

Bath & North East Somerset Council

Anti Money Laundering Policy

1. Introduction

- 1.1 The Proceeds of Crime Act 2002 (The Act), the Terrorism Act 2000 and the Money Laundering Regulations 2007 place obligations on the Council and its employees with respect to suspected money laundering.
- 1.2 This Policy should be read in conjunction with the Guidance for Staff.
- 1.3 Any Member or employee, who in the course of Council business becomes aware that criminal property or funds could be involved, should report their suspicion promptly, in accordance with the Policy. Failure to do this may result in a criminal offence being committed

2. What is Money Laundering?

- 2.1 Money laundering is any attempt to use the proceeds of crime for legitimate purposes. Anyone becoming involved with an activity which they know, or have reasonable grounds to suspect, is related to the proceeds of crime may be guilty of money laundering.
- 2.2 The following acts constitute the act of money laundering:
 - Concealing, disguising, converting, transferring criminal property or removing it from the UK (Section 327 of the Proceeds of Crime Act 2002);
 - 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 of the Proceeds of Crime Act 2002);
 - Acquiring, using or possessing criminal property (Section 329 of the Proceeds of Crime Act 2002).

3. What are the obligations on the Council?

- 3.1 Organisations conducting “relevant business” 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 customer due diligence records.
- 3.2 While the risk to the Council of contravening the legislation is low, it is important that all employees are familiar with their 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.
- 3.3 The following sections of this Policy provide further detail about the requirements listed in paragraph 3.1.

4. The Money Laundering Reporting Officer (MLRO)

- 4.1 The officer nominated to receive disclosures about money laundering activity within the Council is the Group Manager (Audit & Risk).

Group Manager (Audit & Risk),
Risk & Assurance Service,
The Guildhall,
High Street,
BATH,
BA1 5AW

Telephone: 01225 477316

E-mail: andy_cox@bathnes.gov.uk

- 4.2 In the absence of the MLRO, the following Audit Team Leaders are authorised to deputise for him:

Paul Chadwick, paul_chadwick@bathnes.gov.uk
Mobile: 07980998925

Dave Mahew, dave_mahew@bathnes.gov.uk
Mobile: 07980998969

5. Reporting to the Money Laundering Reporting Officer

- 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 act under sections 327-329 of the Act, you must disclose this as soon as practicable to the MLRO. The disclosure should be within “hours” of the information coming to your attention, not weeks or months later.

SHOULD YOU NOT DO SO, THEN YOU MAY BE LIABLE TO PROSECUTION

6. Scope of the Policy

- 6.1 This Policy applies to all employees of the Council and aims to maintain the high standards of probity which currently exist within the Council by preventing criminal activity through money laundering.
- 6.2 This Policy is part of the Council’s Anti-Fraud and Corruption Strategy.
- 6.3 Failure by a member of staff to comply with the procedures set out in this Policy may lead to disciplinary action under the Council’s Employee Code of Conduct and/ or prosecution.

7. Procedures

Cash Payments

- 7.1 **The Council will not accept cash payments in excess of £5,000 in order to comply with the Money Laundering Regulations.**

Reporting

- 7.2 Any employee who suspects money laundering activity must report their suspicion promptly to the MLRO, or to the MLRO’s deputy if appropriate, using the attached form (Appendix A). If you would prefer, you can discuss your suspicions with the MLRO or their deputy first.
- 7.3 The employee must follow any subsequent directions of the MLRO or deputy, and must not themselves make any further enquiries into the matter. They must not take any further steps in any related transaction without authorisation from the MLRO.
- 7.4 The employee must not disclose or otherwise indicate their suspicions to the person suspected of the money laundering. They must not disclose the matter with others or note on the file that a report has been made to the MLRO in case this results in the suspect becoming aware of the situation. (See Section 8)

- 7.5 The MLRO or deputy must promptly evaluate any Disclosure Report, to determine whether it should be reported to the National Crime Agency (NCA).
- 7.6 The MLRO or deputy must, if they so determine, promptly report the matter to the NCA in the prescribed manner by submitting a Suspicious Activity Report (SAR) via the NCA SAR [online system](#).
- 7.7 You will be informed if the MLRO makes a SAR report to the NCA. Officers should not complete any transactions **until clearance has been given by the NCA, or seven working days have elapsed since the disclosure was made to NCA.**
- 7.8 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.

