

Working together



South Hams District Council And West Devon Borough Council

Anti Money Laundering Policy

ANTI-MONEY LAUNDERING POLICY

1. Introduction

- 1.1 The Councils will do all that they are practically able to do to prevent the Councils and their staff being exposed to money laundering, identify the potential areas where it may occur and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases.
- 1.2 This policy has therefore been adopted in order to introduce safeguards to help identify and report on instances where money laundering is suspected.
- 1.3 In summary:
- The Councils are committed to the prevention, detection and reporting of actual, alleged or suspected money laundering;
 - All employees must be vigilant for the signs of money laundering;
 - Any employee who suspects money laundering activity must report this promptly to the Money Laundering Reporting Officer (MLRO) – Section 151 Officer or
 - in his/her absence the relevant Deputy Section 151 Officer; and
 - Where the Councils are carrying out relevant business then the Client Identification Procedure must be followed.
- 1.4 This policy applies to all employees of both Councils and aims to maintain high standards of conduct, by preventing criminal activity through money laundering. The policy sets out the procedures which must be followed to enable the Councils to comply with its legal obligations.

2 What is Money Laundering?

- 2.1 Money laundering can be defined as the process of moving illegally acquired cash through financial systems so that it appears to be from a legitimate source.
- 2.2 Money laundering offences include:
- Concealing, disguising, converting, transferring or removing criminal property from England and Wales, from Scotland or from Northern Ireland (section 327);
 - Being concerned in an arrangement which a person knows or suspects facilitates the acquisition, retention, use or control of criminal property (section 328); and
 - Acquiring, using or possessing criminal property (section 329).
- 2.3 Other offences:
- Failure to disclose money laundering offences (sections 330-332);
 - Tipping off a suspect either directly or indirectly (section 333); and

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- Doing something that might prejudice an investigation – for example, falsifying a document (section 342).

3 To Whom Does it Apply and How Will they be Made Aware?

- 3.1 Any member of staff could potentially be caught by the money laundering provisions, if they suspect money laundering and either become involved with it in some way and/or do nothing about it. This policy sets out how any concerns should be raised.
- 3.2 Whilst the risk to the Councils of contravening the legislation is low, it is important that all employees are familiar with their responsibilities. Serious criminal sanctions may be imposed for breaches of the legislation. The key requirement on employees is to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer.
- 3.3 The guidance, general and targeted training that will be provided is set out at section 6 of this policy.

4 Staff Concerns and Reporting?

Money Laundering Reporting Officer (MLRO)

- 4.1 The MLRO nominated to receive disclosures about money laundering activity within the Councils is the Section 151 Officer. In his/her absence such disclosures should be made to the relevant Deputy Section 151 Officer.

Reporting Procedures

- 4.2 Any employee who suspects money laundering activity must report their suspicion promptly to the MLRO, either by discussing the suspicion or using the appropriate money laundering form. A copy of the form is attached at Annex A and included with the guidance notes made available to employees.
- 4.3 The employee must follow any subsequent directions of the MLRO, and must not themselves make any further enquiries into the matter. They must not take any further steps in any related transaction without authorisation from the MLRO.
- 4.4 The employee must not disclose or otherwise indicate their suspicions to the person suspected of the money laundering. They must not discuss the matter with others or note on the file that a report has been made to the MLRO in case this results in the suspect becoming aware of the situation.
- 4.5 The MLRO must promptly evaluate any disclosure report, to determine whether it should be reported to the National Crime Agency (NCA).

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- 4.6 The MLRO must, if they determine it is necessary, promptly report the matter to the NCA on their standard form and in the prescribed manner.
- 4.7 The MLRO will commit a criminal offence if they know or suspect, or have reasonable grounds to do so, through a disclosure being made, that another person is engaged in money laundering and they do not disclose this as soon as practicable to the NCA.

5 Acceptance of Cash

- 5.1 Officers are precluded from accepting cash for individual transactions above £10,000 and should complete a report to the MLRO in the circumstances where such amounts are tendered.
- 5.2 For the purposes of this requirement cash is defined as including notes, coins or travellers cheques in any currency.

6 Client Identification Procedures

- 6.1 Where the Councils are carrying out '*relevant business*' and as part of this:
- Forms an ongoing business relationship with a client;
 - Undertakes a one-off transaction involving payment by or to the client of £10,000 or more;
 - Undertakes a series of linked one-off transactions involving total payment by or to the client(s) of £10,000 or more; or
 - It is known or suspected that a one-off transaction (or series of them) involves money laundering;

then the Client Identification Procedure (as set out below) must be followed before any business is undertaken for that client.

