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**Anti-Money Laundering  
Policy and Procedures**

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## **Section A – Anti-Money Laundering Policy**

### **1. Introduction**

- 1.1 In carrying out their functions and responsibilities, Cherwell District Council wishes to promote a culture of openness and fairness and expect all those who work for and with the Council to adopt the highest standards of propriety and accountability.
- 1.2 The purpose of this policy is to clearly state the duty and responsibilities of all Cherwell District Council employees, members and volunteers working for or on behalf of Council in relation to anti-money laundering.
- 1.3 This policy supports the Cherwell District Council Corporate Plan objective for an efficient and effective council.

### **2. Aims**

Through this policy and associated procedures, Cherwell District Council aims to;

- Meet anti-money laundering legal requirements and associated regulations.
- Ensure staff are aware and understand the Anti-Money Laundering legal requirements, offences, background, process and expectations set down in this policy – with appropriate support to ensure that the policy is complied with.
- Ensure the Council has robust, risk-based processes that are effectively and consistently followed, to understand with whom we are dealing and any money laundering risks they may represent.
- Ensure money laundering suspicions are proactively and immediately reported.
- Maintain comprehensive records of anti-money laundering checks and concerns.
- Guard against Cherwell District Council becoming involved in money laundering, thereby ensuring the safeguarding of public money.

### **3. Objectives & Duties**

Not all of the Cherwell District Council's business is "relevant" as set out in legislation, which is aimed primarily at the regulated sector. It applies mainly to the accountancy and audit services carried out by Financial Services and the risk may be at its greatest in regard to certain property transactions. However, all Council employees should have due regard to this policy, particularly those involve in any type of financial transaction. The purpose of the policy to protect both employees and the organisation, and minimise legislation.

In order to achieve the aims of this policy, and to ensure compliance with legislation, Cherwell District Council has established internal processes, procedures and duties to prevent the use of its services for money laundering. These include:

- Clear lines of accountability within the Council for anti-money laundering
- The appointment of a Money Laundering Reporting Officer ("MLRO") to receive disclosures from employees, contractors and Members of suspected money laundering activity.
- A documented process to require the reporting of suspicions of money laundering.
- The establishment and maintenance of client identification requirements in certain circumstances
- The establishment and maintenance of record keeping requirements.
- Communication with all employees, members and volunteers to ensure they are aware of their responsibilities and how to act in ways that protects them from money laundering.
- The training of relevant staff in how to recognise and deal with transactions which may be related to money laundering.

### **4. Policy Scope**

- 4.1 This policy and procedures apply to all council employees, which include contractors and agency staff.
- 4.2 This policy and procedures apply to all elected Councillors, also known as Members.

- 4.3 This policy and procedure also applies to any person volunteering for Cherwell District Council.
- 4.4 This policy does not cover companies which are wholly owned by Cherwell District Council. In these scenarios, separate policies exist which are specifically tailored to those entities.

## **5 Legal Framework**

- 5.1 This policy has been developed in accordance with the principles established by relevant legislation and guidance.
- 5.2 New obligations were imposed by
- The Sanctions and Anti-Money Laundering Act 2018
  - Criminal Finances Act 2017
  - The Proceeds of Crime Act 2002
  - The Terrorism Act
  - The Money Laundering, Terrorist Financing and Transfer of Funds (Information on Payer) Regulations 2017
  - The Money Laundering and Terrorist Financing (Amendment) Regulations 2019
- 5.3 This legislation sets out the definition of money laundering and the range of activities caught by the statutory control framework. In particular, the legislation imposes a duty to report suspicions of money laundering and sets out the criminal sanctions imposed for failure to do so.

