

BUCKINGHAMSHIRE COUNTY COUNCIL

ANTI MONEY-LAUNDERING POLICY

1. INTRODUCTION

- 1.1 The Money Laundering Regulations 2007¹, which came into effect on the 15 December 2007, introduced changes to the money laundering regime that are relevant to the Council. As a consequence the Council's Anti Money-Laundering Policy has been up-dated so as to reflect the 2007 Regulations. The Policy therefore replaces the Council's 2004 Anti Money-Laundering Policy.

2. SCOPE OF THE POLICY

- 2.1 This Policy applies to all employees of the Council and aims to maintain the high standards of conduct which currently 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 suspicious money laundering activity, to enable the Council to comply with its legal obligations.
- 2.2 The Policy is accompanied by three additional documents:
- The Customer Due Diligence Pro-Forma (Appendix 1).
 - The Due Diligence Flowchart.
 - The Enhanced Due Diligence and Ongoing Monitoring Flowchart.
- 2.3 Failure by a member of staff to comply with the procedures set out in the Policy may lead to disciplinary action being taken against him/her. Any disciplinary action will be dealt with in accordance with the County Council's disciplinary Policy and Procedure.

3. WHAT IS MONEY LAUNDERING?

- 3.1 The definition of money laundering is very wide. It includes all forms of handling or possessing criminal property, including possessing the proceeds of one's own crime and facilitating any handling or possession of criminal property. Property is criminal if it constitutes or represents a person's benefit from criminal conduct and the alleged offender knows or suspects that it constitutes such a benefit; criminal property may take any form and includes money, securities, tangible and intangible property. Criminal conduct is conduct which constitutes an offence in the UK or would constitute an offence in the UK if it occurred there. Money laundering also includes activities relating to terrorist financing.
- 3.2 Money laundering activity may range from a single act, for example being in possession of the proceeds of one's own crime, to complex and sophisticated schemes involving multiple parties and multiple methods of handling and transferring criminal property as well as concealing it and entering into

¹ SI 2007/2157

arrangements to assist others to do so. Council employees need to be alert to the risks of clients, their counterparties and others laundering money in any of its many forms.

- 3.3 The main money laundering offences are those under sections 327 to 329 of the Proceeds of Crime Act 2002 and section 18 of the Terrorism Act 2000. In summary the offences are committed as follows. Under section 327 it is an offence to conceal, disguise, convert, transfer or remove criminal property from England and Wales. Under section 328 it is an offence for a person to enter into or become concerned in an arrangement which s/he knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person. Under section 329 it is an offence for a person to acquire, use or have in his/her possession criminal property.
- 3.4 Under section 18 of the Terrorism Act 2000 it is an offence for a person to enter into or become concerned in an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property by concealment, removal from the jurisdiction, transfer to nominees or in any other way. Terrorist property is defined as money or other property which is likely to be used for the purposes of terrorism (including any resources of a prescribed organisation), proceeds of the commission of acts of terrorism, and proceeds of acts carried out for the purposes of terrorism.
- 3.5 It is important to note that anyone, Council employee or not, can commit any of the above offences. However, in addition to these offences there are a series of obligations imposed on the Council by the 2007 Regulations that it must fulfil and of which breach can also amount to an offence by the Council.

4. WHAT ARE THE OBLIGATIONS ON THE COUNCIL?

- 4.1 The obligations on the Council are those imposed by the 2007 Regulations which apply to “relevant persons” acting in the course of business carried on by them in the UK. Not by any means all of the Council’s business is relevant for the purposes of the Regulations; it is mainly the accountancy and audit services carried out by Financial Services and the financial, company and property transactions undertaken by Legal Services.

- 4.2 It should be remembered that under Reg. 3(1), the Regulations only apply to “persons acting in the course of a business”.

Therefore Council employees in the Financial Services and Legal Services sections are those to whom the Policy most directly applies.

- 4.3 It is reasonable to conclude that the money laundering regime is not primarily aimed at local authorities and that local authorities’ work is to some extent tangential to the regime. However, the safest way to ensure compliance with the regime is nonetheless to apply its requirements to all of the Council’s areas of work and to ensure that all staff comply with the reporting procedure set out in the Policy.

- 4.4 The obligations on the Council are to establish and maintain appropriate and risk-sensitive policies and procedures relating to the following

- Customer due diligence measures and ongoing monitoring
- Reporting

- Record-keeping
 - Internal control
 - Risk assessment and management
 - The monitoring and management of compliance with, and the internal communication of such policies and procedures
- 4.5 All employees are required to follow the procedure set out in the Policy and in this way the Council will properly discharge its obligations under the money laundering regime.

