

**SHROPSHIRE COUNCIL  
ANTI-MONEY LAUNDERING PROCEDURE**

**INTRODUCTION**

1. Money laundering can be defined as “a process that makes money with an illegal origin appear legal so that it may be used”, it is interpreted very widely and includes possessing, or in any way dealing with, or concealing, the proceeds of any crime.
2. The Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007 place disclosure obligations on bodies in the “Regulated Sector” which require the establishment of internal procedures to prevent or money laundering. Whilst Local Authorities are not legally obliged to apply the provisions of the Money Laundering Regulations 2007; as responsible public bodies, CIPFA recommend “that they should employ policies and procedures which reflect the essence of the UK’s anti-terrorist financing and anti-money laundering regimes”.
3. Anti money laundering legislation places responsibility upon Council employees to combat money laundering and covers a very wide area of financial transactions, including possessing, or in any way dealing with, or concealing, the proceeds of any crime. It applies to all employees involved with monetary transactions.

**PROCEDURE STATEMENT**

4. Shropshire Council will do all it can to prevent the Council and its staff being exposed to money laundering, to identify the potential areas where it may occur, and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases.

**SCOPE OF THE PROCEDURE**

5. This Procedure applies to all employees of the Council and aims to maintain the high standards of conduct which currently exist within the Council by preventing criminal activity through money laundering.
6. The legislative requirements concerning anti-money laundering procedures are extensive and complex. Further information is set out in the accompanying Guidance Notes. Both the Procedure and the Guidance Notes sit alongside one another and are entirely consistent with the Council’s Speaking Up About Wrongdoing Policy, Counter Fraud and Anti-Corruption Strategy and Code of Corporate Governance.
7. Failure by a member of staff to comply with these procedures may lead to disciplinary action and potentially criminal charges being brought against them. Any disciplinary action will be dealt with in accordance with the Council’s Disciplinary Policy and Procedure.

**WHAT IS MONEY LAUNDERING?**

8. Money laundering is exchanging money or other assets obtained from criminal activity for 'clean' money or other assets with no obvious link to their criminal origins. It also

covers money, however come by, which is used to fund terrorism. All suspected incidents of money laundering must be reported to the Serious Organised Crime Agency (SOCA). It is vital to recognise that the regime under which money laundering is monitored operates on an all crimes basis; there is no minimum limit provision in the legislation.

9. Money laundering offences include:
- a) Concealing, disguising, converting and transferring criminal property or removing it from the UK (section 327 of the 2002 Act); or
  - b) entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person (section 328); or
  - c) acquiring, using or possessing criminal property (section 329); or
  - d) 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 the Terrorist Act 2000); or
  - e) “Tipping Off” a customer that:
    - A transaction was/is being delayed because consent from SOCA has been requested.
    - Details of their transactions or activities will be/have been reported to SOCA.
    - They are being investigated by law enforcement.
  - f) Concealing, falsifying, destroying or disposing of any evidence of money laundering.
10. Potentially any member of staff could be caught by the money laundering provisions if they suspect money laundering and either become involved with it in some way and/or do nothing about it.
11. Whilst the risk to the Council of contravening the legislation is considered low, it is extremely important that all employees are familiar with their legal responsibilities, as serious criminal sanctions may be imposed for breaches of the legislation (up to 14 years imprisonment and/or an unlimited fine). The key requirement on employees is to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer.

## **THE OBLIGATIONS ON THE COUNCIL**

12. The Money Laundering regulations 2007 require organisations conducting “relevant business” to:
- a) conduct due diligence measures;
  - b) maintain client identification procedures in certain circumstances;
  - c) maintain record keeping procedures;
  - d) train relevant staff to recognise and deal with transaction that may be related to money laundering;
  - e) appoint a Money Laundering Reporting Officer (“MLRO”) to receive disclosures from employees of money laundering activity; and

f) implement procedures to enable the reporting of suspicions of money laundering.

13. Not all of the Council's business is "relevant" for the purposes of the legislation. The areas most likely to be affected are:
- All income receiving points
  - Accountancy and Internal Audit services.
  - Financial, company and property transactions undertaken by Legal and Democratic Services and Property Services.
14. The safest way to ensure compliance with the law is to apply them to all areas of work undertaken by the Council; therefore, all staff are required to comply with the reporting procedure set out below.

