

Anti-Money Laundering Policy

Introduction

What is money laundering?

Money Laundering is the process by which criminally obtained money or other criminal property is exchanged for “clean” money or other assets with no obvious link to their criminal origins. The aim is to legitimise the possession of such monies through circulation and this effectively leads to “clean” funds being received in exchange.

The council is committed to preventing money laundering by having anti-money laundering systems and processes in place. This policy applies to employees and members, including temporary and agency staff.

Scope of policy

The purpose is to ensure all appropriate action is taken to prevent the council, its employees and members from being exposed to money laundering and to comply with all legal and regulatory obligations, including the reporting of suspected or actual cases of money laundering, in line with disclosure requirements.

This policy highlights the importance of the following:

- the legal responsibilities;
- identity of the Money Laundering Reporting Officer and other responsible officers;
- due diligence procedure - the need to be vigilant and take appropriate steps to reduce the opportunities for breaches of the Money Laundering Regulations; and
- Reporting concerns of money laundering – the requirement to promptly report (disclose) any suspected money laundering activity to the MLRO

Legal responsibilities

Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

Although the council is not governed by the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, as a responsible public authority and in line with guidance from the Chartered Institute of Public Finance and Accountancy (CIPFA), the council complies with the underlying spirit of the legislation and regulations.

These regulations set out detailed requirements for organisations to establish procedures to prevent its services being utilised for the purposes of money laundering. The council will therefore:

- Appoint a Money Laundering Reporting Officer (MLRO);
- Obtain sufficient knowledge to ascertain the true identity of customers in certain circumstances, by applying customer due diligence measures;
- Maintain record keeping procedures;
- Know the intended nature of business relationships and undertake ongoing monitoring of them (to identify unusual transactions);
- Implement a procedure for reporting suspicions of money laundering.

The Terrorism Act 2000

This applies to all individuals and businesses in the UK and therefore all members of staff within the council have an obligation to report knowledge, reasonable grounds for belief or suspicion about the proceeds from, or finance likely to be used for terrorism or its laundering where it relates to information that comes to them in the course of their business or employment.

The primary offence is governed by Section 18 and states that: “a person commits an offence if he enters into or becomes concerned in an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property by concealment, by removal from the jurisdiction, by transfer to nominees, or in any other way”.

The Proceeds of Crime Act (PoCA) 2002

This Act applies to all individuals and organisations and further defines the offences of money laundering. It also creates mechanisms for investigating and recovering the proceeds of crime.

The primary offences are:

- Section 327 - concealing, disguising, converting, transferring or removing criminal property from the UK;
- Section 328 - 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 329 - acquiring, using or possessing criminal property.

Money Laundering Reporting Officer

The council through its Cabinet has appointed the Section 151 Officer, Darren Carter, as the Money Laundering Reporting Officer (MLRO) for the council. The MLRO will also have the authority to select and/or amend the Nominated Officers to support him in this role.

Email: darren_carter@sandwell.gov.uk

Phone: 0121 569 8151

In the absence of the MLRO or in instances where it is suspected that the MLRO is involved in suspicious transactions, concerns should be raised with the Deputy Section 151 Officer, Rebecca Griffiths.

Email: rebecca_griffiths@sandwell.gov.uk

Phone: 0121 569 8460

Nominated Officers:

Kathryn Simms – Senior Legal Assistant
Email: kathryn_simms@sandwell.gov.uk
Phone: 0121 569 3246

Oliver Knight – Counter Fraud Lead
Email: oliver_knight@sandwell.gov.uk
Phone: 0121 569 6692

Due Diligence Procedure

Cash Limits

No single cash transaction (including notes, coin or travellers cheques in any currency) exceeding £2,000 will be accepted for any council service in any one financial year. Cash exceeding this limit should not be accepted. Any person wishing to make a payment in excess of this limit, will need to seek an alternative method of payment.

Business Relationships

The requirement for customer due diligence applies immediately for new customers and should be applied on a risk basis for existing customers. If the council forms a new business relationship (including a significant one-off transaction) care should be taken to ensure that the client is identifiable by making basic checks on their credentials, along with confirmation as to the source of funds.

This should not be an onerous task but we should ensure that we are clear about with whom we are conducting business.

This will be especially important if:

- the parties concerned are not physically present for identification purposes;
- when someone may be acting for absent third parties;
- beneficial owners (i.e. an individual who holds more than 25% of the shares, voting rights or interest in a company, partnership or trust).
- The customer is a politically exposed person (PEP). A PEP is a term describing someone who has been entrusted with a prominent public function and generally presents a higher risk for potential involvement in bribery and corruption by virtue of their position and the influence that they may hold. Consideration should also be given to their immediate family members or close associates.

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.

Record Keeping Procedures

Each area of the council involved in relevant transactions must maintain records of every customer due diligence record in the form of either a hard copy or electronic.

This is to meet the requirements of the regulations and may be used as evidence in any subsequent investigation/inspection. Records must be able to provide an audit trail during any investigation. For example, distinguishing the customer and the relevant transaction and recording in what form any funds were received or paid.

Section 40 of the Money Laundering Regulations 2017

All due diligence documents, reports and NCA Suspicious Activity Reports should be retained for a minimum of five years after the business relationship ends, or an occasional transaction is completed.

Reporting concerns of money laundering

Any employee or member who has suspicions that money laundering may be taking place, is taking place or has taken place, should report it to the MLRO through the nominated officers as soon as possible.

Once such a concern has been raised, the nominated officer will:

- acknowledge receipt of the concern;
- assess the information provided to make a judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering;
- report to the MLRO for them to make a final decision;
- prepare a Suspicious Activity Report (SAR) to the National Crime Agency (NCA), where appropriate.

At no time and under no circumstances should anyone from the council voice any suspicions to the person(s) suspected of money laundering as this could be viewed as “tipping off” and an offence may be committed under Section 333 of the Proceeds of Crime Act 2002. In turn, this may prejudice any investigation.

In the event of a report being submitted, the employee or member making the referral must follow any directions given by the MLRO. The transaction should not proceed any further unless (or until) instructions are received from the MLRO. If the circumstances are such that a SAR has been submitted, consent will need to be provided by the NCA before the transaction can continue.

The role of the MLRO is extremely important. If the role is not carried out correctly and a report to the NCA is not made when they know or suspect that another person is engaged in money laundering, an offence may be committed under Section 332 of the Proceeds of Crime Act 2002.

Training

Targeted training and other awareness sessions will be provided on a regular basis to staff most likely to be exposed to terrorist financing and/or money laundering.

Review of the Money Laundering Policy

The Money Laundering Policy will be reviewed on an annual basis by the Section 151 Officer to ensure that it remains up to date, fit for purpose and represents generally acceptable good practice.