



LANCASTER CITY COUNCIL
Promoting City, Coast & Countryside

Anti-Money Laundering Policy

Guidance Notes

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LANCASTER CITY COUNCIL

ANTI MONEY LAUNDERING GUIDANCE NOTES – INITIAL DRAFT

Introduction

1. Historically, legislation seeking to prevent the laundering of the proceeds of criminal activity was aimed at professionals in the financial and investment sector, however it was subsequently recognised that those involved in criminal conduct were able to ‘*clean*’ the proceeds of crime through a wider range of businesses and professional activities.
2. More wide ranging obligations in respect of money laundering were therefore imposed by the Proceeds of Crime Act 2002 (as amended) and the Money Laundering Regulations 2007, which broadened the definition of money laundering and increased the range of activities caught by the statutory control framework. In particular, the duty to report suspicions of money laundering was strengthened and criminal sanctions imposed for failure to do so.
3. As a result, all individuals, including Council employees and elected Members are subject to the legislative controls. This is dealt with in Section 1 of the guidance, entitled “Normal Business Activities”. In addition, the Council may in some areas of activity be required, by law, to establish, maintain and monitor appropriate procedures designed to prevent the use of its services for money laundering. These circumstances and obligations are covered in Section 2, entitled “Regulated Business Activities”. The Council’s commitment to establishing effective arrangements is set out in the Anti-Money Laundering Policy.
4. This document describes the procedures established by the Council, provides practical help in implementing them and more detailed guidance on the legal requirements. All employees and elected Members should be aware of the content.

The Legal Requirements

5. Some parts of the anti-money laundering framework apply, potentially, to all individuals and organisations, whereas other parts only apply to organisations which are in the “regulated sector” or carry out certain “relevant business”.
6. The 2007 Money Laundering Regulations are clear that local authorities are not regulated bodies. The Council’s normal activities do not fall within the definition of the “regulated sector” as it is rare for the Council to provide relevant services to third parties on a commercial footing. Details of the type of “relevant activity” which the Council could potentially undertake, and the procedures required in those circumstances are set out in Section 2 of the guidance.
7. Although the conduct of regulated activity does not apply to the Council as a whole, all employees and elected Members are required to comply with the Council’s Anti-Money Laundering Policy in terms of reporting concerns about money laundering in the course of normal business activity. This will ensure consistency throughout the organisation and avoid offences being committed inadvertently.

Section 1 - Normal Business Activities

Money Laundering Offences

8. The scope of Money Laundering now goes beyond the transformation of the proceeds of crime into apparently legitimate money/assets. It now covers a range of activities regarding the proceeds of crime. These do not necessarily need to involve either money or 'laundering'.
9. Under the Proceeds of Crime Act 2002 (POCA 2002), the primary offences are defined as:
 - concealing, disguising, converting, transferring **criminal property** (see § 15) or removing it from the UK (section 327);
 - 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 (section 328); and
 - acquiring, using or possessing criminal property (unless there was adequate consideration) (section 329). This also includes an attempt, conspiracy or incitement to commit such an offence; or aiding, abetting, counselling or procuring such an offence
10. Any person found guilty of one of the primary offences is liable to imprisonment (maximum 14 years), a fine or both.

Prejudicing an Investigation offence

11. Under section 342 of POCA 2002 you may commit an offence if you know or suspect that an appropriate officer is, or is about to be, conducting a money laundering investigation and you make a disclosure to a third party that is likely to prejudice the investigation.
12. However, defences are available, if for example:
 - you did not know or suspect that the disclosure was likely to be prejudicial; or
 - you are a professional legal adviser and the disclosure was:
 - to a client (or their representative) in connection with the giving of legal advice;
 - to any person in connection with legal proceedings (existing or contemplated); but NOT where the information was given with the intention of furthering a criminal purpose.
13. Any person found guilty of a prejudicing an investigation offence is liable to imprisonment (maximum 5 years), a fine or both.

