



**PROCEEDS OF CRIME
(ANTI-MONEY LAUNDERING)
POLICY AND GUIDANCE**

September 2012

1.0 Introduction

- 1.1 There have been a number of significant changes to the legislation concerning money laundering contained within the Proceeds of Crime Act 2002 (POCA) and the Money Laundering Regulations 2007, which have broadened the definition of money laundering and increased the range of activities caught by the statutory framework. As a result, the new obligations now impact on certain areas of local authority business and require local authorities to establish internal procedures to prevent the use of their services for money laundering.
- 1.2 This policy applies to all Members and 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 to enable the Council to comply with its legal obligations.

2.0 What is Money Laundering?

2.1 Money laundering means:

- Concealing, disguising, converting, transferring criminal property or removing it from the UK.
This covers hiding an item or its source, removing serial numbers, or changing an item for something else. For example unexplained large cash payment claimed to be from death of relative or lottery win, a person using illegally earned money to buy a house or piece of land; 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.
This is the actual involvement in helping to cover up an act – e.g. a Housing Officer becoming suspicious that a tenant on benefits is buying valuable items when they are on limited income and failing to report this; or
- Acquiring, using or possessing criminal property, accepting stolen items knowingly or knowingly taking advantage of them or accepting items paid for by the proceeds of crime.
This could be paying significantly less than the value of an item with the suspicion or knowledge that it may be stolen; or

- Becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorism property (section 18 of the Terrorist Act 2000).
This is about hiding income or other items which are being used to fund or carry out terrorist activities.

These are the primary money laundering offences and are thus prohibited activities under the Proceeds of Crime Act (POCA).

2.2 There are also two 'third party' offences:-

- 1) Failure to disclose one of the primary offences, and
- 2) 'Tipping-off' – this 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.

2.3 Criminal Property is defined in Section 340 (3) of POCA as "property" that is or represents the person's benefit from illegal actions in whole or part and the person knows or suspects that it is the proceeds of a criminal act. To this end property is defined as all property wherever situated and includes:

- Money;
- All forms of property, real or personal, heritable or moveable;
- Things in action and other intangible or incorporeal property.

2.4 Potentially any employee could be caught by the money laundering provisions if he/she knows or suspect money laundering and either becomes involved with it in some way and/or does nothing about it. This policy sets out how any concerns should be raised.

3.0 What are the Obligations on the Council?

3.1 The Council has responsibility 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

4.0 The Money Laundering Reporting Officer (MLRO)

- 4.1 The Council's nominated MLRO to receive disclosures about money laundering activity within the Council is the Head of Legal and Governance. The contact details are as follows:

Head of Legal and Governance
Brentwood Borough Council
Town Hall
Ingrave Road
Brentwood
Essex
CM15 8AY

Tel: 01277 312703

5.0 Reporting to the Money Laundering Reporting Officer (MLRO)

- 5.1 Where you know or suspect that money laundering activity is taking/has taken place, or become concerned that your involvement in a matter may amount to a prohibited activity under POCA as defined in Section 2.1, you must disclose this as soon as practicable to the MLRO.

DELAYS OR FAILURE TO REPORT MAY LEAVE YOU PERSONALLY LIABLE TO PROSECUTION.

- 5.2 Your report to the MLRO must include as much detail as possible, 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 activities, 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.

- 5.3 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 Finance Intelligence Unit of the Serious and Organised Crime Agency (SOCA), where appropriate.

5.4 At no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering or tell them you have reported the transaction, (even if the NCIS has given consent to a particular transaction Proceeding); otherwise you may commit a criminal offence of “tipping off” which carries a maximum penalty of 5 years imprisonment and unlimited fine.

6.0 Consideration of the Disclosure by the Money Laundering Reporting Officer

6.1 Upon receipt of a disclosure report, the MLRO must acknowledge receipt and confirm the timescale within which they expect to respond.

6.2 The MLRO will consider the report and any other available internal information considered relevant. For example:

- 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.

6.3 The MLRO will undertake any other reasonable enquiries deemed appropriate in order to ensure that all available information is taken into account in deciding whether a report to the SOCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved).

6.4 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 the SOCA for a particular transaction to proceed.

6.5 Where the MLRO concludes a referral is needed then they must disclose the matter as soon as possible to the SOCA.

6.6 Where the MLRO suspects either:

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

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

6.7 Where consent is required from the SOCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the SOCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the SOCA.

7.0 Client Identification Procedures

7.1 In addition to appointing a MLRO, the legislation also concerns itself with the “relevant business” of the Council. This largely relates to Accountancy and Audit Services and land or property transactions which involve Planning and Development and Legal Services.

7.2 Where the Council is carrying out relevant business with third parties and:

- Forms an on-going relationship with a client; or
- Undertakes a one-off transaction involving payment by or to the client of 15,000 Euro (approximately £10,000) or more; or
- Undertakes a series of linked one-off transactions involving total payment by or to the client(s) of 15,000 Euro (approximately £10,000) or more; or
- It is known or suspected that a one-off transaction (or a series of them) involves money laundering;

then the Client Identification Procedure must be followed before any business is undertaken for that client.

7.3 To meet the requirements of the procedure, you must obtain satisfactory evidence of the identity as soon as practicable after instructions are received (unless evidence has already been obtained). This applies to existing and new clients, but evidence is not required for matters entered into prior to 1 April 2009. Regular monitoring is also needed to ensure that the identification information remains up-to-date and the Department’s knowledge of the client remains current.

7.4 Evidence of identity should be established as follows:

- **Individuals** – the proof of identity should identify their name, permanent address as well as date and place of birth. Examples include Passport, Driving Licence and Utility Bills.
- **Businesses** – establish the identity of the entity itself and then the people who are behind it – Owners, Directors, Partners etc. The Internal Audit Section has access to a search company who can assist with information on limited companies. Additional evidence can also be obtained in the form of written instructions on the organisation’s official letterhead or an e-mail from the organisation’s e-communication system.

7.5 Copies of all evidence of identity should be forwarded to the MLRO to be held on a central file. Any such documentation should be retained for at least five years from the end of the transaction or business relationship.

8.0 Conclusion

8.1 The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This policy has been written to as to enable the Council and all of its Members and employees to meet the legal requirements in such a way as to be proportionate to the low risk to the Council and the opportunity of contravening of legislation.

8.2 If you have any concerns or queries regarding any transactions, please contact the MLRO for advice and guidance.

8.3 This policy will be reviewed and updated periodically to follow best practice and other legislative changes.