

Anti-Money Laundering Policy and Procedures

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ANTI-MONEY LAUNDERING POLICY

1. Introduction

- 1.1 The risks to the Council of contravening money laundering legislation remain relatively low and some aspects of the legal and regulatory requirements do not apply to public authorities. However, it is recognised that the Council is not completely immune from the risks surrounding money laundering. The purpose of the Anti-Money Laundering Policy is to clearly demonstrate that the Council embraces the underlying principles of money laundering legislation and is taking reasonable steps to minimise the likelihood of such activities occurring, by developing a suitable framework of arrangements to safeguard itself against action of this nature, whilst making satisfactory provisions to achieve compliance to legal and regulatory requirements, where appropriate.
- 1.2 The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (the 2017 Money Laundering Regulations) provide numerous and prescriptive requirements with regards to risk assessments, policies and procedures and customer due diligence checks, amongst other things, all of which are designed to minimise the risk of businesses inadvertently or otherwise becoming involved in money laundering or terrorist financing.
- 1.3 Whilst local authorities are not bound by the requirements of the 2017 Money Laundering Regulations), even when undertaking regulated activities within the meaning of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, it is a prudent and responsible practice for local authorities to comply with the underlying spirit of the legislation and to have in place appropriate and proportionate anti-money laundering safeguards.
- 1.4 Whilst local authorities do not strictly fall within the scope of the 2017 Money Laundering Regulations, they are bound by the Proceeds of Crime Act 2002(as amended) and the Terrorism Act 2006, both of which place a number of duties and responsibilities on local authorities and employees and members of the same, in order that they do not find themselves subject to criminal prosecution.
- 1.5 Lancaster City Council is committed to the highest possible standards of conduct and has, therefore, put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements. This policy seeks to address both the underlying spirit of the 2017 regulations whilst ensuring

responsibilities under the Proceeds of Crime Act 2002 and Terrorism Act 2006 are clear.

2 Scope of the Policy

- 2.1 This Policy applies to all employees whether permanent or temporary, and Members of the Council. Its aims to prevent criminal activity through money laundering and to enable employees and Members to respond to a concern that they have in the course of their dealings for the Council. It is extremely important that all members and employees are familiar with their legal responsibilities and are vigilant at all times. Serious criminal sanctions may be imposed for breaches of the legislation. The key requirement on employees is to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer (MLRO).
- 2.2 Failure by any employee to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary Policy and Procedure.

3. Definition of Money Laundering

- 3.1 Money laundering is a term designed to cover a number of offences. These offences relate to the improper handling of funds that are the proceeds of criminal acts, or terrorist acts, so that they appear to come from a legitimate source. It relates to both the activities of organised crime but also to those who benefit financially from dishonest activities such as receiving stolen goods. The Proceeds of Crime act 2002(as amended), creates a range of criminal offences arising from dealing with proceeds of crime. The four main offences that may be committed under money laundering legislation are:

- Concealing, disguising, converting, transferring or removing criminal property from anywhere within the UK.
- Entering into or becoming concerned in an arrangement which a person 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*.
- Entering into or being concerned in an arrangement which facilitates the retention or control by, or on behalf of, another person of terrorist property** by concealment, removal, transfer or in any other way.

It is also an offence to attempt, conspire or incite to commit any of the above offences and to aid, abet, consul or procure them commission of any of the above offences.

*Criminal property is something which constitutes a person's benefit from criminal conduct or represents such benefit; it is not limited to money and there is no minimum amount.

**Terrorist Property includes money or other property likely to be used for terrorism, proceeds of terrorist acts, and proceeds of acts carried out for the purposes of terrorism.

There are also two 'third party' offences:

- Failing to disclose information relating to money laundering offences (in respect of both criminal property and terrorist property) where there are reasonable grounds for knowledge or suspicion; and,
- Tipping off or informing someone who is or is suspected of being involved in money laundering activities, in such a way as to reduce the likelihood of or prejudice an investigation.