## **6 Interaction with other council policies and external documents**

The Policy should be read alongside

- Anti-Bribery, Fraud and Corruption Policy
- Employee Code of conduct
- Member's Code of Conduct
- Whistle Blowing Policy

## **7 Roles & Responsibilities**

- 7.1 All Employees, members and volunteers are responsible for carrying out their duties in a way that prevents money laundering as follows:

- To be alert to where the CDC may be targeted by individuals or businesses trying to launder the proceeds of crime;
- To avoid alerting anyone dealing with CDC that you have a suspicion they may be attempting to launder, or have laundered, the proceeds of crime; and
- To report any suspicions of money laundering to CDC's MLRO using the specified documentation

7.2 It is not your responsibility to decide whether a suspicious transaction actually constitutes money laundering.

7.3 Failure to comply with the procedures set out in this Policy may lead to disciplinary action being taken in accordance with the Council's Disciplinary Policy.

#### 7.4 **The Designated MLRO**

Cherwell District Council has nominated the Section 151 Officer to be the MLRO, and to be responsible for anti-money laundering measures within CDC. This includes responsibility for:

- a) Compliance with legislation and regulatory guidance;
- b) Ensuring compliance with CDC Anti-Money Laundering Policy;
- c) Ensuring relevant staff receive training;
- d) Deciding whether a suspicious activity report requires disclosure to the National Crime Agency ("NCA") and ensuring that all necessary disclosures to the NCA are made as quickly as possible.

7.5 The current MLRO is the Sect 151 Officer.

7.6 In the absence of the MLRO, or in instances where it is suspected that the MLRO themselves are involved in suspicious transactions, concerns should be raised with the Deputy MLRO who will be the Deputy Sect 151 Officer.

7.7 It is the MLRO's (or their deputy) sole responsibility to ensure that CDC is compliant with the relevant legislation and regulatory guidance. No responsibility for this will at any time be delegated to any other Officer

#### **Other Responsible Officers**

##### 7.8 **The Investigations Team Manager**

Responsible for ensuring this policy is up to date and that a system is in place to ensure that managers are informed about their duties in relation to this policy.

##### 7.9 **All Heads of Service**

Must ensure that their employees, members and volunteers comply with the Anti-Money Laundering Policy and Procedures and attend relevant training sessions

#### **7.10 All Line Managers**

Are responsible for ensuring that their contractors, employees, members and volunteers dealing with the receipt of funds or having contact with the public are aware of this policy and given appropriate support and training to fulfil the requirements of this policy.

#### **7.11 Audit & Governance Committee**

To acknowledge and approve the policy as fit for purpose.

### **8 Monitoring & Review**

8.1 The risk to the council of contravening the anti-money laundering legislation will be assessed on a periodic basis, or as required by legislative updates

8.2 The adequacy and effectiveness of the Anti-Money Laundering Policy will be reviewed in light of such assessments.

8.3 This policy will be reviewed every 2 years, with significant revisions subject to the Council's Audit & Governance Committee clearance process.

8.4 A periodic review of compliance will be undertaken as part of the provision of the Internal Audit function, as determined by a strategic risk assessment, and appropriate work plan response.

### **Section B –Definitions**

#### **9 Anti-Money Laundering definition**

9.1 Money laundering describes offences involving the integration of the proceeds of crime, or terrorist funds, into the mainstream economy.

9.2 Such offences are defined under the Proceeds of Crime Act 2002 as the following 'prohibited acts':

- Concealing, disguising, converting, transferring or removing criminal property from the UK
- Becoming involved in an arrangement which an individual knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person
- Acquiring, using or possessing criminal property
- Doing something that might prejudice an investigation e.g. falsifying a document
- Failure to disclose one of the offences listed above, where there are reasonable grounds for knowledge or suspicion

