



Powys

ANTI MONEY LAUNDERING POLICY

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Contents

INTRODUCTION TO THE POLICY

1. Context
2. Scope of the Policy
3. What is Money Laundering
4. The Legal and Regulatory Framework and Obligations that it places on the Council

HOW THE COUNCIL WILL RESPOND

5. The Council's response
6. The Money Laundering Reporting Officer
7. Reporting to the Money Laundering Reporting Officer
8. Customer Due Diligence
9. Training
10. Further Information
11. Review of the Policy

Appendix 1 - How the Council may be exposed to Money Laundering

1. Guidelines to staff and members on concerns and suspicions
2. The types of activities that may be affected

Appendix 2

- Money Laundering Report Form
- Money Laundering Disclosure Form – to be completed by the Money Laundering Reporting Officer

INTRODUCTION

1 Context

- 1.1 This Policy, and the accompanying procedures and reporting forms, represents an important part of the Council's approach to dealing with the risk of fraud and corruption. This Policy seeks to complement the Anti-Fraud, Corruption and Bribery Policy and Whistleblowing Policy and contribute to the overall framework of Corporate Governance established to ensure that the Council is well managed and fulfils its statutory and regulatory duties in a proper and responsible manner.
- 1.2 The risks to the Council of contravening money laundering legislation is low and some aspects of the legal and regulatory requirements do not apply to public authorities. However, it is recognised that the Council is not completely immune from the risks surrounding money laundering. The purpose of the Anti-Money Laundering Policy is to clearly demonstrate that the Council embraces the underlying principles of money laundering legislation and is taking reasonable steps to minimise the likelihood of such activities occurring, by developing a suitable framework of arrangements to safeguard itself against action of this nature, whilst making satisfactory provisions to achieve compliance to legal and regulatory requirements, where appropriate.
- 1.3 The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (the 2017 Money Laundering Regulations), provide numerous and prescriptive requirements with regards to risk assessments, policies and procedures and customer due diligence checks, amongst other things, all of which are designed to minimise the risk of businesses inadvertently or otherwise becoming involved in money laundering or terrorist financing.
- 1.4 Whilst local authorities are not bound by the requirements of the 2017 Money Laundering Regulations), even when undertaking regulated activities within the meaning of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, it is prudent and responsible practice for local authorities to comply with the underlying spirit of the legislation and to have in place appropriate and proportionate anti-money laundering safeguards.
- 1.5 Whilst local authorities do not strictly fall within the scope of the 2017 Money Laundering Regulations, they are bound by the Proceeds of Crime Act 2002 and the Terrorism Act 2006, both of which place a number of duties and responsibilities on local authorities and employees and members of the same, in order that they do not find themselves subject to criminal prosecution.
- 1.6 This policy seeks to address both the underlying spirit of the 2017 regulations whilst ensuring responsibilities under the Proceeds of Crime Act 2002 and Terrorism Act 2006 are clear.

2 Scope of the Policy

2.1 This Policy applies to all employees whether permanent or temporary, and Members of the Council. It aims to prevent criminal activity through money laundering and to enable employees and Members to respond to a concern that they have in the course of their dealings for the Council.

It is extremely important that all members and employees are familiar with their legal responsibilities and are vigilant at all times. 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 (MLRO).

2.2 Failure by any employee 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 Policy and Procedure.

3 What is Money Laundering?

3.1 Money laundering is a term designed to cover a number of offences. These offences relate to the improper handling of funds that are the proceeds of criminal acts, or terrorist acts, so that they appear to come from a legitimate source. It relates to both the activities of organised crime but also to those who benefit financially from dishonest activities such as receiving stolen goods. The Proceeds of Crime Act 2002 (POCA), as amended by the Serious Organised Crime and Police Act 2005, creates a range of criminal offences arising from dealing with proceeds of crime. The four main offences that may be committed under money laundering legislation are:

- Concealing, disguising, converting, transferring or removing criminal property from anywhere within the UK;
- Entering into or becoming concerned in an arrangement which a person knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person;
- Acquiring, using or possessing criminal property*;
- Entering onto or being concerned in an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property ** by concealment, removal, transfer or in any other way:

It is also an offence to attempt to conspire or incite to commit any of the above offences and to aid, abet, counsel, procure or commission any of the above offences.

