

MONEY LAUNDERING AVOIDANCE POLICY

WHAT IS MONEY LAUNDERING?

1. Money laundering means exchanging money or assets that were obtained criminally for money or other assets that are 'clean'. The clean money or assets don't have an obvious link with any criminal activity. Money laundering also includes money that is used to fund terrorism, however it's obtained.
2. Unfortunately no organisation is safe from the threat of money laundering particularly where it is receiving funds from sources where the identity of the payer is unknown. It is therefore possible that criminals wishing to launder the proceeds of crime will target Councils.
3. In addition, it is possible that the proceeds of crime may be received from individuals or organisations that do not realise that they are committing an offence. It is not a defence for the payer or the recipient to claim that they did not know that they were committing an offence if they should have been aware of the origin of the funds.
4. All staff dealing with the receipt of funds or having contact with the public must therefore be aware of the joint money laundering avoidance policy of both councils. This Policy applies to all employees, agency staff, contractors, consultants, suppliers, and partner organisations with a view to enabling compliance with legal obligations.

WHAT ARE THE MAIN MONEY LAUNDERING OFFENCES?

5. There are three principal offences – concealing, arranging and acquiring.

Concealing is where someone knows or suspects a case of money laundering but conceals or disguises its existence.

Arranging is where someone involves himself or herself in an arrangement to assist in money laundering.

Acquiring is where someone seeks to benefit from money laundering by acquiring, using or processing the property concerned.

6. There are also two 'third party' offences:

- failure to disclose one of the three principal offences and
- 'tipping off'.

Tipping off is where someone informs a person or people who are, or are suspected of being, involved in money laundering, in such a way as to reduce the likelihood of their being investigated, or to prejudice an investigation.

CONSEQUENCES OF FAILING TO SPOT MONEY LAUNDERING

7. In recent years new laws have been passed which shift significantly the burden for identifying money laundering away from government agencies and more towards organisations and their employees. They prescribe potentially very heavy penalties, including imprisonment for those who are convicted of breaking the law.

WHAT ARE THE PENALTIES?

8. Money laundering offences may be tried at a magistrates' court or in the Crown Court, depending on the severity of the suspected offence. Trials at the former can attract fines of up to £5,000, up to six months in prison, or both. In a Crown Court, fines are unlimited, and sentences of up to 14 years imprisonment may be imposed.

LEGISLATION AND REGULATIONS RELATING TO MONEY LAUNDERING

Proceeds of Crime Act 2002

9. **The Proceeds of Crime Act 2002 (POCA)** established the main offences relating to money laundering as:
 - Concealing, disguising, converting, transferring or removing criminal property from England and Wales, or from Scotland, or from Northern Ireland (section 327 of POCA)
 - Becoming concerned in an arrangement in which someone knowingly or suspects the acquisition, retention, use or control of criminal property by or on behalf of another person (section 328 of POCA)
 - Acquiring, using or processing criminal property (section 329 of POCA)
10. Under the Proceeds of Crime Act 2002 you may be guilty of an offence if you help an individual to launder funds from a criminal source. If you know or suspect that the funds may be from a criminal source you must make the appropriate disclosure or you may receive a fine and/or imprisonment for up to 14 years.

The Terrorism Act 2000

11. This Act made it an offence of money laundering to become concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of terrorism, or resulting from acts of terrorism. All individuals and businesses in the UK have an obligation to report knowledge, reasonable grounds for belief or suspicion about the proceeds from, or finance likely to be used for, terrorism or its laundering, where it relates to information that comes to them in the course of their business or employment.

Money Laundering Regulations 2007

12. In December 2007 the Money Laundering Regulations 2007 came into force replacing the Money Laundering Regulations 2003.
13. If a business is covered by the Money Laundering Regulations it must put in place certain controls to prevent it from being used for money laundering. These include:
 - Assessing the risk of your business being used by criminals to launder money
 - Checking the identity of your customers
 - Checking the identity of 'beneficial owners' of corporate bodies and partnerships
 - Monitor your customers business activities and reporting anything suspicious to the National Crime Agency (NCA)
 - Making sure you have the necessary management control systems in place
 - Keeping all documents that relate to financial transactions, the identity of your customers, risk assessment and management procedures and processes
 - Making sure your employees are aware of the regulations and have the necessary training

14. Local Authorities and their staff are subject to the full provisions of the Terrorism Act 2000 and may commit most of the principal offences under the POCA. It is debatable whether the Money Laundering Regulations 2007 directly apply to local authorities but the general view is that they do and, in any event, it is clearly appropriate for Councils to have procedures in place to report and detect money laundering activity. The Money Laundering (Amendment) Regulations 2012 make slight amendments to the 2007 Regulations which have minimal impact on local authorities.

WHAT ARE THE OBLIGATIONS OF THE COUNCILS ?

