

READING BOROUGH COUNCIL
REPORT BY DIRECTOR OF FINANCE

TO:	POLICY COMMITTEE		
DATE:	12 MARCH 2018	AGENDA ITEM:	10
TITLE:	ANTI MONEY LAUNDERING POLICY		
LEAD COUNCILLOR:	COUNCILLOR LOVELOCK	PORTFOLIO:	FINANCE
SERVICE:	FINANCE	WARDS:	BOROUGHWIDE
LEAD OFFICER:	PAUL HARRINGTON	TEL:	9372695
JOB TITLE:	CHIEF AUDITOR	E-MAIL:	Paul.harrington@reading.gov.uk

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 Although local authorities are not obliged to comply with the requirements of the Money Laundering Regulations 2017, guidance from CIPFA recommends that they should embrace the underlying spirit of the legislation as it impacts on certain areas of their work.
- 1.2 As a result, there are obligations on local authorities to have in place internal procedures to prevent the use of its services for money laundering. In particular, the legislation has placed a duty on individuals to report incidents of money laundering activity, for example, cash payments that arouse suspicion to the National Crime Agency.
- 1.3 This report proposes a policy, together with supporting guidance notes that will support staff in identifying potential suspect transaction during the course of their work at Reading Borough Council. The policy provides a mechanism for such transactions to be reported to an appropriate officer for evaluation and potentially to the relevant authorities.
- 1.4 Attached to this report in Appendix 1 - Anti-Money Laundering Policy

2. RECOMMENDED ACTION

- 2.1 The Policy Committee is requested to review and approve the draft policy for adoption.

3. POLICY CONTEXT

3.1 Historically, legislation seeking to prevent the laundering of the proceeds of criminal activity was aimed at professionals in the financial and investment sector, however it was subsequently recognised that those involved in criminal conduct were able to 'clean' the proceeds of crime through a wider range of businesses and professional activities.

3.2 The Money Laundering Regulations 2017 (MLR 2017), impact on certain areas of local authority business and, as under the previous regulations of 2007, require local authorities to maintain internal procedures to prevent the use of their services for money laundering. A key difference of the 2017 Regulations is to require relevant persons to adopt a more risk-based approach towards anti-money laundering, particularly in the conduct of due diligence.

3.3 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 to enable the Council to comply with legal obligations.

3.4 Under the legislation there are two main types of offences which may be committed:

- Money laundering offences.
- Failure to report money laundering offences.

3.5 Money laundering activity includes:

- Acquiring, using or possessing criminal property,
- Handling the proceeds of crimes such as theft, fraud and tax evasion,
- Being knowingly involved in any way with criminal or terrorist property,
- Entering into arrangements to facilitate laundering criminal or terrorist property,
- Investing the proceeds of crime in other financial products
- Concealing, disguising, converting, transferring criminal property or removing it from the UK.
- Entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person
- Investing the proceeds of crimes through the acquisition of property/assets,
- Transferring criminal property.

3.6 There are further associated offences regarding due diligence and disclosures:

Due diligence

- Failure to apply customer due diligence.
- Failure to apply on-going monitoring of business relationship and customer due diligence.
- Failure to comply with timing on verification of clients and any beneficial owner.

- Failure to apply enhanced customer due diligence and monitoring where required.
- Failure to keep required records.
- Continuing with a business relationship where unable to apply customer due diligence

Disclosures

- Making a disclosure to a person which is likely to prejudice a money laundering investigation (“tipping off”).
- Failing to disclose.
- Prejudicing an investigation.

3.7 Money laundering regulations apply to cash transactions in excess of 15,000 Euros (approximately £13,000). However, Proceeds of Crime Act (POCA) applies to all transactions and can include dealings with agents, third parties, property or equipment, cheques, cash or bank transfers.

3.8 Although instances of suspected money laundering are likely to be rare, given the nature of services provided by the Council, failure to comply with legal requirements could have significant implications for both the Council and the individuals concerned.

4. The Obligations of the Council

4.1 The law requires those organisations in the regulated sector and conducting relevant business to:

- Appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees of money laundering activity (their own or anyone else’s),
- Implement risk sensitive policies and procedures relating to customer due diligence, reporting, record keeping, internal control, risk assessment and management, the monitoring and management of compliance and the internal communication of such policies and procedures.