5. THE IMPORTANCE OF DISCLOSING ANY SUSPICIONS TO THE MLRO

- 5.1 Where you know or suspect that money laundering activity is taking/has taken place, or you are concerned that your involvement in the matter may amount to a prohibited act under the legislation, you must disclose to the MLRO this suspicion or concern as soon as practicable; the disclosure should be made within hours rather than days or weeks of the information coming to your attention. **IF YOU FAIL TO DO SO YOU MAY BE LIABLE TO PROSECUTION.**
- 5.2 Your disclosure should be made to the MLRO on the Pro Forma attached at Appendix 2. 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.
 - If you are concerned that your involvement in the transaction would amount to a prohibited act under sections 327-329 of the 2002 Act then your report must include all relevant details as you will need consent from the National Crime Agency (NCA) or relevant successor body, through the MLRO, to take any further part in the transaction. This is the case even if the client gives instructions for the matter to proceed before such consent is given. You should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent e.g. a completion date or court deadline.
 - The types of money laundering activity involved. If possible cite the section number(s) under which the report is being made.
 - The date of such activities, including whether the transactions have happened, are on-going or are imminent.
 - Where they took place.
 - How they were undertaken.
 - The (likely) amount of money/assets involved.
 - Why, exactly, you are suspicious.
 - In addition, any other information to enable the MLRO to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable her to prepare her report to the NCIS, where appropriate. You should also enclose any copies of relevant supporting documentation.
- 5.3 As soon as you have reported the matter to the MLRO you must follow any directions she gives you. **You must NOT make any further inquiries into the matter yourself.** Any necessary investigation will be undertaken by the National Crime Agency (NCA) or relevant successor body; simply report your suspicions to the MLRO, who will refer the matter to the National Crime Agency (NCA) or relevant successor body, if appropriate. All members of

staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

- 5.4 Similarly, **at no time and under no circumstances should you voice any suspicions** to the person(s) organisation you suspect of money laundering; otherwise you may commit the criminal offence of “tipping off”.
- 5.5 Do not, therefore, make any reference on a client file to a report having been made to the MLRO. Should the client exercise his/her right to see the file then such a note would obviously tip them off to the report having been made. Again you would be at risk of prosecution for tipping off. The MLRO will keep the appropriate records in a confidential manner.

6. Customer Due Diligence

- 6.1 In summary, customer due diligence is a new requirement introduced by the Regulations, and 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; clearly it is only by the Council knowing its clients and their businesses that it can recognise abnormal and possibly suspicious activity.
- 6.2 The obligations imposed on the Council must, of course, be brought into effect by its individual employees. Employees must therefore be familiar with these obligations.
- 6.3 The 2007 Regulations require that the Council identifies its customers and verifies that identity on the basis of documents, data or information obtained from a reliable source. Where there is a beneficial owner who is not the customer then the Council must identify that person and verify the identity and where the beneficial owner is a trust or similar then the Council must understand the nature of the control structure of that trust. Finally the Council must obtain information on the purpose and intended nature of the business relationship.
- 6.4 The checks described in the paragraph above must generally be undertaken by the Council before it establishes a business relationship or carries out an occasional transaction, or if it suspects money laundering or terrorist funding or doubts the veracity of any information obtained for the purposes of identification or verification. However, the Council is not required to undertake these checks if its customer is another public authority, unless it suspects money laundering or terrorist funding.
- 6.5 The Council is also obliged to maintain ongoing monitoring of its business relationships which means it must 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.
- 6.6 Where the Council is not able to apply the customer due diligence measures set out above it must not carry out a transaction with or for a customer through a bank account, it must not establish a business relationship or carry out an occasional transaction with the customer, it must terminate any business relationship with the customer and consider whether to make a disclosure.

- 6.7 However, the above paragraph does not apply where a lawyer or other professional adviser is in the course of advising the legal position for his/her client or performing his/her task of defending or representing that client in, or concerning, legal proceedings including the advice on the institution or avoidance of proceedings.
- 6.8 The due diligence procedures can be found in the Customer Due Diligence Flowchart.

7. Enhanced Customer Due Diligence and Ongoing Monitoring

- 7.1 It will in certain circumstances be necessary to undertake what is known in the Regulations as Enhanced Customer Due Diligence. In summary, this will be necessary where:
- the customer has not been physically present for identification purposes; or
 - in any other situation which by its nature can present a higher risk of money laundering or terrorist financing.
- 7.2 Where this applies, the Council will need to take adequate measures to compensate for the higher risk. For example, this will mean ensuring that the customer's identity is established by additional documents, data or information.
- 7.3 Similarly, where the Council is in an ongoing "business relationship" with a customer, the Regulations impose a special obligation to carry out ongoing monitoring. This means that the Council must:
- scrutinise transactions undertaken throughout the course of the relationship to make sure that these transactions are consistent with the Council's knowledge of the customer, his/her business and risk profile; and
 - keep documents, data or information obtained for the purpose of applying Customer Due Diligence measures up-to-date
- 7.4 The enhanced due diligence and ongoing monitoring procedures can be found in the Enhanced Due Diligence and Ongoing Monitoring Flowchart.