**Criminal property is something which constitutes a person's benefit from criminal conduct or represents such benefit; it is not limited to money and there is no minimum amount.*

***Terrorist Property includes money or other property likely to be used for terrorism, proceeds of terrorist acts, and proceeds of acts carried out for the purposes of terrorism.*

There are also two 'third party' offences:

- Failing to disclose information relating to money laundering offences (in respect of both criminal property and terrorist property) where there is reasonable grounds for knowledge or suspicion *** ; and,
- Tipping off or informing someone who is, or is suspected of being involved in, money laundering activities, in such a way as to reduce the likelihood of or prejudice an investigation.

**** It is important to note that whilst the disclosure obligations and tipping off offences in relation to criminal property will not always strictly apply to local authorities all individuals and business' have an obligation to report knowledge, reasonable grounds for belief or suspicion about the proceeds from terrorism, proceeds of acts carried out for the purposes of terrorism or finance likely to be used for terrorism, where that information has come to them in the course of their business or employment.*

3.2 The Money laundering offences cited above carry a prison sentence of up to 14 years. A defence is available if it can be shown that any knowledge or suspicion of money laundering was reported to the National Crime Agency (NCA) and as a result that any resultant transaction was put on hold until consent to proceed was given.

4 The legal and regulatory framework and the obligations that it places on the Council

4.1 The main laws and regulations which set out the money laundering regulations are:

- The Proceeds of Crime Act 2002 (amended by the Serious Organised Crime and Police Act 2005 and further amended by the Serious Crime Act 2015)
- The Terrorism Act 2000 (amended by the Anti-Terrorism and Security Act 2001 and Terrorism Act 2006 and further amended by the Money Laundering Regulations 2007)
- The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. (which supersede the money laundering regulations 2007, 2012 and 2015)

4.2 The Terrorism Act 2000 makes it an offence of money laundering to become concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of terrorism or resulting from acts of terrorism. Under the Terrorism Act 2000, all individuals and businesses in the UK have an obligation to report knowledge, reasonable grounds for belief or suspicion about the proceeds from, or finance likely to be used for terrorism or its laundering, where it relates to information that comes to them in the course of their business or employment.

4.3 The 2012 Money Laundering Regulations and The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 establish that as long as businesses are not operating within the "regulated sector", then the offences of failing to disclose suspicions of money laundering, and tipping

off, do not apply. The list of businesses within the regulated sector does not include local authorities, and as such these offences do not apply to the Council. Furthermore, the 2003 Money Laundering Regulations, which preceded the 2012 regulations, made organisations responsible for undertaking “relevant business” to have appropriate systems in place for the reporting of money laundering, staff training, and identifying and keeping records of money laundering.

- 4.4 The Chartered Institute of Public Finance and Accountancy (CIPFA) issued 2 sets of guidance on how legal and regulatory provisions impact on public authorities. CIPFA has confirmed that local authorities were not a “relevant business” in terms of the 2003 Money Laundering Regulations and are therefore not required to have systems in place to identify, record and report money laundering.
- 4.5 However, CIPFA has also advised that ‘it is prudent and responsible practice for public service organisations, including those outside the scope of the regulations, to put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements, designed to enable them to detect and avoid involvement in the crimes described in the legislation and regulations.’ There could also be a “substantial reputational risk for an authority which does not have such procedures in place”.
- 4.6 This Policy and the working practices aligned to it have been designed to address the risk the Council may face if it does not properly address the potential for money laundering. As a responsible authority, we need to be mindful that a money laundering offence could be committed by an employee, or the Council could be a victim of such an offence.

5 THE COUNCIL’S RESPONSE

- 5.1 The Council is responsible to undertake the following:
- Appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from Members or employees of money laundering activity (their own or anyone else’s)
 - Implement a procedure to enable the reporting of suspicions of money laundering
 - Maintain client identification procedures (see Section 7.0) in certain circumstances and
 - Maintain records

6 The Money Laundering Reporting Officer

- 6.1 All employees and Members are obliged to report any suspicion of money laundering or terrorist financing to the Council’s Nominated Officer(s). The Council has nominated the Head of Financial Services as the Money Laundering Reporting

Officer (MLRO). In their absence, the Deputy Head of Finance (and Deputy S151 Officer) will be the Deputy Money Laundering Reporting Officer.

7 Reporting to the Money Laundering Reporting Officer (MLRO)

7.1 The primary duty of any employee, member or third party under this Policy is to ensure that any suspicions or concerns that money laundering has occurred, or is likely to occur, should be reported to the MLRO as soon as the suspicion arises. The disclosure should be within 'hours' of a suspicious activity coming to an individual officer's attention, rather than several days or weeks later.

