

ANTI-MONEY LAUNDERING POLICY

1.0 INTRODUCTION

- 1.1 The Proceeds of Crime Act 2002, Terrorism Act 2000 and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017) place obligations on the Council and its employees to establish internal procedures to prevent the use of its services for money laundering.
- 1.2 This policy sets out the procedures for the reporting of suspected money laundering activities to enable the Council and its employees to maintain high standards of conduct and comply with their legal obligations.

2.0 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 exist within the Council by preventing criminal activity through money laundering. The Policy sets out the procedures that 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 This policy will be reviewed annually and approved by the Chief Finance Officer. It will be circulated to relevant managers who must ensure their staff are fully aware of this policy
- 2.3 Failure to comply with the procedures set out in this Policy may lead to disciplinary action being taken. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary Policy and Procedures.

3.0 WHAT IS MONEY LAUNDERING?

- 3.1 Money laundering is the generic term used to describe the process by which criminally obtained money or other assets (criminal property) are exchanged for clean money or assets with no obvious link to their criminal origins. It also covers money, however come by, which is used to fund terrorism.
- 3.2 The following offences are defined as primary acts of money laundering:
- Concealing, disguising, converting, transferring or removing criminal property from the UK
 - Entering into or becoming concerned in an arrangement which someone knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person;
 - Acquiring, using or possessing criminal property;
 - Becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist

property, in other words doing something that might prejudice an investigation, for example, falsifying a document.

3.3 There are also two secondary offences:

- Failing to disclose information relating to any of the above money laundering offences
- “Tipping off” – informing someone who is, or is suspected of being involved in money laundering activities, in such a way as to reduce the likelihood of them being investigated or prejudicing an investigation.

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

3.4 “Criminal Property” has a relatively broad definition in money laundering legislation and no financial ceiling has been specified above which organisations are obliged to take action when money laundering activities are suspected. Benefitting from ‘criminal property’ can work on two levels, as an individual benefitting financially from the proceeds of a crime they have committed themselves, or an individual benefitting from the proceeds or crime/dishonest activities perpetrated by someone else. No matter how large or small the sum of money involved in these dishonest activities, the full weight of the money laundering legislation and regulations will apply regardless of the financial sums involved.

3.5 Any person could potentially be implicated by the money laundering provisions if they have a suspicion that someone is benefitting financially from dishonest activities 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.

3.6 Whilst the risk to the Council of contravening the legislation is considered to be 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).**

4.0 **THE LEGAL AND REGULATORY FRAMEWORK AND THE OBLIGATIONS ON THE COUNCIL**

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 Terrorism Act 2000 makes it an offence of money laundering to become concerned in an arrangement relating to the retention or control of property likely to

be used for the purposes of terrorism or resulting from acts of terrorism. Under the Terrorism Act 2000, all individuals and businesses in the UK have an obligation to report knowledge, reasonable grounds for belief or suspicion about the proceeds form, or finance likely to be used for terrorism or its laundering, where it related to information that comes to them in the course of their business or employment.

- 4.3 The 2012 Money Laundering Regulations and The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 establish that as long as businesses are not operating within the “regulated sector”, then the offense of failing to disclose suspicions of money laundering, and tipping off, do not apply. The list of businesses within the regulated sector does not include local authorities, and as such these offences do not apply to the Council. Furthermore, the 2003 Money Laundering Regulations, which preceded the 2012 regulation, made organisations responsible for undertaking ‘relevant business’ to have appropriate systems in place for the reporting of money laundering, staff training and identifying and keeping records of money laundering.
- 4.4 The Chartered Institute of Public Finance and Accountancy (CIPFA) issued two sets of guidance on how legal and regulatory provisions impact on public authorities. CIPFA has confirmed that local authorities were not a ‘relevant business’ in terms of the 2003 Money Laundering Regulations and are therefore not required to have systems in place to identify, record and report money laundering.
- 4.5 CIPFA has also advised that ‘it is prudent and responsible practice for public service organisations, including those outside the scope of the regulations, to put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements, designed to enable them to detect and avoid involvement in the crimes described in the legislation and regulations.’ There is also the reputational risk should an authority not have such procedures in place.
- 4.6 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
 - Maintain records
 - Conduct a money laundering and terrorist financing risk assessment and adopt appropriate internal controls

5.0 THE MONEY LAUNDERING REPORTING OFFICER (MLRO)

- 5.1 The officer nominated to receive disclosures about money laundering activity within the Council is the Head of Strategic Finance who can be contacted as follows:

Rachael Hart - Head of Strategic Finance (Deputy S151 Officer)
Herefordshire Council
Council Offices
PO Box 4
Plough Lane
Hereford
HR4 0LE
Email: Rachael.hart@herefordshire.gov.uk

- 6.0 In their absence the Counter Fraud Manager is authorised to act as Deputy Money Laundering Officer.

