

East Dunbartonshire Council

Anti-Money Laundering Policy

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Contents

Introduction

Purpose and Scope of the Policy

Definition of Money Laundering

Requirements of Employees and the Council

Reporting Your Suspicions to the Money Laundering Reporting Officer

The Money Laundering Reporting Procedures

Ensuring the Policy is followed

- Appendix 1: Responsibilities Regarding Making a Disclosure
- Appendix 2: Money Laundering Reporting Form (MLRF)
- Appendix 3: Money Laundering Disclosure Form

Reviewing the Anti-Money Laundering Strategy

1. Introduction

- 1.1. Significant changes have occurred to the statutory framework surrounding money laundering as a result of the following legislation:
 - The Proceeds of Crime Act 2002
 - The Money Laundering Regulations 2007
 - The Terrorism Act 2000
- 1.2. The UK's Anti-Money Laundering regime was designed primarily with the objective of identifying and combating large scale organised crime. The Proceeds of Crime Act 2002 imposes requirements on those conducting 'relevant business' to have systems in place to: obtain evidence of the identity of their clients, keep records, train staff, and make internal reports. The Money Laundering Regulations 2007 outlines the specific requirements for those identified as conducting 'relevant business'.
- 1.3. CIPFA (Chartered Institute of Public Finance & Accountancy) have produced guidance for public sector organisations in the form of their publication 'Proceeds of Crime (Anti-Money Laundering) Practical Guidance for Public Service Organisations' (2005).
- 1.4. In this guidance CIPFA recognise that the regulations related to 'relevant business' do not necessarily apply to public service organisations because their treasury management activities are largely service based. However, as the main money laundering offences and obligations apply in law to all organisations and persons in the UK, all public service organisations should "embrace the underlying principles behind the money laundering legislation". The Council is, therefore, required to establish internal procedures and policies to prevent and detect the use of their services for money laundering activities.
- 1.5. The Policy links into and has a synergy with the Council's existing Corporate Counter Fraud Strategy and its appendices.
 - The Proceeds of Crime Act 2002
 - The Money Laundering Regulations 2007
 - The Terrorism Act 2002

2. Purpose and Scope of the Policy

- 2.1. The policy introduces procedures to help to identify and report on instances where money laundering is suspected. It complements the Council's existing Fraud and Corruption Policy, Whistle Blowing Policy and Financial Directives and contributes to the existing corporate governance framework to aid in ensuring that the Council is managed effectively and fulfils its statutory and regulatory duties.
- 2.2. The risk of exposure to money laundering activities within local government is not regarded as high. Similarly the risks to the Council of contravening money laundering legislation are low with some aspects of the legal and regulatory requirements being inapplicable to public authorities given that the Council is not

considered as a "relevant person" under the 2007 Money Laundering Regulations. Relevant persons include: credit and financial institutions; auditors; accountants; tax advisers and insolvency practitioners; independent legal professionals; trust or company service providers; estate agents; high value dealers and casinos.

- 2.3. Nevertheless CIPFA has recommended that councils as "responsible public bodies, should employ policies and procedures which reflect the essence of the UK's anti-terrorist financing, and anti-money laundering regimes". Additionally, "CIPFA considers that there is a substantial reputational risk for an authority which does not have such policies and procedures in place".
- 2.4. For these reasons the Council has adopted this policy as best practice and requires that it is complied with.
- 2.5. Failure by any employee to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them. Disciplinary action will be in accordance with the Council's Disciplinary Procedures.
- 2.6. Elected members are expected to forward any concerns in line with this policy to the Money Laundering Reporting Officer or Nominated Officer.

