

Anti-Money Laundering

Policy 2018



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ANTI MONEY LAUNDERING POLICY

1. Introduction

- 1.1. West Lindsey District Council has a zero tolerance policy concerning money laundering and is committed to the highest standards of conduct.
- 1.2. The Proceeds of Crime Act (POCA) 2003, the Terrorism Act 2000 and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 place obligations on West Lindsey District Council and its employees to ensure that procedures are in place to prevent the Council's services being used for money laundering.
- 1.3. This policy sets out the process to minimise the risk, as well as provide guidance on the Council's money laundering procedures. Adhering to this policy and guidance will protect employees from the risk of prosecution if an employee becomes aware of money laundering activity while employed by the Council.
- 1.4. The policy is not intended to prevent customers and service providers from making payments for Council services, but to minimise the risk of money laundering in high value cash transactions.

2. Definition of Money Laundering

- 2.1. The term 'Money Laundering' can be used to describe a number of offences involving the proceeds of crime or terrorist financing. In simple terms, money laundering is a process used by criminals to make the proceeds of their crimes appear as though they originated from a legitimate source. Money launderers aim to disguise the identity of the criminal and/or conceal their connection to the proceeds of the crimes.
- 2.2. The following constitute money laundering offences:
 - Concealing, disguising, converting, transferring criminal property or removing it from the UK (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).
 - Acquiring, using or possessing criminal property (section 329).
 - Doing something that might prejudice an investigation e.g. falsifying a document.

- Failure to disclose one of the offences listed above, where there are reasonable grounds for knowledge or suspicion.
- Tipping off a person(s) who is or is suspected of being involved in money laundering in such a way as to reduce the likelihood of or prejudice an investigation.

Attached at Appendix A are some examples of money laundering.

- 2.3. There is a possibility that any member of staff could be prosecuted for money laundering offences if they suspect money laundering and either become involved with it in some way and/or do nothing about it. This policy sets out the appropriate practice and how any concerns should be raised.
- 2.4. Although the risk to the Council of contravening the legislation is low, it is important that all employees are aware of their responsibilities as serious criminal sanctions may be applied to those who breach the legislation.
- 2.5. **The significant requirement for employees is to immediately report any suspected money laundering activity to the Money Laundering Reporting Officer (MLRO; see section 5). Failure to do so could lead to prosecution.**

3. Identifying Money Laundering

- 3.1. There is no clear definition of what constitutes a suspicion of money laundering – common sense will be needed. Although you do not need to have actual evidence that money laundering is taking place, mere speculation is unlikely to be sufficient to give rise to knowledge or suspicion. However, if you deliberately shut your mind to the obvious, this will not absolve you of your responsibilities under the legislation.
- 3.2. Examples of money laundering activity include:
 - Large cash payments;
 - Asking for cash refunds on credit card payments; or
 - Overpaying bills and invoices and then asking for cash refunds.
- 3.3. Any transaction involving an unusually large amount of cash should cause concern and prompt questions to be asked about the source. This will particularly be the case where the value of cash paid exceeds the amount due to settle the transaction and the person(s) concerned ask for a non-cash refund of the excess.
- 3.4. If the person(s) concerned use trusts or offshore funds for handling the proceeds or settlement of a transaction, then the reasons for this should be questioned.

3.5. Care should be exercised and questions asked where:

- A third party intermediary becomes involved in a transaction;
- The identity of a party is difficult to establish, or is undisclosed;
- A company is used where the ultimate ownership of the company is concealed or difficult to verify; and/or
- A party is evasive about the source or destiny of funds.

4. The Council's Obligations

4.1. The Council is obligated to:

- Appoint a money laundering reporting officer.
- Maintain client identification procedures in certain circumstances.
- Implement a procedure to enable the reporting of suspicions of money laundering.
- Report any cash transactions over €15,000 (or the Sterling equivalent).
- Maintain sufficient records.