- Tipping off a person(s) who is or is suspected of being involved in money laundering in such a way as to reduce the likelihood of or prejudice an investigation.
- 9.3 The Terrorism Act 2000 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.
- 9.4 Although the term 'money laundering' is generally used to describe the activities of organised crime, for most people it will involve a suspicion that someone they know, or know of, is benefiting financially from dishonest activities. Potentially very heavy penalties (unlimited fines and imprisonment up to fourteen years) can be handed down to those who are convicted of one of the offences above.
- 9.5 Money laundering is the process of channelling 'bad' money into 'good' money in order to hide the fact the money originated from criminal activity. Money laundering often occurs in three steps: first, cash is introduced into the financial system by some means ("placement"), the second involves a financial transaction in order to camouflage the illegal source ("layering"), and the final step entails acquiring wealth generated from the transactions of the illicit funds ("integration").
- 9.6 Most money laundering offences concern far greater sums of money since the greater the sum of money obtained from a criminal activity, the more difficult it is to make it appear to have originated from a legitimate source or transaction.
- 9.7 Whilst the risk to CDC of contravening the legislation is low, it is extremely important that all employees, contractors and Members are familiar with their legal responsibilities: serious criminal sanctions may be imposed for breaches of the legislation. A key requirement is for employees and contractors to promptly report any suspected money laundering activity to the MLRO.

## **Section C – Anti-money laundering procedures - what you need to do**

This section sets out the range of work that supports the implementation of the policy

### **10 Reporting Suspicions of Money Laundering**

- The concept of a 'suspicion' of money laundering features a number of times in the legislation and regulatory guidance but is not defined. The courts have defined it as being beyond mere speculation, being based on some foundation. For a transaction to be suspicious, the exact nature of the criminal offence need not be certain.



- Where you know or suspect that money laundering activity is taking/has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under sections 327 – 329 of the Proceeds of Crime Act 2002 (as amended), you must disclose this as soon as practicable to the MLRO. The disclosure should be within “hours” of the information coming to your attention, not weeks or months later. **SHOULD YOU NOT DO SO, THEN YOU MAY BE LIABLE TO PROSECUTION.**
- Advice for both employee and the MLRO are attached at **Appendix1**. A flow chart illustrating the procedure for reporting money laundering is at **Appendix 2**. The Report to Money Laundering Reporting Officer form is at **Appendix 3**

## 11 Record Keeping Procedures

Each service area conducting relevant business must maintain records of:

- Client identification evidence obtained
- Details of all relevant business transactions carried out for clients for at least five years.
- This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.
- The precise nature of the records is not prescribed by law however they must be capable of providing an audit trail during any subsequent investigation, for example distinguishing the client and the relevant transaction and recording in what form any funds were received or paid. In practice, all areas of OCC will be routinely making records of work carried out for clients in the course of normal business and these should suffice in this regard.

## 12 Guidance for cash payments.

- No payment to CDC should automatically be accepted in cash (including notes, coins or travellers cheques in any currency) if it exceeds £5,000. This does not, however, mean that cash transactions below this value will be valid and legal and should not arise any suspicion. Professional scepticism should remain at all times.
- Employees who collect cash payments are asked to provide the details of any cash transaction over £5,000 to the MLRO so that precautionary checks can be performed.
- CDC, in the normal operation of its services, accepts payments from individuals and organisations. If an employee has no reason to suspect or know that money laundering activity is taking/has taken place and if the money offered is less than £5,000 in cash as payment or part payment for goods/services offered by the Council then there is no need to seek guidance from the MLRO.

- If a member of staff has reasonable grounds to suspect money laundering activities or proceeds of crime, or is simply suspicious, the matter should still be reported to the MLRO. If the money offered is £5,000 or more in cash then payment must not be accepted until guidance has been received from the MLRO even if this means the person has to be asked to wait.
- Any officer involved in a transaction of this kind should ensure that the person provides satisfactory evidence of their identity personally, through a valid passport/photo driving licence plus one other document providing evidence of current address in the form of a bank statement, credit card statement, mortgage or insurance details or a utility bill which is no more than three months old. Where the other party is a company, this can be done through company formation documents or a business rates bill plus online checks.
- Any transactions that involve an offshore company or are one of the following- the transactions are complex or unusually large, unusual pattern of transactions or transactions have no apparent economic or legal purpose, the MLRO must be informed

