



Anti-Money Laundering Policy

Assurance, Risk and Audit

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1. Introduction

In the UK, there is an extensive amount of legislation surrounding financial crime, including:

- The Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017 (SI 2017 No.692)
- The Proceeds of Crime Act 2002 (as amended by the Crime and Courts Act 2013 and the Serious Crime Act 2015)
- The Money Laundering Regulations 2007 (SI 2007 No. 2157)
- The Terrorism Act 2000 (as amended by the Anti-Terrorism, Crime and Security Act 2001, the Terrorism Act 2006 and the Terrorism Act 2000 and Proceeds of Crime Act 2002 (Amendment) Regulations 2007)
- The Criminal Finances Act 2017

The Proceeds of Crime Act 2002 (POCA), the Terrorism Act 2000 and the Money Laundering Regulations 2007 place obligations on the Council and its employees with respect to suspected money laundering. This Policy has been developed to ensure those obligations are achieved, the key points being:

- the reporting and detection of suspected money laundering
- officers must be vigilant for the signs of money laundering
- any employee who suspects money laundering activity must report this promptly to the Council's Money Laundering Reporting Officer (see reporting form for completion by the Officer suspicious of activity)
- the Council no longer accepts payments by cash at its Customer Service Centres, however cash payments can be made at Paypoint outlets
- where the Council is carrying out certain activities regulated under Financial Services legislation during day to day business then the customer due diligence procedure must be followed, for example some Treasury Management activities are regulated by the Financial Conduct Authority
- the Money Laundering Regulations are complex and detailed and should there be any doubt about the policy requirements, please request further information from your manager

2. The Policy

The Policy applies to all officers and members, and sets out procedures for the reporting of suspected money laundering activities with the aim to reduce potential criminal activity. The policy defines procedures that will assist the Council to comply with its legal obligations.

The Policy should be read alongside the Council's Whistleblowing Policy and Counter Fraud, Bribery and Corruption Framework.

Failure of an officer to comply with the procedures defined within this policy may lead to disciplinary action in line with the Council's Disciplinary Procedure and may also lead to a conviction under POCA and Money Laundering Regulations 2017.

Failure of a member to comply with the procedures defined within this policy would be reported to the Leader of the Council for further action, for example a possible report to the Standards Committee in line with Allerdale Borough Council's Code of Conduct and Arrangements for dealing with standards allegations under the Localism Act 2011.

3. What is Money Laundering?

Definition

The Financial Action Task Force (FATF) – an inter-governmental body that sets standards for combating money laundering, provides the following definition for money laundering:

“Money laundering is the processing of these criminal proceeds to disguise their illegal origin. This process is of critical importance, as it enables the criminal to enjoy these profits without jeopardising their source.”

To combat money laundering, the Proceeds of Crime Act 2002 introduced the following high level offences:

Failure to report – up to five years in prison, or a fine or both
Tipping off – up to 5 years, or a fine or both and
Assistance – up to 14 years in prison, or a fine or both.

Money laundering takes various forms. In the UK, the Joint Money Laundering Steering Group (JMLSG) lists the usual forms that include:

- trying to turn money raised through criminal activity into 'clean' money (that is, classic money laundering)
- handling the benefit of acquisitive crimes such as theft, fraud and tax evasion
- handling stolen goods
- being directly involved with any criminal or terrorist property, or entering into arrangements to facilitate the laundering of criminal or terrorist property; and
- criminals investing the proceeds of their crimes in the whole range of financial products

Two secondary offences are also defined which relate to:

- the failure to disclose any of the three primary acts and
- tipping off (POCA section 330)

Tipping off is where someone informs a person or persons involved in, or suspected to be involved in money laundering acts, in such a way as to reduce the likelihood of their being investigated.

Officers in all areas should be aware that they could be potentially exposed to money laundering acts. It is important that all employees are aware of their responsibility to report any suspicions of money laundering activity as detailed within this policy (see section 5 Reporting). All officers are responsible to act promptly and report any suspicions to the Money Laundering Reporting Officer to prevent any breach of legislation which can lead to serious criminal penalties.

Cash is the favoured method for criminal transactions due to its flexibility and limited traceability. The fact that the Council no longer accepts cash payments through its Customer Service Centres does not mean that the risk of money laundering is removed. The opportunity to gather information from the customer at the time of the transaction has passed to others, but the nature and purpose of the transaction itself remains unchanged. Unusual payment transaction patterns and refund activity should be highlighted and considered from the money laundering perspective.

4. The Money-Laundering Reporting Officer (Monitoring Officer)

The officer nominated to receive disclosures about money laundering activity is the Monitoring Officer. The Money Laundering Reporting Officer (MLRO) will deal with all disclosures confidentially and make decisions on reporting the activity to the National Crime Agency (NCA) in the appropriate manner. All reports will be retained for five years.

The MLRO's responsibilities include, but are not limited to:

- investigating internal suspicious activity reports and subsequently make reports to the National Crime Agency (NCA)
- providing oversight of the organisation's anti-money laundering activity, risks and mitigating controls; and
- reporting to the other senior management.

