

Anti Money Laundering Policy

Document Details:

Owner/Lead Officer: Chief Financial Officer (Sue Alexander – Interim)

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Worcestershire County Council: Anti Money Laundering Policy

1. Introduction

- 1.1 The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017) came into force on 26 June 2017. They implement the EU's 4th Directive on Money Laundering. In doing so, they replace the Money Laundering Regulations 2007 (MLR 2007) and the Transfer of Funds (Information on the Payer) Regulations 2007 which were previously in force.
- 1.2 A key difference is that relevant persons are obliged to adopt a more risk-based approach towards anti-money laundering, in particular in how they conduct due diligence. Determining the appropriate level of due diligence requires analysis of risk factors based on the EU Directive and which are set out in MLR 2017.

2. Scope of the Policy

2.1 This Policy applies to all employees and elected members 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.

2.2 The Policy sits alongside the Council's Whistleblowing Policy and Anti-Fraud and Corruption Strategy.

2.3 Failure to comply with the procedures set out in this Policy may lead to further action being taken, including disciplinary action.

3. What is Money Laundering?

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

- concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 of the 2002 Act); or
- 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);

3.2 These are the primary money laundering offences and thus prohibited acts under the legislation. There are also two secondary offences: failure to disclose any of the primary offences and tipping off. Tipping off is where someone informs a person or people who are, or 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.

3.3 Potentially any person could 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.

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3.4 Whilst the risk to the Council of contravening the legislation is low, it is extremely important that all employees are familiar with their legal 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 (MLRO).***

4. What are the obligations on the Council?

4.1 Whilst Local Authorities are not directly covered by the requirements of the Money Laundering Regulations 2017, guidance from finance and legal professions, including the Chartered Institute of Public Finance and Accounting (CIPFA), indicates that public service organisations should comply with the underlying spirit of the legislation and regulations and put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.

4.2 The Regulations apply to “relevant persons” acting in the course of business carried on by them in the UK. Not all of the Council’s business is “relevant” for the purposes of the legislation. It is mainly accountancy and financial, company and property transactions undertaken by Legal Services. However, the safest way to ensure compliance with the law is to apply them to all areas of work undertaken by the Council; therefore, **all** staff are required to comply with the reporting procedure set out in the policy.

4.4 The obligations on the Council are to establish and maintain appropriate and risk-sensitive policies and procedures. Organisations must:

- appoint a Money Laundering Reporting Officer (“MLRO”) to receive disclosures from 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 in certain circumstances; and
- maintain record keeping procedures.
- Conduct a money laundering and terrorist financing risk assessment and adopt appropriate internal controls.

5. The Money Laundering Reporting Officer

5.1 The officer nominated to receive disclosures about money laundering activity within the Council is the Chief Financial Officer who can be contacted as follows:

Chief Financial Officer (currently Sue Alexander – Interim)
Worcestershire County Council
Resources Directorate
P O Box 374
County Hall
Worcester
WR5 2XF
Email: salexander@worcestershire.gov.uk

5.2 In the absence of the MLRO the Head of Strategic Infrastructure Finance and Financial Recovery is authorised to deputise.

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6. Disclosure Procedure

Cash Payments

6.1 No payment to the Council will be accepted in cash (including notes, coins or travellers cheques in any currency) if it exceeds £5,000.

Reporting to the Money Laundering Reporting Officer (MLRO)

6.2 Any employee who suspects money laundering activity is taking place, or an employee who becomes concerned that their involvement in a matter may amount to a prohibited act under the legislation, must disclose this promptly to the MLRO.

6.3 The disclosure should be made to the MLRO or deputy using the proforma report attached at Appendix 1. The report must include as much detail as possible.

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

6.5 The employee must not disclose or otherwise indicate their suspicions to the person(s) suspected of money laundering. They must not discuss the matter with others or note on a file that a report has been made to the MLRO in case this results in the suspect becoming aware of the suspicion.

Consideration of the disclosure by the Money Laundering Reporting Officer

6.6 The MLRO or deputy must promptly evaluate any disclosure to determine whether it should be reported to the National Crime Agency ("NCA")
<http://www.nationalcrimeagency.gov.uk/>.

6.7 The MLRO or deputy must, if they so determine, promptly report the matter to the NCA through the NCA website. Alternatively a SAR can be made via the SAR Online System: <https://www.ukciu.gov.uk/saronline.aspx>. NCA can be contacted 24 hours a day on 0370 496 7622.

6.8 All disclosure reports referred to the MLRO or deputy and reports made to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.

6.9 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 the NCA.