Terrorist property offence

14. An offence also exists under section 18 of the Terrorism Act 2000, namely becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of **terrorist property** (see § 16).
15. In the above paragraphs, "criminal property" is widely defined: it is property representing a person's benefit from criminal conduct. It includes all property real or personal, including money, and also includes an interest in land or a right in relation to property other than land.
16. "Terrorist property" means money or other property which is likely to be used for the purposes of terrorism, proceeds of the commission of acts of terrorism, and acts carried out for the purposes of terrorism.

17. Under the legislation you are expected to take action on:

- suspicions that you actually have; or
- suspicions that ought to be obvious; or
- suspicions that an honest and reasonable person would have given the circumstances and the information available.

Consequently, if you deliberately ignore the obvious, this will not absolve you of your responsibilities under the legislation.

18. Although you do not need to have actual evidence that money laundering is taking place, mere speculation or gossip is unlikely to be sufficient to give rise to knowledge or suspicion that it is.
19. It is clear the legislation now goes beyond, for example, major drug money laundering operations, terrorism and serious crime to cover the proceeds of potentially any crime, no matter how minor and irrespective of the size of the benefit gained. There is no “de-minimis” level to the scope of the legislation. The case of P v P (8 October 2003) confirmed that *‘an illegally obtained sum of £10 is no less susceptible to the definition of criminal property than a sum of £1million. Parliament clearly intended this to be the case.’*
20. The broad definition of money laundering means that the Act applies to a very wide range of everyday activities within the Council and therefore potentially anybody (including any Council employee or elected Member) could conceivably commit a money laundering offence if they become aware of, or suspect the existence of criminal or terrorist property, and continue to be involved in the matter without reporting their concerns.
21. If you know or suspect, through the course of your work, that anyone is involved in any sort of criminal conduct then it is highly likely, given the wide definition of money laundering, that they are also engaged in money laundering and a report to the MLRO will be required (see §28-30). As explained earlier, the value involved in the offence is irrelevant.
22. The Council has appointed the Internal Audit Manager as its Money Laundering Reporting Officer (MLRO) to receive reports from employees of suspected money laundering activity.

Examples of money laundering activity

23. By way of example, consider the following hypothetical scenario:

‘A Housing Grants Officer is assessing a grant applicant’s finances to calculate how much should be paid towards the cost of improvement works, and then goes on to arrange for a grant to be awarded, in the course of which they become aware of, or suspect the existence of, criminal property.’

24. In this scenario the Housing Grants Officer may commit an offence under section 328 by *‘being concerned in an arrangement’* which they know or suspect *‘facilitates the acquisition, retention, use or control of criminal property’* if they do not report their concerns. Any lawyer involved could also be guilty of an offence if they assist in the transaction.
25. Any person found guilty of a primary money laundering offence is liable to imprisonment (maximum of 14 years), a fine or both; however an offence is not committed if the suspected money laundering activity is reported to the MLRO and, where necessary, official permission obtained to continue in the transaction.

26. Defences are available if, for example, the person:

- makes an 'authorised disclosure' under section 338 of the 2002 Act to the Serious Organised Crime Agency (SOCA) or the MLRO and SOCA give consent to continue with the transaction;
- intended to make such a disclosure but had a reasonable excuse for not doing so;
- was carrying out a function they have relating to the enforcement of the 2002 Act or any other enactment relating to criminal conduct (or benefit from it);
- in relation to POCA section 329, acquired, used or possessed the property for adequate consideration.

[The Law Society Guidance states that in relation to this particular defence "The Crown Prosecution Service guidance for prosecutors states that the defence applies where professional advisers, such as solicitors or accountants, receive money for or on account of costs whether from the client or from another person on the client's behalf. Disbursements are also covered. The fees charged must be reasonable and the defence is not available if the value of the work is significantly less than the money received."]

- in relation to the Terrorist Act, did not know and had no reasonable cause to suspect the arrangement related to terrorist property.