Customer Due Diligence

- 7.9 Where the Council is carrying out certain 'regulated activities' then extra care needs to be taken to check the identity of the customer or client; this is known as carrying out Customer Due Diligence.
- 7.10 Regulated activity is defined as the provision 'by way of business' of: advice about tax affairs; accounting services; treasury management, investment or other financial services; audit services; legal services; estate agency; services involving the formation, operation or arrangement of a company or trust or; dealing in goods wherever a transaction involves a cash payment of €15,000 or more. (The limit specified by the Money Laundering Regulations 2007).
- 7.11 The Regulations regarding customer due diligence are detailed and complex, but there are some simple questions that will help you decide if it is necessary:
- Is the service a regulated activity?
 - Is the Council charging for the service i.e. is it 'by way of business'?
 - Is the service being provided to a customer other than a UK public authority?

If the answer to any of these questions is **NO** then you do not need to carry out customer due diligence.

If the answer to all these questions is **YES** then you must carry out customer due diligence **BEFORE** any business is undertaken for that

client. If you are unsure whether you need to carry out customer due diligence then you should contact the MLRO.

7.12 Where you need to carry out customer due diligence then you must seek evidence of identity, for example:

- Checking with the customer's website to confirm their business address;
- Conducting an on-line search via Companies House to confirm the nature and business of the customer and confirm the identities of any directors;
- Seeking evidence from the key contact of their personal identity, for example their passport and position within the organisation.

7.13 The requirement for customer due diligence applies immediately for new customers and should be applied on a risk sensitive basis for existing customers. Ongoing customer due diligence must also be carried out during the life of a business relationship but should be proportionate to the risk of money laundering and terrorist funding, based on the officer's knowledge of the customer and a regular scrutiny of the transactions involved.

7.14 If, at any time, you suspect that a client or customer for whom you are currently, or are planning to carry out a regulated activity is carrying out money laundering or terrorist financing, or has lied about their identity then you must report this to the MLRO.

7.15 In certain circumstances enhanced customer due diligence must be carried out for example where:

- The customer has not been physically present for identification;
- The customer is a politically exposed person. A politically exposed person is an individual who at any time in the preceding year has held a prominent public function outside of the UK, and EU or international institution/ body, their immediate family members or close associates;
- There is a beneficial owner who is not the customer. A beneficial owner is any individual who: holds more than 25% of the shares, voting rights or interest in a company, partnership or trust.

7.16 Enhanced customer due diligence could include any additional documentation, data or information that will confirm the customer's identity and/ or the source of the funds to be used in the business relationship/ transaction. If you believe that enhanced customer due diligence is required then you must consult the MLRO prior to carrying it out.

Treasury Management and Money Market Transactions

- 7.17 It is not a requirement under the Proceeds of Crime Act for Councils to require identification from every person or organisation it deals with.
- 7.18 The Council will not accept loans from individuals
- 7.19 All loans are obtained from the PWLB, other local authorities or authorised institutions under the Financial Services and Markets Act 2000. This register can be accessed through the FSA website:[Click Here](#)
- 7.20 All transactions will be carried out by electronic transfer for making deposits or repaying loans