4.2 Not all of the Council’s business is ‘relevant’ for the purposes of the legislation. It is mainly the accountancy and audit services together with certain financial, company and property transactions carried out by Legal Services. However, the safest way to ensure compliance with the law is to apply it to all areas of work undertaken by the Council, therefore all employees are required to comply with the Council’s Anti Money Laundering Policy in terms of reporting concerns regarding money laundering.

4.3 It is a requirement of the MLR 2017 that appropriate systems of internal control are in place to prevent activities relating to money laundering and terrorist financing. There must be management controls in place to identify the possibility that criminals may be attempting to launder money or fund terrorism, so as to enable appropriate action to prevent or report it to be taken.

4.4 It is management's responsibility to implement systems of internal control capable of identifying unusual or suspicious transactions or customer activity and quickly report the details to the MLRO. Systems of internal control should include the following:

- Identification of senior management responsibilities.
- Provision of information to senior management on money laundering and terrorist financing risks.
- Training of relevant employees on the legal and regulatory responsibilities for money laundering and terrorist financing controls and measures.
- Documentation of the Council's risk management policies and procedures.
- Measures to ensure that money laundering and terrorist financing risks are taken into account in the day to day operations of the organisation.

5. Identification of potential money laundering situations

5.1 Criminals have various ways of concealing, moving and legitimising the proceeds of crime. Examples of signs of money laundering where suspicions should arise include:

- Use of cash where other means of payment are normal,
- Unusual transactions or ways of conducting business,
- Unwillingness to answer questions/general secretiveness,
- Use of new/shell companies,
- Payment of deposits which are subsequently requested back,
- Lack of 'traceability' of persons involved,
- Individuals and companies that are insolvent yet have funds.

5.2 It is not possible to give a definitive list of ways in which to identify money laundering or how to decide whether to make a report to the MLRO. The following are types of risk factors which may, either alone or cumulatively with other factors, suggest the possibility of money laundering activity:

- Payment of a substantial sum in cash (over £5,000),
- A secretive customer, e.g. refuses to provide requested information without a reasonable explanation,
- Concerns about the honesty, integrity, identity or location of a customer,
- Illogical third party transaction such as unnecessary routing or receipt of funds from third parties or through third party accounts,
- Involvement of an unconnected third party without logical reason or explanation,
- Overpayments by a customer,
- Absence of an obvious legitimate source of funds,
- Movement of funds overseas, particularly to a higher risk country or tax haven,
- Transactions which are out of the line of normal expectations, without reasonable explanation,
- A transaction without obvious legitimate purpose or which appears uneconomic, inefficient or irrational,
- The cancellation or reversal of an earlier transaction,

- Requests for release of customer account details other than in the normal course of business,
 - Transactions at substantially above or below fair market values,
 - Poor business records or internal accounting controls,
 - A previous transaction for the same customer which has been, or should have been, reported to the MLRO.
- 5.3 In addition to the money laundering offences, the legislation sets out further offences of failure to report suspicions of money laundering activities. Such offences are committed where, in the course of conducting relevant business in the regulated sector, you know or suspect, or have reasonable grounds to do so (even if you did not know or suspect), that another person is engaged in money laundering and you do not disclose this as soon as is practicable to the MLRO.

6. CONTRIBUTION TO STRATEGIC AIMS

- 5.1 The maintenance of governance with the Council to ensure that it is efficient, effective and economic in everything it does is achieved through the improvement of corporate governance by ensuring effective management practices are in place. Therefore preventing loss, and by deterring others from committing fraudulent activity helps to safeguard the Council's resources to be able to achieve the Corporate Plan priorities.

6. COMMUNITY ENGAGEMENT AND INFORMATION

- 6.1 N/A

7. EQUALITY IMPACT ASSESSMENT

- 7.1 There are no equality issues arising from this report

8. LEGAL IMPLICATIONS

- 8.1 Whilst the risk to the Council of contravening the legislation is low, it is extremely important that all employees are familiar with their legal responsibilities: serious criminal sanctions may be imposed for breaches of the legislation. Any person found guilty of a money laundering offence is liable for imprisonment (maximum of 14 years), a fine, or both however, an offence is not committed if the suspected money laundering activity is reported to the MLRO and, where necessary, official permission obtained to continue in the transaction.