Delays or failure to report may leave you personally liable to prosecution.

7.2 To support the above process, **Appendix 1** provides information on the types of activities where the Council may be subject to money laundering offences and guidance to staff on situations where money laundering activities could occur.

7.3 All available information needs to be given to the MLRO to enable them to make an informed judgement as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable them to prepare a report to the National Crime Agency (NCA) NCA, for example:

- Full details of the people involved (including yourself, if relevant) e.g. name, date of birth, address, company names, directorships, phone numbers etc.
- Full details of the nature of their / your involvement
- The types of money laundering activity involved. (The MLRO can help identify this)
- The dates of such activity, 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

7.4 Suspicions can be raised through direct contact with the MLRO; however it is preferable to use the reporting form which has been developed at **Appendix 2**, and e-mail / post the completed form to the MLRO.

7.5 The employee, Member or third party should not make any further enquiries into the matter themselves and any further action must be with the approval of the MLRO. Those who have raised a concern should ensure that they do not then voice their suspicions to the suspect or tell them that you have reported the transaction. Otherwise you may commit a criminal offence of 'tipping off' which carries a maximum penalty of 5 years imprisonment and unlimited fine.

- 7.6 Upon receipt of a disclosure report the MLRO must acknowledge receipt and confirm the timescale within which they expect to respond.
- 7.7 The MLRO is required to promptly evaluate any concerns/disclosures raised and determine whether they require further investigation and hence referral to the NCA, by means of a Suspicious Activity Report (SARs) using the reporting forms included at **Appendix 2**. The MLRO should not undertake investigation of any concerns themselves. Where legal professional privilege may apply, the MLRO must liaise with the Solicitor of the Council to determine the further action to be taken.
- 7.8 Where money laundering is suspected the MLRO will report to NCA, by making a Suspicious Activity report and will also notify Internal Audit and the Monitoring Officer.
- 7.9 In some cases, it may be necessary to seek approval from NCA before the Council can undertake any further activity in respect of the transaction. Where the MLRO has made such a referral to NCA, they will notify the person raising the concern, and again inform the individual when NCA has provided permission for the transaction to proceed.
- 7.10 If a request for consent has been made to NCA, no action should occur for a period of 7 days or until NCA gives consent. If this results in a transaction having to be deferred or delayed, it should be carefully handled to ensure that the customer is not tipped off as to the money laundering concern.
- 7.11 After 7 days, if NCA does not notify otherwise, they are deemed to have given consent to the transaction. If NCA instead notifies they refuse to give consent, they have a further 31 calendar days to take action, a moratorium period of 31 days starts on the day the Council receives the refusal notice. During this period, the Council cannot proceed with the matter for which the consent was applied. At the expiry of the 31 days if we have not heard anything, NCA is deemed to have consented to the request and the Council can proceed.
- 7.12 The MLRO should retain the details of any referrals made, including correspondence with the necessary bodies, using the forms included in **Appendix 2**. All information should be retained for a minimum of 6 years.
- 7.13 To ensure the Council minimises the risk of tipping off, and to minimise any reputational damage should the suspicion be unfounded, the confidentiality of the matter will be respected at all times; the MLRO will only inform anyone of the suspicion where there is a genuine business need.

8 Customer Due Diligence

- 8.1 The Council does undertake activities that may be considered, under the Money Laundering Regulations, to be regulated, however it does not undertake these activities by way of business, and therefore would not normally be expected to undertake due diligence in respect of any clients to whom it provides these services. The types of activities that are regulated are:

- Credit and Financial institution,
- Legal, Auditors, Accountants and Tax Advisers,
- Trust of Company service providers
- Estate Agents
- Casinos,
- High value deals i.e. dealing in goods of any description whenever a transaction involves accepting a total cash payment of more than €10,000 (£8,750).

8.2 However, it is good practice that wherever the Council does enter into such activities with a third party then due diligence checks should be actioned before the establishment of a relationship/transaction with the third party.

8.3 Undertaking customer due diligence checks can take a number of forms. HM Revenues and Customs have issued “core guidance” in this area. Consideration should be given to taking one or more of the following, where applicable:

- Confirming the identity of the client via documentation, data or information obtained from a reliable and independent source, e.g. passport, and/or position within an organisation, where appropriate.
- Obtaining confirmation from Companies House as to the registration details of the Company and details of the Company business.
- Seeking electronic verification, e.g. performing credit checks.
- Obtaining confirmation to regulated industries bodies (e.g. in the case of accountants, checking to CCAB certified bodies).
- Requesting copies of financial statements.
- Requesting details of interests and beneficial ownerships – with reference to the latter this is any individual who holds more than 25% of the shares, voting rights or interest in a company, partnership or trust.
- Obtaining information on the purpose and intended nature of the business relationship.