Record Keeping

- 7.21 The precise nature of the records is not prescribed by law, however, the records must be capable of providing an audit trail during any subsequent investigation, e.g. distinguishing the client and the relevant transaction and recording in what form funds were received or paid.
- 7.22 Where 'relevant business' is carried out then the customer due diligence records and details of the relevant transaction(s) for that client must **be retained for at least five years after the end** of the business relationship.
- 7.23 **Internal Clients:** Appropriate evidence of identity for Council employees will be signed, written instructions on Council headed notepaper or e-mail from an internal email address at the outset of a particular matter. Such correspondence should then be placed in the Council's client file along with a prominent note explaining which correspondence constitutes the evidence and where it is located.
- 7.24 **External Clients:** For external clients of the Council, appropriate evidence of identity will be written instructions on the organisation's official letterhead, at the outset of the matter, or an email from the organisation's e-communication system. Such correspondence should then be placed in the Council's client file along with a prominent note explaining what constitutes the evidence and where it is located.
- 7.25 With instructions from new clients, or further instructions from a client not well known to you, you may wish to seek additional evidence of the identity of key individuals in the organisation and of the organisation itself.
- 7.26 In all cases, the evidence should be retained for at least five years from the end of the business relationship or one-off transaction(s).

- 7.27 **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.**

8. Offence of Tipping Off

- 8.1 Tipping Off is where someone informs the person who has approached the financial institution, such as the Council, that they are suspected of being involved in money laundering, in such a way as to prejudice any investigation.
- 8.2 If an employee has a concern they should ask questions or seek information/ documentation, which would allay any suspicions they may have and negate the need to make a report.
- 8.3 Once a report has been made to the nominated officer and the person the council is dealing with suspects that a report has been made the potential criminal offence of “tipping off” arises.

9. Training

- 9.1 In support of the policy and procedure, the Council will:
- Make all staff aware of the requirements and obligations placed on the Council and on themselves as individuals by the anti-money laundering legislation; and
 - Ensure that those most likely to encounter money laundering are fully aware of the Policy and its requirements.
 - Prepare guidance notes to assist staff in the operation of this policy (Appendix B).
 - Make the Policy, guidance and reporting form available to officers and members on the intranet

Bath & North East Somerset Council

APPENDIX A

CONFIDENTIAL

REPORT TO MONEY LAUNDERING REPORTING OFFICER

To: Group Manager (Audit & Risk), Risk & Assurance Service

From: **Extn:**

Department: **Location:**

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 and cause of suspicion:

(Please include full details e.g. what, when, where, how.)

Has any investigation been undertaken (as far as you are aware) ? Yes No

If yes, please include details below:

Have you discussed your suspicions with anyone else? Yes No

If yes, please specify below whom the discussion took place with, when and why such discussion was necessary:

Have you consulted any supervisory body guidance re money laundering (e.g. the Law Society)?

Yes

No

If yes, please include details below:

Do you feel you have a reasonable excuse for not disclosing the matter to NCA (National Crime Agency) e.g. are you a lawyer and wish to claim legal professional privilege?

Yes

No

If yes, please set out full details below:

Are you involved in a transaction which might be a prohibited act under sections 327-329 of the Proceeds of Crime Act 2002 and which requires appropriate consent from NCA?

If yes, please set out full details below:

Please set out below any other information you feel is relevant:

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.

When completed, please pass immediately to the Group Manager (Audit & Risk), who is based at the Guildhall, Bath.

Your report will be treated in the strictest confidence.

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THE FOLLOWING PART OF THIS FORM IS FOR COMPLETION BY THE MLRO

Date report received: _____
Date receipt of report acknowledged: _____

CONSIDERATION OF DISCLOSURE

Action Plan:

OUTCOME OF CONSIDERATION OF DISCLOSURE

Are there reasonable grounds for suspecting money laundering activity?

If there are reasonable grounds for suspicion, will a report be made to the NCA?

(Please tick relevant box)

YES

NO

If yes, please confirm date of SARS report to the NCA: _____ and complete the box below:

Details of liaison with the NCA regarding the report:

Notice Period: from : _____ to: _____

Moratorium Period: from : _____ to : _____

Is consent required from the NCA to any on-going or imminent transactions which would otherwise be prohibited acts?