### 13 Further Information

- Further information can be obtained from the MLRO, the Corporate Fraud Team, and the following sources:
- National Crime Agency (NCA) – <http://www.nationalcrimeagency.gov.uk/>
- CIPFA - <http://www.cipfa.org/members/members-in-practice/anti-money-laundering>
- CCAB - Anti-Money Laundering (Proceeds of Crime and Terrorism) – Guidance for Accountants – [www.ccab.org.uk](http://www.ccab.org.uk) (main site) or [Anti-money laundering guidance for the accountancy document](#)
- The Law Society - Anti-Money Laundering Guidance and Advice - <http://www.lawsociety.org.uk/support-services/risk-compliance/anti-money-laundering/>

## Appendix 1

### Reporting Advice

Your disclosure should be made to the MLRO using the Report to Money Laundering Reporting Officer form at Appendix 3. The report must include as much detail as possible, for example:

- Full details of the people involved (including yourself, if relevant), e.g. name, date of birth, address, company names, directorships, phone numbers, etc.
- Full details of the nature of their/your involvement - If you are concerned that your involvement in the transaction would amount to a prohibited act under sections 327 – 329 of the Act, then your report must include all relevant details, as you will need consent from the NCA, via the MLRO, to take any further part in the transaction - this is the case even if the client gives instructions for the matter to proceed before such consent is given. You should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent e.g. a completion date or court deadline
- The types of money laundering activity involved - if possible, cite the section number(s) under which the report is being made e.g. a principal money laundering offence under section 327 – 329 of the Act, or general reporting requirement under section 330 of the Act, or both
- The dates of such activities, including whether the transactions have happened, are on-going or are imminent
- Where they took place
- How they were undertaken
- The (likely) amount of money/assets involved
- Why, exactly, you are suspicious.

The MLRO will require full reasons along with any other available information to enable them to make a sound judgement as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable them to prepare a report to the NCA, where appropriate. You should also enclose copies of any relevant supporting documentation.

Once you have reported the matter to the MLRO you must follow any directions they may give you. You must NOT make any further enquiries into the matter yourself; any necessary investigation will be undertaken by the NCA. Simply report your suspicions to the MLRO who will refer the matter on to the NCA if appropriate. All employees and contractors will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

At no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering, even if the NCA has

given consent to a particular transaction proceeding, without the specific consent of the MLRO; **otherwise you may commit a criminal offence of “tipping off”**.

Do not make any reference on a client file to a report having been made to the MLRO – should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

### **Consideration of the Disclosure by the MLRO**

Upon receipt of a disclosure report, the MLRO must note the date of receipt on his section of the report and acknowledge receipt of it. They should also advise you of the time-scale within which they expects to respond to you.

The MLRO will consider the report and any other available internal information they think relevant e.g.:

- Reviewing other transaction patterns and volumes;
- The length of any business relationship involved;
- The number of any one-off transactions and linked one-off transactions;
- Any identification evidence held.

The MLRO will undertake such other reasonable inquiries they think appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved).

The MLRO may also need to discuss the report with you.

Once the MLRO has evaluated the disclosure report and any other relevant information, they must make a timely determination as to whether:

- There is actual or suspected money laundering taking place; or
- There are reasonable grounds to know or suspect that is the case; and
- Whether they needs to seek consent from the NCA for a particular transaction to proceed.

Where the MLRO does so conclude, then they must disclose the matter as soon as practicable to the NCA on their standard report form and in the prescribed manner, unless they has a reasonable excuse for non-disclosure to the NCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).

Where the MLRO suspects money laundering but has a reasonable excuse for nondisclosure, then they must note the report accordingly; they can then immediately give their consent for any ongoing or imminent transactions to proceed.

In cases where legal professional privilege may apply, the MLRO must liaise with the legal adviser to decide whether there is a reasonable excuse for not reporting the matter to the NCA.

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.

Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then they shall mark the report accordingly and give their consent for any ongoing or imminent transaction(s) to proceed.

All disclosure reports referred to the MLRO and reports made by them to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.

The MLRO commits a criminal offence if they know or suspect, or has reasonable grounds to do so, through a disclosure being made to them, that another person is engaged in money laundering and they does not disclose this as soon as practicable to the NCA.