### THE MONEY LAUNDERING REPORTING OFFICER (MLRO)

15. The officer nominated to receive disclosures about money laundering activity within the Council is Chris Kalinowski, Audit Manager; who can be contacted as follows:

Chris Kalinowski (Audit Manager)	Telephone: 01743 252083 (direct line)
Audit Services	Email: <a href="mailto:chris.kalinowski@shropshire.gov.uk">chris.kalinowski@shropshire.gov.uk</a>
Resources Directorate	
Shropshire Council	
Shirehall	
Abbey Foregate	
Shrewsbury	
SY2 6ND	

16. In the absence of the MLRO, Ceri Pilawski (Head of Audit) is authorised to deputise for him in all aspects of this procedure. Ceri can be contacted at the above address, by ringing 01743 252027 (direct line) or Email [ceri.pilawski@shropshire.gov.uk](mailto:ceri.pilawski@shropshire.gov.uk).

### REPORTING TO THE MONEY LAUNDERING REPORTING OFFICER

17. Where any employee suspects that money laundering is or has taken place, or becomes concerned that their involvement in a matter may amount to a prohibited act under the legislation, they must disclose this as soon as practicable to the MLRO. The disclosure should be within "hours" of the information coming to their attention, not weeks or months later. **Should they not do so, then they may be liable to prosecution.** If you wish, please discuss any suspicions with the MLRO first; see the Guidance Notes and Appendix 1 for more details.
18. The disclosing officer must follow any subsequent directions of the MLRO or deputy, and must not themselves make any further enquiries into the matter or take any further steps in any related transaction without authorisation from the MLRO.
19. The disclosing officer must not disclose or otherwise indicate their suspicions to anyone other than the MLRO. They must not discuss the matter with others or note on the file that a report has been made to the MLRO in case this results in the suspect becoming aware of the situation. Instead, they must keep any correspondence with the MLRO, including the acknowledgment of any disclosure, confidential and secure.

20. Upon receipt of a disclosure report, the MLRO must note the date of receipt on the report, acknowledge receipt and advise the discloser of the timescale within which they can expect a response. .
21. The MLRO must promptly evaluate any Disclosure Report, to determine whether it should be reported to the Serious and Organised Crime Agency (SOCA). The MLRO must, if they so determine, promptly report the matter to SOCA on the standard report form in SOCA's prescribed manner. Up to date forms can be downloaded from the SOCA website at [www.soca.gov.uk](http://www.soca.gov.uk).
22. The MLRO or deputy will commit a criminal offence if they know or suspect, or have reasonable grounds to do so, through a disclosure being made to them, that another person is engaged in money laundering and they do not disclose this as soon as practicable to SOCA.

### **CUSTOMER DUE DILIGENCE (CDD)**

23. 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.
24. 'Regulated activities' 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.
25. 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 paragraph 24)
  - Is the Council charging for the regulated activity i.e. is it 'by way of business'?
  - Is the service being provided to a customer other than a UK public authority?

If the answer to any of these questions is **no** then you do not need to carry out customer due diligence.

If the answer to all these questions is **yes** then you must carry out customer due diligence before any business is undertaken for that client. If you are unsure whether you need to carry out customer due diligence then you should contact the MLRO.

26. Where the Council is carrying out relevant business (accountancy, audit and certain legal and property transactions) and:
  - a) forms an ongoing business relationship with a client; or
  - b) undertakes a one-off or linked one-off transactions involving payment by or to the client in excess of £10,000 in cash or £30,000 in any form; or
  - c) it is known or suspected that a one-off transaction (or a series of them) involves money laundering; or
  - d) where there are doubts about previously obtained customer identification information;

then the Client Identification Procedure must be followed before any business is undertaken for that client, unless the client falls into the category of Simplified Due Diligence.

## **SIMPLIFIED DUE DILIGENCE**

27. Simplified Due Diligence is an exception to the obligation to apply the customer due diligence measures set out in Money Laundering Regulations 2007. Businesses are not required to apply the customer due diligence measures where they have reasonable grounds for believing that the customer is:
- a) a credit or financial institution which is subject to the requirements of the money laundering directive (or equivalent if from outside Europe); or
  - b) a company whose securities are listed on a regulated market subject to specified disclosure obligations; or
  - c) The customer is a public authority in the United Kingdom.
28. If the organisation with which the Council is carrying out relevant business with falls into one of the above categories, then no action is needed unless there are any doubts about the identity of the organisation.

