

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, **Bribery** 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~~ **National Crime Agency (SOCA NCA)**. 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~~ **Ceri Pilawski**, Audit **Service** Manager; who can be contacted as follows:

Ceri Pilawski
Audit Service Manager
 Audit Services
 Shropshire Council
 Shirehall
 Abbey Foregate
 Shrewsbury
 SY2 6ND

Email: ceri.pilawski@shropshire .gov.uk
Telephone: 01743 252027 (direct line)

16. In the absence of the MLRO, ~~Ceri Pilawski~~ **Katie Williams, Barry Hanson or Peter Chadderton** (Head of Audit **Audit Engagement Officers**) ~~are~~ is authorised to deputise for him **her** in all aspects of this procedure. ~~Ceri can be C~~ contacted at **details are as the above for the address, or:**

- **Katie Williams**, telephone 01743 **252087** (direct line) or email **katie.williams@shropshire .gov.uk.**
- **Barry Hanson**, telephone 01743 **252089** (direct line) or email **barry.hanson@shropshire .gov.uk.**
- **Peter Chadderton**, telephone 01743 **252773** (direct line) or email **peter.chadderton@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~~ **National** Crime Agency (SOCA **NCA**). The MLRO must, if they so determine, promptly report the matter to SOCA **NCA** on the standard report form in SOCA's **NCA's** prescribed manner. Up to date forms can be downloaded from the SOCA **NCA** website at www.seca.nca.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 **NCA**.

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 23)
 - 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 James Walton
Director of Resources Section 151 Officer
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