Jonathan Nelson – Counter Fraud Manager
Herefordshire Council
Council Offices
PO Box 4
Plough Lane
Hereford
HR4 0LE
Email: jonathan.nelson@herefordshire.gov.uk

7.0 **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 £10,000

Reporting to the Money Laundering Reporting Officer (MLRO)

- 6.2 If 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 the legislation, you must disclose this as soon as practicable to the MLRO.

Staff whose job involves processing payments from customers must follow the disclosure procedure where:

- A payment is being made in cash and you believe it is suspicious (any value);
- A payment is being made in cash and is for a sum of £10,000 or more.

All disclosures 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.**

- 6.3 Your disclosure should be made to the MLRO using the proforma report attached at Appendix 1 of this policy. The report 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 involved

- 6.4 Once you have reported the matter to the MLRO you must follow any directions they may give you. **You must NOT make any further enquiries into the matter yourself.** Additionally, you must not take any further steps in the transaction without authorisation from the MLRO.
- 6.5 Similarly, **at no time and under no circumstances should you voice any suspicions** to the person(s) whom you suspect of money laundering, even if consent has been given to a particular transaction proceeding, without the specific authority of the MLRO; otherwise you may commit a criminal offence of “tipping off” which carries a maximum penalty of five years imprisonment and an unlimited fine.
- 6.6 Do not, therefore, make any reference on a client file to a report having been made to the MLRO – should the client exercise their right to see the file, then such a note will 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.
- 6.7 Upon receipt of a disclosure report, the MLRO must acknowledge receipt and confirm the timescale within which they expect to respond.
- 6.8 The MLRO is required to promptly evaluate any disclosures or concerns to determine whether they require further investigation and hence referral to the National Crime Agency (NCA) by means of a Suspicious Activity Report (SARs). The MLRO should not undertake an investigation of any concerns themselves. Where legal professional privilege may apply, the MLRO must liaise with the Solicitor to the Council to determine the further action to be taken.
- 6.9 The MLRO will consider the report and any other available internal information they think relevant e.g.:
- 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

and undertake such other reasonable inquiries they think appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved). The MLRO may also need to discuss the report with you.

- 6.8 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 NCA for a particular transaction to proceed.
- 6.9 Where the MLRO does so conclude, then they must disclose the matter as soon as practicable to the NCA on their standard report form and in the prescribed manner, unless they has a reasonable excuse for non-disclosure to the NCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).

- 6.10 Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then they must note the report accordingly. They can then immediately give their consent for any ongoing or imminent transactions to proceed.
- 6.11 In cases where legal professional privilege may apply, the MLRO must liaise with the legal adviser to decide whether there is a reasonable excuse for not reporting the matter to the NCA.
- 6.12 Where consent is required from the NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the NCA.
- 6.13 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then they shall mark the report accordingly and give their consent for any ongoing or imminent transaction(s) to proceed.
- 6.14 All disclosure reports referred to the MLRO and reports made by them to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.
- 6.15 ***The MLRO commits a criminal offence if they know or suspect, or has 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.***

7.0 CUSTOMER DUE DILIGENCE

- 7.1 Where the Council is carrying out certain regulated business (accountancy, audit and certain legal services) and as part of this:
- Forms an ongoing business relationship with a client; or
 - Undertakes an occasional transaction involving payment by or to the client of €15,000 or more, whether the transaction is by means of a single operation or in several operations which appear to be linked; or
 - It is known or there is a suspicion of money laundering or terrorist financing.
- 7.2 The Customer Due Diligence procedure must be followed before any business is undertaken for that client.
- 7.3 Customer due diligence means:
- Identifying the customer and verifying the customer's identity (unless the identity is known and has been verified) on the basis of documents or information obtained from a reliable source which is independent of the Council, e.g. a search undertaken through Companies House.
 - Obtaining information on the purpose and intended nature of the business relationship
 - Any checks undertaken should remain proportionate to the risks of the individual business and the relationship.

- 7.4 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, as only by knowing their clients and their businesses can the Council recognise and abnormal and possibly suspicious activity.
- 7.5 There is also now an ongoing legal obligation to check the identity of existing clients and the nature and purpose of the business relationship with them at appropriate times. The council must therefore 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, which could be completed as part of the ongoing monitoring of the business arrangements such as a Service Level Agreement, or Terms of Business Letter.

8.0 RECORD KEEPING PROCEDURES

- 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 the records is not prescribed by law. However, they must be capable of providing an audit trail during any subsequent investigation, for example distinguishing the client and the relevant transaction and recording in what form any funds were received or paid. In practice, the business units of the Council will be routinely making records of work carried out for clients in the course of normal business and these should suffice in this regard.

9.0 CONCLUSION

- 9.1 The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This Policy has been written so as to enable the Council to meet the legal requirements in a way that is proportionate to the very low risk to the Council of contravening the legislation.
- 9.2 Should you have any concerns whatsoever regarding any transactions then you should contact the MLRO.
- 9.3 An annual report on any money laundering activity identified will be made to the Audit and Governance Committee.

