



## **Buckinghamshire Council**

### **Anti-Money Laundering Policy**

**A guide to the Council's anti-money laundering safeguard and reporting arrangements.**

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DRAFT VERSION– February 2023

<b>Version</b>	<b>Date</b>	<b>Sign Off</b>	<b>Action</b>	<b>Responsible Officer</b>
1.0	14/11/2019	Resources Board	Agreed. Minor changes to reflect structures	Maggie Gibb
1.1	26/11/2019	Chief Executive's Implementation Group	Agreed. Minor changes to reflect structures	Maggie Gibb
1.2	11/12/2019	Informal Shadow Exec	Agreed.	Maggie Gibb
1.3	01/06/2021	Head of Business Assurance (& Chief Auditor)	Agreed. Minor changes	Maggie Gibb
1.4	14/06/2021	Audit Board	Agreed.	Maggie Gibb
1.5	22/06/2021	Audit & Governance Committee		
FINAL			PUBLICATION	
2.0	16/02/2023	DCE Board	Agreed. Minor changes	Maggie Gibb
2.1	23/02/2023	CMT	Agreed	Maggie Gibb
2.2	20/02/2023	Audit Board	Agreed	Maggie Gibb
	29/03/2023	Audit and Governance Committee		

# Anti-Money Laundering Policy

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## **1. Introduction**

- 1.1. 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 term is used for a number of offences involving the integration of “dirty money” (i.e., the proceeds of crime) into the mainstream economy. The aim is to legitimise the possession of such monies through circulation, and this effectively leads to “clean” funds being received in exchange.
- 1.2. The Buckinghamshire Council is committed to establishing and maintaining effective arrangements to prevent and detect attempts to launder money using Council services. The Council requires all Members and employees to demonstrate the highest standards of honesty and integrity, and this includes compliance with appropriate legislation. The Council is committed to working constructively with the Police and other relevant agencies in relation to combating money laundering and ensuring compliance with the legislation.
- 1.3. This policy should be read in conjunction with the Council’s Anti-Fraud and Corruption Policy. The Council will seek to ensure the corporate stance on money laundering is widely publicised and that employees and Members have access to the appropriate guidance. A breach of these procedures may lead to disciplinary and/or criminal action being taken.

## **2. Scope of the policy**

- 2.1. This Policy applies to all employees whether permanent or temporary and Members of the Council. Its aim is to enable employees and Members to respond to a concern they have in the course of their dealings for the Council. Individuals who have a concern relating to a matter outside of work should contact the Police.
- 2.2. Failure by a member of staff to comply with the procedures set out in the Policy should be escalated for appropriate action to be taken.
- 2.3. 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.

### **3. What is money laundering?**

3.1. Money Laundering describes offences involving the integration of the proceeds of crime, or terrorist funds, into the mainstream economy. Activities and offences relating to money laundering are covered by the following acts:

- The Proceeds of Crime Act 2002 (as amended by the Crime and Courts Act 2013, Serious Crime Act 2015, and the Criminal Finances Act 2017)
- Terrorism Act 2000 (as amended by the Criminal Finances Act 2017)
- Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (as amended by the Money Laundering and Terrorist Financing (amendment) Regulations 2019)

3.2. Money Laundering offences are defined under The Proceeds of Crime Act 2002 as the following prohibited acts:

- concealing, disguising, converting, transferring, or removing criminal property from the UK (s.327);
- becoming involved in an arrangement which an individual knows, or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person (s.328);
- acquiring, using, or possessing criminal property (s.329);
- doing something that might prejudice an investigation e.g. falsifying a document (s.333);
- failure to disclose one of the offences listed above where there are reasonable grounds for knowledge or suspicion (s.330-332); and/or
- tipping off a person(s) who is suspected of being involved in money laundering in such a way as to reduce the likelihood of or prejudice an investigation (s.333).

3.3. The Terrorism Act 2000 made it an offence for 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.

3.4. 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 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.

3.5. 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 Money Laundering Regulations, breach of which can also amount to an offence by the Council.

#### **4. Key Principles**

4.1. The main requirements of the legislation are:

- To appoint a Money Laundering Reporting Officer (MLRO);
- Maintain client identification procedures in certain circumstances;
- Implement a procedure to enable the reporting of suspicions of money laundering; and
- Maintain record keeping procedures.