3. Definition of Money Laundering

- 3.1. CIPFA defines money laundering as "possessing or in any way dealing with or concealing the proceeds of any crime".
- 3.2. The Proceeds of Crime Act 2002 states that money laundering covers a range of activities and it is technically defined as any act constituting an offence under sections 327 to 329 of the Act, as summarised below:
 - Concealing, disguising, converting, or transferring criminal property, or removing it from the UK (section 327)
 - Entering into, or becoming concerned in, an arrangement which a person knows (or suspects) facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person (section 328)
 - Acquiring, using or possessing criminal property (section 329)
 - An attempt, conspiracy or incitement to commit such an offence
 - Aiding, abetting, counselling or assisting in the procurement of such an offence.
- 3.3. Criminal property is widely defined as property representing a person's benefit from criminal conduct. It includes all proceeds from crime such as property (in the UK or abroad), money, and other assets that could also cover any interest held in land/land rights and/or property.
- 3.4. In court proceedings in order to secure a conviction it is only necessary to prove that the laundered property was criminal property. In other words even if the criminal property was generated as a result of the criminal activity of another person, the individual holding that property can be convicted of money laundering under the Proceeds of Crime Act 2002.
- 3.5. The Terrorism Act 2000 also deals with the laundering of 'terrorist property' i.e. property likely to be used for the purposes of terrorism or property gained as a result

of terrorism. In complying with the Act, the Council has a duty to be vigilant against its services being used in such a way that it “facilitates the retention or control by or on behalf of another person of terrorist property”.

- 3.6. In addition to the actual offences of money laundering the Proceeds of Crime Act 2002 sets out related offences of failing to report where a person has knowledge, suspicion or reasonable grounds for knowledge or suspicion that money laundering is taking/has taken place. It is also a criminal offence to directly or indirectly tip off a suspect or to do anything that might prejudice an investigation, for example falsifying a document.
- 3.7. The Court of Appeal has clarified the meaning of suspicion in money laundering legislation. The Court stated that suspicion would arise when “there was a possibility which was more than fanciful, that the relevant facts existed”.

4. Requirements of Employees and the Council

- 4.1. Individuals can be found to be criminally liable for failing to report money laundering activity where it is known or suspected. This could result in serious criminal charges and/or sanctions being imposed on the Council and/or its employees. It is therefore important that policies and procedures exist to establish internal reporting arrangements and ensure compliance with the guidance and the law.
- 4.2. The Council's Code of Conduct is designed to protect individuals when making a disclosure from any fear of victimisation or harassment.
- 4.3. The Council has appointed a nominated officer – the Money Laundering Reporting Officer (MLRO). The purpose of this role is to ensure compliance with all relevant legislation. The MLRO within the Council is the Chief Finance Officer. The Corporate Fraud Team will act as a point of contact to receive and investigate reports about suspected and known instances of money laundering activity involving the Council's services.
- 4.4. Reports could be made from staff, members of the Council, contractors, the public, the Police, or any other related party or partner. Once this is received, it is then for the MLRO to ensure that the Corporate Fraud Team investigates where necessary and decides whether there are reasonable grounds for suspicion. If it is warranted a report will be made to the National Crime Agency (NCA) by way of a Suspicious Activity Report (SAR) form found on the NCA website.
- 4.5. Submitting a SAR to NCA is a statutory requirement if there are grounds to do so. However, if there is no actual knowledge that money laundering is taking place, or there are no reasonable grounds for suspicion, then the nominated officer (MLRO) does not commit an offence by not making a report to NCA.
- 4.6. Whilst the risk to the Council of contravening the legislation is low, it is extremely important that all members of staff are familiar with their legal responsibilities. For those staff affiliated to a professional body (e.g. accountants and lawyers) there is also the risk of disciplinary action being taken by the respective body's Disciplinary Committee.