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Report to Money Laundering Reporting Officer

Re: Money Laundering Activity

To: Herefordshire Council Money Laundering Reporting Officer

From:
[insert employee name]

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]

Nature of suspicions regarding such activity:

[Please continue on a separate sheet if necessary]

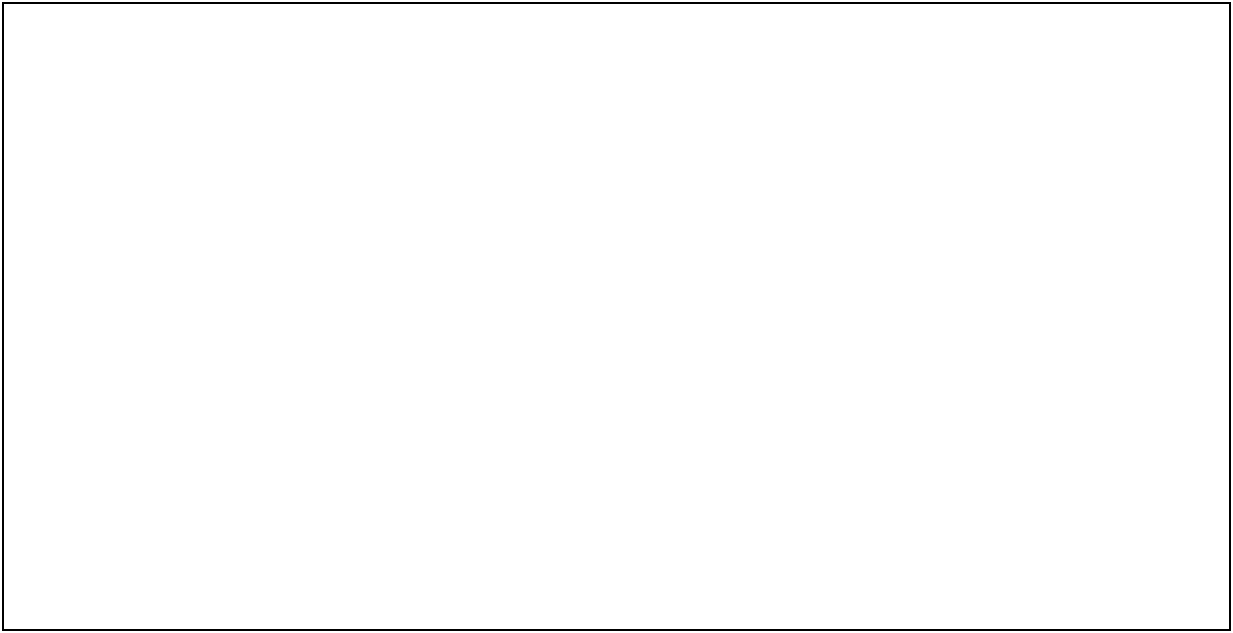
Has any investigation been undertaken (as far as you are aware)?

[Please tick the relevant box]

Yes

No

If yes, please include details below:

A large, empty rectangular box with a thin black border, intended for the user to provide details if they answered 'yes' to a previous question. The box is currently blank.

Have you discussed your suspicions with anyone else?

[Please tick the relevant box]

Yes

No

If yes, please specify below, explaining why such discussion was necessary:

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 five years' imprisonment.

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

Date report received:

Date receipt of report acknowledged:

CONSIDERATION OF DISCLOSURE:

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 the relevant box]*

Yes

No

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

Details of liaison with the NCA regarding the report:

Notice Period: to

Moratorium Period: to

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

Yes

No

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

Date consent received from NCA:

Date consent given by you 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 you to employee
for any prohibited act
transactions to proceed:**

Other relevant information:

Signed:.....

Dated:.....

THIS REPORT MUST BE RETAINED FOR AT LEAST FIVE YEARS

Version Log

<i>Version</i>	<i>Status</i>	<i>Date</i>	<i>Description of Change</i>	<i>Reason for Change</i>	<i>Pages affected</i>
1.0	First final version				
1.1	Second final version	1.7.09	Update	Updated legislation – Money Laundering Regulations 2007	All
1.2	Third final version	5.8.10	Update	Annual review	
1.3	Final updated	21.7.14	Revision	Annual review	Only names
1.4	Updated	13.6.18	Revised	Review	Legalisation and officer references
1.5	Updated	22.09.22	Revised	Updated introduction, definition and contact details sections.	Pages 1, 2 and 4

Approval Log

<i>Version(s)</i>	<i>Completed by (including version changes)</i>	<i>Approved by</i>	<i>Date</i>
1.0 to 1.4	Head of Benefit & Exchequer Services	Director of Resources	August 2010
1.5	Counter Fraud Manager	Head of Strategic Finance (Deputy s151 Officer)	September 2022