



ANTI-MONEY LAUNDERING POLICY & PROCEDURES

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1. Introduction

- 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 both the Counter Fraud Strategy 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 legislation concerning money laundering (the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007) broadened the definition of money laundering and increased the range of activities caught by the statutory framework. As a result, the obligations impacted on areas of local authority business and required local authorities to establish internal procedures to prevent the use of their services for money laundering. The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017) came into force on 26 June 2017 and placed further requirements on certain financial sectors.
- 1.3 The risks to the Council of contravening money laundering legislation remain relatively 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.

2. Scope of the Policy

- 2.1 This Policy applies to all employees of the Council and aims to prevent criminal activity through money laundering. 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 Under the legislation, there are two main types of offences which may be committed:
- Money laundering offences
 - Failure to report money laundering offences
- 3.2 Money laundering activity includes:
- acquiring, using or possessing criminal property
 - handling the proceeds of crimes such as theft, fraud and tax evasion
 - being knowingly involved in any way with criminal or terrorist property
 - entering into arrangements to facilitate laundering criminal or terrorist property
 - investing the proceeds of crime in other financial products or through the acquisition of property/assets
 - 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
 - transferring criminal property

These are the primary money laundering offences and are therefore prohibited acts under the obligations.

3.3 There are further associated offences regarding due diligence and disclosures:

Due diligence

- Failure to apply customer due diligence
- Failure to apply on-going monitoring of business relationship and customer due diligence
- Failure to comply with verification of clients and any beneficial owner
- Failure to apply enhanced customer due diligence and monitoring where required
- Failure to keep required records
- Continuing with a business relationship where unable to apply customer due diligence

Disclosures

- Making a disclosure to a person which is likely to prejudice a money laundering investigation (“tipping off”)
- Failing to disclose
- Prejudicing an investigation
- Providing information which is false or misleading in a material particular

These money laundering offences may be committed by an organisation or by individuals working for an organisation.

3.4 Money laundering regulations apply to cash transaction in excess of 15,000 Euros (approximately £13,000). However, Proceeds of Crime Act (POCA) applies to all transactions and can include dealings with agents, third parties, property or equipment, cheques, cash or bank transfers.

3.5 Although instances of suspected money laundering are likely to be rare, failure to comply with legal requirements could have significant implications for both the Council and the individuals concerned.

4. The legal and regulatory framework

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 law requires those organisations in the regulated sector and conducting relevant business to:

- appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees of money laundering activity
- implement policies and procedures relating to customer due diligence, reporting, record keeping and risk management
- communicate all relevant policies and procedures

5. The Money Laundering Reporting Officer (MLRO)

5.1 The Council has nominated the Chief Finance Officer as the Money Laundering Reporting Officer (MLRO); in their absence, the Audit Manager acts as the Deputy Money Laundering Reporting Officer. Their contact details are as follows:

David Hodgson

Helen Kelvey/Helen Putt

Chief Finance Officer
X5292
dave.hodgson@exeter.gov.uk

Audit Manager
X5631
helen.kelvey@exeter.gov.uk
helen.putt@exeter.gov.uk

- 5.2 Your responsibility under this Policy is to ensure that any suspicions or concerns that money laundering has occurred, or is likely to occur, is 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.
- 5.3 It is an offence for the MLRO to fail to disclose information that comes into his/her possession in certain circumstances. On summary conviction, the penalty may be a term of imprisonment or a fine or both .

Please be aware that delays or failure to report may leave you personally liable to prosecution.

6. Reporting Procedure

- 6.1 The MLRO will send you a form for you to complete to ensure that all available information is provided to them 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), 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
- 6.2 Once you have made a report to the MLRO you should not make any further enquiries into the matter yourself and any further action must be with the approval of the MLRO. Do not voice your 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.
- 6.3 Do not make any reference on records held to the fact that you have made a report to the MLRO. If a customer exercises their right to see their record, any such note would obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.
- 6.4 Upon receipt of a report, the MLRO will acknowledge receipt of the report and will give an indication of the timescale within which they expect to respond. Please refer to the MLRO procedures held by the MLRO (or Deputy MLRO) for full details on the disclosure procedure.

7. Identification of potential money laundering situations

- 7.1 Criminals have various ways of concealing, moving and legitimising the proceeds of crime. Examples of signs of money laundering where suspicions should arise include:
- Use of cash where other means of payment are normal,
 - Unusual transactions or ways of conducting business,
 - Unwillingness to answer questions/general secretiveness,
 - Payment of deposits which are subsequently requested back,
 - Lack of 'traceability' of persons involved,
 - Individuals and companies that are insolvent yet have funds.

7.2 It is not possible to give a definitive list of ways in which to identify money laundering or how to decide whether to make a report to the MLRO. The following are types of risk factors which may, either alone or cumulatively with other factors, suggest the possibility of money laundering activity:

- payment of a substantial sum in cash (over £5,000),
- a new customer,
- a secretive customer, e.g. refuses to provide requested information without a reasonable explanation,
- concerns about the honesty, integrity, identity or location of a customer,
- illogical third party transaction such as 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,
- overpayments by a customer,
- absence of an obvious legitimate source of funds,
- movement of funds overseas, particularly to a higher risk country or tax haven,
- transactions which are out of the line of normal expectations, without reasonable explanation,
- a transaction without obvious legitimate purpose or which appears uneconomic, inefficient or irrational,
- the cancellation or reversal of an earlier transaction,
- requests for release of customer account details other than in the normal course of business,
- transactions at substantially above or below fair market values,
- poor business records or internal accounting controls,
- a previous transaction for the same customer which has been, or should have been, reported to the MLRO.

