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Anti-Money Laundering Policy

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Document Control

Revision History

Version	Revision Date
0.3	December 2018

Document Approvals

This document was endorsed / approved by the following:

Sponsor Approval	Date
Chief Executive / Senior Management Team	
Corporate Governance Committee	
Strategy Group	
Council	

Document Distribution

Distributed to	Date
External / Council-wide	

Introduction

The Proceeds of Crime Act (POCA) 2002 and The Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017, which came into effect on the 26th June 2017, broadened the definition of money laundering and increased the range of activities which impact on certain areas of local authority business and require local authorities to establish internal procedures to prevent use of their services for money laundering.

The Council is subject to the full provisions of the Terrorism Act 2000 and 2006 and may be exposed to most of the principal offences under the POCA, but is not legally obliged to apply the provisions of the Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017. However, as a responsible public body, it should employ policies and procedures which reflect the essence of the UK's anti-terrorist financing and anti-money laundering regimes. Accordingly this Council will do the following: -

- evaluate the prospect of laundered monies being handled by it;
- determine the appropriate safeguards to be put in place;
- ensure every person engaged in a regulated service ¹make themselves aware of their personal and legal responsibilities for money laundering awareness;
- make all its employees aware of their responsibilities under POCA;
- appoint a member of staff to whom any suspicions can be reported, known as the Money Laundering Reporting Officer (MLRO). In this authority this is the Chief Finance Officer with the Deputies being the Principal Accountants in the Accountancy Service.
- Ensure that all services implement this corporate policy and procedures.

Scope of the Policy

This policy and accompanying procedure notes applies to all employees of the Council and aims to maintain the high standard of conduct that currently exists by preventing criminal activity through money laundering. They sit alongside the Council's Anti-Fraud, Bribery and Corruption and the Confidential Reporting Policies.

The Policy along with comprehensive procedures and work instructions must be followed to enable the Council to comply with its obligations.

Failure of an employee to comply with the procedures set out in the Policy may lead to disciplinary action being taken. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary Policy and Procedure.

¹ Regulated service 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 or more.

What is Money Laundering/Money Muling?

Money Laundering is interpreted very widely and includes possessing, or in any way dealing with, or concealing, the proceeds of any crime.

Money Laundering main offences are:-

- **Concealing**, disguising, converting, transferring criminal property or removing it from the UK (section 327 of the 2002 Act);
- **Arranging** - Being concerned in an arrangement which a person knows, or suspects, facilitates (by whatever means) the acquisition, retention, use or control of criminal property by or on behalf of another person (section 328 of the 2002 Act);
- **Acquisition**, use and possession, using or possessing criminal property (section 329 of the 2002 Act);
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- Becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property (section 18 of Part III of the Terrorism Act 2000). Terrorist property is defined as money or other property which is likely to be used for the purposes of terrorism, proceeds of the commission of acts of terrorism and proceeds of acts carried out for the purpose of terrorism (section 14 of Part III of the Terrorism Act 2000).

Other third party offences under POCA 2002 are:-

- Failure to disclose money laundering offences (section 332);
- Tipping off a suspect either directly or indirectly (this 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) (section 333);
- Offences of prejudicing an investigation– for example falsifying a document (section 342).

Potentially any employee could be caught up by the money laundering provisions if they suspect money laundering and either become involved in it in some way and/or do nothing about it. This policy sets out how any concerns should be raised.

Whilst the risk to the Council of contravening the legislation is low, it is extremely important that all employees are familiar with their legal responsibilities as serious criminal sanctions can be imposed for breaches.

Money Muling is a form of Money Laundering, an illegal transfer of money between different payments accounts. This is normally although not solely between different countries. This is all done by what is known as a Money Mule, this is the person who deals in the illegal transfer of money and is often recruited by criminals to receive money into their bank account.

- Money mules are also recruited by criminals to receive money into their bank account, in order to withdraw the money and in most cases wire it overseas, receiving a commission payment in return for the provided services.
- Even if money mules are not involved in the crimes which generate the money (cybercrime, payment and on-line fraud, drugs and human trafficking, etc.), they are acting illegally by laundering the proceeds of crime, helping criminal syndicates move funds easily around the world and remain anonymous.
- If you are caught acting as a money mule, even if done so unwittingly, you can face a prison sentence, fine or community service, and the prospect of never again being able to secure a mortgage or open a bank account

Overview of the Council's Obligations

The Council's obligations mean that they must:

- Appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees of money laundering activity (their own or anyone else's);
- Implement a procedure to enable the reporting of suspicions of money laundering;
- Maintain customer identification procedures in certain circumstances; and
- Maintain record keeping procedures.