7. Customer Due Diligence

7.1 Where the Council is carrying out certain regulated business (accountancy, audit and tax services and legal services re financial, company or property transactions) and as part of this

a) forms an ongoing business relationship with a client

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b) undertakes a one off or occasional transaction amounting to €15,000 or more whether carried out as a single transaction or several linked ones

c) suspects money laundering or terrorist financing;

7.2 then the Customer Due Diligence Procedure must be followed before any business is undertaken for that client.

7.3 Customer due diligence means:

a) Identifying the customer and verifying the customer's identity on the basis of information obtained from a reliable and independent source e.g. conducting a search at Companies House.

b) Obtaining information on the purpose and intended nature of the business relationship.

7.4 The Regulations regarding customer due diligence are detailed but the following questions help determine whether it is necessary:

- Is the service a regulated activity?
- Is the Council charging for the service?
- Is the service being provided to a customer other than another UK public authority?
- If the answer to any of these questions is **no then there is no need to carry out customer due diligence.**

7.5 If the answer to all these questions is yes then customer due diligence needs to be carried out prior to conducting business for that client.

7.6 Where the "relevant business" is being provided to another UK public sector body then written, signed instructions on the body's headed paper should be obtained prior to the transaction being completed.

7.7 The requirement for customer due diligence applies immediately for new customers and should be considered on a risk sensitive basis for existing customers. Customer due diligence means that the Council must know its clients and understand their businesses. This is so that the Council is in a position to know if there is suspicious activity that should be reported; clearly it is only by the Council knowing its clients and their businesses that it can recognise abnormal and possibly suspicious activity

7.8 The 2017 Regulations require that the Council identifies its customers and verifies that identity on the basis of documents, data or information obtained from a reliable source. Where there is a beneficial owner who is not the customer then the Council must identify that person and verify the identity and where the beneficial owner is a trust or similar then the Council must understand the nature of the control structure of that trust. Finally the Council must obtain information on the purpose and intended nature of the business relationship. The MLR 2017 introduces the need for the Council to consider both customer and geographical risk factors in deciding what due diligence is appropriate.

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7.9 The checks described in the paragraph above must generally be undertaken by the Council before it establishes a business relationship or carries out an occasional transaction, or if it suspects money laundering or terrorist funding or doubts the veracity of any information obtained for the purposes of identification or verification. However, the Council is not required to undertake these checks if its customer is another public authority, unless it suspects money laundering or terrorist funding.

7.10 The Council is also obliged to maintain ongoing monitoring of its business relationships which means it must scrutinise transactions throughout the course of the relationship to ensure that the transactions are consistent with the Council's knowledge of the customer and keep the information about the customer up-to-date.

Enhanced Customer Due Diligence and Ongoing Monitoring

7.11 It will in certain circumstances be necessary to undertake what is known in the Regulations as Enhanced Customer Due Diligence. In summary, this will be necessary where:

- The customer has not been physically present for identification purposes; or
- In any other situation which by its nature can present a higher risk of money laundering or terrorist financing.

7.12 Where this applies, the Council will need to take adequate measures to compensate for the higher risk. For example, this will mean ensuring that the customer's identity is established by additional documents, data or information.

7.13 Similarly, where the Council is in an ongoing "business relationship" with a customer, the Regulations impose a special obligation to carry out ongoing monitoring. This means that the Council must: scrutinise transactions undertaken throughout the course of the relationship to make sure that these transactions are consistent with the Council's knowledge of the customer, his/her business and risk profile; and keep documents, data or information obtained for the purpose of applying Customer Due Diligence measures up-to-date.

8. Record Keeping

8.1 Where the "relevant business" is carried out then the customer due diligence identification evidence and the details of the relevant transaction(s) for that client must be retained for at least five years.

8.2 The precise nature of these records is not set down in law but should be capable of providing an audit trail during any subsequent investigation.

9. Risk Management and Internal Control

9.1 The risk to the County Council of contravening the anti money laundering legislation will be assessed on a periodic basis and the adequacy and effectiveness of the Anti Money Laundering Policy will be reviewed in light of such assessments.

10. Further Information

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

- Website of NCA – <http://www.nationalcrimeagency.gov.uk/> .

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- 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

CONFIDENTIAL Report to Money Laundering Reporting Officer

Re: Suspected money laundering activity

To: Money Laundering Reporting Officer, (Chief Financial Officer) Worcestershire County Council

From:
[insert name of employee]

Directorate:
[insert post title and Business Unit]

Ext/Tel No:.....

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]

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Nature of suspicions regarding such activity:

[Please continue on a separate sheet if necessary]

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.