5. The Money Laundering Reporting Officer (MLRO)

5.1. The Council has nominated the following officers to be responsible for anti-money laundering measures within the Council:

MLRO: **Ian Knowles**, Executive Director of Resources.

Email: ian.knowles@west-lindsey.gov.uk Tel: 01427 676682

Deputy MLRO: **Tracey Bircumshaw**, Strategic Finance and Business Support Manager

Email: tracey.bircumshaw@west-lindsey.gov.uk Tel: 01427 676560

5.2. In the absence of the MLRO (or deputy), or in instances where it is suspected that the MLRO themselves are involved in suspicious transactions, concerns should be raised with Mark Sturgess, Executive Director Operations/Head of Paid Service.

6 Identification of Clients

6.1 In general, management should ensure that appropriate checks are carried out on new partners, suppliers and contractors in accordance with the Council's existing policies and procedures.

6.2 However, where the Council is carrying out a '**relevant business**',¹ and as part of this:

- forms an ongoing business relationship with a client; or
- undertakes a one-off transaction involving payment by or to the client of €15,000 (or the equivalent in sterling) or more; or
- undertakes a series of linked on-off transactions involving total payment by or to the client(s) of €15,000 (or the sterling equivalent) or more; or
- it is known or suspected that a one-off transaction (or a series of them) involves money laundering.

Then the client identification procedures (listed below) must be followed before any business is undertaken for that client. In the event the business relationship with the client existed before 1st March 2004 this requirement does not apply.

6.3 Where the 'relevant business' is being provided internally signed, written instructions on Council headed notepaper or an email on the internal email system should be provided at the outset of the business relationship.

6.4 If the 'relevant business' is being provided externally then the following additional checks must be completed:

- Check the organisation's website and other publically available information such as telephone directory services and Companies House to confirm the identity of the personnel, their business address and any other details.
- Ask the key contact officer to provide evidence of personal identity and position within the organisation, for example a passport, photo ID card, driving licence and signed, written confirmation from the Head of Service or Chair of the relevant organisation that the person works for the organisation.

6.5.1 Remember, these additional client identification procedures are **only** required when conducting a 'relevant business.'

7. Reporting concerns

7.1 Where you know or suspect that money laundering activity is taking place/has taken place you must report this as soon as possible (i.e. within hours of the information coming to your attention, not weeks or months later) to the MLRO using the pro forma Money Laundering Reporting Form attached at Appendix B.

¹ Relevant business is defined as the provision 'by way of business' of advice about tax affairs; accounting services; audit services; legal services; services involving the formation, operation or arrangement of a company or trust; or dealing in goods wherever a transaction involves a cash payment of €15000 or more

SHOULD YOU NOT DO SO THEN YOU MAY BE LIABLE TO PROSECUTION

7.2 Record Keeping Procedures

- 7.2.1 Each section of the Council delivering services must maintain records of:
- client identification evidence obtained; and;
 - details of all relevant business transactions carried out for clients for at least five years.
- 7.2.2 This is so that they may be used as evidence in any subsequent investigation by the Council into money laundering.
- 7.2.3 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 divisions 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.

7.3 Cash Payments

- 7.3.1 Instances of Council officers accepting cash payments have been reduced considerably so that there are now very few areas where cash is accepted. In those few instances the following shall apply.
- 7.3.2 No payment to the Council should automatically be accepted in cash (including notes, coins or travellers cheques in any currency) if it exceeds £1,000. This does not, however, mean that cash transactions below this value will be valid and legal and should not arise any suspicion. Professional scepticism should remain at all times.
- 7.3.4 Staff who collect cash payments are asked to provide the details of any cash transaction over £1,000 to the MLRO so that precautionary checks can be performed.
- 7.3.5 It is best practice to insist on payment by cheque or electronically from a UK clearing bank and this is the case for the majority of Council income.
- 7.3.6 The Council can accept payments from individuals and organisations. If an employee has no reason to suspect or know that money laundering activity is taking/has taken place and if the money offered is less than £1,000 in cash as payment or part payment for goods/services offered by the Council then there is no need to seek guidance from the MLRO.