**Further information on how to make a report to the NCA is available from <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/economic-crime/ukfiu/how-to-report-sars>**

### **Client Identification Procedures**

It would be impossible for CDC to identify all of the people with whom it has business dealings. However, it is important for CDC to identify individuals and organisations where there may be a higher risk of receiving the proceeds of crime. For example, where CDC:

- Forms an ongoing business relationship with an individual/business; or
- Undertakes a one-off transaction involving payment by or to the individual/business of approximately £10,000 or more; or
- Undertakes a series of linked one-off transactions involving total payment by or to the individual/business of £10,000 or more; or
- It is known or suspected that a one-off transaction (or a series of them) involves money laundering.

In the above circumstances, staff must obtain satisfactory evidence of the identity of the prospective customer/business prior to any relationship being entered into.

- In all matters, a risk based approach should be taken. If you are unsure of the evidence required advice can be sought from the Council's Corporate Fraud Investigation Team.

For individuals, appropriate identification documents would be an original current passport or driving licence with a photograph together with correspondence from a recognised government department or utility provider showing the individual's name and postal address and which is no more than three months old. ID Scanners can be used to validate any identification documents that are presented. Scanners are located in Bodicote House Customer Service Centre Reception.

For businesses, personal identification should be obtained for the representatives of the business together with proof of their authority to act on behalf of the business. In addition:

For companies, checks should be made with a reputable online source to confirm:

- That the company is trading and has a legitimate trading purpose;
- Who the company directors are;
- Who the company shareholders are;
- Who ultimately owns or controls more than 25% of the shares or voting rights; and
- Who otherwise exercises control over the management of the company.

For charities, a check should be made with the Charities Commission to:

- Check the charity is registered with the Charities Commission;
- Check the correspondence address;
- Check the identity of any signatories; and
- Verify the purpose of the charity and its address (if different from the correspondence address).

For partnerships or unincorporated businesses confirm:

- The name of the partnership or trading name;
- The registered address, if any;
- The trading address;
- The nature of business

For Local Authorities or Government agencies:

- Full name of the entity;
- Nature and status of the entity;
- Address of the entity;
- Name of the home state authority; and
- Name of the directors or equivalent.

For any other organisation, contact the MLRO to establish which checks should be carried out.