The safest way to ensure compliance with the law is to apply them to all areas of work undertaken by the Council – therefore Members and employees are required to comply with reporting procedures.

Customer Due Diligence

In summary, customer due diligence is a requirement introduced by the Regulations, and means that the Council must know its customers and understand their businesses where appropriate. This is so the Council is in a position to know if there is any suspicious activity that should be reported. Clearly it is only by the Council knowing its customers and their business that it can recognise abnormal and possibly suspicious activity.

The obligations imposed on the Council must, of course be brought into effect by individual employees. Employees must therefore be familiar with these obligations.

The 2017 regulations require that the Council identifies its customers and verifies that identity on the basis of documents, data and information obtained from a reliable source.

The Council is also obliged to maintain on-going monitoring of its business relationships which means it must scrutinise transactions throughout the course of the relationship to ensure that the transactions are consistent with the Council's knowledge of the customer and keep the information up to date.

Where the Council is not able to apply the customer due diligence measures set out above it must be aware of any transactions that are carried out and be confident and satisfied with the customer that they are dealing with. If there are any doubts then these needs to be dealt with immediately and the relationship must not continue.

Record Keeping

The information gathered by the Council in pursuance of its customers due diligence and obligations as described above must be kept for a minimum period of five years from either the completion of the transaction or the end of the business relationship. This authority will keep the records for six financial years subject to the completion of the annual audit of the relevant year; this is in line with our Document Retention Policy. This is so that they may be used in evidence in any subsequent investigation by the authority into money laundering.

The Council must maintain records of

- Customer identification evidence obtained; and
- Details of relevant business transactions carried out for customers.

The records will be kept in Accounting Services

The precise nature of the records is not prescribed by law however they must be capable of providing an audit trail during the subsequent investigation for example distinguishing the client and the relevant transaction and recording in what form any funds were received or paid. In practice, the services of the Council will routinely be making records of work carried out for clients in the course of normal business and these should suffice in this regard.

Disclosure Procedure

Where you know or suspect that money laundering activity is taking /has taken place, or you are concerned that your involvement in the matter may amount to a prohibited act under the legislation, you must disclose to the MLRO this suspicion or concern as soon as practicable.

Your disclosure should be made to the MLRO. The report must include as much information as possible, detailed information is available in the Anti-Money Laundering procedure notes and written instructions.

Along with other available information, to enable the MLRO 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 National Crime Agency, where appropriate, you should also enclose copies of any supporting documents.

Once you have reported the matter to the MLRO you must follow any directions that they may give you. You must NOT make any further enquiries into the matter yourself.

Similarly, at no time and under no circumstance should an employee voice any suspicions to a person(s) suspected of money laundering.

No reference should be made on a customer's file of a report having been made to the MLRO - should the customer exercise their right to see the file, then such a note will obviously tip them off to the report having being made.

Consideration of the Disclosure by the Money Laundering Reporting Officer

Upon receipt of a disclosure report the MLRO must make a note of the receipt on their section of the report and acknowledge receipt of it. They should then advise you of the timescale within which they expect to respond to 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 this is the case, and
- Whether they need to seek consent from the National Crime Agency (NCA) for a particular transaction to proceed.

Where the MLRO does conclude there is a case, then they must disclose as soon as practical to NCA on their standard report form and in the prescribed manner, unless they have a reasonable excuse for non-disclosure to NCA.

The MLRO will then follow procedures as set out in the Anti-Money Laundering procedure notes and written instructions.

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

All disclosure reports referred to the MLRO and reports made by them to 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 suspects, or have reasonable grounds to do so, through a disclosure being made to them, that any other person is engaged in money laundering and they do not disclose this as soon as practicable to NCA.

Conclusion

The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This policy has been written so as to enable the Council to meet legal requirements in a way which is proportionate to the very low risk of the Council contravening the legislation.