7.4 Reporting Procedure

- 7.4.1 If a member of staff has reasonable grounds to suspect money laundering activities or proceeds of crime, or is simply suspicious, the matter should still be reported to the MLRO. If the money offered is £1,000 or more in cash then payment must not be accepted until guidance has been received from the MLRO even if this means the person has to be asked to wait.
- 7.4.2 Any officer involved in a transaction of this kind should ensure that the person provides satisfactory evidence of their identity personally, through passport/photo driving licence plus one other document providing evidence of current address in the form of a bank statement, credit card statement, mortgage or insurance details or a utility bill. Where the other party is a company, this can be done through company formation documents or business rate bill.
- 7.4.3 In the event of an employee suspecting a money laundering activity they must immediately report their suspicion to the MLRO, or to the deputy MLRO, using the Reporting Form available on Minerva. The report must contain as much detail as possible, the Reporting form is attached at Appendix B.
- 7.4.4 If the suspicious transaction is happening right now, for example someone is trying to make a large cash payment, every effort should be made to speak with the MLRO or deputy, who will decide whether to accept the payment or suspend the transaction. If it is not practical or safe to do so, a report should be made to the MLRO or deputy immediately after the transaction is complete.
- 7.4.5 The information provided to the MLRO will be used to decide whether there are reasonable grounds to demonstrate knowledge or suspicion of money laundering, whether further investigation is necessary, whether the transaction should be accepted or suspended, and if appropriate, whether a suspicious activity report should be made to the National Crime Agency (NCA). If it is not practical or safe to suspend a suspicious transaction a report should be made to the National Crime Agency immediately after the transaction is complete.
- 7.4.6 The employee must follow directions given to them by the MLRO and must **not** discuss the matter with others or notify the person(s) who is suspected of money laundering. 'Tipping off' a person suspected of money laundering is a criminal offence.
- 7.4.7 The MLRO or deputy must immediately evaluate any disclosure to determine whether the activity should be reported to the National Crime Agency (NCA).
- 7.4.8 The MLRO or deputy must, if they so determine, promptly report the matter to NCA in a prescribed manner and on their standard report form (currently

referred to as a suspicious activity report (SAR)). This can be found on the NCA website: www.nationalcrimeagency.gov.uk

8. Training

- 8.1 Officers considered to be most at risk of being exposed to suspicious situations will be made aware by their Team Manager and provided with appropriate training.
- 8.2 Additionally, all officers and Members will be familiarised with the legislation and regulations relation to money laundering and how they affect the employees (themselves) and the Council.
- 8.3 It is not necessary for all staff to be aware of the specific criminal offences, staff that are likely to encounter money laundering should be aware of the procedures that are in place. This policy and procedures provides sufficient information to raise awareness for most staff.
- 8.4 It is recommended that staff in areas that are highly vulnerable to money laundering, should be provided with targeted training that is specific to the Council activity at hand. This could be achieved by in house resources, or through training courses and seminars run by external providers

9 Further information

- 9.1 Further information can be obtained from the MLRO and the following websites:
 - www.nationalcrimeagency.gov.uk
 - Proceeds of Crime (Anti- Money Laundering) - Practical Guidance for Public Service Organisations'- CIPFA
 - Money Laundering Guidance at www.lawsociety.org.uk
 - HM Revenue & Customs <http://www.hmrc.gov.uk/mlr/>

10 Conclusion

- 10.1 The likelihood of West Lindsey District Council being exposed to money laundering is extremely low. However, the legislation and requirements that have been implemented must be followed. Failure to comply with such legislation and requirements by individuals could lead to prosecution.