## **CLIENT IDENTIFICATION PROCEDURE**

29. The Customer Due Diligence (CDD) measures that must be carried out involve:
- a) identifying the customer, and verifying their identity;
  - b) identifying where a customer is acting on behalf of a “beneficial owner” (i.e. the individual(s) behind the customer who ultimately owns or controls the customer or on whose behalf a transaction or activity is being conducted) and taking adequate steps to verify their identity;
  - c) obtaining information on the purpose and intended nature of a business relationship (e.g. the source of funds);
  - d) conducting ongoing monitoring of the business relationship and keeping relevant records.
30. When monitoring the ongoing business relationship it is important to pay attention to:
- a) Any complex or unusually large transactions;
  - b) Unusual patterns of transactions which have no apparent economic or visible purpose; and
  - c) Any other activity, particularly likely by its nature to be related to money laundering.
31. Once instructions to provide relevant business activities have been received (where Simplified Due Diligence does not apply), and it has been established that any of paragraph 26 (a) to (d) apply, evidence of identity should be obtained as follows:
- Checking with the customer’s website to confirm their business address.
  - Conducting an on-line search via Companies House to confirm the nature and business of the customer and confirm the identities of any directors;
  - Seeking evidence from the key contact of their personal identity, for example their passport, and position within the organisation.

- appropriate additional evidence of identity such as written instructions on the organisation's official letterhead at the outset of the matter or an email from the organisation's e-communication system.
- With instructions from new clients, or further instructions from a client not well known, additional evidence of the identity of other key individuals in the organisation and of the organisation itself; please see the Guidance Note for more information.

32. Such correspondence should then be placed on the Council's client file along with a prominent note explaining which correspondence constitutes the evidence and where it is located.
33. In all cases, the evidence should be retained for at least five years from the end of the business relationship or transaction(s). If satisfactory evidence of identity is not obtained at the outset of the matter then the business relationship or one off transaction(s) must not proceed any further.
34. In circumstances where the client cannot be physically identified officers should be aware that:-
- a) There is greater potential for money laundering where the client is not physically present when being identified;
  - b) If satisfactory evidence is not obtained, the relationship or the transaction must not proceed;
  - c) If the client acts, or appears to act for another person, reasonable measures must be taken for the purposes of identifying that third person.

## **RECORD KEEPING PROCEDURES**

35. Each unit of the Council conducting relevant business will maintain records of:
- a) client identification evidence obtained; and
  - b) 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.
36. 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, the business units of the Council will be routinely making records of work carried out for clients in the course of normal business and these should suffice in this regard.

## **OTHER PROCEDURES**

37. The Council will establish other procedures of internal control and communication as may be appropriate for the purpose of identifying and preventing money laundering:-

### **Cash receipts**

38. If the money offered in cash is £10,000 or more, then payment may be accepted but must not be processed i.e. banked until the employee has received guidance from the MLRO or a deputy MLRO.

### **Refunds**

39. Care will need to be taken especially with the procedures for refunds. For instance, a significant and unexplainable overpayment which results in a repayment will need to be properly investigated and authorised before the refund is made.

### **Training**

40. In support of the procedure and guidance, the Council will:
- Make all staff aware of the requirements and obligations placed on the Council and on themselves as individuals by the anti-money laundering legislation.
  - Give targeted training to those most likely to encounter money laundering.

### **REVIEW**

41. This Anti-Money Laundering Procedure and the attached guidance note should be reviewed annually by the MLRO to ensure that it remains up to date and practicable.

### **CONCLUSION**

42. The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This Procedure has been written to enable the Council to meet the legal requirements in a way which is proportionate to the low risk to the Council of contravening the legislation.
43. Should you have any concerns whatsoever regarding any transactions then you should contact the MLRO.

Laura Rowley  
Director of Resources  
February 2010.

**CONFIDENTIAL****SHROPSHIRE COUNCIL REPORT TO MONEY LAUNDERING REPORTING OFFICER**

**To:** Chris Kalinowski, Shropshire Council Money Laundering Reporting Officer (MLRO)  
Internal Audit, Resources Directorate, Shirehall, Shrewsbury, SY2 6ND

<b>From</b> _____	Post/Title _____
<b>Service/</b> _____	Ext/Tel _____
<b>Directorate</b> _____	No _____

**DETAILS OF SUSPECTED OFFENCE:**

Who do you know, or believe to be involved in Money Laundering Offences? (please include name, address & any other contact details)

Why do you believe that money laundering is occurring?