9. FINANCIAL IMPLICATIONS

- 9.1 There is no direct financial implication arising from this report

10. BACKGROUND PAPERS

- 10.1 N/A

Policy Statement

Anti-Money Laundering Policy

March 2018

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Author	Paul Harrington
Service	Audit & Investigations
Directorate	Corporate Support Services
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1. Introduction

- 1.1 Although local authorities are not obliged to comply with the requirements of the Money Laundering Regulations 2017, guidance from CIPFA indicates that they should embrace the underlying spirit of the legislation and regulations.

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1.2 Reading Borough Council takes a zero-tolerance approach to fraud and corruption and as such will be taking a proactive approach to the prevention, detection and reporting of suspected money-laundering incidents. This Policy sets out the Council's commitment to ensuring compliance with the requirements of legislation relating to money-laundering and criminal property. The Policy sits alongside the Council's Anti-Fraud and Corruption Policy Statement.

2. Scope of Policy

2.1 This policy applies to all employees, whether permanent or temporary, and Members of the Council.

2.2 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 work should contact the Police.

3. Definition of Money Laundering

3.1 Money-laundering is generally defined as the process by which the proceeds of crime, and the true ownership of those proceeds, are changed so that the proceeds appear to come from a legitimate source. Money-laundering can arise from small profits and savings from relatively minor crimes, such as regulatory breaches, minor tax evasion or benefit fraud. Because banks and financial institutions have developed procedures to alert them to potential money-laundering, criminals look for other ways of placing cash within the financial system (for example, by investing in property).

4. The Legislation

4.1 Money laundering offences are contained in the Proceeds of Crime Act 2002 (POCA)¹ and the Terrorism Act 2000/2006 (TACT)². There are three main offences:

- **Concealing:** knowing or suspecting a case of money laundering, but concealing or disguising its existence.
- **Arranging:** becoming involved in an arrangement to launder money, or assisting in money laundering.
- **Acquisition, use or possession:** benefiting from money laundering by acquiring, using or possessing the property concerned.

4.2 There is also a 'third party' offence - failure to disclose one of the three main offences detailed above.

4.3 POCA creates an obligation on persons in the regulated sector (mainly the financial services sector) to report their suspicion or knowledge of another

¹ POCA an Act that allows the confiscation or civil recovery of property which is or represents property obtained through unlawful conduct

² TACT allows the detention of suspected terrorists without charge for 28 days, includes financing and supporting terrorism

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person's money-laundering to the National Crime Agency (NCA)³, and failure to report is an offence. There are also offences of tipping off about a money-laundering disclosure, tipping off about a money-laundering investigation and prejudicing money-laundering investigations.

- 4.4 The Terrorism Act 2000 made it an offence of 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.
- 4.5 Although the term 'money laundering' is generally used to describe the activities of organised crime, for most people it will involve a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.
- 4.6 The principal offences under POCA and TACT apply to local authorities although some of the other offences (failure to disclose, and tipping-off) do not apply provided the Council does not undertake activities regulated under the Financial Services and Markets Act 2000⁴.
- 4.7 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
 - Maintain record keeping procedures.

5 How the Council will embrace the Act

- Training of staff to recognise transactions that may indicate money-laundering.
- The mandatory requirement for staff to read the anti-money laundering policy through NETConsent
- The Appointment of a Money-laundering Reporting Officer who will receive staff disclosures on suspicions of money-laundering
- Verifying the identity of individuals involved in transactions where appropriate, and keeping records of evidence obtained
- Establishing internal procedures to help prevent money-laundering.
- Reporting any suspicious transactions to the NCA
- Threshold for cash payments

All personal data collected must be kept in compliance with the Data Protection Act.

6 Circumstances that may be susceptible to money-laundering

- Sale of Council land/buildings (as sale proceeds could be in cash)
- Sales of Council properties (under the right-to-buy scheme)

³ NCA an National Crime Agency that aims to protect the public from the most serious threats of organised crime

⁴ The FSA regulate services such as insurance, investment business and banking

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- Receipt of cash payments
- Investments - this would cover activities such as the issues of local bonds or transfers to or from non UK banks

Indicators that should raise suspicion include:

- Where the person you are dealing with is excessively secretive or obstructive
- Where a transaction seems unusual, such as an unusually large cash payment
- An overpayment or duplicate payment in cash where the refund is requested by cheque
- Where a customer pays funds to the Council but then ends the transaction for no apparent reason, or unexpectedly asks for money to be refunded or forwarded to a third party
- Where a customer tells you that funds are coming from one source and at the last minute the source changes
- Absence of an obvious legitimate source of funds e.g. where an individual is on a low income and is purchasing a property from the Council
- Movement of funds overseas, particularly to a high risk country
- Individuals and companies that are insolvent but have funds
- Purchase of property (e.g. a Council house) where no mortgage is involved

7 Identification, information about source of money, and record-keeping

- 7.1 In some circumstances you may wish to seek confirmation of the identity of an individual involved in a transaction with the Council (such as the purchase of a property from the Council). This could be, for instance, where the individual is not represented by a solicitor (who would be expected to have carried out the necessary checks). Evidence of identification and details of the transaction must be kept for at least 5 years.
- 7.2 Where there is no obvious source of funds, you may consider asking the individual to explain the source of the funds. Assess whether you think their explanation is valid - for example, the money may have been received from an inheritance or from the sale of another property.

8 Reporting Procedure for Suspicions of Money Laundering

- 8.1 The Council has appointed the Chief Auditor as the MLRO, who can be contacted via telephone: 0118 9372695 or email Paul.Harrington@reading.gov.uk.
- 8.2 Where you know or suspect that money laundering activity is taking/has taken place, you must disclose this as soon as practicable to the MLRO. The disclosure should be within "hours" of the information coming to your attention, not weeks or months later.
- 8.3 Your disclosure should be made to the MLRO on the above contact details. The disclosure must include as much detail as possible including:

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- Full details of the people involved
- Full details of the nature of their/your involvement.
- The types of money laundering activity involved
- The dates of such activities
- Whether the transactions have happened, are ongoing or are imminent
- Where they took place
- How they were undertaken
- The (likely) amount of money/assets involved
- Why, exactly, you are suspicious.

- 8.4 Along with any other available 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 the MLRO to prepare a report to the National Crime Agency (NCA), where appropriate. You should also provide copies of any relevant supporting documentation.
- 8.5 Once you have reported the matter to the MLRO you must follow any directions given to you. You must NOT make any further enquiries into the matter yourself: any necessary investigation will be undertaken by the NCA. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.
- 8.6 Do not, therefore, make any reference on a client file to a report having been made to the MLRO - should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made. The MLRO will keep the appropriate records in a confidential manner.

9. Disclosure by the Money Laundering Reporting Officer

- 9.1 Upon receipt of a disclosure of a suspicion, the MLRO must note the date of receipt and acknowledge receipt of it. He should also advise you of the timescale within which he expects to respond to you.
- 9.2 The MLRO will consider the report and any other available internal information he thinks relevant, for example:
- Reviewing other transaction patterns and volumes
 - The length of any business relationship involved
 - The number of any one-off transactions and linked one-off transactions
 - Any identification evidence held
- 9.3 The MLRO will undertake such other reasonable inquiries he thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA is required. The decision will be made in consultation with the Head of Legal and/or the Section 151 Officer. The MLRO may also need to discuss the report with you.
- 9.4 Once the MLRO has evaluated the disclosure report and any other relevant information, he must make a timely determination as to whether:

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- There is actual or suspected money laundering taking place; or
 - There are reasonable grounds to know or suspect that is the case; and
 - Whether he needs to seek consent from the NCA for a particular transaction to proceed.
- 9.5 Where the decision verifies the suspicion the MLRO must report the matter as soon as practicable to the NCA on their standard report form.
- 9.6 Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure (for example, professional privilege), then he must note the report accordingly; he can then immediately give his consent for any ongoing or imminent transactions to proceed.
- 9.7 In cases where legal professional privilege may apply, the MLRO must liaise with the Council's Section 151 Officer to decide whether there is a reasonable excuse for not reporting the matter to the NCA.
- 9.8 Where consent is required from the NCA for a transaction to proceed, then the transaction(s) in question must not be completed until the NCA has given consent, or the relevant time limits have expired without objection from the NCA.
- 9.9 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then he shall mark the report accordingly and give his consent for any ongoing or imminent transaction(s) to be made.
- 9.10 All disclosure reports referred to the MLRO and reports made by him to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.
- 9.11 The MLRO commits a criminal offence if he knows or suspects, or has reasonable grounds to do so, through a disclosure being made to him, that another person is engaged in money laundering and he does not disclose this as soon as practicable to the NCA.