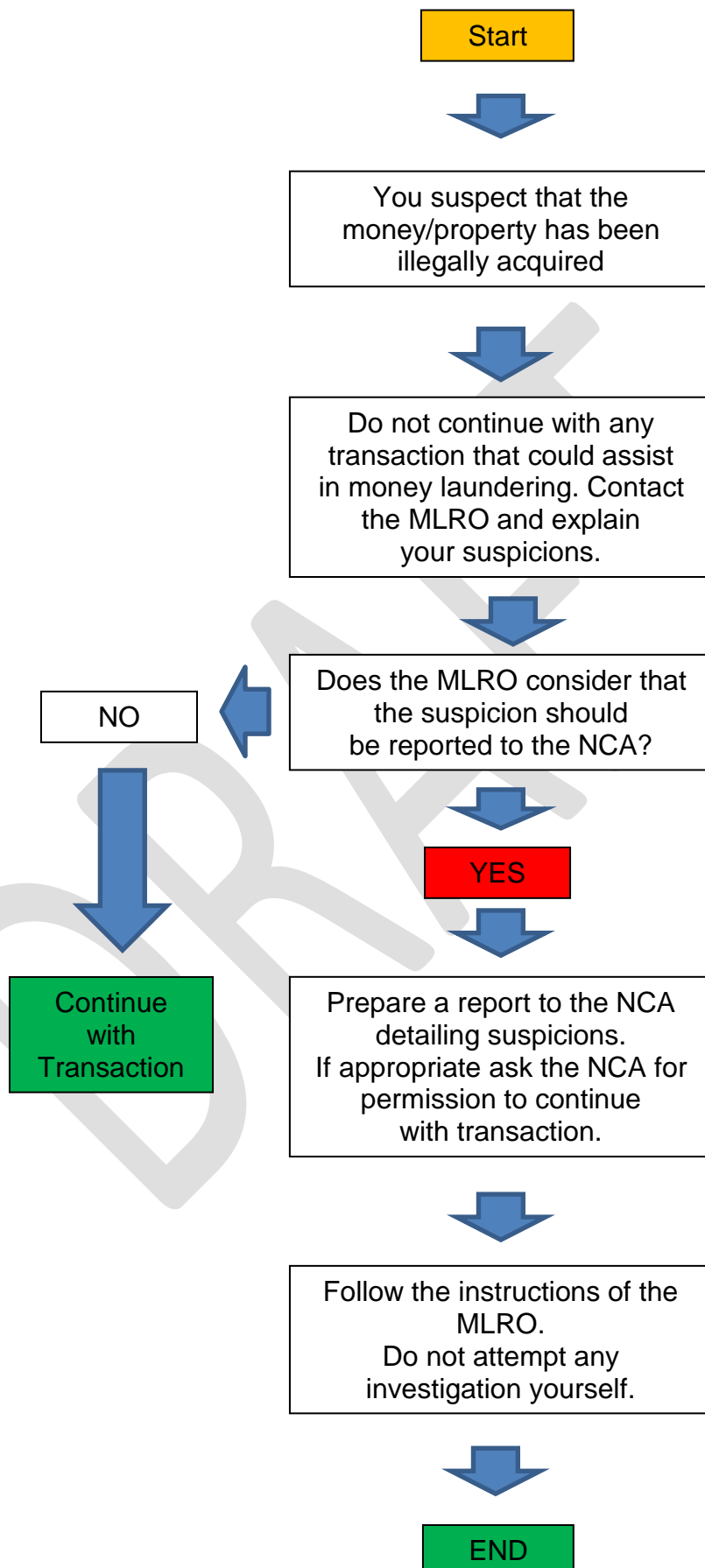
- The above circumstances, employees or contractors in the relevant service area of CDC must obtain satisfactory evidence of the identity of the prospective client, as soon as practicable after instructions are received (unless evidence of the client has already been obtained). This applies to existing clients, as well as new ones.

If satisfactory evidence of identity is not obtained at the outset of the matter then the business relationship or one off transaction cannot proceed any further.

**In all cases, the evidence should be retained for at least five years from the end of the business relationship or one-off transaction(s).**

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## Appendix 2 –





## Appendix 3

**STRICTLY CONFIDENTIAL – To be shared with the MLRO only**

**Do not save a copy of this form on any database or client file**

<b>Report to Money Laundering Reporting Officer</b>	
Staff Members name	
Title/Department	
Phone	
E Mail	
<b>Details of Suspected Offence</b>	
Names and addresses of the persons involved (if a company the nature of their business).	
Nature, value, timing of activity involved.	
Nature of suspicions regarding such activity.	
Has any investigation been undertaken? (as far as you are aware)	Yes/No Delete as necessary. (If yes further details)
Have you discussed your suspicions with anyone else?	Yes/No Delete as necessary. (If yes further details)
Have you consulted any supervisory body guidance re money laundering? (e.g. the Law Society)	Yes/No Delete as necessary. (If yes further details)
Do you feel you have a reasonable excuse for not disclosing the matter to the NCA?	Yes/No Delete as necessary. (If yes further details)
Signed	
Dated	

<b>For Completion by the MLRO</b>	
Date received	
Date acknowledged	
<b>Outcome of Consideration of Disclosure</b>	
Are there reasonable grounds for suspecting money laundering?	Yes/No  Delete as necessary. (If yes further details)
If there are reasonable grounds for suspicion, will a report be made to NCA?	Yes/No  Delete as necessary.
Confirm date of report to NCA	
Details of liaison with the NCA regarding the report	
Is consent required from the NCA for any ongoing or imminent transactions, which would otherwise be prohibited acts?	Yes/No  Delete as necessary. (If yes further details)
Date consent received from the NCA	
Date consent given by you to employee	
If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to the NCA, please set out reasonable excuse for non-disclosure	
Date given by you to employee for any prohibited act transactions to proceed	
Other relevant information	
Signed	
Dated	