4.2. The aim is to enable employees and Members to respond to any concerns they have in the course of their dealings for the Council, and to place a duty upon them to report suspicious activity and money laundering to the MLRO.

#### **5. What are the obligations on the council?**

5.1. Whilst Local Authorities are not directly covered by the requirements of the Money Laundering Regulations 2019, guidance from finance and legal professions, including the Chartered Institute of Public Finance and Accountancy (CIPFA), indicates that public service organisations should comply with the underlying spirit of the legislation and regulations and put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.

5.2. The regulations apply to “relevant persons” acting in the course of business carried out by them in the UK. Relevant persons must check beneficial ownership registers of legal entities in scope of the People with Significant Control (PSC) requirements before establishing a business relationship. Not all of the Council’s business is relevant for the purposes of the Regulations; it could include accountancy and audit services carried out by Financial Services and the financial, company and property transactions undertaken by Legal Services. Nevertheless, the safest way to ensure compliance with the regime is 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.

5.3. The obligations on the Council are to establish and maintain appropriate and risk-sensitive evidence of the following:

- assessing the risk of Buckinghamshire Council being used by criminals to launder money;
- checking the identity of our customers in high risk activities;

- checking the identity of 'beneficial owners' of corporate bodies and partnerships;
- monitoring our customers' business activities and reporting anything suspicious to the National Crime Agency (NCA);
- making sure we have the necessary management control systems in place; keeping all documents that relate to financial transactions, the identity of our customers, risk assessment and management procedures and processes;
- making sure our employees are aware of the regulations and have had the necessary training;
- monitoring and management of compliance with, and the internal communication of, policies and procedures; and
- ensuring that relevant persons have policies to ensure they undertake risk assessments prior to the launch or use of new products or business practices, as well as new technologies.

## **6. Customer Due Diligence**

- 6.1. Customer due diligence (CDD) 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 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 2017 Regulations and 2019 (as amended) require that the Council identifies its customers and verifies their identity based on 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 owner's 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.
- 6.4. The Council must obtain information on the purpose and intended nature of the business relationship. Under the UK's Money Laundering Regulations (regulation 33(1)(b)), enhanced due diligence (EDD) is mandated for any business relationship with a person established in a high-risk third country.
- 6.5. From 1 January 2021, the UK maintains its own standalone list of high-risk countries, which is aligned with the Financial Action Task Force (FATF) practices. The list of high-risk countries is regularly reviewed and most recently it was amended in November 2022 by

regulation 2 of the Money Laundering and Terrorist Financing (Amendment) (No 2) (High-Risk Countries) Regulations 2022. The high-risk countries are:

Albania, Barbados, Burkina Faso, Cambodia, Cayman Islands, Democratic People's Republic of Korea (DPRK), Dominican Republic of Congo, Gibraltar, Haiti, Iran, Jamaica, Jordan, Mali, Morocco, Mozambique, Myanmar, Panama, Philippines, Senegal, South Sudan, Syria, Tanzania, Turkey, Uganda, United Arab Emirates, Yemen.

- 6.6. This guidance is reviewed by the Government on a regular basis. For an up to date list of such jurisdictions an officer should seek advice from the MLRO, or visit <https://www.gov.uk/government/publications/money-laundering-advisory-notice-high-risk-third-countries--2>
- 6.7. The checks described above must 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.
- 6.8. 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.
- 6.9. Where property transactions are carried out using externally appointed agents on behalf of the Council, the agent will be required to perform and evidence the "know your client checks (KYC)" and these should be shared and retained by the Council.
- 6.10. Where the Council is unable to apply the CDD 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.

## **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 as follows:
  - the customer has not been physically present for identification purposes; or
  - in any other situation, which by its nature can present a high 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.
- 7.4. The regulations require that enhanced customer due diligence measures are taken to manage and mitigate the risks exposed by politically exposed persons (PEPs). The term PEPs refers to people who hold high public office. The Council is required to have appropriate risk-management systems and procedures to identify when the customer is a PEP and to manage the enhanced risks arising from having a relationship with that customer. Business relationships with the family and known close associates of a PEP are also subject to greater scrutiny.