What evidence if any do you have that an offence is taking place?

**Have you discussed your suspicions with anyone else?**

*[Please tick the relevant box]*

Yes

No

If yes, please include details below explaining why such discussion was necessary:



**Have you consulted any supervisory body's guidance re money laundering? (e.g. the Law Society)**

*[Please tick the relevant box]*

Yes

No

If yes, please specify below:

**Do you believe you have a sound reason for not disclosing the matter to SOCA (e.g. a lawyer wishing to claim legal professional privilege?)**

If yes, please specify below:

**Are you involved in a transaction which might be a prohibited act under sections 327 to 329 of the Act (see ML Policy, paragraph 9) which requires appropriate consent from the SOCA?**

*[Please tick the relevant box]*

Yes

No

If yes, please specify 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 FOR COMPLETION BY THE MLRO**

Date report received	Date receipt of report acknowledged
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**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?**

*[Please tick the relevant box]*  Yes  No

**If yes, please confirm date of report to SOCA: .....**

**Details of liaison with the SOCA regarding the report:**

Notice Period to: ..... to .....

Moratorium Period to:..... to .....

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

*[Please tick the relevant box]*  Yes  No

If yes, please confirm full details:

**Date consent received from SOCA: .....**

**Date consent given by MLRO 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 reason(s) for non-disclosure:**

<b>Date consent given by MLRO to employee for any prohibited transactions to proceed:</b>	
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**Any other relevant information:**

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

**THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS**

**Do not dispose before:.....**

**SHROPSHIRE COUNCIL**  
**GUIDANCE NOTE ON THE ANTI-MONEY LAUNDERING PROCEDURE**

**INTRODUCTION**

44. 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.
45. The Terrorism Act (2000), the Proceeds of Crime Act (2002) and the Money Laundering Regulations (2007) have been introduced to help organisations to identify and reduce the risk of being used to launder money. These regulations provide a broad definition of money laundering; introduce a duty to report suspicions of money laundering and impose criminal sanctions on anyone that fails to comply with any of the above regulations.
46. The Council has adopted a procedure and guidance designed to detect and prevent the use of our services for money laundering. The Anti-Money Laundering Procedure provides an outline of what the Council needs to do to comply with the Money Laundering regulations and is based on CIPFA’s latest guidance “combating financial crime” 2009.
47. This Guidance Note provide details of the procedures that should be applied in order to mitigate the risk of breaching Money Laundering Regulations, as well as examples of possible tell tale signs of money laundering that may be relevant to Council employees.

**MONEY LAUNDERING OFFENCES**

5. The law will treat you as knowing about money laundering if:
  - a) You know it is occurring; or
  - b) It is obvious that it is occurring; or
  - c) An honest and reasonable person would have known it was occurring given the circumstances and the information you have.

Consequently if you deliberately shut your mind to the obvious, this will not absolve you of your responsibilities under the legislation.
6. 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 occurring.
7. The legislation now goes beyond 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. 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 £1 million. Parliament clearly intended this to be the case.”
8. The broad definition of money laundering means that potentially anybody (and therefore any Council employee, irrespective of what sort of Council business they

are undertaking) could contravene the money laundering regulations 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. The Council has appointed the Audit Manager as its Money Laundering Reporting Officer to receive reports from employees of suspected money laundering activity. The Head of Audit Services will deputise in their absence.

## **RELEVANT BUSINESS WITHIN THE COUNCIL**

9. Some of the Council's business is "relevant" for the purposes of the legislation for example:-
  - a. The provision of advice about the tax affairs of another person or body.
  - b. The provision of accountancy services.
  - c. The provision of audit services.
  - d. The provision of legal services which involves participation in a financial or real property transaction (whether by assisting in the planning or execution of any such transaction or otherwise by acting for, or on behalf of, a client in any such transaction).
  - e. The provision of services in relation to the formation, operation or management of a company or a trust.
10. The areas most likely to be affected are:
  - All income receiving points;
  - Accountancy and Internal Audit services;
  - Financial, company and property transactions undertaken by Legal and Democratic Services and Property Services.