8.4 Examples of other available internal information that may be considered relevant are:

- Reviewing 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

8.5 Any checks undertaken should remain proportionate to the risks of the individual business and the relationship. Additional checking may need to be performed if the person is not physically present to be identified, or they are politically exposed, by virtue of holding a prominent public function. Details of such checks should be recorded and retained for a minimum of 6 years, to meet the requirements of the regulations and in case of inspection by the relevant supervising body.

8.6 There is also now an ongoing legal obligation to check the identity of existing clients and the nature and purpose of the business relationship with them at appropriate times. One option to review these matters might be to do so as part of the ongoing monitoring of the business arrangements, as is usually provided for in the Terms of Business Letter, Service Level Agreement or other written record, as well as scrutinising transactions as they occur, paying particular attention to complex or unusually large transactions, unusual patterns of transactions and/or unexpected transactions, etc.

8.7 The customer due diligence checks and customer identity checks should be reviewed together to then determine if there is a potential risk of money laundering occurring. If there is potential evidence of suspicions or concerns that money laundering has occurred, or is likely to occur, this should be reported to the MLRO using the form at **Appendix 2**.

8.8 Once the MLRO has evaluated the disclosure report and any other relevant information, they 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 they need to seek consent from NCA for a particular transaction to proceed.
- Where the MLRO concludes a referral is needed then they must disclose the matter as soon as possible to the NCA

8.9 Where the MLRO suspects either:

- Money laundering but has reasonable excuse for nondisclosure: or
- Concludes that there are no reasonable grounds to suspect money laundering:

They must note the report accordingly and give immediate consent for any ongoing or imminent transactions to proceed.

8.10 Where money laundering is suspected the MLRO will report to NCA, by making a Suspicious Activity report and also notify the Head of Internal Audit, and the Monitoring Officer.

9 Training

9.1 The Council will take appropriate measures to ensure that all employees are made aware of the law relating to money laundering and will arrange targeted, ongoing training to key individuals most likely to be affected by the legislation.

10 Further Information

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

- <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/national-economic-crime-centre> – website of the National Crime Agency

- Anti-Money Laundering Guidance for the accountancy sector , published by CCAB www.ccab.org.uk
- Anti-Money Laundering Guidance for the legal sector at www.lawsociety.org.uk
- The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 at: <https://www.legislation.gov.uk>

11 Review of the Policy

- 11.1 The Policy will be reviewed at least every 3 years, and confirmed by Audit Committee with any substantial changes.
- 11.2 On an annual basis, Section 7 of the Policy, which provides details of the key parties responsible for money laundering reporting activities, shall be reviewed by the Money Laundering Reporting Officer, the Head of Internal Audit and Corporate Risk Officer to ensure that details remain relevant and up-to-date. This review will not require re-endorsement of the Policy.

How the Council may be exposed to Money Laundering

1 Guidelines to staff and members on concerns or suspicions

It is anticipated that the most likely scenario in which a money laundering issue may arise is where officers unwittingly become concerned or involved in an arrangement which we know or suspect enables criminal property to be retained or acquired by a third party.

- 1.1 If you do have any suspicions or concerns about an individual or transaction then it is always better to raise those concerns appropriately. If necessary, you may wish to use the Council's Whistleblowing Policy for further support and guidance on how to raise a concern. Conversely, if in doubt, seek advice from the MLRO.
- 1.2 Although some offences and suspicions may be fairly apparent, some can be more difficult to identify. The simple guidance is to be vigilant, and not be afraid to question something if you don't think looks right. If you think something looks suspicious, then the probability is someone else may also think the same. It is better for the Council to be safe when handling public money – it would not reflect well on the Council's reputation if it was found we had taken monies that were obtained through theft, drug trafficking, terrorism, etc.
- 1.3 It is recognised that a lot of the Council's activities are sensitive in nature, and in cases what, to some people, may be suspicious or concerning behaviour, from a money laundering perspective may not necessarily be in line with the activity occurring. However, people should always be mindful of genuine concern and suspicion.