## **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.
- 9.2. In practice the Council can fulfil its obligations if employees complete the Customer Due Diligence Pro-Forma attached in **Appendix 1**.

## 10. Record Keeping

- 10.1. The information gathered by the Council in pursuance of its CDD obligations and described above must be kept for a period of five 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. Reporting any suspicions to the Money Laundering Reporting Officer (MLRO)

- 11.1. 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.
- 11.2. **The legislation determines that a single cash transaction or a series of linked transactions totaling over €15,000** (approximately £13,000 at the time of the legislation) **should be treated as suspicious.** However, vigilance also needs to be maintained in respect of all other possibilities such as a series of smaller payments in cash.

### IF YOU FAIL TO DO SO YOU MAY BE LIABLE TO PROSECUTION.

- 11.3. Your disclosure for suspicious transaction(s) should be made to the MLRO on the Pro-Forma attached (refer to **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.;
  - the types of money laundering activity involved.
  - 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;
  - 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 prepare a report to the NCA, where appropriate. You should also enclose any copies of relevant supporting documentation.

- 11.4. Note that 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 to MLRO if such consent is required and clarify whether there are any deadlines for giving such consent e.g. a completion date or court deadline.
- 11.5. As soon as you have reported the matter to the MLRO you must follow any directions they give to you. **You must NOT make any further enquiries into the matter yourself.**
- 11.6. Any necessary investigation will be undertaken by the NCA or relevant successor body as appropriate. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.
- 11.7. 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”.
- 11.8. 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.

## **12. Consideration of the report by the Money Laundering Reporting Officer**

- 12.1. Upon receipt of a disclosure report, the MLRO must note the date of receipt on their section of the report and acknowledge receipt of it. For proforma template refer to **Appendix 3**. They should also advise you of the timescale within which they expect to respond to you.
- 12.2. The MLRO will consider the report and any other available relevant internal information, for example:
- other transaction patterns and volumes;
  - the length of any business relationship involved;
  - the number of any one-off transactions and linked one-off transactions; and
  - any identification evidence held.
- 12.3. The MLRO will undertake such other reasonable and appropriate enquiries 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.

- 12.4. Once the disclosure report and any other relevant information has been evaluated, the MLRO 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.
- 12.5. Where the MLRO does so conclude, the matter must be disclosed as soon as practicable to the NCA on their standard report form and in the prescribed manner, unless there is 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).
- 12.6. Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, the report must be annotated accordingly; following which, consent can be given for any ongoing or imminent transactions to proceed.
- 12.7. In cases where legal professional privilege may apply, the MLRO must liaise with the Council's Legal Department to decide whether there is a reasonable excuse for not reporting the matter to the NCA.
- 12.8. 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.
- 12.9. Where the MLRO concludes that there are no reasonable grounds to suspect money laundering, the report must be annotated accordingly, and consent given for any ongoing or imminent transaction(s) to proceed.
- 12.10. All disclosure reports referred to the MLRO and reports made to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.
- 12.11. The MLRO commits a criminal offence if he/she knows or suspects or has reasonable grounds to do so through a disclosure being made, that another person is engaged in money laundering, and does not disclose this as soon as practicable to the NCA.

### **13. Sanctions**

- 13.1. Staff who breach this policy may face disciplinary action, which could result in dismissal for misconduct or gross misconduct.
- 13.2. Under the Public Contracts Regulations 2015, contracting authorities shall exclude a supplier from participation in a procurement where they have established that the supplier has been

convicted of certain offences, including bribery and corruption.

#### **14. Monitoring**

- 14.1. In accordance with best practice, the Council has nominated a suitably senior officer as Compliance Officer, to oversee activities that fall within the scope of the money laundering regulations. The Compliance Officer is responsible for ensuring that appropriate due diligence arrangements are operating effectively in relevant services where there is significant exposure to the risk of money laundering. This officer shall be the Head of Business Assurance (& Chief Internal Auditor).

#### **15. Money Laundering Reporting Officer**

- 15.1. The officer nominated to receive disclosures about money laundering activity within the Council is the Service Director - Finance (S151 Officer), who can be contacted as follows:

Service Director - Finance (S.151 Officer)  
Buckinghamshire Council  
The Gateway  
Aylesbury  
Buckinghamshire  
HP20 1UA  
01296 383120

David.Skinner@buckinghamshire.gov.uk

In the absence of the MLRO the Monitoring Officer, the Corporate Director of Resources, is authorised to deputise. They can be contacted at the above address or on telephone 01296 303986.

