

Anti-Money Laundering Policy

Introduction

Hampshire County Council (the 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.

The Proceeds of Crime Act 2002, the Terrorism Act 2000 and the Money Laundering Regulations 2007 place obligations on the Council and its employees to establish internal procedures to prevent the use of their services for money laundering.

Key points

- The Council is committed to the prevention, detection and reporting of money laundering
- All employees must be vigilant for the signs of money laundering
- Any employee who suspects money laundering activity must report this promptly to the Money Laundering Reporting Officer (MLRO)
- No payment to the Council will be accepted in cash (including notes, coins or travellers cheques in any currency) if it exceeds £3,000
- Where the Council is carrying out certain *regulated activities by way of business* then the customer due diligence procedure must be followed
- The Money Laundering Regulations are detailed and complex – if you are in any doubt about the application of this Policy please contact the MLRO

Scope of the Policy

This Policy 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. The Policy sets out the procedures which must be followed (for example the reporting of suspicions of money laundering activity) to enable the Council to comply with its legal obligations.

This Policy sits alongside the Council's Anti-Fraud and Anti-Corruption Strategy and Policy Statement including the 'Whistleblowing policy'.

Failure by a member of staff to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary Procedures.

What is money laundering?

Money laundering is the term used for a number of offences involving the proceeds of crime or terrorism funds. The following acts constitute the act of money laundering:

- 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); or
- acquiring, using or possessing criminal property (section 329).

These are the primary money laundering offences, and are thus prohibited acts under the legislation. There are also two secondary offences: failure to disclose any of the three primary offences, and tipping off. Tipping off is where someone informs a person or people who are, or who are suspected of being involved in money laundering, in such a way as to reduce the likelihood of their being investigated or prejudicing an investigation.

Any member of staff could potentially 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. This Policy sets out how any concerns should be raised.

While the risk to the Council of contravening the legislation is low, it is important that all employees are familiar with their responsibilities: serious criminal sanctions may be imposed for breaches of the legislation. The key requirement on employees is to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer.

Policy Statement

Our Policy is to do all we can to prevent, wherever possible, 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. We cannot stress too strongly, however, that it is every member of staff's responsibility to be vigilant.

The Money Laundering Reporting Officer (MLRO)

The officer nominated to receive disclosures about money laundering activity within the council is Andrew Bouflower (Deputy Investments and Borrowing Manager), and can be contacted as follows:

E11 East 3rd Floor
The Castle
Winchester, Hampshire

SO23 8UB
Tel: 01962 847407
andrew.boutflower@hants.gov.uk

In the absence of the MLRO, the Gemma Farley (Accountant – Investments & Borrowing), is authorised to deputise for him.

E11 East 3rd Floor
The Castle
Winchester, Hampshire
SO23 8UB
Tel: 01962 847540
gemma.farley@hants.gov.uk

Disclosure Procedures

Cash payments

No payment to the Council will be accepted in cash (including notes, coins or travellers cheques in any currency) if it exceeds £3,000.

Reporting to the MLRO

Any employee who suspects money laundering activity must report their suspicion promptly to the MLRO, or to the MLRO's deputy if appropriate, using the attached form (Appendix A). If you would prefer, you can discuss your suspicions with the MLRO or their deputy first.

The employee must follow any subsequent directions of the MLRO or deputy, and must not themselves make any further enquiries into the matter. They must not take any further steps in any related transaction without authorisation from the MLRO.

The employee must not disclose or otherwise indicate their suspicions to the person suspected of the money laundering. 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.

The MLRO or deputy must promptly evaluate any Disclosure Report, to determine whether it should be reported to the Serious and Organised Crime Agency (SOCA).

The MLRO or deputy must, if they so determine, promptly report the matter to SOCA on their **standard report form** and in the prescribed manner. Up to date forms can be downloaded from the SOCA website at **www.soca.gov.uk**.

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

Where the Council is carrying out certain ‘regulated activities’¹ 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’.

The Regulations regarding customer due diligence are detailed and complex, but there are some simple questions that will help you decide if it is necessary:

- Is the service a regulated activity (see the list at the foot of the page)?
- Is the Council charging for the service 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.

