

COUNCIL

25 JULY 2013

ANTI-MONEY LAUNDERING POLICY

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

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Monitoring Officer

Summary

This report sets out the Anti-Money Laundering Policy and amendments to the Audit Committee's terms of reference for consideration and approval.

1. Budget and Policy Framework

- 1.1 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.
- 1.2 Amendments to the Audit Committee's terms of reference are also 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.

3.3 A Diversity Impact Assessment screening has been undertaken on the draft Policy, as set out in Appendix C to the report.

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 and the Head of Audit have been consulted.

6. Audit Committee

6.1 The Audit Committee considered this report on 11 July 2013. Members were advised that the council was committed to ensuring there were appropriate and proportionate anti-money laundering safeguards to prevent, where possible, the organisation and its staff being exposed to money laundering. The policy, attached at Appendix A to the report, identified the legal and regulatory framework, corporate and employee responsibilities, key risks and prevention methods and identified the Chief Finance Officer as the nominated officer for anti-money laundering. It was also noted that the policy would apply to all employees and would be promoted to partners and suppliers.

6.2 It was proposed that the Anti-Money Laundering Policy be included within the Constitution alongside pre-existing policies and procedures, which together provide protection against financial impropriety. During the discussion of this item Members considered the collation of this and the existing policies and procedures within a single policy relating to Financial Crime, which had been the case elsewhere. Members were advised that the council's overarching policy was the Anti-Fraud and Corruption Policy but the Assistant Director, Legal & Corporate Services undertook to consider this further.

- 6.3 The Audit Committee agreed to refer the Anti-Money Laundering Policy, as set out in Appendix A, to Council for approval and inclusion within the Constitution.
- 6.4 The Audit Committee also considered a report which reviewed the Committee's terms of reference. The Committee recommended to Council that the terms of reference be amended to enable it to receive reports in line with the Anti-Money Laundering Policy.

7. Assistant Director's comments

- 7.1 There was discussion about the collation of this and other existing policies and procedures and the within a single policy relating to Financial Crime. I have reviewed this and although it would appear to be a term used in the finance industry it is not commonly used in local government, academia or indeed central government. I am happy to keep the matter under review but would prefer to name policies so that Members and Officers know what they are for.

8. Financial and legal implications

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

9. Recommendations

- 9.1 That Council agrees the Anti-Money Laundering Policy, as set out in Appendix A to the report, for inclusion within the Constitution.
- 9.2 That Council agrees the proposed amendment to the Audit Committee's terms of reference, as set out in Appendix B to the report.

Lead officer contact

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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/

Audit Committee Terms of Reference

Terms of Reference	Linkage to CIPFA's publication	
<ul style="list-style-type: none"> • To provide independent assurance on the adequacy of the risk management framework and the associated control environment, including consideration of the Council's approach to risk management and the assurance framework, the production of the annual governance statement, arrangements for delivering value for money and the Council's anti-fraud arrangements and anti-corruption measures; • To receive reports in line with the Council's whistleblowing, anti-bribery, covert surveillance, <u>and anti-money laundering</u> policies; • To monitor the Council's compliance with its own published standards and to consider any proposals for changes to Financial Rules, Codes of Practice on tenders and contracts; • To monitor financial policies and processes, including endorsement of improvement plans to strengthen the control environment; • To approve the annual governance statement. 	Regulatory Framework	To maintain an overview of the council's Constitution in respect of contract procedure rules, financial regulations and codes of conduct and behaviour.
		To review the anti-fraud and anti-corruption policies.
		To consider the council's compliance with its own and other published standards and controls.
		To monitor the effective development and operation of risk management and corporate governance in the council.
		To oversee the production of the authority's Annual Governance Statement and to recommend its adoption.

Terms of Reference	Linkage to CIPFA's publication	
<ul style="list-style-type: none"> To approve the annual accounts and annual treasury outturn report. 	Accounts	To review the annual statement of accounts and annual treasury outturn report. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
		To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
<ul style="list-style-type: none"> To discuss with the external auditor new accounting standards, changes to the reporting framework and the basis of the annual audit, including the content of performance work; To receive all reports by the external auditor including all performance reports and the annual audit and inspection letter; To oversee 	Audit Activity	<p>To comment on the scope and depth of external audit work and to ensure it gives value for money.</p> <p>To consider the external auditor's annual letter, relevant reports, and where appropriate to request further reports for full council.</p> <p>To consider specific reports as agreed with the external auditor.</p> <p>To consider the head of internal audit's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the council's corporate governance arrangements.</p>

Terms of Reference	Linkage to CIPFA's publication	
		To consider specific internal audits reports as requested.
		To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale.
		To commission work from internal and external audit, as appropriate.

