



Anti-Money Laundering Policy

Date: October 2018

Document summary

This policy sets out the procedures that must be followed to enable the Council to comply with its legal obligations to prevent criminal activity through Money Laundering.

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About this document:

<p>Enquiries: Internal Audit and Counter Fraud</p> <p>Author: Internal Audit and Counter Fraud Telephone: 020 8541 9191 Email: simon.white@surreycc.gov.uk</p> <p>Download this document From: http://intranet.escc.gov.uk/helping/financepurchasing/finance/Documents/antimoneylaundering.doc</p>	<p>Version number: 05</p> <p>Related information</p> <p>Anti-Fraud and Corruption Strategy Code of Conduct and Conflict of Interest Policy Disciplinary Policy and Procedures Whistleblowing policy – Raising concerns</p>
<p>Accessibility help</p> <p>Zoom in or out by holding down the Control key and turning the mouse wheel. CTRL and click on the table of contents to navigate. Press CTRL and Home key to return to the top of the document Press Alt-left arrow to return to your previous location. References shown in blue text are available on the Intranet/Czone References shown in <u>underlined blue text</u> are links to other areas of this document</p>	

Anti-money laundering policy

Policy statement

East Sussex County Council will do all it can to:

- Prevent any attempts to use the Council and its staff to launder money;
- Identify potential areas where money laundering may occur; and
- Comply with all legal and statutory requirements, especially with regard to the reporting of actual or suspected cases of money laundering.

1. Introduction

- 1.1 The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, the Proceeds of Crime Act 2002 and the Terrorism Act 2000 (and all relevant amending legislation) place obligations on the council, including its members and employees, with respect to suspected money laundering.
- 1.2 While most money laundering activity in the UK occurs outside of the public sector, vigilance by Council members and officers can help identify those who are, or may be, perpetrating crimes relating to the financing of terrorism and money laundering.
- 1.3 This policy forms part of the Council's counter fraud framework and sets out:
 - Definitions and legal background in respect of money laundering;
 - The Council's approach to money laundering including the responsibility of members and officers to report suspicions promptly; and
 - Guidance and procedures for members and officers.

2. Scope of the policy

- 2.1 This policy applies to all members and officers of the Council and aims to maintain the high standards of conduct that the public is entitled to expect from the Council.
- 2.2 It is vital that all members and officers are aware of their responsibilities and remain vigilant; criminal sanctions may be imposed for breaches of legislation.
- 2.3 Failure to comply with the procedures set out in this policy will result in action being considered under the Sanctions Policy. This may include disciplinary action in line with the Officer, or Member, Code of Conduct.

3. Definitions and legal background

- 3.1 Money laundering is the process of converting illegally obtained money or assets into 'clean' money or assets with no obvious link to their criminal origin.
- 3.2 There are three primary money laundering offences set out in legislation:
 - Concealing, disguising, converting, transferring, or removing from the UK any criminal property (Section 327 of the Proceeds of Crime Act 2002);
 - 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); and

- Acquiring, using or possessing criminal property (Section 329).

3.3 There are also two secondary offences:

- Failure to disclose any of the three primary offences; and
- Tipping off (the act of informing a person suspected of money laundering in such a way as to prejudice an investigation).

3.4 Any member or employee of the Council may potentially be implicated in money laundering if they suspect money laundering and either become involved with it in some way and/or do nothing about it. The key requirement is to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer.

4. The Money Laundering Reporting Officer (MLRO)

4.1 The officer nominated to receive disclosures about money laundering activities within the Council and its Orbis partners is the Auditor Manager for Counter Fraud:

Simon White Audit Manager (Counter Fraud)	Room 318, County Hall Penrhyn Road Kingston upon Thames Surrey, KT1 2DN
Telephone: 0208 541 9191 / 07779 455501	
Email: simon.white@surreycc.gov.uk	

4.2 In the absence of the MLRO, the Principal Auditor (Counter Fraud) is authorised to deputise:

Alex McLaren Principal Auditor	Brighton Town Hall Bartholomew Square Brighton BN1 1JP
Telephone: 01273 292573 / 07592 103574	
Email: Alex.Mclaren@brighton-hove.gov.uk	

5. Procedures

Cash

5.1 The Council will not accept any cash payment in excess of £5,000 irrespective of whether this is through a single payment or series of linked payments. 'Cash' includes notes, coins, banker's drafts and travellers cheques.