## **POSSIBLE SIGNS OF MONEY LAUNDERING**

11. 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 are types of risk factors which may, either alone or cumulatively with other factors, suggest the possibility of money laundering activity:
  - A secretive client: e.g., refuses to provide requested information without a reasonable explanation.
  - Concerns about the honesty, integrity, identity or location of a client.
  - Illogical third party transactions: unnecessary routing or receipt of funds from third parties or through third party accounts.
  - Involvement of an unconnected third party without logical reason or explanation.
  - Payment of a substantial sum in cash (over £10,000).
  - Overpayments by a client.
  - Absence of an obvious legitimate source of the funds.
  - Movement of funds overseas, particularly to a higher risk country or tax haven.

- Where, without reasonable explanation, the size, nature and frequency of transactions or instructions (or the size, location or type of a client) is out of line with normal expectations.
- A transaction without obvious legitimate purpose or which appears uneconomic, inefficient or irrational.
- The cancellation or reversal of an earlier transaction for no apparent reason.
- Requests for release of client account details other than in the normal course of business.
- Companies and trusts: extensive use of corporate structures and trusts in circumstances where the client's needs are inconsistent with the use of such structures.
- Poor business records or internal accounting controls.
- A previous transaction for the same client which has been, or should have been, reported to the MLRO.

### **Property Matters**

- Unusual property investment transactions where there is no apparent investment purpose or rationale.
  - Instructions to receive and pay out money where there is no linked substantive property transaction involved (surrogate banking).
  - Funds received for deposits or prior to completion of property transactions from an unexpected source or where instructions are given for settlement funds to be paid to an unexpected destination.
12. Facts which tend to suggest that something odd is happening may be sufficient for a reasonable suspicion of money laundering to arise.
13. 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 2002 Act then you must report it to the MLRO and not take any further action until you have received, through the MLRO, the consent of the Serious Organised Crime Agency SOCA. For example, if you receive cash that you suspect is from the proceeds of crime, you must not bank it but set it aside securely until you receive an instruction from the MLRO on how to proceed. The failure to report money laundering obligations, referred to below, relate also to your knowledge or suspicions of others, through your work.

### **REPORTING PROCEDURES**

14. Your disclosure should be made to the MLRO using the pro-forma report attached at **Appendix 1**. If you wish, please discuss any suspicions with the MLRO before making the report. The report must include as much detail as possible, for example:
- a) Full details of the people involved (including yourself, if relevant), e.g. name, date of birth, address, company names, directorships, phone numbers, etc;
  - b) Full details of the nature of their and your involvement:

- If you are concerned that your involvement in the transaction would amount to a prohibited act under Sections 327 to 329 of the 2002 Act (see Money Laundering Procedure paragraph 9), then your report must include all relevant details, as you will need consent from the Serious Organised Crime Agency (SOCA), 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;
- c) 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 the 2002 Act (or 2000 Act), or general reporting requirement under Section 330 of the 2002 Act (or Section 21A of the 2000 Act), or both;
- d) The dates of such activities, including whether the transactions have happened, are ongoing or are imminent;
- e) Where they took place;
- f) How they were undertaken;
- g) The (likely) amount of money/assets involved;
- h) Why, exactly, you are suspicious (as the SOCA will require full reasons);

This should accompany any other available information to enable the MLRO to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable the MLRO to prepare a report to the SOCA as appropriate. You should also enclose copies of any relevant supporting documentation.

15. Once you have reported the matter to the MLRO you must follow any directions the MLRO may give you. You **must not** make any further enquiries into the matter; any necessary investigation will be undertaken by the SOCA. Simply report your suspicions to the MLRO who will refer the matter on to the SOCA if appropriate. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent investigation.
16. 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 SOCA has given consent to a particular transaction proceeding, unless you have the specific consent of the MLRO; otherwise you may commit a criminal offence of “tipping off”.
17. Similarly you must not discuss the matter with others or note on the file that a report has been made to the MLRO in case this results in the suspect becoming aware of the situation by, for example, exercising their rights to see the file under Data Protection or FOI Acts; such a note will obviously “tip them off” and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner. Instead, you must keep any correspondence with the MLRO, including the acknowledgment of any disclosure, confidential and secure.

## **FAILURE TO REPORT MONEY LAUNDERING OFFENCES**

18. 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 relevant business for purposes of the legislation.
19. 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 training 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.