Diversity Impact Assessment: Screening Form

Directorate	Name of Function or Policy or Major Service Change		
Business Support Department	Anti-Money Laundering Policy		
Officer responsible for assessment	Date of assessment	New or existing?	
Perry Holmes, Assistant Director, Legal & Corporate Services	17 July 2013	new	
Defining what is being assessed			
1. Briefly describe the purpose and objectives	The Anti-Money Laundering policy sets out the Councils approach to preventing money laundering and for mitigating risk of liability for offences about money laundering by an officer or other representative		
2. Who is intended to benefit, and in what way?	The policy has been introduced to benefit the Council, employees and service users.		
3. What outcomes are wanted?	Desired outcomes: <ul style="list-style-type: none"> - employees understanding the policy; - preventing money laundering; - mitigating the risk of liability for offences about money laundering. 		
4. What factors/forces could contribute/detract from the outcomes?	Contribute	Detract	
	- Raising awareness to all staff of the policy and what it means; -	- employees not understanding the policy and therefore failing to use it; -	
5. Who are the main stakeholders?	The council, employees and service users.		
6. Who implements this and who is responsible?	The Assistant Director, Legal & Corporate Services		

Assessing impact		
7. Are there concerns that there <u>could</u> be a differential impact due to <i>racial groups</i>?		Brief statement of main issue
	NO	
What evidence exists for this?	<ul style="list-style-type: none"> - The Proceeds of Crime Act (POCA) has itself been the subject of an impact assessment and is seen to have no impact on the equalities duties of the government - Care has been taken in the drafting of this policy to ensure that best practice examples of policies from other council's are considered 	
8. Are there concerns that there <u>could</u> be a differential impact due to <i>disability</i>?		Brief statement of main issue
	NO	
What evidence exists for this?	<ul style="list-style-type: none"> - The POCA has itself been the subject of an impact assessment and is seen to have no impact on the equalities duties of the government - Care has been taken in the drafting of this policy to ensure that best practice examples of policies from other council's are considered - 	
9. Are there concerns that there <u>could</u> be a differential impact due to <i>gender</i>?		Brief statement of main issue
	NO	
What evidence exists for this?	<ul style="list-style-type: none"> - The POCA has itself been the subject of an impact assessment and is seen to have no impact on the equalities duties of the government - Care has been taken in the drafting of this policy to ensure that best practice examples of policies from other council's are considered - 	
10. Are there concerns there <u>could</u> be a differential impact due to <i>sexual orientation</i>?		Brief statement of main issue
	NO	
What evidence exists for this?	<ul style="list-style-type: none"> - The POCA has itself been the subject of an impact assessment and is seen to have no impact on the equalities duties of the government - Care has been taken in the drafting of this policy to ensure that best practice examples of policies from other council's are considered - 	
11. Are there concerns there <u>could</u> be a have a differential impact due to <i>religion or belief</i>?		Brief statement of main issue
	NO	
What evidence exists for this?	<ul style="list-style-type: none"> - The POCA has itself been the subject of an impact assessment and is seen to have no impact on the 	

		<ul style="list-style-type: none"> - equalities duties of the government - Care has been taken in the drafting of this policy to ensure that best practice examples of policies from other council's are considered -
12. Are there concerns there <u>could</u> be a differential impact due to people's age?		Brief statement of main issue
	NO	
What evidence exists for this?		<ul style="list-style-type: none"> - The POCA has itself been the subject of an impact assessment and is seen to have no impact on the equalities duties of the government - Care has been taken in the drafting of this policy to ensure that best practice examples of policies from other council's are considered -
13. Are there concerns that there <u>could</u> be a differential impact due to <i>being transgendered or transsexual</i>?		Brief statement of main issue
	NO	
What evidence exists for this?		<ul style="list-style-type: none"> - The POCA has itself been the subject of an impact assessment and is seen to have no impact on the equalities duties of the government - Care has been taken in the drafting of this policy to ensure that best practice examples of policies from other council's are considered -
14. Are there any <i>other</i> groups that would find it difficult to access/make use of the function (e.g. young parents, commuters, people with caring responsibilities or dependants, young carers, or people living in rural areas)?		If yes, which group(s)?
	NO	
What evidence exists for this?		<ul style="list-style-type: none"> - The POCA has itself been the subject of an impact assessment and is seen to have no impact on the equalities duties of the government - Care has been taken in the drafting of this policy to ensure that best practice examples of policies from other council's are considered -

15. Are there concerns there <u>could</u> have a differential impact due to <i>multiple discriminations</i> (e.g. disability <u>and</u> age)?		Brief statement of main issue
	NO	
What evidence exists for this?	-	The POCA has itself been the subject of an impact assessment and is seen to have no impact on the equalities duties of the government - Care has been taken in the drafting of this policy to ensure that best practice examples of policies from other council's are considered -
Conclusions & recommendation		
16. Could the differential impacts identified in questions 7-15 amount to there being the potential for adverse impact?	YES	N/A
	NO	
17. Can the adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or another reason?	YES	N/A
	NO	
Recommendation to proceed to a full impact assessment?		
NO	This function/ policy/ service change complies with the requirements of the legislation and there is evidence to show this is the case.	
NO, BUT ...	What is required to ensure this complies with the requirements of the legislation? (see DIA Guidance Notes)?	The Audit Committee will oversee the operation of this policy and will ensure that it does not have an adverse impact
YES	Give details of key person responsible and target date for carrying out full impact assessment (see DIA Guidance Notes)	n/a

Planning ahead: Reminders for the next review		
Date of next review	On-going	
Areas to check at next review (e.g. new census information, new legislation due)	Check whether the policy is being used and whether employees are aware of the policy and its purpose.	
Is there <i>another</i> group (e.g. new communities) that is relevant and ought to be considered next time?		
Signed (completing officer/service manager)	Date	
Signed (service manager/Assistant Director)	Date	