Possible indicators of money laundering

27. It is impossible to give a definitive list of ways in which to spot money laundering or how to decide whether to make a report to the MLRO. The following table gives the types of risk factors which may suggest the possibility of money laundering activity within the normal conduct of Council's activities:

Indicator	Area(s) of Activity	Comments
General		
a) Payment of a substantial sum in cash (over £1,000 in the case of this Council)	Any activity where cash payments are accepted	Cash payments in excess of £1,000 should not be accepted without referral to the MLRO.
b) Overpayments or money paid on account.	Council Tax Business Rates Housing Rents Other Rents Other Debts	Care must be taken, especially with requests for refunds. A significant overpayment (whether by cash or other means), which results in a repayment should be properly investigated and authorised before payment

Indicator	Area(s) of Activity	Comments
c) Where, without reasonable explanation, the size, nature and frequency of transactions is out of line with normal expectations	Council Tax Business Rates	A real threat is, for example a landlord who owns several properties, which were acquired through the proceeds of crime, who attempts to pay Council Tax on those properties in cash by way of several transactions, the aggregate of which exceeds the money laundering limit of €15,000 (currently c£13,900 in March 2009) (this is recognised nationally as a method of attempting to avoid detection)
d) Unusual patterns of transactions which have no apparent economic, efficient or visible lawful purpose		
e) The cancellation or reversal of an earlier transaction (where the person is likely to request the return of previously deposited monies).	Council Tax Business Rates Others??	Where a payment is made using a credit or debit card then any refund must be made to the credit or debit card in question and not, under any circumstances, in any other form because to do so one could unwittingly facilitate the laundering of money
f) Any other activity which is particularly likely by its nature to be related to money laundering or terrorist financing.	Markets Activities involving property visits/inspections	e.g. individuals holding or attempting to transfer/sell stocks of electrical goods

Indicator	Area(s) of Activity	Comments
Property Matters		
a) A cash buyer	Council property sales and purchases	Property transactions are a slightly higher risk for the Council. For example, if the Council agrees to sell a parcel of land to a developer or other third party, at a price that is far in excess of its estimated value, or the buyer offers to pay the full price in cash, then this may be evidence of money laundering activity
b) A sudden change of buyer		
c) Unusual property investment transactions if there is no apparent investment purpose or rationale	Conveyancing	
d) Re property transactions, funds received for deposits or prior to completion from an unexpected source or where instructions are given for settlement funds to be paid to an unexpected destination		
e) No clear explanation as to the source of funds along with lack of clarity as to how the party would be in a position to finance the purchase		
f) Money comes in from an unexpected source		

Your responsibilities and how to act

28. Facts which tend to suggest that something odd is happening may be sufficient for you to reasonably suspect money laundering. You should be on the look out for anything out of the ordinary. If something seems unusual, stop and question it. If you are unsure, seek guidance from the MLRO.
29. In short, the money laundering offences apply to your own actions and to matters in which you become involved. If you become aware that your involvement in a matter may amount to money laundering under the SOCA 2002 Act then you must discuss it with the MLRO and not take any further action until you have received, through the MLRO, the consent of SOCA.
30. Under either circumstance, you may decide or be advised by the MLRO to complete and submit a confidential disclosure report. The prescribed form is attached at Appendix C. If necessary, the MLRO will provide guidance on completing the form.

Consideration of disclosure report by MLRO

31. Where the MLRO receives a disclosure report he will seek to conclude:
 - Whether there is actual/suspected money laundering taking place, or there are reasonable grounds to suspect so; and
 - Whether he can identify the money launderer or the whereabouts of the laundered property; or
 - Whether he might reasonably believe that the information he has will assist in identifying the person/property.
32. If the MLRO reaches a positive conclusion on these points, he must make a report as soon as practicable to SOCA (in the manner prescribed by SOCA), unless there is a reasonable excuse for non-disclosure. Where relevant, the MLRO will also need to request from SOCA appropriate consent to proceed with any acts/transactions which would otherwise amount to prohibited acts under section 327 – 329 of the 2002 Act.
33. The MLRO may receive appropriate consent from SOCA in the following ways:
 - specific consent;
 - no refusal of consent during the notice period (seven working days starting with the first working day after the MLRO makes the disclosure); or
 - refusal of consent during the notice period but the moratorium period has expired (31 days starting with the day on which the MLRO receives notice of refusal of consent).
34. The MLRO may commit a criminal offence under section 331 of the SOCA 2002 Act if, under the circumstances set out in §31-32, he does not disclose the suspected activity as soon as practicable to SOCA.