Contact details:

Sharon Sewell

Monitoring Officer and Head of Governance and Regulatory Services

01900 702887

5. Reporting

Any employee who suspects money laundering activity should report their suspicions promptly to the MLRO using the form attached, referenced AML Form 1 at Appendix B. The first section is for completion by the officer with suspicions of money laundering activity. Upon receipt of this report the MLRO may contact you directly to discuss the content of the report as required. The MLRO completes the second part of AML Form 1.

No further enquiries by the reporting party should be made about the suspected money laundering after reporting to the MLRO for action. No further steps in any transaction relating to the suspected money laundering should be made without authorisation from the MLRO. For example, if repeated overpayments are received to a specific account seek guidance from the MLRO before the amounts are refunded as an Allerdale Borough Council payment.

No disclosure should be made to others that would indicate suspicions of money laundering. Any officer or member reporting should not discuss the matter with others or record on file that a report has been made to the MLRO as this may result in the suspect becoming aware of the situation.

The MLRO will promptly evaluate any disclosure report (AML Form 1) to determine whether it should be reported to the NCA.

The MLRO will, if necessary, promptly report the matter to the NCA on the standard electronic report form in the prescribed manner via www.nationalcrimeagency.gov.uk/

Failure to report a disclosure to NCA is considered a criminal offence without reasonable grounds. All disclosures will be retained on file for five years.

6. Customer Due Diligence

Extra care needs to be taken when the Council is carrying out activities regulated under Financial Services legislation, this is known as customer due diligence (CDD), for example treasury management activities, charging for a service as a business or a customer other than a UK public authority. Due to the nature and stringent guidelines for regulated business, you will be aware if your duties involve regulated activities.

If CDD applies, you must seek evidence of identity, for example:

- identify your client and verify their identity on the basis of a reliable independent source (such as a passport)
- where applicable, identify the beneficial owners of the client, take reasonable measures to verify their identity so you know who they are and, if the beneficial owner is an entity or legal arrangement, take reasonable measures to understand its ownership and control structure
- assess and where appropriate obtain information on the purpose and intended nature of the business relationship or transaction and
- identify and verify the identity of a person who purports to act on behalf of a client and verify that they are authorised to act on behalf of the client.

Identification must be retained for six years after the end of the business relationship.

7. Guidance and Training

The Council will make all officers aware of the requirements and obligations placed on the Council and on themselves as individuals by anti-money laundering legislation and

give targeted training to those most likely to encounter money laundering.

See Appendix C1 at the end of this document for examples of how money laundering activity may occur.

8. Further information

Further information can be obtained from the following sources:

- “Proceeds of Crime (Anti-Money Laundering) – Practical Guidance for Public Service Organisations” – CIPFA
- www.nationalcrimeagency.gov.uk/

Appendix A

Money laundering examples

All officers should be vigilant to suspicious activity, in particular when dealing with monetary transactions and when procuring works.

The Chartered Institute of Public Finance and Accountancy (CIPFA) have issued the following examples for situations which may give rise to money laundering or the suspicion of it:

- Those involved in the handling of criminal property look for ways to secure and safeguard the proceeds of their criminal activities
- Although other ways exist, cash is the mainstay of criminal transactions, being the most reliable and flexible, and having little or no audit trail
- Criminals often transport cash out of the UK using couriers, usually through airports, to pay into banks overseas, to purchase property abroad, or to pay to their families
- In the UK, the most popular method of laundering money is thought to be the purchase of property, followed by investment in front companies (these are companies used as a front or 'decoy' for illegal activities) or high cash turnover businesses (frequently legitimate businesses), or funding a lifestyle
- After property, the most significant assets bought by criminals are jewellery, artwork, antiques, cars and boats
- The investment of cash in financial products with a view to selling them quickly (if necessary at a loss) is used
- Criminals use trusts to launder money because of their secretive nature and flexibility, often using front companies to hide identities
- Gambling large amounts of cash at relatively low odds is used, since winnings are usually received in the form of cheque payments
- Criminals use 'layering' to confuse the audit trail – this involves passing transactions through several stages, often eventually banking the proceeds as business income, and transferring the money overseas to a country whose regulatory regime is weaker

Any transaction involving an unusually large amount of cash should cause questions to be asked about the source. This will particularly be the case where cash paid exceeds the amount necessary to settle a transaction, and the person(s) concerned requests a non-cash refund of the excess. This will include double payments.

The reason for the use of trusts or offshore funds for handling the proceeds or settlement of a transaction should be questioned.

Care should be exercised and further enquiries may be needed where:

- a third party intermediary becomes involved in a transaction
- the identity of a party is difficult to establish or is undisclosed
- a company is used by a third party and the ultimate ownership is concealed or difficult to establish
- a party is evasive as to the source or destiny of funds

It should be remembered that the money-laundering regime adopts an ‘all-crimes’ approach. Whilst the above examples are largely concerned with significant transactions which organisations may affect with third parties, the offences under the Proceeds of Crime Act (notably sections 327-329) may apply to a very wide range of more everyday activities within an organisation.