(Please tick relevant box)

YES

NO

If yes, please confirm full details in the box below:

Date consent received from the NCA: _____

Date consent given by MLRO to employee: _____

If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to the NCA, please set out below the reason(s) for non-disclosure:

(Please set out any reasonable excuse for non-disclosure)

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

Other relevant information:

Signed: _____ Date: _____

THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS

Guidance to

Anti Money Laundering Policy

1. Introduction

- 1.1 This document **must** be read with the Council's Anti-Money Laundering Policy. The aims of the Policy and guidance are to:
- Assist staff and Members of the Council to understand money laundering and their personal legal obligations and responsibilities arising from the requirements of the legal and regulatory provisions
 - Prevent Council services being used for money laundering purposes, and
 - Set out the procedures which must be followed to enable the Council and its staff to comply with their legal obligations
- 1.2 The Chartered Institute of Public Finance and Accountancy (CIPFA) has published further guidance on anti money laundering for Public Service Organisations.(CIPFA 2009)
- 1.3 This guidance and the policy have been designed to ensure that the Council, Members and its staff fulfil all legal obligations and regulatory requirements in accordance with this guidance.
- 1.4 Although the Council's risk of exposure to money laundering is relatively low and some of the provisions do not apply, there is, as CIPFA observes, a reputational risk for any local authority that does not have adequate policies and procedures in place.
- 1.5 CIPFA's view is that it is prudent and responsible practice for local authorities who are outside the scope of the regulations, to put in place appropriate and proportionate anti money laundering safeguards and reporting arrangements, designed to detect and minimise the risk of involvement in the crimes described in the legislation

2. What is Money Laundering?

- 2.1 Money laundering is the disguising of the source of money, either in cash, paper or electronic form. This may be in order to conceal that the money has originated from crime, or it may be to conceal the source of money that is to be used in the pursuit of future crime.
- 2.2 Money Laundering is highly sophisticated. The conversion of cash in to a non-cash form of money is only the first step. In itself it is not sufficient disguise for the launderer. There will follow a complex series of transactions intended to hide the trail from any investigator. Consequently those on the look out for money laundering should not restrict themselves to looking for cash transactions.
- 2.3 Drug dealing in particular is a business that generates large amounts of cash that the dealers then need to re-introduce to the legitimate economy through money laundering.
- 2.4 The financiers of terrorism will attempt to disguise their links with terrorism by laundering their funding.
- 2.5 There are three principal offences - concealing, arranging, and acquisition/ use/ possession.
- Concealing is where someone knows or suspects a case of money laundering, but conceals or disguises its existence.
 - Arranging is where someone involves himself or herself in an arrangement to assist in money laundering.
 - Acquisition/ use/ possession is where someone seeks to benefit from money laundering by acquiring, using or possessing the property concerned.
- 2.6 There are two 'third party' offences of failure to disclose one of the three principal offences, and tipping off.
- 2.7 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. Liability

- 3.1 All the money laundering offences may be committed by an organisation or by the individuals working for it.

- 3.2 It is an offence under the Proceeds of Crime Act if an employee enters into or becomes 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.
- 3.3 Money laundering offences may be tried at a magistrates' court or in the Crown Court, depending upon the severity of the suspected offence.
- 3.4 Trials at the Magistrates Court can attract fines of up to £5,000, up to six months in prison, or both.
- 3.5 In a Crown Court, fines are unlimited, and sentences from two to 14 years may be handed out.

4. Offence of Tipping Off

- 4.1 The offence of tipping off the money launderer that a disclosure has been made only occurs once a disclosure has been made or the person suspects that a disclosure has been made. Consequently enquiries can be made of the individual to establish whether or not there is an innocent explanation before deciding whether or not to make a disclosure. However, once you have reasonable grounds for knowing or suspecting that the individual is engaged in money laundering a report must be made and the suspected money launderer must not be informed of this.