15. Organisations conducting “relevant business” must:
- Appoint a Money Laundering Reporting Officer (“MLRO”) to receive disclosures from employees of money laundering activity.
 - Implement a procedure to enable the reporting of suspicions of money laundering;
 - Maintain client identification procedures in certain circumstances;
 - Maintain record keeping procedures: and
 - Train staff
16. Both councils have accepted responsibility to ensure that those of their staff who are more likely to be exposed to money laundering are suitably trained.

WHAT ARE THE OBLIGATIONS OF THE EMPLOYEE?

17. Your responsibility as an employee in relation to preventing money laundering is as follows:
- To be alert to where the Council may be targeted by individuals trying to launder the proceeds of crime
 - To ensure that you do not take any form of action (be it written or oral, formal or informal) that may have the effect of alerting anyone dealing with the Council that you have a suspicion that they may be attempting to launder, or have laundered, the proceeds of crime
 - To report any suspicions of money laundering to the Head of Finance and Procurement (in their role of Money Laundering Reporting Officer) using the specified forms (see at end of report) at the earliest possible time.
18. It is not your responsibility to decide whether a suspicious transaction actually constitutes money laundering. If you have any suspicions that a transaction may involve laundering the proceeds of crime, **then you must report it to the MLRO.**

THE MONEY LAUNDERING REPORTING OFFICER

19. The officer nominated to receive disclosures about money laundering activity within both councils is the Head of Finance and Procurement who can be contacted as follows:

Cherwell District Council:

Paul Sutton
Cherwell District Council
Bodicote House
Bodicote
Oxfordshire OX16 4AA

South Northants Council:

Paul Sutton
South Northants Council
Springfields
Towcester
Northants NN12 6AE

Email: paul.sutton@cherwellandsouthnorthants.gov.uk **Tel:** 0300 0030106

RESPONSIBILITIES OF THE HEAD OF FINANCE AND PROCUREMENT

20. The role of the Head of Finance and Procurement is to formulate and implement this policy. Any potential breaches of, or deviations from this policy should be reported to him as soon as possible.
21. The responsibility for ensuring that both councils comply with the requirements of the Proceeds of Crime Act 2002 rests with the Head of Finance and Procurement. If he/she fails to carry out his/her duty correctly he/she may face a fine and/or imprisonment for up to 14 years.
22. The Head of Finance and Procurement is responsible for the day-to-day administration relating to money laundering avoidance. Reports of suspicious activity will be sent to him/her (or the Corporate Finance Manager, 01295 221735, if he/she is absent or not in post) and he/she will collate the information and prepare the necessary reports for the National Crime Agency (NCA). He/she will also liaise with the NCA in relation to the outcome of disclosures.

REPORTING TO THE MLRO

23. Any suspicious transactions that you may become aware of in the course of your work must be reported to the Head of Finance and Procurement (MLRO) or the Corporate Finance Manager in their absence, as soon as practicable. Failure to make the appropriate report as soon as practicable will be regarded as gross misconduct and may result in your dismissal without notice or pay in lieu of notice. Although you will no doubt be processing personal data it is permissible to disclose such data where failure to do so would hinder the prevention or detection of crime. You will therefore not be breaching the Data Protection Act 1998 as long as you make the report in good faith.
24. Once you have reported a suspicious transaction to the Head of Finance and Procurement or their Deputy, the threat of criminal prosecution and 14 years imprisonment passes from you to him/her. It is therefore in your interests to ensure that you report suspicious transactions as quickly as possible. Reports can be made in person, by phone or by e-mail, though if the latter media is being used, a 'read receipt' should be placed on the e-mail to ensure the MLRO has acknowledged receipt of the report and the e-mail should be highlighted as urgent using the importance button in Outlook.

DEALING WITH INDIVIDUALS WHOM YOU HAVE SUSPICIONS ABOUT

25. It is imperative that if you have a suspicion concerning an individual or organisation with which you are dealing that **you do not alert them to that suspicion**. You must therefore not make them aware that you will be making, or considering making, a disclosure report or that this may be passed to the authorities. "Tipping off" can result in up to five years imprisonment.
26. Once a member of staff has reported the matter to the MRLO he/she must follow any directions given to him/her by the MRLO. He/she must **NOT make any further enquiries into the matter**; any necessary investigation will be undertaken by the NCA.

Consideration of the disclosure by the Money Laundering Reporting Officer.

27. Upon receipt of a disclosure report, the MLRO must note the date of receipt on

his/her section of the report and acknowledge receipt of it. The MLRO will then consider the report and any other available internal information they think is relevant and undertake such other reasonable enquiries that they think are appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA is required.