## Appendix 1. Customer Due Diligence Pro-Forma

SECTION A: PRELIMINARY	
NAME OF CUSTOMER	
Is this customer another public authority (e.g. a local authority)?	If “Yes”, the due diligence measures below in Sections B and C do not need to be applied.
Does the Council suspect the customer of money laundering or terrorist financing?	If “Yes”, the suspicion <b>MUST</b> always be reported to the MLRO immediately.
SECTION B: DUE DILIGENCE MEASURES	
<p>These measures are to be applied where the Council:</p> <ol style="list-style-type: none"> <li>1) establishes a business relationship with a customer <sup>2</sup> ;</li> <li>2) carries out an occasional transaction <sup>3</sup> ;</li> <li>3) doubts the veracity or adequacy of documents, data or information previously obtained from the customer for the purposes of identification or verification.</li> </ol> <p>To apply the due diligence measures, please answer as fully as possible the questions below.</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?

<sup>2</sup> **“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.

<sup>3</sup> **“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]

	[Through the documents referred 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 updated?	
10.	When will the documents, data or information obtained for the purposes of identification or verification of this customer next be updated?	
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?	<b>If "No", go straight to Section C.</b>
13.	What is the purpose and intended nature of the business relationship?	

**SECTION C: OUTCOME OF DUE DILIGENCE MEASURES**

Is the Council unable to answer any of the above questions because the customer has been unable or unwilling to provide information?

If so, please give full details.

**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.**

**NOTE**

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



## Appendix 2. Report to the Money Laundering Reporting Officer template

To: The Money Laundering Reporting Officer

From: Officer reporting suspected activity

<b>Name:</b>	
<b>Position:</b>	
<b>Business Unit:</b>	
<b>Email address:</b>	
<b>Telephone numbers:</b>	

**Do not discuss the content of this report with anyone, especially the person you believe to be involved in the suspected money laundering activity you describe. To do so may constitute a tipping off offence.**

### Details of suspected offence:

Name(s) and address(es) of person(s) involved: (Please also include date of birth, nationality, national insurance numbers- if possible) (If a company please include details of nature of business, type of organisation, registered office address, company registration number, VAT registration number):
Nature, value, and timing of activity involved: (Please include full details e.g. what, when, where and how. Confirm whether the transactions have happened, are ongoing or are imminent)
Nature of suspicions regarding such activity
Has any investigation been undertaken (as far as you are aware), If yes, please include details below: <b>Yes / No</b>

Have you discussed your suspicions with anyone else? If yes, please specify below, explaining why such discussion was necessary: **Yes / No**

Have you consulted any supervisory body guidance regarding money laundering (e.g. the Law Society)? If yes, please specify below: **Yes / No**

Do you feel you have reasonable grounds for not disclosing the matter to the NCA? (e.g. are you a lawyer and wish to claim legal professional privilege?) If yes, please set out full details below: **Yes / No**

Are you involved in a transaction which might be a prohibited act under sections 327- 329 of the Proceeds of Crime Act 2002 or Regulations 86 – 88 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 and which requires appropriate consent from the NCA? If yes, please enclose details below: **Yes / No**

Please detail below any other information you feel is relevant:

**Retention period: 5 years**

### Appendix 3. Proforma for Completion by the Money Laundering Reporting Officer

Date report received:	
Date receipt of report acknowledged:	

Are there reasonable grounds for suspecting money-laundering activity?

If there are reasonable grounds for suspicion, will a report be made to NCA? **Yes / No**

If yes, date of report to NCA:

Details of liaison with NCA regarding the report:

Is consent required from the NCA for any ongoing or imminent transactions that would otherwise be prohibited acts? If yes, please confirm full details; Yes / No

Date consent received from NCA:	
---------------------------------	--

Date receipt of report acknowledged:	
--------------------------------------	--

Date consent given by you to employee:	
--	--

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

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:

Other relevant information:	
..... Signed	..... Dated

**Retention period: 5 years**