8. Internal Clients

- 8.1 Appropriate evidence of identity for Council departments will be signed, written instructions on Council headed notepaper or an e-mail on the internal system at the outset of a particular matter. Such correspondence should then be placed on the Council's client file along with a prominent note explaining which correspondence constitutes the evidence and where it is located.

9. External Clients

- 9.1 The MLRO will maintain a central file of general client identification and verification information about the Council's external clients to whom the Council provides professional services. You should check with the MLRO that the organisation or individual in respect of which you require identification

and verification information is included in the MLRO's central file and then check the details of the information held in respect of the particular client. If the organisation or individual is not included in the central file you should discuss the matter with the MLRO.

- 9.2 In practice the Council can fulfil its obligations if employees complete the Customer Due Diligence Pro-Forma attached.

10. Record Keeping

- 10.1 The information gathered by the Council in pursuance of its customers due diligence obligations and described above must be kept for a period of 5 years from either the completion of the transaction or the end of the business relationship. Each Department or Section of the Council should nominate an officer who is to be responsible for the secure storage of these records.

11. THE MONEY LAUNDERING REPORTING OFFICER

- 11.1 The officer nominated to receive disclosure about money laundering activity within the Council is the Service Director, Finance and Commercial Services. They can be contacted as follows:

Richard Ambrose
Service Director, Finance and Commercial Services
Buckinghamshire County Council
County Hall
Aylesbury
Bucks

Telephone: 01296 383120

In the absence of the MLRO the Service Director, Legal and Democratic Services, Anne Davies, is authorised to deputise for her. Anne can be contacted at the above address or on telephone 01296 383650 (direct line).

APPENDIX 1
Customer Due Diligence Pro-Forma

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| SECTION A: PRELIMINARY | |
| NAME OF CUSTOMER | |
| Is this customer another public authority (e.g. a local authority)? | <i>If "Yes", the due diligence measures below in Sections B and C do not need to be applied.</i> |
| Does the Council suspect the customer of money laundering or terrorist financing? | <i>If "Yes", the suspicion MUST always be reported to the MLRO immediately.</i> |
| SECTION B: DUE DILIGENCE MEASURES | |
| <p>These measures are to be applied where the Council:</p> <ol style="list-style-type: none"> 1) establishes a business relationship with a customer²; 2) carries out an occasional transaction³; 3) doubts the veracity or adequacy of documents, data or information previously obtained from the customer for the purposes of identification or verification. <p><i>To apply the due diligence measures, please answer as fully as possible the questions below.</i></p> | |
| 1. | Can the Council identify this customer? |
| 2. | How has the identity of this customer been established? [Attach documents, data or information establishing identity] |
| 3. | Are these documents, data or information from an independent and reliable source? |
| 4. | Can the Council verify the identity of the customer? [Through the documents referred |

² "**business relationship**" means a business, professional or commercial relationship which the Council expects, at the time the contact is established, to have an element of duration.

³ "**occasional transaction**" means a transaction, carried out other than as part of a business relationship, amounting to 15,000 Euro or more, whether a single operation or several operations which appear to be linked. [Sterling equivalent at date of final document]

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| | to in Questions 2 and 3] | |
| 5. | Is there a beneficial owner involved with the customer who is a different person or entity to the customer identified above? | |
| 6. | What is the identity of the beneficial owner? | |
| 7. | Can the Council verify the identity of the beneficial owner? | |
| 8. | Does the Council doubt the veracity or adequacy of documents, data or information obtained for the purposes of identification or verification? | |
| 9. | When were the documents, data or information obtained for the purposes of identification or verification of this customer last up-dated? | |
| 10. | When will the documents, data or information obtained for the purposes of identification or verification of this customer next be up-dated? | |
| 11. | What is the ownership and control structure of the beneficial owner? | |
| 12. | Does the Council wish to establish a business relationship with this customer? | <i>If "No", go straight to Section C.</i> |
| 13. | What is the purpose and intended nature of the business relationship? | |
| SECTION C: OUTCOME OF DUE DILIGENCE MEASURES | | |
| <p>Is the Council unable to answer any of the above questions because the customer has been unable or unwilling to provide information?</p> <p>If so, please give full details.</p> | | <p><i>If the answer is "Yes", the Council must not establish a business relationship or carry out an occasional transaction with this customer; it must not carry out any transaction with or for the customer through a bank account; it must terminate any business relationship with the customer AND the suspicion must be reported immediately to the MLRO.</i></p> |

NOTE

This pro-forma must be kept for 5 years from the end of the business relationship or occasional transaction with this customer