in a terrorist arrangement or of concealing it.

### Reporting

8.7 Anyone becoming aware or suspicious of any transactions having potential terrorist connotations should report the matter to the Chief Finance Officer who will in turn report the same to the police. In the absence of the Chief Finance Officer a report should be made to the Monitoring Officer or Chief Executive.

#### Disclosure of Information

8.8 It is an offence to prejudice an investigation by informing anyone of the disclosure or by tampering with evidence. A person found guilty of an offence is liable on summary conviction to imprisonment not exceeding 3 months and/or a fine not exceeding level 5 (currently £5,000), or on indictment to a maximum of 2 years imprisonment or a fine or both.

8.9 Failure to adhere to this policy could result in disciplinary action.