

REPORT TO AUDIT AND GOVERNANCE COMMITTEE

Date of Meeting: 8 March 2023

Report of: Director Finance

Title: Anti-Money Laundering Policy

Is this a Key Decision? No

Is this an Executive or Council Function? Council

1. What is the report about?

The Council's Anti-Money Laundering Policy and Procedures have been reviewed and updated to meet the latest requirements of the Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017.

2. Recommendations:

That the Audit & Governance Committee recommend that Council approve the updated Anti-Money Laundering Policy and Procedures.

3. Reasons for the recommendation:

The Proceeds of Crime Act 2002 (POCA) and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 are the principal laws relating to money laundering.

Although local authorities are not directly covered by the requirements of the Money Laundering regulations, guidance from the Chartered Institute of Public Finance and Accountancy (CIPFA) recommends that local authorities should comply with the underlying spirit of the legislation and regulations.

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.

4. What are the resource implications including non financial resources.

None

5. Section 151 Officer comments:

The policy updates ensure that the Council remains compliant with the legal framework under which it must act.

6. What are the legal aspects?

The legal provisions are summarised in this report.

7. Monitoring Officer's comments:

Having an up to date money laundering policy and procedure is an essential part of Exeter City Council's governance controls. Members will note that the key changes to the Regulations have been incorporated into the Council's policy together with updates to the Council's anti-money laundering procedures. The report identifies that training is required to ensure that all officers are aware of the Council's anti-money laundering policy and training on the provisions of the law is a key aspect of the legislation.

Simon Copper – Deputy Monitoring Officer

8. Report details:

8.1 Background

Money laundering is a key enabler of serious and organised crime, which costs the UK at least £37 billion every year.

The Money Laundering, Terrorist Financing and Transfer of Funds Regulations are a key part of the UK's regulatory framework for addressing and mitigating the risks related to money laundering and terrorist financing.

Money laundering offences are set out in Part 7 of the Proceeds of Crime Act 2002, which also defines money laundering as:

'The process by which the proceeds of crime are converted into assets which appear to have a legitimate origin, so that they can be retained permanently or recycled into further criminal enterprises'.

8.2 Money Laundering Offences

Under the legislation, there are two main types of offences which may be committed:

- Money laundering offences
- Failure to report money laundering offences

Money laundering describes offences concerning the possession, concealment, conversion, transfer or making of arrangements relating to the proceeds of crime. This is not limited to money or cash.

It is a defence to a primary money laundering offence if an 'authorised disclosure', known as a suspicious activity report (SAR) is made to the National Crime Agency, requesting consent to undertake the transactions or activity and appropriate consent is given or deemed given before any act is done. Such a SAR is also known as a 'Defence Against Money Laundering SAR' (DAML SAR).

8.3 Key Requirements

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

The policy and the accompanying procedures (Appendix A) represents an important part of the Council's approach to dealing with the risks associated with money laundering. 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.

8.4 Key Changes to Regulations

The Anti-Money Laundering Policy was last presented to Audit and Governance Committee on 25 July 2018. Since that time, a number of changes have been made to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. The updates are required to ensure that the UK continues to meet international Anti-Money Laundering standards.

Although they have minimal impact on the Council, examples of the changes include:

- a wider range of firms falls within the scope of the regulations, as it now includes art market participants and crypto asset exchange providers
 - crypto assets are a type of electronic cash such as Bitcoin and are generally held as investments by people who expect their value to rise
- since the UK left the EU on 31 January 2020, the definition of a 'third country' became a country outside the UK, as opposed to outside the European Economic Area for the purposes of enhanced due diligence. However, HM Treasury specify those countries classified as high-risk third countries.
- The maximum amount allowed for cash payments has reduced from 15,000 Euros to 10,000 Euros (currently £9,000) per transaction or series of transactions

8.5 Review of Money Laundering Policy and Procedures

In terms of updating the Council's Anti-Money Policy and Procedures, the key changes are:

- 3.5 Clarified that money laundering regulations apply to cash transactions in excess of 10,000 Euros (currently £9,000)
- 5.1 The nominated Money Laundering Reporting Officer and Deputy Money Laundering Reporting Officer have been updated to the Deputy Chief Finance Officer and Finance Manager – General Fund Services respectively
- 8.4 Updated to reflect the introduction of an Anti-Money Laundering Declaration Form in respect of Right to Buy applications
- 9. New section to set out the requirement for enhanced customer due diligence where deemed a higher risk
- 10.3 Confirmation that any records held should be in line with GDPR

8.6 Training

The policy sets out that the Council will take appropriate measures to ensure that all employees are made aware of the Anti-Money Laundering Policy.

The policy has been prioritised by the Strategic Management Board as part of eleven key policies to be rolled out using a new Policy Management system, Metacompliance.

The new system will require all staff to confirm that they have read and understood the policy.

8.7 Money Laundering Review

Since the last update to Audit and Governance Committee, the following reports have been made to the MLRO. Whilst it is not possible to provide any further details, in accordance with the regulations, it provides some data on volumes of reports and outcomes:

Financial Year	Reports to MLRO	Transaction did not proceed	MLRO Satisfied that no reasonable grounds for suspecting money laundering	Disclosure to NCA
2018/19	1			1
2019/20	0			
2020/21	4	2	2	
2021/22	4		3	1
2022/23	2		2	

9. How does the decision contribute to the Council's Corporate Plan?

This contributes to the key priority 'A well run Council'

10. What risks are there and how can they be reduced?

The risk is non-compliance with legislation which may lead to prosecution of the Council or one of its employees.

11. Equality Act 2010 (The Act)

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal no potential impact has been identified on people with protected characteristics as determined by the Act because:

11.4.1 The report is for information only

12. Carbon Footprint (Environmental) Implications

No direct carbon/environmental impacts arising from the recommendations.

13. Are there any other Options

N/A

Dave Hodgson
Director Finance

Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

None

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