APPENDIX A

POSSIBLE SIGNS OF MONEY LAUNDERING

It is not possible to give a definitive list of ways in which to spot money laundering but facts which tend to suggest that something “odd” is happening may be sufficient for a reasonable suspicion of money laundering to arise.

The following are the types of risk factors which *may*, either alone or cumulatively with other factors, suggest the possibility of money laundering activity:

- A new customer with no previous history with the Council;
- A secretive customer: for example one who refuses to provide requested information without a reasonable explanation;
- Concerns about the honesty, integrity or identity of a customer;
- Illogical third party transactions: for example 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;
- Overpayments by a customer;
- Absence of an obvious legitimate source of the funds;
- Movement of funds to and from overseas;
- Where, without reasonable explanation, the size, nature and frequency of transactions or instructions is out of line with normal expectations;
- Cancellation or reversal of an earlier transaction.

APPENDIX B: MONEY LAUNDERING REPORTING FORM

Anti-Money Laundering Reporting Form

Date report received:

Date receipt of report acknowledged:

Your Contact Details

Please provide your contacts details in the box below so we can confirm that we have received the report and get into contact with you if required.

Name :	
Role:	
Email:	
Contact Telephone:	

Main Subject

Please provide the details of the person you suspect of money laundering. If you suspect more than one person, please fill in the additional boxes below.

Name:			
Date of Birth:		Gender:	
Occupation:			
Address	Type: (Home, work etc)		

Transaction(s)

Please enter the details of the transactions you think are suspicious

Date:			
Amount:		Currency:	
Credit/Debit			
Reason for the transaction:			

Date:			
Amount:		Currency:	
Credit/Debit			
Reason for the transaction			

Account(s)

Please enter details of the account(s) used.

Account Holder's Name		Acc. No	
		Sort Code:	
Current balance:		Balance date:	

Account Holder's Name		Acc. No	
		Sort Code:	
Current balance:		Balance date:	

Associated Subjects:

If there are any other people you suspect are involved in money laundering, please enter their details below.

Name:			
Date of Birth:		Gender:	
Occupation:			
Reason for association			
Address	Type: (Home, work etc)		

Name:			
Date of Birth:		Gender:	
Occupation:			

Reason for association		
Address	Type: (Home, work etc)	

Linked addresses:

Please enter details of any linked addresses:

Address	Type: (Home, work etc)	

Reason for Suspicion:

Please enter details of your suspicions. Please provide as much information as possible.

APPENDIX C: MONEY LAUNDERING DISCLOSURE FORM

THE FOLLOWING PART OF THIS FORM IS FOR COMPLETION BY THE MONEY LAUNDERING REPORTING OFFICER (MLRO)

Date report received:

Date receipt of report acknowledged:

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 NCA?

Yes/No (please select the relevant option)

If yes, please confirm date of report to the NCA: and complete the box below:

Details of liaison with NCA regarding the report:

Notice Period:To

Moratorium Period: To

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

Yes/No (please select the relevant option)

If yes, please enter full details in the box below:

Date consent received from NCA:

Date consent given by you to employee:

If there are reasonable grounds to suspect money laundering but you do not intend to report the matter to NCA, please set out below the reason(s) for non-disclosure:

[Please set out reasons for non-disclosure]

Date consent given by you to employee for any prohibited act transactions to proceed:

.....

Other relevant information:

Signed:

Dated:

THIS REPORT IS TO BE RETAINED FOR AT LEAST FIVE YEARS.

APPENDIX D

Document Enhancement notification

DOCUMENT ENHANCEMENT FOR THE VISUALLY IMPAIRED OR TRANSLATION FROM ENGLISH IS AVAILABLE ON REQUEST.

TELEPHONE: (01427) 676578

OR E-MAIL: customer.relations@west-lindsey.gov.uk

INFORMATION REGARDING EQUALITY AND DIVERSITY CAN BE ACCESSED FROM OUR WEBSITE AT

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Next Review date: May 2019 (and every year thereafter) or amended should best practice change or for changes in new legislation.