5. Reporting your Suspicions

- 5.1. It is not possible to provide an exhaustive list of the ways to spot money laundering or state every scenario in which you should be suspicious. It will very much depend on the circumstances.
- 5.2. However, in providing guidance NCA has produced a list of possible 'indicators of suspicion' for money laundering activity:
- Is the person's behaviour unusual in the circumstances?
 - Has the person refused to supply any form of identification and if so, why?
 - Is the activity unusual in itself?
 - Is the activity unusual for the customer?
 - Do I have other knowledge which leads me to believe the customer or activity is criminal?
 - Do I think the property may be criminal?
- 5.3. In developing this guide the list below provides examples relevant to East Dunbartonshire Council activity, in which money laundering could occur:
- cash payments, for example, where an individual has substantial Council Tax or Rent arrears, or offers to purchase a Council property and settles by making a large cash payment;
 - a customer or supplier who makes substantial overpayments or duplicate payments and subsequently requests large refunds;
 - a customer who receives a business loan and repays it long before the due date and/or partly in cash;
 - where there are concerns regarding the identity, location, honesty or integrity of a client or customer;
 - a customer or supplier who is secretive and refuses to provide information when requested without giving any reasonable explanation;
 - the involvement of a third party without any reason or explanation, e.g. the unnecessary routing or receipts of funds from third parties or through third party accounts;
 - correspondence / information being received on behalf of other companies;
 - poor accounting records and financial control, e.g. companies tendering for contracts that are unable to provide adequate financial details or requests for grant funding not supported by adequate accounting records;
 - requests to pay money overseas or to make payments in foreign currencies with no reasonable explanation;
 - other local authorities or companies querying the legitimacy of customers;
 - where a 'right to buy' application is received from a council house tenant and records show that the individual receives Council Tax and / or Housing Benefit; and
 - unusual property or investment transactions, e.g. requests to purchase or rent Council assets / land with no clear business motive.
- 5.4. The above list is not exhaustive, but is intended to give employees an understanding of how the Council could potentially be involved in a transaction that should be brought to the Corporate Fraud Team's attention.

6. The Money Laundering Reporting Procedures

- 6.1. All cases where there are genuine reasons for suspicion will be investigated, and no time should be wasted once officers suspect the Council's services may be being used to launder money.
- 6.2. In the first instance (and where possible) officers should call the Corporate Fraud Team where you will be free to discuss your concerns in confidence. Where it is deemed necessary, and is requested by the Corporate Fraud Team, this discussion should be followed by a submission of a Money Laundering Reporting Form (MLRF). Where practical this must be submitted the same day as the initial telephone call.
- 6.3. The Corporate Fraud Team, or MLRO, will communicate with line managers/Strategic Lead if and when necessary. Officers must not take any further action without the expressed permission of the Corporate Fraud Team or MLRO, as this may hamper the investigation process. You should also be aware of the need for confidentiality in relation to the suspected and/or known instances of money laundering. Officers should not do anything that may tip off individuals suspected of being involved.
- 6.4. The MLRO has a duty to ensure consideration of a submission promptly and undertake any investigation as necessary prior to deciding whether to contact NCA or another relevant Law Enforcement Agency (LEA). If a disclosure is made in the form of a request for consent (prior to a prohibited act occurring) the Corporate Fraud Team may need to ask NCA or LEA for consent. Consent cannot then granted until receiving this back from NCA unless the 7 working day Notice Period for receiving a reply to a request for consent has expired.
- 6.5. The MLRO must ensure that there are arrangements to maintain records of reports received and disclosures made, so that they may be used as evidence in any subsequent investigation by appropriate agencies. The records must be capable of providing an audit trail that identifies the client and the relevant transaction. All such information will be held in a confidential file for a minimum of 5 years. The Corporate Fraud Team will also maintain a confidential log of activities, including details of the checks made on cash transactions over £1,000, or lower value multiple transactions – as notified to the Corporate Fraud Team by cashiers and other teams receiving large cash payments.

7. Ensuring the Policy is followed

- 7.1. Awareness training will be provided for those employees in high risk roles, where they are more likely to experience possible signs of money laundering. This will be coordinated by the MLRO and delivered as appropriate.
- 7.2. All Strategic Leads must ensure that these procedures are brought to the attention of all employees.
- 7.3. Employees who fail to follow the rules and procedures laid out will be in breach of the Council's rules and could as such be subject to disciplinary procedures, as well as potentially being criminally liable and face prosecution.

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8. Reviewing the Anti-Money Laundering Policy

- 8.1. Internal Audit undertakes to look at all control frameworks in all planned audits including money laundering by substantive testing of transactions.
- 8.2. This policy will be reviewed by the Chief Finance Officer or designated officer on an annual basis to take account of any legislative changes and procedural improvements. Where there are material changes the amended policy will be referred to the Policy & Resources Committee.