Relevant guidance

35. When considering any offence under the legislation, the Court will consider whether you have followed any relevant guidance approved by the Treasury, a supervisory authority, or any other appropriate body. These will include, for example, the Law Society, the Financial Services Authority, the Chartered Institute of Public Finance & Accountancy and other such bodies. Such guidance is available for lawyers and accountants by their respective professional bodies.

Section 2 - Regulated Business Activity

Scope and definitions

36. The Money Laundering Regulations 2003 defined the regulated sector by reference to the type of activity undertaken. The details are set out in Appendix A.
37. Under the Money Laundering Regulations 2007 (which superseded the 2003 Regs), regulation is now defined by reference to the profession of relevant individuals and organisations rather than by activity, as follows:
- auditors, insolvency practitioners, external accountants and tax advisers;
 - independent legal professionals;
 - trust or company service providers; however the practical effect is the same.
38. In addition, the 2007 Regs excluded from regulation any organisation “*engaging in a financial activity on an occasional or very limited basis*”. It is therefore likely to be very rare that the Council will engage in any activity which would fall within the regulated sector.
39. On this issue, CIPFA¹ in 2005 concluded that the legislation does not oblige public service organisations to implement the requirements relating to the regulated sector, but go on to advise that:
- “...they should recognise that the size and scope of...activities...is such that few, if any, are likely to be immune from the risks surrounding money laundering...therefore all public service organizations should embrace the underlying principles of the...legislation and regulations”.*
- This view has been recently restated by CIPFA and is expected to be confirmed in updated guidance due to be issued in 2009.
40. The Council has recognised that it needs to remain aware of the scope and nature of its activities and any associated risks related to money laundering, and be prepared to implement appropriate systems as necessary.

The remaining paragraphs of this guidance only apply in instances where the Council is operating within the regulated sector or it has otherwise determined that they should apply.

Money Laundering offences in the regulated sector

41. The money laundering offences referred to in Section 1 (§9-22) apply equally to business activity in the regulated sector. In addition, the legislation sets out the following offences which apply **only** to business activity in the regulated sector:
- Failure to disclose
 - “Tipping-off”

Failure to disclose money laundering offences (s330-331, POCA 2002)

42. Failure to disclose offences may be committed where:
- you know or suspect, or have reasonable grounds to do so, that another person is engaged in money laundering;
 - you can identify the money launderer or the whereabouts of the laundered property (or you believe, or it is reasonable to expect you to believe, that the information you have will assist you to identify the person/property); and

¹ “Proceeds of Crime (Anti-Money Laundering) – Practical Guidance for Public Service Organisations Chartered Institute of Public Finance & Accountancy, 2005

- you do not disclose this as soon as is practicable to the MLRO (section 330 of the 2002 Act and section 21A of the 2000 Act).
43. The Council's Anti-Money Laundering Policy makes it clear that all members of staff should report any concerns they may have of money laundering activity, irrespective of their area of work and whether it is regulated business for purposes of the legislation.
 44. If you know or suspect, through the course of your work, that anyone is involved in any sort of criminal conduct then it is highly likely, given the wide definition of money laundering, that the client is also engaged in money laundering and a report to the MLRO will be required. As explained earlier, the value involved in the offence is irrelevant.
 45. There are various defences, for example where you have a reasonable excuse for non-disclosure (e.g. a lawyer may be able to claim legal professional privilege for not disclosing the information) or you did not know or suspect that money was being laundered and had not been provided by the Council with appropriate training. Given the very low risk to the Council of money laundering, this Guidance Note will provide sufficient information for most members of staff, although further guidance may be issued from time to time and targeted training provided to those staff more directly affected by the legislation.
 46. You must still report your concerns, even if you believe someone else has already reported their suspicions of the same money laundering activity. Such disclosures to the MLRO will be protected in that they will not be taken to breach any restriction on the disclosure of information.
 47. If you are in any doubt as to whether or not to file a report with the MLRO then you should err on the side of caution and do so – remember, failure to report may render you liable to prosecution (for which the maximum penalty is an unlimited fine, five years' imprisonment, or both). The MLRO will not refer the matter on to SOCA if there is no need.