## **CONSIDERATION OF A DISCLOSURE REPORT BY THE MLRO**

20. The MLRO will consider the report and any other available internal information they think relevant e.g.
  - a) Reviewing other transaction patterns and volumes;
  - b) The length of any business relationship involved;
  - c) The number of any one-off transactions and linked one-off transactions;
  - d) Any identification evidence held.
21. The MLRO will undertake such other reasonable inquiries as they deem appropriate, including seeking advice from the Monitoring Officer, in order to ensure that all available information is taken into account in deciding whether a report to the Serious Organised Crime Agency (SOCA) is required. Such enquiries should be made in such a way as to avoid any chance of “tipping off” those involved. The MLRO may also need to discuss the report with the employee that completed the disclosure report.
22. Once the MLRO has evaluated the disclosure report and any other relevant information, they must make a timely determination as to whether:
  - a) there is actual or suspected money laundering taking place; or
  - b) there are reasonable grounds to know or suspect that is the case; and
  - c) whether he needs to seek consent from the SOCA for a particular transaction to proceed.
23. Where the MLRO concludes a disclosure is necessary, then it must be disclosed as soon as practicable to the SOCA on their standard report form and in the prescribed manner.
24. The MLRO commits a criminal offence under Section 331 of the 2002 Act 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 do not disclose this as soon as practicable to the SOCA.
25. The MLRO should consult with the Assistant Chief Executive (Legal & Democratic Services) before reaching a non disclosure decision. Where the MLRO suspects money laundering but has a reasonable reason for non disclosure, then they must note the report accordingly and can then immediately give consent for any ongoing or imminent transactions to proceed.



26. In cases where legal professional privilege may apply, the MLRO must liaise with the Assistant Chief Executive (Legal & Democratic Services) to decide whether there is a reasonable basis for not reporting the matter to the SOCA.
27. Where consent is required from the SOCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed unless:
  - a) special consent is received from the SOCA; or
  - b) no refusal of consent is received from the SOCA during the notice period (seven working days starting with the first working day after the MLRO makes the disclosure); or
  - c) the suspension period has expired (31 days starting with the day on which the MLRO receives notice of refusal of consent).
28. Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then they must record this on the report and give consent in writing for any ongoing or imminent transaction(s) to proceed without disclosure.
29. All disclosure reports referred to the MLRO and reports subsequently made to the SOCA must be retained by the MLRO in a confidential file kept securely for that purpose, for a minimum of five years.
30. The MLRO commits a criminal offence if they know or suspect money laundering is taking place as a result of a disclosure being made to them and does not subsequently disclose this as soon as practicable to the SOCA.

#### **RELEVANT BUSINESS/REGULATED ACTIVITIES'**

31. The Money Laundering Regulations 2007 impose specific obligations on those carrying out relevant business, requiring them to:
  - a) obtain sufficient knowledge to ascertain the true identity of clients in certain circumstances, by maintaining client identification procedures;
  - b) ensure that appropriate records are kept.

Only those staff dealing with relevant business need comply with these procedures.

32. 'Regulated activities' 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."
33. 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 paragraph 24)
  - Is the Council charging for the regulated activity i.e. is it 'by way of business'?
  - Is the service being provided to a customer other than a UK public authority?

If the answer to any of these questions is **no** then you do not need to carry out customer due diligence.

If the answer to all these questions is **yes** then you must carry out customer due diligence before any business is undertaken for that client. If you are unsure whether you need to carry out customer due diligence then you should contact the MLRO.

## **CUSTOMER DUE DILIGENCE - CLIENT IDENTIFICATION PROCEDURES**

34. Where the Council is carrying out relevant business (accountancy, audit and certain legal and property transactions) and:
- a) forms an ongoing business relationship with a client; or
  - b) undertakes a one-off or linked one-off transactions involving payment by or to the client in excess of £10,000 in cash or £30,000 in any form; or
  - c) it is known or suspected that a one-off transaction (or a series of them) involves money laundering; or
  - d) where there are doubts about previously obtained customer identification information;

then the Client Identification Procedure must be followed before any business is undertaken for that client, unless the client falls into the category of Simplified Due Diligence. (see paragraph 36 below).

