

Procedures to Ensure Compliance with Money Laundering Legislation

1. Reporting to the MLRO

- 1.1 If you know or suspect that money laundering activity is taking/has taken place, or become concerned that your involvement in a matter may amount to a prohibited act, you must inform the Money Laundering Reporting Officer; MLRO, immediately if the transaction is pending. If the transaction has been completed and you then become concerned you must contact the MLRO as soon as practicable. The MLRO is the Council's Section 151 Officer, Head of Finance. The disclosure should be immediately or within "hours" of the information coming to your attention. **Should you not do so, you may be liable to prosecution.**

- 1.2 You must make your disclosure to the MLRO using the Report to Money Laundering Reporting Officer Form. The Form is available on the Council's Intranet under Finance.
<http://occweb/intranet/finance.cfm>

The report must include as much detail as possible, for example:-

- full details of the people involved (including your details, if relevant)
- full details of the nature of your involvement
- the types of money laundering activity involved noting, in particular, the following:-
 - if possible, the section number(s) under which the report is being made should be cited e.g. a principal money laundering offence under section 327 – 329 of the Act, or general reporting requirement under section 330 of the Act, or both. If you are not sure which section to use, make the report under section 327 – 330 of the Act.
- the dates of such activities, including:-
 - whether the transactions have happened, are ongoing or are imminent
 - where they took place
 - how they were undertaken
 - the (likely) amount of money/assets involved
- why, exactly, you are suspicious – the National Crime Authority, NCA (previously the Serious Organised Crime Agency, SOCA) will require full reasons
- any 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

him/her to prepare his report to the NCA, where appropriate.

Copies of relevant supporting documents should be enclosed.

- 1.4 If you are concerned that your involvement in the transaction would amount to a money laundering offence then your report must include all relevant details, as you will need consent from the NCA, via the MLRO, to take any further part in the transaction – this is the case even if you are instructed to proceed before consent is given.
- 1.5 If you think that the council is about to enter into dealings that could amount to money laundering you must put that dealing on hold and contact the MLRO immediately. If you are unable to speak with the MLRO you will need to speak with the Executive Director, Organisational Development and Corporate Services. The dealings must remain on hold until the MLRO says that it can proceed. If dealings have to be put on hold this must be mentioned when you complete the reporting form for the MLRO.
- 1.6 Once you have spoken and reported the matter to the MLRO you must follow any directions given to you by the MLRO. You must not make any further enquiries into the matter yourself (any necessary investigation will be undertaken by the NCA). You must simply report your suspicions to the MLRO who will refer the matter on to the NCA if appropriate. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.
- 1.7 Similarly, at no time and under no circumstances should you, in making a report to the MLRO, voice any suspicions to the person(s) whom you suspect of money laundering, even if the NCA has given consent to a particular transaction proceeding, without the specific consent of the MLRO. **If you do you may commit the criminal offence of “tipping off”.**
- 1.8 You must not, make any reference on the client file or on any electronic client record about a report having been made to the MLRO – should another officer ask to see the file, then such a note will be considered a ‘tip off’ and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

2. Consideration of the disclosure by the MLRO

- 2.1 Upon receipt of a disclosure report, the MLRO must note the date of receipt on his/her section of the report and acknowledge receipt of it. The MLRO should also advise the member of staff who has made the report of the timescale within which they should expect a response.
- 2.2 The MLRO will consider the report and any other available internal information he/she thinks relevant e.g.:-

- other transaction patterns and volumes;
- the length of any business relationship involved;
- the number of any one-off transactions and linked one-off transactions;
- any identification evidence held;

and undertake such other reasonable enquiries he/she thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved). The MLRO may also need to discuss the report with the member of staff who made the report.

- 2.3 Once the MLRO has evaluated the disclosure report and any other relevant information, he/she 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 is the case; and
 - whether he/she needs to seek consent from the NCA for a particular transaction to proceed.
- 2.4 Where the MLRO does so conclude, then he/she must disclose the Suspicious Activity Report (SAR) as soon as practicable to the NCA on their standard on-line report forms;
<http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/specialist-capabilities/ukfiu/how-to-report-sars>
- 2.5 The forms must be completed in the prescribed manner, unless the MLRO has a reasonable excuse for non-disclosure to the NCA; for example, if the member of staff who has made the report is a lawyer and he/she wishes to claim legal professional privilege for not disclosing the information. The NCA website has comprehensive guidance.
- 2.6 Once the SAR is reported it can take up to 7 working days for the NCA to give consent for the transaction to proceed. If the consent is refused the NCA (Law Enforcement) can take up to 31 days (Moratorium Period) to investigate the matter further. The Council cannot proceed with the transaction within this period; continuing with the transaction means that the Council runs the risk of committing a money laundering offence.
- 2.7 Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then he/she must note the report accordingly. He/she can then immediately give his/her consent for any ongoing or imminent transactions to proceed.