5.2 This does not necessarily mean that cash transactions below this value are legitimate and legal. Professional scepticism is encouraged at all times and any suspicions must be reported to the MLRO or their deputy.

Responsibilities of members and officers

5.3 Any member or officer who suspects money laundering activity must report their suspicion promptly (as soon as practicable) to the MLRO or their deputy if appropriate. If you prefer, you can discuss your suspicions with your line manager first.

5.4 Your disclosure must be made at the earliest opportunity following the information coming to your attention, not weeks or months later, and should be made to the MLRO or deputy using the form attached at the end of this policy.

- 5.5 You must follow any subsequent directions from the MLRO or deputy. You must not:
- Make any further enquiries into the matter;
 - Take any further steps in any related transaction without authorisation from the MLRO or deputy;
 - Disclose or otherwise indicate your suspicions to the person suspected of money laundering; or
 - Discuss the matter with others or make a note on file that a report to the MLRO or deputy has been made unless there is a risk that other officers may progress the matter or a related transaction, as this may alert the suspected perpetrator.

Responsibilities of the MLRO

- 5.6 The MLRO or deputy must promptly evaluate any disclosure to determine whether it should be reported to the National Crime Agency (NCA). Any decision not to submit a report to the NCA must be recorded.
- 5.7 If they so determine, the MLRO or deputy must promptly submit an online Suspicious Activity Report (SAR) to the NCA. Alternatively, a SAR may be manually reported to the NCA. Both online and up to date manual reporting forms are available on the NCA's website.
- 5.8 If a disclosure provides the MLRO or deputy with knowledge or reasonable grounds to suspect that a person is engaged in money laundering, and they do not disclose this to the NCA as soon as practicable, the MLRO or deputy will have committed a criminal offence.

Risk based approach, customer due diligence and record retention

- 5.9 Under MLR 2017, the Council is obliged to adopt a risk-based approach towards anti-money laundering regulations and how they approach due diligence.
- 5.10 MLR 2017 stipulate risk mitigation policies must be in writing and be proportionate to the risks identified. They must include internal controls over money-laundering and terrorist financing risks. They must also include revised customer due diligence procedures as well as reporting, record keeping and monitoring requirements.
- 5.11 Regulation 18 of MLR 2017 requires a written risk assessment to identify and assess the risk of money laundering and terrorist financing that the Council faces. This will:
- Assist in developing policies, procedures and controls to mitigate the risk of money laundering and terrorist financing;
 - Help in applying a risk-based approach to detecting and preventing money laundering terrorist financing Inform an assessment of the level of risk associated with particular business relationships and transactions and enable appropriate risk-based decisions about clients and retainers;
 - Inform an assessment of the level of risk associated with particular business relationships and transactions and enable appropriate risk-based decisions about clients and retainers.
- 5.12 In carrying out risk assessments we will take into account information on money-laundering and terrorist financing risks made available by the Law Society and/or SRA, and risk factors relating to:

- Customers;
- Geographic areas where the Council operates;
- Products and services;
- Transactions;
- Delivery Channels.

5.13 Under MLR 2017, there ceases to be "automatic" simplified due diligence requirements for any transactions. Instead, a relevant person needs to consider both customer and geographical risk factors in deciding whether simplified due diligence is appropriate. There are various levels of due diligence as follows:

- Simplified due diligence is only permitted where it is determined that the business relationship or transaction presents a low risk of money laundering or terrorist funding, taking into account the risk assessment;
- Enhanced due diligence' (Regulation 33) for those with a high-risk status, for example remote transactions where the customer is not physically present to be identified would require additional appropriate documents to be requested;
- The 'beneficial owner', the individual that ultimately owns or controls the customer or on whose behalf a transaction or activity is being conducted, should be identified;
- The business relationship should be scrutinised throughout its existence and not just at the beginning.