It is important to note that whilst the disclosure obligations and tipping off offences in relation to criminal property will not always strictly apply to local authorities, all individuals and business' have an obligation to report knowledge, reasonable grounds for belief or suspicion about the proceeds from terrorism, proceeds of acts carried out for the purposes of terrorism or finance likely to be used for terrorism, where that information has come to them in the course of their business or employment.

3.2 Provided the Council does not undertake activities regulated under the Financial Services and Markets Act 2000, the offences of failure to disclose and tipping off do not apply. However, the Council and its employees and Members remain subject to the remainder of the offences and the full provisions of the Terrorism Act 2000(as amended).

3.3 The Money laundering offences cited above carry a prison sentence of up to 14 years. A defence is available if it can be shown that any knowledge or suspicion of money laundering was reported to the National Crime Agency (NCA) and as a result that any resultant transaction was put on hold until consent to proceed was given

4. Requirements of the Money Laundering Legislation

4.1 The main requirements of the legislation are:

- Appoint a Money Laundering Reporting Officer (MLRO)
- 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 relevant staff.

5. The Money Laundering Reporting Officer (MLRO)

- 5.1 The Council's MLRO is the Head of Financial Services (Section 151 Officer), and can be contacted as follows:

Paul Thompson
Head of Financial Services
(Section 151 Officer)
Town Hall, Dalton Square
Lancaster, LA1 1PJ

Telephone 01524 582603
Email: pthompson@lancaster.gov.uk

- 5.2 In the absence of the MLRO, contact the Deputy MLRO.

Andrew Kipling
Principal Accountant
Address as above

Telephone: 01524 582143
Email: akipling@lancaster.gov.uk

6. Customer Due Diligence & Client Identification Procedures

- 6.1 The Council does undertake activities that may be considered under the Money Laundering Regulations, to be regulated, however it does not undertake these activities by way of business, and therefore would not normally be expected to undertake due diligence in respect of any clients to whom it provides these services.
- 6.2 However, it is good practice that wherever the Council does enter into such activities with a third party then due diligence checks should be actioned before the establishment of a relationship/transaction with the third party.
- 6.3 Undertaking customer due diligence checks can take a number of forms. Consideration should be given to taking one or more of the following, where applicable:
- Confirming the identity of the client via documentation, data or information obtained from a reliable and independent source, e.g. passport, and/or position within an organisation, where appropriate.
 - Obtaining confirmation from Companies House as to the registration details of the Company and details of the Company business.
 - Seeking electronic verification, e.g. performing credit checks.
 - Obtaining confirmation to regulated industries bodies (e.g. in the case of accountants, checking to CCAB certified bodies).
 - Requesting copies of financial statements.

- Requesting details of interests and beneficial ownerships – with reference to the latter this is any individual who holds more than 25% of the shares, voting rights or interest in a company, partnership or trust.
 - Obtaining information on the purpose and intended nature of the business relationship.
- 6.4 Examples of other available internal information that may be considered relevant are:
- 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.
- 6.5 Satisfactory evidence of identity of the client/third party must be obtained upon taking instructions or as soon as practicable thereafter.
- 6.6 For inter departmental transactions, documentation must be retained that constitutes evidence that the client identification procedure has been followed. For dealings with external clients, evidence will be in the form of written instructions on the organisation's letterhead at the outset of the matter. If it is a new client then further evidence may be necessary (see examples above). In either case the documentation that constitutes evidence of compliance with the client identification procedure should be clearly marked on the client's records.
- 6.7 Any checks undertaken should remain proportionate to the risks of the individual business and the relationship. Additional checking may need to be performed if the person is not physically present to be identified. Details of such checks should be recorded and retained for a minimum of 6 years.
- 6.8 If satisfactory evidence of identity is not obtained at the outset of the matter, then the business relationship or transaction **CANNOT PROCEED**.
- 6.9 All personal data collected must be kept in compliance with the Data Protection Act.