Tippling-off offences (s333 POCA 2002)

48. Where you suspect money laundering and report it to the MLRO, it is vital to be very careful what you say to others afterwards. You may commit a further offence of "tippling off" (section 333 of the 2002 Act) if, knowing a disclosure has been made, you then divulge information to others which is likely to prejudice any investigation which might be conducted. For example, a lawyer who reports their suspicions of a money laundering offence by a client to the MLRO, may commit a tipping off offence if they then report their disclosure to that client. However, preliminary enquiries of a client to obtain more information (e.g. confirm their identity, clarify the source of funds) will not amount to tipping off unless you know or suspect that a report has been made.
49. 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.

Organisational requirements

50. There are additional requirements on organisations undertaking regulated business to:
 - implement a procedure to require the reporting of suspicions of money laundering, including the appointment of a Money Laundering Reporting Officer (MLRO) to receive disclosures from their staff of money laundering activity (their own or anyone else's);
 - apply certain customer due diligence procedures where necessary;
 - obtain information on the purpose and nature of certain proposed transactions/business relationships;
 - conduct ongoing monitoring of certain business relationships (including scrutiny of transactions undertaken);

- maintain record keeping and other specified procedures (e.g. internal control, risk assessment and management) on a risk sensitive basis; and
 - regularly train relevant employees.
51. It is clear that in-house lawyers and accountants are not intended to be caught within the regulated sector. However, although those Services are not external/independent advisers to the Council, they may be where they provide services commercially to any external clients. Any such external work is likely, therefore, to bring the Council within the regulated sector.
52. As mentioned earlier, the Money Laundering Regulations 2007 impose specific obligations on those carrying out regulated business, requiring them to:
- obtain sufficient knowledge to ascertain the true identity of clients in certain circumstances, by applying **customer due diligence measures**;
 - know the intended nature of business relationships and undertake ongoing monitoring of them (e.g. scrutiny of transactions for anything unusual);
 - maintain **record keeping procedures** (e.g. for evidence of identity obtained, details of transactions undertaken, for at least 5 years afterwards); and
 - establish and maintain other appropriate and risk-sensitive **policies and procedures** re reporting of concerns, internal control, risk assessment and management, the monitoring and management of compliance with, and the internal communication of, such policies and procedures, in order to prevent activities related to money laundering and terrorist financing.
53. Further explanation of these procedures is given below. Failure to comply with the above requirements is a criminal offence for which you may be liable to imprisonment for up to 2 years, a fine or both. The Court will take in to account whether any relevant guidance was followed.

Only those staff dealing with regulated business, or in specific circumstances as determined by the Council, need comply with these procedures.

Customer due diligence procedure

54. Where the Council is carrying out regulated business (accountancy, tax, audit and certain legal services) and:-
- forms an ongoing business relationship (a business, professional or commercial relationship which is expected to have an element of duration) with a client; or
 - undertakes an occasional transaction (a transaction other than one as part of a business relationship) amounting to 15,000 euro (c£13,900 as at March 2009) or more, whether carried out in a single operation or several linked operations ; or
 - suspects money laundering or terrorist financing (enhanced due diligence procedure will apply in this scenario); or
 - doubts the veracity or adequacy of documents, data or information previously obtained for the purposes of identification or verification;
- then the Customer Due Diligence Procedure (Appendix B) must be followed before any business is undertaken for that client
55. The legislation does allow organisations to vary customer due diligence and monitoring according to the risk of money laundering or terrorist financing which depends on the type of customer, business relationship, product or transaction. This recognises that not all clients present the same risk. The law states that particular care must be taken, and

enhanced due diligence carried out, (e.g. obtaining additional evidence of identity or source of funds to be used in the relationship/transaction) where:-

- the client is not physically present when being identified as it presents a higher risk situation; and
- the client is a '*politically exposed person*' (an individual who at any time in the preceding year has held a prominent public function outside of the UK, and EU or international institution/body, their immediate family members or close associates). This is unlikely to ever be relevant to the Council but the provision must be included in local procedures.