5.14 In all cases, the evidence of the customer identification and record of the relationship/transaction should be retained for at least five years from the end of the business relationship of transaction(s). The records that must be kept are:

- A copy of, or references to, the evidence of the identity obtained under the customer due diligence requirements in the Regulations;
- The supporting evidence and records in respect of the business relationships and occasional transactions which are the subject of customer due diligence measures or ongoing monitoring;
- A copy of the identification documents accepted and verification evidence obtained;
- References to the evidence of identity.

5.15 If satisfactory evidence of identity is not obtained at the outset of the matter then the business relationship or one off transaction(s) cannot proceed any further.

5.16 The customer identification procedure must be carried out when the Council is undertaking business in relation to accountancy, procurement, asset management, audit and legal services with a financial or real estate transaction and:

- Forms a business partnership with a customer;
- Undertakes a one-off transaction (including a property transaction or payment of a debt) involving payment by or to a customer of £5,000 or more;
- Undertakes a series of linked one-off transactions involving total payment by or to the customer(s) of £5,000 or more;
- It is known or suspected that a one-off transaction, or a series of them, involves money laundering;
- This must be completed before any business is undertaken for that customer..

5.15 In the above circumstances, employees must:

- Identify the person seeking to form the business relationship or conduct the transaction (an individual or company);
- Verify their identity using reliable, independent sources of information, Identify who benefits from the transaction;
- Monitor transactions to make sure they are consistent with what you understand about that person or country;
- Understand the source of their funds;
- Ensure there is a logical reason why they would want to do business with the Council.

5.17 Transaction and business relationship records should be maintained in a form from which a satisfactory audit trail may be compiled, and which may establish a financial profile of any suspect account or customer.

5.18 The steps that will be followed to continuously mitigate the risks associated with money laundering are:

- Applying customer due diligence measures to verify the identity of customers and any beneficial owners obtaining additional information on customers;
- Conducting ongoing monitoring of the transactions and activity of customers with whom there is a business relationship;
- Having systems to identify and scrutinise unusual transactions and activity to determine whether there are reasonable grounds for knowing or suspecting that money laundering or terrorist financing may be taking place.

5.19 Risks will be reviewed continuously as part of the annual review of the Council Risk Register.

6. Guidance and training

6.1 The Council will:

- Make members and officers aware of the requirements and obligations placed on the Council, and on themselves as individuals, by anti-money laundering legislation; and
- Give targeted training to those considered to be the most likely to encounter money laundering.

6.2 Further information can be obtained from the MLRO and the following sources:

- Anti-money laundering responsibilities from gov.uk:
<https://www.gov.uk/guidance/money-laundering-regulations-your-responsibilities>
- Anti-money laundering guidance from the Law Society:
<http://www.lawsociety.org.uk/support-services/advice/articles/quick-guide-to-the-money-laundering-regulations-2017/>
- CIPFA: www.cipfa.org/members/members-in-practice/anti-money-laundering
- The National Crime Agency: www.nationalcrimeagency.gov.uk

Confidential report to the Money Laundering Reporting Officer

To: Money Laundering Reporting Officer
From: _____ [insert your name]
Title/Service: _____ [insert your post title and service]
Telephone: _____
Date of report: _____
Response needed by: _____ [e.g. transaction due date]

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 give full details e.g. what, when, where, how. Continue on a separate sheet if necessary]

	Yes	No	
Has any investigation been undertaken?	<input type="checkbox"/>	<input type="checkbox"/>	
Have you discussed your suspicions with anyone else?	<input type="checkbox"/>	<input type="checkbox"/>	If 'yes' please provide details below

Details of investigation undertaken and/or discussions held:

THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS

To be completed by the Money Laundering Reporting Officer

Date report

received:

Date acknowledged:

Evaluation	
What action is to be taken?	
Are there reasonable grounds to suspect money laundering activity? If so, please provide details	

Reporting	
If there are reasonable grounds for suspicion, will a report be made to the NCA?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If 'no', reasons for non-disclosure	
If 'yes', date of report to NCA	Online / Manual [delete as appropriate]

Consent	
Is NCA consent required for any ongoing or imminent transactions?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If 'yes', please confirm details	
Date consent received from NCA	
Date consent passed on to officer	

Other relevant information

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Signed _____

Date: _____

THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS