

AUDIT COMMITTEE

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ANTI-MONEY LAUNDERING POLICY

Report from: Perry Holmes, Assistant Director, Legal & Corporate Services,
Monitoring Officer

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Summary

This report presents a policy for consideration and discussion by the Audit Committee.

1. Budget and Policy Framework

- 1.1 It is within the ambit of the Audit Committee to consider this new policy and whether it provides an adequate and proportionate response to the Council's responsibilities to prevent money laundering.
- 1.2 It is proposed that the Anti-Money Laundering Policy is included within the Constitution and so approval of the policy is a matter for Council.

2. Background

- 2.1 Money Laundering means exchanging money or assets that were obtained criminally for money or other assets that are "clean". The clean money or assets do not have an obvious link with any criminal activity. Money Laundering also includes money that is used to fund terrorism, however it is obtained.
- 2.2 Three sets of legislation are relevant to this issue:
 - The Proceeds of Crime Act 2002 ("POCA 2002") (as amended by the Serious Organised Crime and Police Act 2005)
 - The Terrorism Act 2000 ("TA") (as amended by the Anti-Terrorism and Security Act 2001 and the Terrorism Act 2006)
 - The Money Laundering Regulations 2007 ("2007 Regulations")

2.3 The primary money laundering offences are described in the POCA 2002, and are as follows:

- Concealing, disguising, converting, transferring criminal property or removing it from the UK
- Entering into or becoming concerned in an arrangements which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person
- Acquiring, using or processing criminal property
- Doing something that might prejudice an investigation – for example falsifying a document
- Failure to disclose
- “tipping off” – which is where someone informs a person or persons who are, or suspected of being involved in money laundering, in such a way as to reduce the likelihood of being investigated or prejudicing an investigation.

2.4 The Council is subject to the full provisions of the TA and the first four offences of POCA. Whilst the Council is not subject to the 2007 Regulations there are some Council activities that could come within the scope of these regulations. The safest way to ensure compliance with the law is to apply these regulations to all areas of work undertaken by the Council. That is the approach that is being suggested in the attached policy.

3. Advice and analysis

3.1 Her Majesty’s Revenue and Customs produce guidance about anti-money laundering procedures. If the Council can show that it is following those procedures then it can avoid the fines that might otherwise be imposed.

3.2 The Council has a number of pre-existing policies and procedures which when read alongside the attached Anti-Money Laundering Policy give adequate protection against financial impropriety. There are plans during this year to strengthen the current arrangements particularly around potential conflicts of interests. The adequacy of protection against financial impropriety should be reviewed at least annually by the Audit Committee to ensure they take account of any new risks. The pre-existing policies include:

- The Anti Fraud and Corruption Policy
- The Code of Conduct for Councillors
- The Financial Procedure Rules
- The Whistleblowing Policy
- The Employee Code of Conduct
- The Anti-Bribery Policy.

4. Risk management

4.1 There are reputational, legal and financial risks to the Council for not pro-actively seeking to prevent money laundering.

Risk	Description	Action to avoid or mitigate risk
Reputational, legal and financial	Money laundering offence is committed by member of staff or supplier or customer leading to liability for the council	Agree the Anti-Money Laundering Policy, provide information to staff and Councillors via the internet and through training and appoint a Money Laundering Officer
Reputational, legal and financial	Agency staff, suppliers and contractors are not aware of the policy	Include reference to preventing money laundering in contracts and tender specifications

5. Consultation

5.1 The Chief Finance Officer, an Education Lawyer and the Head of Audit have been consulted.

6. Financial and legal implications

6.1 The financial and legal implications are set out in the body of the report.

7. Recommendation

7.1 That the Audit Committee refers the Anti-Money Laundering Policy, as set out in Appendix A, to Council for approval and inclusion within the Constitution.

Lead officer contact

Perry Holmes, Assistant Director, Legal & Corporate Services

Background papers

None

Anti-Money Laundering Policy

What is Money Laundering?

Money Laundering means exchanging money or assets that were obtained criminally for money or other assets that are “clean”. The clean money or assets do not have an obvious link with any criminal activity. Money Laundering also includes money that is used to fund terrorism, however it is obtained.

Council's statement

The Council is committed to ensuring there are appropriate and proportionate anti-money laundering safeguards to prevent, wherever possible, the organisation and its staff being exposed to money laundering. The Council is similarly committed to identifying areas where it may occur, complying with all legal and regulatory requirements, and reporting actual or suspected cases.

All staff should be aware of this policy and it is important that staff involved in processing financial transactions are aware of the issues surrounding money laundering, and how any concerns should be reported.

Money Laundering Regulations

The legal and regulatory framework is summarised below:

- The Proceeds of Crime Act 2002 (“POCA”) (as amended by the Serious Organised Crime and Police Act 2005)
- The Terrorism Act 2000 (“TA”) (as amended by the Anti-Terrorism and Security Act 2001 and the Terrorism Act 2006)
- The Money Laundering Regulations 2007 (“2007 Regulations”)

The primary money laundering offences are described in the POCA 2002, and are as follows:

- Concealing, disguising, converting, transferring criminal property or removing it from the UK
- Entering into or becoming concerned in an arrangements which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person
- Acquiring, using or processing criminal property
- Doing something that might prejudice an investigation – for example falsifying a document
- Failure to disclose
- “tipping off” – which is where someone informs a person or persons who are, or suspected of being involved in money laundering, in such a way as to reduce the likelihood of being investigated or prejudicing an investigation

Corporate Responsibilities

The Council is subject to the full provisions of the TA and the first four offences of POCA.

The Authority is not subject to the 2007 Regulations although there are some Local Authority activities that could come within the scope of these regulations. The safest way to ensure compliance with the law is to apply these regulations to all areas of work undertaken by the Council.

The Council will seek to promote this policy with partners and suppliers.

Employee Responsibilities

Employees are required to act ethically and within the confines of the law.

If any one in the Authority knows or suspects that another person is money laundering or financing terrorism they must tell the nominated officer.

Key risk factors

Large volume/value cash transactions
Payments received from unexpected sources
Cancellation or reversal made of a previous transaction

Key prevention methods

- Through this document all employees are informed of who the nominated officer is and what their role is
- Appointment of a nominated officer
- Records of all risk assessments completed
- Ensuring all staff are aware of the regulations and have had the necessary training
- Upper limit for cash transactions of £1000
- Sufficient identity confirmation checks when transacting monies, both in relation to individuals and companies
- Only refunding monies to the source bank accounts
- Retaining all documents that relate to financial transactions, the identity of customers and management procedures and processes

What are the penalties?

In a Crown Court fines are unlimited and a custodial sentence can be imposed.

Nominated Officer/Money Laundering Officer

As part of the anti-money laundering controls the Authority has responsibility for appointing a nominated officer (sometimes called the Money Laundering Officer) who is an employee at a sufficiently senior level within the Authority.

The nominated officer for the Council is the Chief Finance Officer, Mick Hayward.

The nominated officer reviews any information that they receive and decides and if there are reasonable grounds for suspecting Money Laundering they inform Serious Organised Crime Agency (SOCA) as soon as possible, and obtain consent from SOCA to complete the transaction. If it was not possible to delay the transaction until consent was received then SOCA are made aware of this by the nominated officer when the matter is reported to SOCA.

Nominated officer responsibilities can be temporarily delegated to the Finance Support Officer, Andy Larkin when the Chief Finance Officer is absent, but the nominated officer retains overall responsibility.

The nominated officer will provide the Audit Committee with a record of the number and nature of incidents.

The nominated officer will review the policy annually in light of an assessment of the level of risk that the Council is exposed to.

Wider Framework

Relevant policies

- Fraud and Corruption Policy
- Whistleblowing Policy

Relevant Rules

- Financial Rules (Chapter 4, part 6)
- Contract Rules (chapter 4, part 7)
- Employment Rules (Chapter 4, part 8)

Codes of Conduct

- Members Code of Conduct (Chapter 5, part 1)
- Employee Code of Conduct (Chapter 5, part 3)
- Code of corporate governance (Chapter 5, part 6)

More information about the Money Laundering Regulations guidance is available on the HMRC website www.hmrc.gov.uk/