56. Conversely, where there is a low risk of money laundering or terrorist financing, simplified due diligence measures may be applied: under the legislation, there is **no need** to apply customer due diligence measures where the client is a **UK public authority**. Given that the Council is limited in who it can act for/provide services to, and most of these are public authorities or designated public bodies under the Local Authorities Goods and Services Act 1970, most of Legal Services' and Financial Services' clients will be covered by the exemption

Satisfactory evidence of identity

57. Satisfactory evidence is that which:

- is capable of establishing, to the satisfaction of the person receiving it, that the client is who they claim to be; and
- does in fact do so.

58. General guidance on the money laundering legislation suggests that fairly rigorous identification checks should be made. For example, in relation to an organisation, that evidence should be obtained as to the identity of key individuals within the organisation along with evidence of the identity of the business entity and its activity.

59. The Council's Customer Due Diligence Procedure (Appendix B, §8) indicates the type of check to be undertaken in normal circumstances. This procedure should enable us to have confidence in accepting instructions from a known client. The procedure also sets out examples of a wider range of evidence that you may also wish to consider if you are undertaking work for a new client.

Record keeping

60. The Council and contractors working for the Council conducting relevant business must maintain records of:-

- client identification evidence obtained, for 5 years after the end of the transaction or relationship; and
- details of all relevant business transactions carried out for clients for at least 5 years from the completion of the transaction. This is so that they may be used as evidence in any subsequent investigation by the relevant authorities into money laundering.

61. The MLRO must be informed of the existence and location of such records.

Conclusion

62. Given the nature of the Council's activities and who it can provide services for, instances of suspected money laundering are unlikely to arise very often, if at all. Nevertheless, we must be mindful of the legislative requirements, as failure to comply with them may render individuals personally liable to prosecution and could result in the Council's reputation and stewardship role being damaged.
63. For all transactions of land or property, or all large financial transactions (more than Euro 15,000 (fifteen thousand Euros) currently approximately £13,900 (at March 2009) the identity of the client must be checked).
64. **Please take prompt and proper action if you have any suspicions** and feel free to consult the MLRO at any time should you be concerned regarding a matter.

Money Laundering Regulations 2003

Definition of Relevant Business Activities

The Money Laundering Regulations 2003 listed the following as “relevant business” activities when undertaken commercially:

- Providing **accountancy** services to other persons (this does not include other public service organisations);
- Providing advice about the **tax** affairs of other persons;
- Participating in **financial** or real **property** transactions concerning:
 - a) the buying and selling of real property or business entities;
 - b) the managing of client money, securities or other assets;
 - c) the opening or management of bank, savings or securities accounts;
 - d) the organisation of contributions necessary for the creation, operation or management of companies; or
 - e) the creation, operation or management of trusts, companies or similar structures
- The provision to other persons by way of business by a firm ... of any of the [following] services....
 - a) **forming companies** or other legal persons;
 - b) acting, or arranging for another person to act:
 - as a **director** or secretary of a company;
 - as a **partner** of a partnership; or
 - in a similar position in relation to other legal persons;
 - c) providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;
 - d) acting, or arranging for another person to act, as:
 - a trustee of an express trust or similar legal arrangement; or
 - a nominee shareholder for a person other than a company whose securities are listed on a regulated market

Note: This list is provided for information about the type of activity in which the Council might become involved and for which it may decide to implement specific systems to manage money-laundering risks.