For example, being complicit in crimes involving the falsification of claims, benefiting from non-compliance with the conditions attaching to a grant, or facilitating employment on which tax is not paid.

How could money laundering occur within Allerdale Borough Council?

Money laundering may occur during day to day business activities within the Council; these are issues all officers should be aware of:

Credit Union

- Completing cash transactions regulated under Financial Services legislation:
- Consider any large cash deposit made through the Council’s Paypoint arrangements and bring to the attention of the Credit Union.

Treasury Management (refer to Treasury Management Practices nine)

- Are business relationships documented for loans and investments?
- Are customers identified and information retained for five years after the transaction?

Reputation

- Use local knowledge. Allerdale is a tight knit community and local knowledge is invaluable. This increased knowledge may increase suspicions, if in doubt, report it!
- Think about the impact on the Council if lack of awareness is identified and inappropriate relationships are formed

Business rates (NNDR)

Consideration of the following examples of best practice:

- Are business directors identified as bona fide?

- Is the business legitimate and have we confirmed this?
- Is information retained?

Licensing

- Have we identified the customer requesting a licence?
- Has the nature of the relationship been clearly defined and is the application viable and legitimate?

Training

- Officers must be vigilant at all times
- If in doubt, report it
- The Money Laundering Policy should be adhered to and further guidance requested from the Money Laundering Reporting Officer where needed
- Access further information via the sources in section 8 of this document, for detailed guidance

Officers visiting businesses and properties

- If suspicious activity is suspected during a property visit, officers should report the matter in accordance with this Money Laundering Policy

Identification

- Only original forms of valid identification and verification should be accepted.
- Identification should be retained for reference for five years after the relationship has ended. Reference to the transaction to which the identification relates should also be clearly documented

Procurement

- Are tender documents clear and is it stipulated that employees performing contract works are legitimate?
- Does the contract afford the Council opportunity to terminate the contract where the company commits or attempts to commit fraudulent acts, whether this directly affects the Council or not?
- Are new suppliers identified as bona fide?

Debtors

- Cash overpayments are repeatedly received to a debtor account without reasonable explanation, and refunds are given in the form of an Allerdale Borough Council payment. This may be a means to conceal the source of

money obtained from illegal activities



**Appendix B
AML Form 1**

For completion by the Officer suspicious of activity

CONFIDENTIAL

**Report to Money Laundering Reporting Officer
Money laundering activity**

To: Monitoring Officer - Money Laundering Reporting Officer

From: _____
[insert name of employee]

Directorate: _____
[insert post title and business unit]

Ext/Tel No: _____

URGENT YES/NO

Date by which response needed: _____

Details of suspected offence:

Names(s) and address(es) of person(s) involved:
[if a company/public body please include details of nature of business]

Nature, value and timing of activity involved:

[Please include full details e.g. what, when, where, how. Continue on a separate sheet if necessary]

Nature of suspicions regarding such activity:

[Please continue on a separate sheet if necessary]

Has any investigation been undertaken (as far as you are aware)? (Please tick the relevant box) Yes No

If yes, please include details below:

Have you discussed your suspicions with anyone else?

(Please tick the relevant box) Yes No

If yes, please specify below, explaining why such discussion was necessary:

Have you consulted any supervisory body guidance re money laundering? (E.g. the Law Society) [Please tick the relevant box]

Yes No

If yes, please specify below:

Do you feel you have a reasonable excuse for not disclosing the matter to NCA? (E.g. are you a lawyer and wish to claim legal professional privilege?)

[Please tick the relevant box] Yes No

If yes, please set out full details below:

Signed: _____ **Dated:** _____

Please do not discuss the content of this report with anyone you believe to be involved in the suspected money laundering activity described. To do so may constitute a tipping off offence, which carries a maximum penalty of five years' imprisonment.



For completion by the Money Laundering Reporting Officer (MLRO)

THE FOLLOWING PART OF THIS FORM IS FOR COMPLETION BY THE MLRO

Date report received: _____

Date receipt of report acknowledged: _____

CONSIDERATION OF DISCLOSURE:

Action plan:

OUTCOME OF CONSIDERATION OF DISCLOSURE:

Are there reasonable grounds for suspecting money laundering activity?

If there are reasonable grounds for suspicion, will a report be made to NCA?
[Please tick the relevant box] Yes No

If yes, please confirm date of report to NCA: _____ and complete the box below:

Details of liaison with NCA regarding the report:

Notice period: _____ to _____

Moratorium Period: _____ to _____

Is consent required from NCA to any ongoing or imminent transactions which would otherwise be prohibited acts? [Please tick the relevant box]
Yes No

If yes, please confirm full details in the box below:

Date consent received from NCA: _____

Date consent given by you to employee: _____

If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to NCA, please set out below the reason(s) for non-disclosure:

[Please set out any reasonable excuse for non-disclosure]

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

Other relevant information:

Signed: _____

Dated: _____

THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS



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Date

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