7. Reporting Procedure for Suspicions of Money Laundering

- 7.1 Where a member of staff knows or suspects that money is being laundered or is concerned about their involvement in such activity, this must be disclosed to the MLRO or Deputy. This disclosure should be within hours of it coming to the attention of the member of staff as opposed to days or weeks later. A member of staff who fails to make such a disclosure may be liable to prosecution.

7.2 The report to the MLRO should be made using the pro-formas which are located on the Councils Intranet. The report must include as much detail as possible including:

- Full details of the people involved
- Full details of the nature of their/your involvement.
- The types of money laundering activity involved
- The dates of such activities
- Whether the transactions have happened, are ongoing or are imminent
- Where they took place
- How they were undertaken
- The (likely) amount of money/assets involved
- Why, exactly, you are suspicious.

7.3 Even if you have not reported the matter to the MLRO, if you know or suspect that such a disclosure has been made and you mention it to someone else, this could amount to a tipping off offence. Be very careful what you say and to whom, in these circumstances. Any person found guilty of tipping off or prejudicing an investigation offence is liable to imprisonment (maximum five years), a fine or both.

8. Procedure following the Report of Suspected Money Laundering

8.1 Once a report has been made to the MLRO the member of staff must comply with the following:

- The member of staff will need to follow any directions given by the MLRO or by the NCA. This may include continuing with the transaction in order to avoid raising suspicion that the laundering has been detected.
- The member of staff will cooperate with the MLRO and NCA during any subsequent investigation.
- The Member of staff must not make any further enquiries or investigate the matter themselves, as there may be a danger that the investigation by NCA could be compromised by alerting those engaged in the money laundering.
- The member of staff should not voice any suspicions to persons suspected of money laundering, as this may constitute the criminal offence of "Tipping Off"; and
- The member of staff shall not make any reference on a client file to a report having been made to the MLRO. Under Data Protection legislation a client may exercise their right to see their file and therefore would see any note of the report thereby 'tipping them off'.

9. Consideration of the Disclosure by the Money Laundering Reporting Officer

- 9.1 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. He should also advise you of the timescale within which he expects to respond to you.
- 9.2 The MLRO will consider the report and any other available internal information he thinks relevant, for example:
- 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.
- 9.3 The MLRO will undertake such other reasonable inquiries he thinks 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.
- 9.4 Once the MLRO has evaluated the disclosure report and any other relevant information, he 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 he needs to seek consent from the NCA for a particular transaction to proceed.
- 9.5 Where the MLRO does so conclude, then he must disclose the matter as soon as practicable to the NCA on their standard report form and in the prescribed manner, unless he has a reasonable excuse for non-disclosure to the NCA. Guidance is available at <https://www.nationalcrimeagency.gov.uk>
- 9.6 Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then he must note the report accordingly, he can then immediately give his consent for any ongoing or imminent transactions to proceed.
- 9.7 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.

- 9.8 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then he shall mark the report accordingly and give his consent for any ongoing or imminent transaction(s) to proceed.
- 9.9 All disclosure reports referred to the MLRO and reports made by him to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of six years.
- 9.10 The MLRO commits a criminal offence if he knows or suspects, or has reasonable grounds to do so, through a disclosure being made to him, that another person is engaged in money laundering and he does not disclose this as soon as practicable to the NCA.

9. Training

- 9.1 Officers considered likely to be exposed to suspicious situations, will be made aware of these by their senior officer and provided with appropriate training.
- 9.2 Additionally, all employees and Members will be familiarised with the legal and regulatory requirements relating to money laundering and how they affect both the Council and themselves.
- 9.3 Notwithstanding the paragraphs above, it is the duty of officers and Members to report all suspicious transactions whether they have received their training or not.

10. Conclusion

- 10.1 Given a local authority's legal position with regard to the legislative requirements governing money laundering, the Council believes that this Policy represents a proportionate response to the level of risk it faces of money laundering offences.

11. Review

This policy will be reviewed annually.