Anti-Money Laundering Policy

Customer Due Diligence Procedure

Customer Due Diligence

Introduction

1. Where the Council is carrying out certain 'regulated activities' then extra care needs to be taken to check the identity of the customer or client – this is known as carrying out customer due diligence.
2. Customer due diligence means:
 - identifying the customer and verifying their identity on the basis of documents, data or information obtained from a reliable and independent source;
 - identifying, where there is a beneficial owner who is not the customer, the beneficial owner and taking adequate measures, on a risk-sensitive basis, to verify his identity so that you are satisfied that you know who the beneficial owner is. This includes, in the case of a legal entity, trust or similar legal arrangement, taking steps to understand the ownership and control structure of the entity, trust or arrangement; and
 - obtaining information on the purpose and intended nature of the business relationship.
3. Generally, we will know most of our clients and those through whom they are acting - there is usually no, or very little, doubt as to their identity. Where we do provide regulated business activities, these are normally provided for the Council itself or for clients who are UK public authorities/designated public bodies. In general the Council's activities do not fall under the intended scope of the legislation, and/or are already subject to tight and prescriptive public sector controls. For example:
 - the Council's Treasury Management arrangements are carried out in accordance with CIPFA codes of practice;
 - the majority of the Council's income is received from other public service organisations or government bodies;
 - the Council does not carry out the type of trading activity which would generate a large volume of significant cash income transactions;

When to Apply Customer Due Diligence

4. The Regulations regarding customer due diligence are detailed and complex, but there are some simple questions that will help decide if it is necessary:
 - Is the service a regulated activity? (see §0 of this procedure and §36 of the Guidance)
 - Is the Council charging for the service i.e. is it 'by way of business'?
 - Is the service being provided to a customer other than a UK public authority?
5. If the answer to any of these questions is "no" then there is no need to carry out customer due diligence.

6. If the answer to all these questions is yes then customer due diligence must be carried out before any business is undertaken for that client. If there is uncertainty whether customer due diligence is required then the MLRO should be contacted for advice.

Regulated Activity

7. Regulated activity is defined as the provision 'by way of business' of:
- advice about tax affairs;
 - accounting services;
 - treasury management, investment or other financial services;
 - audit services;
 - legal services;
 - estate agency;
 - services involving the formation, operation or arrangement of a company or trust; or
 - dealing in goods wherever a transaction involves a cash payment of €15,000 (c£13,900 at the time of writing) or more.

Applying Customer Due Diligence

8. Where customer due diligence is required you should ensure the client provides satisfactory evidence of either:
- their personal identity, by means of:
 - a passport/photo driving licence; plus
 - one other document with their name and address e.g., utility bill, mortgage/building society/bank documents, pension/benefits book.
 - their corporate identity, by means of
 - company formation documents; or
 - business rates.
9. In any circumstances where the client cannot be physically identified you should be aware:
- that there is greater potential for money laundering where the client is not physically present when being identified;
 - if satisfactory evidence is not obtained the relationship or transaction should not proceed; and
 - if the client acts or appears to act for another person, reasonable measures must be taken for the purposes of identifying that other person
10. The requirement for customer due diligence applies immediately for new customers and should be applied on a risk sensitive basis for existing customers. Ongoing customer due diligence must also be carried out during the life of a business relationship but should be proportionate to the risk of money laundering and terrorist funding, based on the officer's knowledge of the customer and a regular scrutiny of the transactions involved.
11. If, at any time, it is suspected that a client or customer for whom the Council is currently, or is planning to carry out, a regulated activity is carrying out money laundering or terrorist financing, or has lied about their identity then this must be reported to the MLRO.

Enhanced Customer Due Diligence

12. In certain circumstances, enhanced customer due diligence must be carried out for example where:
 - the customer has not been physically present for identification;
 - the customer is a politically exposed person (an individual who at any time in the preceding year has held a prominent public function outside of the UK, and EU or international institution/body; also their immediate family members or close associates);
 - there is a beneficial owner who is not the customer – a beneficial owner is defined as any individual who holds more than 25% of the shares, voting rights or interest in a company, partnership or trust.
13. Enhanced customer due diligence could include obtaining any additional documentation, data or information that will confirm the customer's identity and/or the source of the funds to be used in the business relationship/transaction. If it is believed that enhanced customer due diligence is required then the MLRO should be consulted prior to carrying it out.
14. Enhanced customer due diligence could involve the following:
 - attending the client at their business address;
 - a search of the telephone directory;
 - asking the key contact officer and/or any individual who exercises control over the management of the body (e.g. the Chief Executive Officer, Managing Director) to provide evidence of their personal identity and position within the organisation.
15. If any such additional evidence is obtained, then copies should be sent to and retained by the MLRO in a central client identification file.