35. Where the client is acting or appears to be acting for someone else, reasonable steps must also be taken to establish the identity of that other person. Particular care must be taken when the client is not physically present when being identified.
36. Simplified Due Diligence is an exception to the obligation to apply the customer due diligence measures set out in Money Laundering Regulations 2007. Businesses are not required to apply the customer due diligence measures where they have reasonable grounds for believing that the customer is:
- a) a credit or financial institution which is subject to the requirements of the money laundering directive (or equivalent if from outside Europe); or
  - b) a company whose securities are listed on a regulated market subject to specified disclosure obligations; or
  - c) The customer is a public authority in the United Kingdom.
37. If the organisation with which the Council is carrying out relevant business with falls into one of the above categories, then no action is needed unless there are any doubts about the identity of the organisation.

## **SATISFACTORY EVIDENCE OF IDENTITY**

38. Satisfactory evidence is that which is capable of establishing that the client is who they claim to be. 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. However, as the Council is not in the regulated sector, the Council's Client Identification Procedure need only to provide for identity checks in specific areas or where there is a suspicion of money laundering or related criminal activity.
39. The following factors suggest minimum level client identification procedures for the Council (in practice Financial Services, Legal and Property Services) are appropriate:
- a) For internal clients:
    - We all work for the same organisation and therefore have detailed awareness of individuals and their location and can rely on our existing recruitment procedures to satisfactorily establish personal identities.
  - b) For external clients:

- The Council, traditionally only provides services to local authorities and designated public bodies:
  - They are therefore heavily regulated by their very nature.
  - Most are repeat clients, well known to us in terms of people and the business address.
- c) Generally:
  - We know most of our clients;
  - We are not in private practice and are subject to public sector controls;
  - We are not large, city firms of lawyers and accountants, with international client bases.
- 40. The Customer Due Diligence (CDD) measures that must be carried out involve:
  - d) identifying the customer, and verifying their identity;
  - e) identifying where a customer is acting on behalf of a “beneficial owner” (i.e. the individual(s) behind the customer who ultimately owns or controls the customer or on whose behalf a transaction or activity is being conducted) and taking adequate steps to verify their identity;
  - f) obtaining information on the purpose and intended nature of a business relationship (e.g. the source of funds);
  - g) conducting ongoing monitoring of the business relationship and keeping relevant records.
- 41. When monitoring the ongoing business relationship it is important to pay attention to:
  - d) Any complex or unusually large transactions;
  - e) Unusual patterns of transactions which have no apparent economic or visible purpose; and
  - f) Any other activity, particularly likely by its nature to be related to money laundering.
- 42. The Client Identification Procedure should enable us to have confidence in accepting instructions or entering into a business transaction from a known client. If, however, you are undertaking work for a new client, then you may also wish to seek additional evidence of identity which should be obtained as follows:
  - Checking with the customer’s website to confirm the identity of personnel, its business address and any other details.
  - Conducting an on-line search via Companies House to confirm the nature and business of the customer and confirm the identities of any directors.
  - Attending the client at their business address.
  - A search of the telephone directory.
  - Seeking evidence from the key contact of their personal identity, for example their passport, photo ID card showing position within the organisation, driving licence etc.
  - Appropriate additional evidence of identity such as written instructions on the organisation’s official letterhead or an email from the organisation’s e-communication system.

43. In circumstances where the client cannot be physically identified officers should be aware that:-
- a) There is greater potential for money laundering where the client is not physically present when being identified;
  - b) If satisfactory evidence is not obtained, the relationship or the transaction must not proceed;
  - c) If the client acts, or appears to act for another person, reasonable measures must be taken for the purposes of identifying that third person.

## **RECORD KEEPING PROCEDURES**

44. Such evidence/correspondence should then be placed on your client file along with a prominent note explaining which correspondence constitutes the evidence and where it is located. It is suggested that a customer due diligence section containing the necessary evidence is incorporated into the client file for this purpose.
45. 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, the business units of the Council will be routinely making records of work carried out for clients in the course of normal business and these should suffice in this regard.
46. In all cases, the evidence should be retained for at least five years from the end of the business relationship or transaction(s). If satisfactory evidence of identity is not obtained at the outset of the matter then the business relationship or one off transaction(s) must not proceed any further.

## **Conclusion**

47. Given the nature of what the Council does and who it can provide services for, instances of suspected money laundering are unlikely to arise very often, if at all; however we must be mindful of the legislative requirements, as failure to comply with them may render individuals liable to prosecution.
48. **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.

Laura Rowley  
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