28. Where the MLRO does conclude that a report to the NCA is appropriate, then he/she must disclose the matter as soon as practicable, using the Suspicious Activity Reports (SAR) reporting function on the NCA website. Only the MLRO or their Deputy can report a SAR on behalf of the Council to the NCA as the Council has a Corporate account with restricted access/passwords known only to the aforementioned Officers. Where consent is required from the NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the NCA. The time limits placed on the NCA consent team are 7 days from the date the SAR was uploaded onto their system. The NCA will respond directly to the MLRO or Deputy with their consent or not for the transaction to proceed.
29. Where the MRLO concludes that there are no reasonable grounds to suspect money laundering then he/she shall mark the report accordingly and give consent for any ongoing or imminent transaction(s) to proceed.
30. All disclosure reports referred to the MLRO and reports made to the NCA must be retained by the MLRO in a confidential file for a minimum of five years.

RECORD KEEPING PROCEDURES

31. Each section of either council conducting relevant business must retain records of:
 - Client identification; and
 - Supporting documents used in all relevant business relationships and/or transactions carried out with/for clients
32. This is so they provide an audit trail and may be used as evidence in any subsequent investigation by the authorities into money laundering.

IDENTIFICATION ISSUES

33. It would be impossible for both councils to identify all of the people with whom they have business dealings. However, it is important for each council to identify individuals and organisations where there may be a higher risk of receiving the proceeds of crime.
34. For such individuals, appropriate identification documents would be a passport or driving licence with a photograph together with correspondence showing the individual's name and postal address. Where the individual does not have an identification document containing a photograph, two forms of documentation should be obtained both containing the individual's name and home address. Suitable documents would include:
 - a) Utility bills;
 - b) Credit card statements;
 - c) Bank statements;
 - d) National Identity cards (will have photograph on them)
 - e) Welfare entitlement letters, and
 - f) HMRC documentation.

35. For companies it is useful to obtain a Companies House Search to identify who the directors are (the Councils' Accountancy team can do this on request). Personal identification should then be obtained for the representatives of the company together with proof of their authority to act on behalf of the company. Care should be taken if it becomes clear that the individual has only recently become a director of the company or if there has been a recent change in the registered office.
36. For any other type of organisation, for example a sole trader or partnership, personal identification should be obtained for the individuals together with documents indicating their relationship to the organisation.
37. Copies of any evidence provided in support of the identification of an individual or organisation should be kept on a central file so that it can be referred to later if necessary.
38. Notices indicating that proof of identity may be required, shall be prominently displayed at appropriate customer access points.
39. If you bank funds where you have a suspicion concerning their origin or the nature of the transaction without getting clearance from the Head of Finance and Procurement you run the risk of a personal fine and/or imprisonment for up to 14 years. This applies whether the funds were received in cash, cheque, banker's draft or building society cheque. An example of this is if a debtor is suddenly able to pay off a long standing and significant debt, whether in cash or otherwise, your suspicions should be alerted.

Cash acceptance policy

40. SNC has adopted a cashless policy where only payment through electronic means or cheques is acceptable and no actual cash is handled on the premises. However on rare occasions it may be necessary to accept cash as payment under exceptional circumstances and the agreement of the Head of Finance and Procurement or the Director of Resources must be sought. CDC continues to accept cash payments.
41. If payment of more than £500, but less than £5,000, is being offered in cash this must not be accepted unless satisfactory proof of the payer's identity has been supplied. Amounts in excess of £5,000 can only be accepted with the express permission of the Head of Finance and Procurement or the Director of Resources.

COMPLAINTS RECEIVED BY THE COUNCILS

42. If either council receives a complaint that criminal activity may be taking place at the business premises and the criminal activity may be generating funds, then that council is in receipt of information that may require disclosing to the NCA.
43. The criminal activity could involve:
 - a) Tax evasion;
 - b) Operating without any appropriate licences;
 - c) Operating without appropriate insurances;
 - d) Employing illegal immigrants or assisting in their trafficking;
 - e) Employing staff who are known to be claiming unemployment benefits;
 - f) Individuals claiming Housing Benefit who are not entitled to it;
 - g) Any form of fraudulent activity;
 - h) Dealing in drugs or other illegal substances;

- i) Dealing in bootleg alcohol and cigarettes;
- j) Dealing in illegal pornographic material, and
- k) Prostitution, protection schemes or counterfeiting.

44. This list is not exhaustive and disclosure must be made of any instances of criminal activity that may result in a financial gain to the Head of Finance and Procurement as soon as possible after you receive the information that arouses suspicion.

INDIVIDUALS

45. Similarly, if a complaint is received about an individual who is a Council Tax payer or is in receipt of Housing Benefit payments then a disclosure should be made to the Head of Finance and Procurement as soon as possible.

ADDITIONAL MATTERS

46. The joint policy is to prevent, wherever possible, both councils and their staff being exposed to money laundering, to identify the potential areas where it may occur and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases.

If you require any additional information or guidance in relation to the contents of this policy and your responsibilities please contact the Head of Finance and Procurement.

47. This policy will be reviewed annually by each Council's Audit Committee.

Sue Smith
Chief Executive
January 2015.