- 6.2 '*Relevant Business*' is defined as the:

- Provision, by way of business, of advice about the tax affairs of another person by a body corporate;
- Provision, by way of business, of accountancy services by a body corporate;
- Provision, by way of business, of audit services;
- Provision, by way of business, of legal services by a body corporate which involves participation in a financial or real property transaction (whether by assisting in the planning or execution of any such transaction or otherwise by acting for, or on behalf of, a client in any such transaction);
- Provision, by way of business, of services in relation to the formation, operation or management of a company or a trust;

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- Activity of dealing in goods of any description, by way of business, whenever a transaction involves accepting a total cash payment of €15,000 (approximately £11,900 May 2012) or more; or
- Activity of dealing in and managing investments 'by way of business'.

6.3 Unlike the reporting procedure above, the Client Identification Procedure is restricted to those operating relevant business i.e. Financial Services and Legal Services. This requirement does not apply if a business relationship with the client existed before 1st March 2004.

6.4 Where the '*relevant business*' is being provided to another public sector body then officers responsible must ensure that you have signed, written instructions on the body's headed paper before any business is undertaken.

6.5 Where the '*relevant business*' is not a public sector body, then the officer responsible should seek additional evidence of identity, for example:

- Checking with the organisation's website to confirm their business address;
- Conducting an on-line search via Companies House; or
- Seeking evidence from the key contact of their personal identity and position within the organisation.

6.6 With instructions from new clients or further instructions from a client not well known to the Councils, the officer responsible may seek additional evidence of the identity of key individuals in the organisation and of the organisation itself.

6.7 If satisfactory evidence of identity is not obtained at the outset then the business relationship or one off transaction(s) cannot proceed any further.

Record Keeping

6.8 Where the Councils are carrying out '*relevant business*' and as part of this: the '*relevant business*' is carried out then the client identification evidence and details of the relevant transaction(s) for that client must be retained for at least five years.

7 Guidance and Training

7.1 In support of this policy, the Councils will:

- Draft and publicise, on the Intranet and other relevant places, detailed guidance to officers to support this policy;
- Make all staff aware of the requirements and obligations placed on the Councils and on themselves as individuals by the Anti Money Laundering legislation; and

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- Provide targeted training to those most likely to encounter money laundering e.g. cashiers or other officers accepting cash on behalf of the Councils.

As a minimum staff will be made aware of the:

- Money Laundering Regulations 2007;
- Proceeds of Crime Act 2002, part 7;
- Anti-Terrorism, Crime and Security Act 2001, section 117; and
- Terrorism Act 2000, sections 18 & 21a.

8 Further Information

8.1 Further information can be obtained from the MLRO and the following sources:

- www.nationalcrimeagency.gov.uk – website of the National Crime Agency (NCA);
- Proceeds of Crime (Anti-Money Laundering) Practical Guidance for Public Service Organisations – CIPFA: available from Internal Audit;
- The Consultative Committee of Accountancy Bodies CCAB (www.ccab.org.uk) Anti-Money Laundering (Proceeds of Crime and Terrorism) – Guidance for Accountants; and
- www.lawsociety.org.uk – Money Laundering Guidance from the Law Society.

REPORT TO THE MONEY LAUNDERING REPORTING OFFICER

Confidential Report of Suspected Money Laundering Activity

To: **Money Laundering Reporting Officer (MLRO) Deputy; or
Money Laundering Reporting Officer**

From: _____ [Name of employee]

Service: _____ [Post Title and Service]

Ext/Tel No: _____

URGENT: YES / NO

CONSENT - Required and By When: YES / NO Date:

Details of suspected offence:

Name(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)? *[Delete as appropriate]*

Yes / No

If yes, please include details below:

--

Have you discussed your suspicions with anyone?

Yes / No

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

--

Please set out below any other information you feel is relevant:

--

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 5 years imprisonment and an unlimited fine.

Data Protection

Your information will be used for the investigation of the offence and held securely by South Hams District Council and West Devon Borough Council.

The Council may share the information with the National Crime Agency (NCA) and others to ensure this service is delivered but only where this is essential to provide the service or if required by law.

If you wish to see the personal data that the Council holds, please contact the Data Protection Officer.

We must protect the public funds that we handle, so we may use the information you have provided on this form to prevent and detect fraud. We may also share this information with other organisations that handle public funds. Information you provide may also be used to check the accuracy of records held elsewhere in the council.

THE FOLLOWING PART OF THIS FORM TO BE COMPLETED BY THE MLRO

Date report received: _____

Date receipt of form acknowledged: _____

CONSIDERATION OF DISCLOSURE:

Action plan:

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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 the NCA? *[Delete as appropriate]*

Yes / No

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

Details of liaison with the NCA regarding the report:

Notice Period: from: _____ to: _____

Moratorium Period: from: _____ to: _____

Is consent required from the NCA to any ongoing or imminent transactions which would otherwise be prohibited acts? *[Delete as appropriate]*

Yes / No

If consent is required, please confirm full details in the box below:

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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 the NCA, please set out below the reason(s) for non-disclosure:

[Please set out any reason for non-disclosure]

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

Other relevant information:

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Signed: _____

Dated: _____

THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS

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