Confirming Identity and Address

16. The following are acceptable forms of identity and proof of an address for an individual:

Identity

- valid passport;
- valid photocard driving licence full or provisional
- a current UK full driving licence old version (not provisional)
- national identity card (non-UK nationals issued by EEA member states and Switzerland)
- evidence of entitlement to a state or local authority funded benefit i.e. housing benefit, council tax benefit, tax credit, pension, educational or other grant
- documents issued by HMRC, such as PAYE coding notice (Not employers documents e.g. P60)
- firearms certificate or shotgun licence

Evidence of address

- current council tax demand letter or statement
- current (within the last 3 months) bank statements or credit card statements issued by a regulated financial sector firm in the UK, EU or JMSLG equivalent jurisdiction (but not those printed off the internet)
- a recent (last available) utility bill i.e. gas, water, electricity or telephone (not mobile 'phone)
- valid photocard driving licence (full or provisional)
- a current UK full driving licence old version (not provisional)
- evidence of entitlement to a state or local authority funded benefit i.e. housing benefit, council tax benefit, tax credit, pension, educational or other grant
- documents issued by HMRC, such as PAYE coding notice (Not employers documents e.g. P60)
- firearms certificate or shotgun licence

CONFIDENTIAL

Report to the Money Laundering Reporting Officer (MLRO)

Alleged Money Laundering Activity

To: Derek Whiteway, Money Laundering Reporting Officer

From:
[insert name of employee]

Service:

Details of suspected offence

Name(s) and address(es) of person(s) involved:
[if a company/public body, please include details of nature of business]

Nature, value and timing of activity involved
[Please included full details, eg what, when, where, how]

Nature of suspicions regarding such activity

[Please continue on a separate sheet if necessary]

Has any investigation been undertaken (as far as you are aware)?

Yes

No

If Yes, please include details below:

Yes

No

Have you discussed your suspicions with anyone else?

If Yes, please specify below, explaining why such discussion was necessary:

Have you consulted any supervisory body guidance re Money Laundering (eg the Law Society)

Yes No

If Yes, please specify below:

Do you feel you have a reasonable excuse for not disclosing the matter to the SOCA? (eg are you a lawyer and wish to claim legal professional privilege?)

Yes No

If Yes, please set out full details below:

Yes No

**Are you involved in a transaction which might be a prohibited act under Sections 327 to 329 of the Act and which requires appropriate consent from the SOCA?
(see paras 8-10 of the Guidance)**

If Yes, please enclose details in the box below:

Please set out below any other information you feel is relevant

Signed:..... **Dated**

Please do not discuss the content of this report with anyone you believe to be involved in the suspected money laundering activity described. To do so may constitute a tipping off offence, which carries a maximum penalty of 5 years imprisonment.

THE FOLLOWING PART OF THIS FORM IS COMPLETION BY THE MLRO

Date Report Received:

.....

Date Receipt of Report Acknowledged:

.....

Consideration of Disclosure:

Action Plan:

Outcome of Consideration of Disclosure

Are there reasonable grounds for suspecting money laundering activity?

If there are reasonable grounds for suspicion, will a report be made to the SOCA?

Yes No

**If Yes, please confirm the date of report to SOCA:
..... and complete the box below:**

Details of liaison with the SOCA regarding the report:

Notice period:to

Moratorium periodto

Is consent required from the SOCA to any ongoing or imminent transactions which would otherwise be prohibited acts?

Yes No

If Yes, please confirm full details in the box below:

Date consent received from SOCA:

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 SOCA, please set out below the reasons(s) for non disclosure:

Date consent given by you to employee for any prohibited act transactions to proceed

Other relevant information:

Signed: Money Laundering Reporting Officer

Dated:

THIS REPORT IS TO BE RETAINED FOR AT LEAST 5 (FIVE) YEARS