Where you need to carry out customer due diligence then you must seek evidence of identity, for example:

- 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.

The requirement for customer due diligence applies immediately for new customers and should be applied on a risk sensitive basis for existing customers.

Ongoing customer due diligence must also be carried out during the life of a business relationship but should be proportionate to the risk of money laundering and terrorist funding, based on the officer’s knowledge of the customer and a regular scrutiny of the transactions involved.

If, at any time, you suspect that a client or customer for whom you are currently, or are planning to carry out a regulated activity is carrying out money laundering or terrorist financing, or has lied about their identity then you must report this to the MLRO.

¹ “Regulated activity 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.”

In certain circumstances enhanced customer due diligence must be carried out for example where:

- The customer has not been physically present for identification
- The customer is a politically exposed person²
- There is a beneficial owner who is not the customer – a beneficial owner is any individual who: holds more than 25% of the shares, voting rights or interest in a company, partnership or trust.

Enhanced customer due diligence could include any additional documentation, data or information that will confirm the customer's identity and / or the source of the funds to be used in the business relationship / transaction. If you believe that enhanced customer due diligence is required then you must consult the MLRO prior to carrying it out.

Record Keeping Procedures

Each service area of the Council conducting regulated business must monitor, on an on-going basis, their business relationships in terms of scrutinising transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure that the transactions are consistent with their knowledge of the client, its business and risk profile.

Where 'relevant business' is carried out then the customer due diligence records and details of the relevant transaction(s) for that client must be retained for at least five years after the end of the business relationship.

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 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.

An electronic copy of every customer due diligence record must be sent to the MLRO to meet the requirements of the Regulations and in case of inspection by the relevant supervising body.

Guidance and Training

In support of the policy and procedure, 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; and

² A politically exposed person is an individual who at any time in the preceding year has held a prominent public function outside of the UK, and EU or international institution / body, their immediate family members or close associates.

- provide targeted training to those most likely to encounter money laundering.

Conclusion

The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This policy has been written so as 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.

Any concerns whatsoever regarding any transaction should be reported to the MLRO.

Further Information

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

- **www.soca.gov.uk** – website of the Serious and Organised Crime Agency
- “Proceeds of Crime (Anti-Money Laundering) – Practical Guidance for Public Service Organisations” – CIPFA
- “Anti-Money Laundering (Proceeds of Crime and Terrorism) – Second Interim Guidance for Accountants” – CCAB (**www.ccab.org.uk**)
- Money Laundering Guidance at **www.lawsociety.org.uk**
- SI 2007 No. 2157 The Money Laundering Regulations 2007 at http://www.hm-treasury.gov.uk/consultations_and_legislation/money_laundering_directive/consult_moneylaundering_2007.cfm



Appendix A

CONFIDENTIAL

Report to Money Laundering Reporting Officer

Re: Money laundering activity

To: Andrew Boutflower, Hampshire County Council Money Laundering Reporting Officer

From: _____
[insert name of employee]

Service: _____
[insert post title and Service]

Ext/Tel No: _____

Urgent: YES/NO

Date by which response needed: _____

Details of suspected offence:

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



Nature of suspicions regarding such activity:

[Please continue on a separate sheet if necessary]

Has any investigation been undertaken (as far as you are aware)?

[Please tick the relevant box]

Yes

No

If yes, please include details below:

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 guidance re money laundering?
(e.g. the Law Society)**

[Please tick the relevant box]

Yes

No

If yes, please specify below:

Do you feel you have a reasonable excuse for not disclosing the matter to the SOCA? (e.g. are you a lawyer and wish to claim legal professional privilege?)

[Please tick the relevant box]

Yes

No



If yes, please set out full details below:

Are you involved in a transaction which might be a prohibited act under sections 327 – 329 of the Act and which requires appropriate consent from the SOCA?

[Please tick the relevant box]

Yes

No

If yes, please enclose details in the box 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: _____



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 SOCA?
[Please tick the relevant box]

Yes

No

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

Details of liaison with the SOCA regarding the report:

Notice Period: _____ to _____

Moratorium Period: _____ 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 in the box below:

Date consent received from SOCA:

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 the SOCA, 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 TO BE RETAINED FOR AT LEAST FIVE YEARS