- 2.8 In cases where legal professional privilege may apply, the MLRO must liaise with the Council's legal adviser to decide whether there is a reasonable excuse for not reporting the matter to the NCA.
- 2.9 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then he/she shall mark the report accordingly and give his/her consent for any ongoing or imminent transaction to proceed.
- 2.10 All disclosure reports referred to the MLRO and reports made by him/her to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.
- 2.11 The MLRO commits a criminal offence if he/she knows or suspects, or has reasonable grounds to do so, through a disclosure being made to him/her, that another person is engaged in money laundering and he/she does not disclose this as soon as practicable to the NCA.**

3. Client identification procedures

- 3.1 Where the Council is carrying out certain business, for example management of any asset holdings, then extra care needs to be taken to check the identity of the customer or client. Client identification procedures are required in the following circumstances:
- management of any asset holdings;
 - an on-going business relationship is formed e.g. a lease or contract;
 - sale of any property/land;
 - one-off transactions involving payment by or refunded to the client of £5,000 or more;
 - a series of linked one-off transactions involving total payment by or refunded to the client of £5,000 or more.
- 3.2 Steps to be taken:
- identifying the customer (names and addresses etc.) and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source e.g. 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 of the directors;
 - seeking evidence from the key contact of their personal identity; for example their passport, (original ID documents must be seen on request and a colour copy taken for the record) and position within the organisation

- 3.3 This client identification procedure must be followed **before any business is undertaken for that client.**
- 3.4 In the circumstances mentioned above you must obtain satisfactory evidence of the identity of the prospective client, as soon as practicable (unless evidence of that client has already been obtained). This applies to existing clients, as well as new ones but identification evidence is not required for matters entered into prior to 1st March 2004.
- 3.5 If satisfactory evidence of identity is not obtained at the outset of the matter then the business relationship or one off transaction cannot proceed any further and in these circumstances should be reported immediately to the MLRO.
- 3.6 As has been stated previously at no time and in no circumstances should a member of staff making a report to the MLRO raise any suspicions to the person whom he/she suspects of money laundering.

4. Risk

- 4.1 The Council must decide for itself how to assess risk and identify the risks of money laundering. It is considered that there may be more risk associated with particular customers or more risk posed by a customer's behaviour, for example:
- brand new customers carrying out large one-off cash transactions;
 - complex business ownership structures with the potential for concealing beneficiaries;
 - an individual in a public position and/or location that carries a higher exposure to the possibility of corruption (including politically exposed persons);
 - reluctance of a customer to provide identification or the evidence produced is unsatisfactory;
 - where the customer appears to be acting on behalf of another person and is unwilling to give details of those they represent;
 - the customer is trying to use intermediaries to protect this identity or hide their involvement;
 - there appears to be no genuine reason for the customer using the council's services;
 - transactions that do not appear to make commercial sense
 - non face-to-face customers;
 - the transaction is different from the normal business of the customer;
 - the size and frequency of the transaction is not consistent with the normal activities of the customer;

- there has been a significant or unexpected improvement in the customer's financial position particularly where they are unable to give a proper explanation of where the money came from;
- money is paid to a third party who does not appear to be connected with the customer;
- a cash transaction is unusually large and the customer will not disclose the source of the funds.

5. Record keeping procedures

- 5.1 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 service areas 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.

6. Other procedures

- 6.1 As well as being obliged to comply with the identification, record-keeping and internal reporting procedures set out above the Regulations also impose an obligation on the council to establish other procedures of internal control and communication as may be appropriate for the purpose of forestalling and preventing money laundering.
- 6.2 A particular example will be the case of a refund – care will need to be taken especially with the procedures for refunds. For instance, a significant overpayment which would result in a repayment /refund will need to be properly reported to the MLRO, investigated and needs to be authorised before repayment/refund can go ahead.
- 6.3 Cash payments (including notes, coins or travellers' cheques in any currency) will not be accepted if they exceed £5,000.

7. Training

- 7.1 Training will be tailored for each service area so that employees will have an awareness of the Money Laundering Policy and the measures needed to prevent money laundering.