5. How you might recognise Money Laundering

- 5.1 The key slogan is "**Know Your Customer**" or **K.Y.C.**
- 5.2 For any transaction, cash or otherwise you should ask yourself: -
"Given my knowledge of this person, is it plausible that they can pay this amount for this service by this means?"
- 5.3 If they are paying more than would be reasonable or more than they could afford or by a means that would not normally be used the answer would be "No". Then action will be required.
- 5.4 More specific possible indicators of Money Laundering are:
- If the Source or Destination of funds differ from the original details given by the client.
 - If the Client cancels a transaction without good reason and requests a cheque refund for previously deposited funds.
 - Any large cash deposits.
 - Large Overpayments of fees or money on account.

- If Information about the client reveals criminality or association with criminality.
- If there is more than one Solicitor / Conveyancer used in the sale or purchase of a property or land or if there is an unexplained and unusual geographic use of a solicitor in relation to a property's location.
- If the Buyer or Seller's financial profile does not fit, particularly in relation to property transactions.
- If there are over complicated financial systems.
- If the client enters into transactions which make little or no financial sense or which go against normal practice.
- If the client is happy to enter into an apparent bad deal for them.
- If the client enters into arrangements beyond their apparent financial means.
- Any odd behaviour by any of the parties involved.

6. Client Identification Procedure

- 6.1 You need to be satisfied as to the identity of the client **before** any business is undertaken for that client. The client's identity can be verified on the basis of documents, data or information obtained from a reliable and independent source.
- 6.2 The following checklist should be used for the identification of a private individual:
- Name
 - Address
 - Date of Birth
 - National Insurance Number
 - Telephone number
 - E-mail address
- 6.3 The following checklist should be used for the verification of a private individual:
- Passport
 - Driving Licence
 - Birth Certificate
 - Current Council Tax and / or Utility Bill
 - Marriage Certificate

- 6.4 In the case of a representative of an organisation, this can include measures such as:
- Checking the organisation's website to confirm the business address
 - Attending the client at their business address
 - Asking the key contact officer to provide evidence of their personal identity and position within the organisation.
- 6.5 Where the client is acting on behalf of a third party, reasonable steps should be taken to establish the identity of that other person.
- 6.6 **If satisfactory evidence of identity is not obtained at the outset of the matter then the business relationship or one off transactions(s) cannot proceed any further.**

7. Methods to Safeguard Yourself

- 7.1 Obtain sufficient evidence/ knowledge to ascertain the true identity of the person(s) you are dealing with.
- 7.2 Ask the key contact officer 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.
- 7.3 Ask the person(s) you are dealing with to provide contact details of officers they have dealt with in other local authorities, whom you could then contact if you wished.
- 7.4 Surf the web to confirm details supplied.
- 7.5 Visit the client at their business address instead of always contacting them by telephone or e-mail or meeting at the Council Office. (This will help verify the validity of the client).
- 7.6 Retain evidence for a period of 5 years, with a prominent note explaining which document constitutes the evidence and where it is located.

8. Examples of Potential Money Laundering Activities

8.1 Adult Care & Health

- 8.1.1 A council employee assesses a service user's finances to calculate how much they should pay towards the cost of a service and arranges for services to be provided and charged for or for a grant to be

awarded and becomes aware of, or suspects the existence of, criminal property.

8.1.2 A council employee finds a large sum of money in a 'client's home'.

8.1.3 A council employee appointed as a Court of Protection receiver is responsible for managing a service user's property and affairs and becomes aware of, or suspects the existence of, criminal property.

8.2 People & Communities Directorate

8.2.1 A child protection case conference takes place; during the course of which it becomes clear that one of the parents is claiming benefits but has unexplained financial resources.

8.3 Benefits

8.3.1 A long running fraud is identified whereby a claimant owned a property instead of being a tenant. It is also found that another property is owned by the claimant's son, which he would not have had the legitimate means to purchase.

8.4 Resources Directorate - Property Services

8.4.1 The Council agree to sell a parcel of land to a developer/ third party, at a price that is far in excess of its value.