Responsibilities Regarding Making a Disclosure

Reporting by staff to the Corporate Fraud Team

1. Employees must:
 - a) Report their suspicions or knowledge of money laundering activity;
 - b) Retain full documentation about the transaction;
 - c) Not arouse suspicion that they are concerned;
 - d) Not tip off any persons involved or suspected to be involved.

Consideration of disclosure by the Money Laundering Reporting Officer

2. Upon receipt of a disclosure report, the Corporate Fraud Team must note the date of receipt on his/her section of the report and acknowledge receipt of it. He/she should also advise you of the timescale within which he/she expects to respond to you.
3. The Corporate Fraud Team will consider the report and any other available internal information she/he thinks relevant and undertakes any reasonable inquiries she/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 Corporate Fraud Team may also need to discuss the report with you.
4. Where the Corporate Fraud Team concludes that it is necessary to make a disclosure, he/she must disclose the matter as soon as practicable to the NCA on their standard report form (SAR) and in the prescribed manner. The only exception to this is where it is felt that there is good reason for non-disclosure to the NCA. An example of this would be if a lawyer wished to claim legal professional privilege for not disclosing the information. Consideration of disclosures by NCA and Law Enforcement Agencies (LEA).
5. Where an internal report is made to the Corporate Fraud Team before a prohibited act (an act of money laundering), and a SAR is made to NCA or another Law Enforcement Agency, the Corporate Fraud Team are not allowed to give consent to the act until they receive consent from NCA that this can go ahead. The exception to this is where the Notice Period for reply has expired. The Notice Period runs for 7 working days beginning the day after the report is received.

Report to Money Laundering Reporting Officer

Please complete this form in full where possible. If you have any queries please contact the Corporate Fraud Team who will be pleased to give advice or assistance. Your co-operation is appreciated.

Please use black ink and block capital letters or typescript

1) Your Details

Name			
Position			
Service			
Date			
Telephone No.		Email	

2) Subjects Name and Address

Please provide details of the subject or company.	
Name	
Address	
Contact Details	
Company Name	
Company Address	
Company Contact Details	

3) Nature, whereabouts , value and timing of activity/property involved

Please provide full details of what, when, where and how. Please include whereabouts of the laundered property, where appropriate so far as you are aware.

4) Reason for Suspicion

Explain how the suspicion arose.

5) Investigation

Has an investigation been undertaken as far as you know, if yes, please provide details

Yes

☐

No

☐

6) Discussions

Have you discussed your suspicions with anyone else, including any advisory bodies e.g. law society

Yes

☐

No

☐

7) Disclosure

Do you feel that there is any reason why you believe this should not be disclosed to the National Crime Agency, if yes, please provide details

Yes

☐

No

☐



Money Laundering Disclosure Form

This form is to be completed by the Money Laundering Reporting Officer or an appropriate deputy.

Please use black ink and block capital letters or typescript

1) Date

Date Report Received	
Date Receipt of Report Acknowledged	

2) Consideration of Disclosure

Action Plan.

3) Grounds for Suspicion

Are there reasonable grounds for suspecting money laundering activity? If yes, please provide details

Yes

☐

No

☐

4) Report to NCA

If there are reasonable grounds for suspicion, will a report be made to NCA? If yes, please note the date the report has been submitted to NCA.

Yes

☐

No

☐

Date

5) Liaison with NCA

Please provide full details of liaison with NCA regarding this report.

Notice Period

to

7 working days

Moratorium Period

to

31 calendar days

6) Consent

Is consent required from the NCA to any on-going or imminent transactions which would otherwise be prohibited acts? If yes, please note the date the report has been submitted to NCA.

Yes

☐

No

☐

Date consent received from NCA

Date consent given by you to employee

7) Non-Disclosure

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.

8) Prohibited Transactions

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

Date	
------	--

9) Other

Please include other relevant information here.

10) Your Details

Name	
Date	
Signature	