8 Customer Due Diligence

8.1 Not all of the Council's business is "relevant" for the purposes of the legislation regarding client identification. Relevant services as defined by the legislation include investments, accountancy and audit services and the financial, company and property transactions undertaken by Property Services and Legal Services.

8.2 Legal, Finance, Accounting and Audit staff must follow the procedures set out in Appendix 1 in order to ascertain the true identity of clients and ensure record keeping procedures (e.g. for evidence of identity obtained, details of transactions undertaken, for at least 5 years afterwards).

8.3 Legal Services are subject to particular provisions applying to the legal profession and these are set out separately in Legal Services procedure note.

9 Record Keeping Procedures

9.1 Each service of the Council and contractors working for the Council conducting relevant business must maintain records for at least five years from the end of the business relationship or one-off transaction(s) of:

- identification evidence obtained; and
- details of all relevant business transactions carried out for those persons or organisations for whom we have obtained evidence

This is so they may be used as evidence in any subsequent investigation by the authorities into money laundering.

9.2 The precise nature of the records is not prescribed by law, however they must be capable of providing an audit trail during any investigation, for example distinguishing the person or organisation and the relevant transaction and recording in what form any funds were received or paid. In practice, Council business units will be routinely making records of work carried out for persons or organisations in the course of normal business and these should be sufficient for this requirement.

10 Training

- 10.1 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.

11 Review of the Policy

- 11.1 The Policy will be reviewed at least every 3 years, by the Money Laundering Reporting Officer and Audit Manager (or more frequently if required by changes to statutory legislation) and approved by Audit and Governance Committee.

IDENTIFICATION PROCEDURE AND RECORD KEEPING PROCEDURES FOR FINANCIAL SERVICES, AUDIT AND LEGAL STAFF

General

The procedures set out in this Appendix apply if you are a Council employee conducting 'relevant business' (set out below). These are mainly accountancy and audit services carried out by Financial Services and certain financial, company and property transactions undertaken by Legal Services. "Relevant" for the purposes of the legislation is the provision **by way of business** of:

- advice about the tax affairs of another person by a body corporate;
- accountancy services by a body corporate;
- audit services;
- legal services by a body corporate which involves participation in a financial or real property transaction (whether by assisting in the planning or execution of any such transaction or otherwise by acting for, or on behalf of, a client in any such transaction);
- services in relation to the formation, operation or management of a company or a trust.

Identification Procedure

Where you are carrying out relevant business (the provision of accountancy, audit and certain legal services 'by way of business' to third parties) and you, acting on behalf of the Council:

- a) form an ongoing business relationship with a client; or
- b) undertake a one-off transaction involving payment by or to the client of 15,000 Euro (approximately £10,000) or more; or
- c) undertake a series of linked one-off transactions involving total payment by or to the client(s) of 15,000 Euro (approximately £13,000) or more; or
- d) know or suspect that a one-off transaction (or a series of them) involves money laundering;

then you must follow this procedure before any business is undertaken with that organisation or person. For the procedure, you must obtain satisfactory evidence of identity, as soon as practicable after instructions are received (unless evidence has already been obtained). This applies to existing and new persons or organisations, but identification evidence is not required for matters entered into prior to 1 March 2004.

Satisfactory evidence is evidence which:

- is capable of establishing, to your satisfaction, that the client is who they claim to be; and
- does in fact do so

Evidence of identity should be obtained as follows:

1. Signed, written instructions on official letterhead at the outset of a particular matter. Such correspondence should then be placed on the Council's file along with a prominent note explaining which correspondence constitutes the evidence and where it is located.

2. If you are undertaking work for a new person or organisation or further instructions from a person or an organisation not well known to you, then you may also wish to seek additional evidence of the identity of key individuals in the organisation and of the organisation itself, for example:

- checking the organisation's website to confirm the business address;
- Checking companies house information
- Where practicable, visiting them at their business address;

- asking the key contact employee to provide evidence of their personal identity and position within the organisation; for example signed, written confirmation from their Head of Service or Chair of the relevant organisation.

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 until this becomes available.

The law states that particular care must be taken when the person or organisation that is paying you to do work or who the Council is an agent for, is not physically present when being identified. This is always likely to be the case for the Council, given that its relevant business can only be undertaken for other local authorities and designated public bodies (not individuals) and therefore instructions will usually be given in writing.

There are a limited number of exceptions where you are not required to obtain identification evidence, e.g. evidence is not required when a purchaser of property is represented by a legal professional (e.g. solicitor, legal executive, licensed conveyancer etc) this is because we are entitled to presume that the professional has complied with the legislation and checked the purchaser's identity (as their own client).