2 The types of activities that may be affected

- 2.1 The following table sets out the types of activities that might be suspicious, and how the Council may come across those activities. It is not intended to be exhaustive, and just because something you are suspicious about is not on the list, it doesn't mean you shouldn't report it.

Activity	The types of activity that may be affected
New customers with high value transactions	<ul style="list-style-type: none"> • Selling property to individuals or businesses • Renting out property to individuals or businesses • Entering into other lease agreements • Undertaking services for other organisations
Secretive clients	<ul style="list-style-type: none"> • Housing benefit claimants who have sums of money entering into / out of their bank account (even if we do not award them benefit, we should still consider money laundering implications) • People buying or renting property from the Council who may not want to say what it is for • People receiving grant funding who refuse to demonstrate what funding was used for
Customers who we think are acting dishonestly or illegally	<ul style="list-style-type: none"> • People paying for Council services who do not provide details about themselves • People making odd or unusual requests for payment arrangements

Illogical transactions	<ul style="list-style-type: none"> • People paying in cash and card then requesting refunds • Requests for the Council to pay seemingly unconnected third parties in respect of goods / services provided to the Council • Requests for the Council to pay in foreign currencies for no apparent reasons
Payments of substantial sums by cash	<ul style="list-style-type: none"> • Large debt arrears paid in cash • Refunding overpayments • Deposits / payments for property
Movement of funds overseas	<ul style="list-style-type: none"> • Requests to pay monies overseas, potentially for “tax purposes”
Cancellation of earlier transactions	<ul style="list-style-type: none"> • Third party “refunds” grant payment as no longer needed / used • No payment demanded even though good / service has been provided • Sudden and unexpected termination of lease agreements
Requests for client account details outside normal course of business	<ul style="list-style-type: none"> • Queries from other companies regarding legitimacy of customers • Council receiving correspondence / information on behalf of other companies
Extensive and over-complicated client business structures / arrangements	<ul style="list-style-type: none"> • Requests to pay third parties in respect of goods / services • Receipt of business payments (rent, business rates) in settlement from seemingly unconnected third parties
Poor accounting records and internal financial control	<ul style="list-style-type: none"> • Requests for grant funding / business support indicates third party not supported by financial information • Companies tendering for contracts unable to provide proper financial information / information provided raises concerns • Tender for a contract which is suspiciously low
Unusual property investments or transactions	<ul style="list-style-type: none"> • Requests to purchase Council assets / land with no apparent purpose • Requests to rent Council property with no apparent business motive
Overcomplicated legal arrangements / multiple solicitors	<ul style="list-style-type: none"> • Property transactions where the Council is dealing with several different parties

MONEY LAUNDERING REPORT FORM

Employee Details

Name _____

Department / Section _____

Date Reported _____

Contact details _____

Offence Details

Give full details of the name(s) and address (es) of the person(s) / Company (s) / public body (s) / Directorship (s) involved Identities of the person(s) / company (s) subject to the enquiry

Nature, value and timing of the activity involved – please include full details of whether this has already occurred, is on-going or is likely to occur, where / when this occurred, how it arose and the amount of money / assets involved and why you are suspicious. Please continue on another sheet if necessary.

Investigations – has any investigation already occurred, as far as you are aware? If so, please detail below.

Discussions – have you discussed your suspicions with anyone – including any advisory bodies? Please identify who you have contacted and why such discussions were necessary.

Disclosure – is there any reason why you believe this should not be disclosed to National Crime Agency (NCA)?

Further Information – if there is any further information you believe to be relevant, please include here:

Signed _____

Date _____

Please do not discuss the content of this report with anyone you believe to be involved in the suspected money laundering activity described. This form, upon completion, should be passed directly to the Money Laundering Reporting Officer.

MONEY LAUNDERING DISCLOSURE FORM – TO BE COMPLETED BY THE MONEY LAUNDERING REPORTING OFFICER

Date of Money Laundering Report Form being received _____

Date when acknowledgement receipt of Money Laundering Report Form

Report Form related to _____

Report Form completed by: _____

Officer contact details _____

Action taken to review Report Form

Findings of review

Are there reasonable grounds for suspecting money laundering activity? If yes please give details.

If yes, please complete the following details:

Date or report to NCA:
Details of liaison with NCA regarding the report:
Notice Period:
Moratorium period:

Is consent required from NCA? Has consent been received?

--

Date consent given by MLRO to employee for Council to proceed with the transaction

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

Other relevant information

--

Signed _____

Name _____

Date _____