Proceeds of Crime and Anti-Money Laundering Policy

Version Control:	
Document Name:	Proceeds of Crime and Anti-Money Laundering Policy
Version:	2.0
Responsible Officer(s):	Officer appointed under section 151 of the Local Government Act 1972 Assistant Director, Counter Fraud and Enforcement Unit
Approved by:	Executive Committee / Cabinet
Next Review Date	April 2029

Revision History

Revision date	Version	Description
April 2026	2	Review and update

Consultees

Internal	External
s151 Officer / Finance	
One Legal / Legal Services	

Distribution

Name	

Contents

1. WHAT IS MONEY LAUNDERING?

1.1 Money laundering is the process by which funds derived from criminal activity are given the appearance of being legitimate by being exchanged for 'clean' money so that it appears to come from a legitimate source.

1.2 The proceeds of any acquisitive crime are 'cleaned up' by various means and then fed back into the financial system after a transaction or series of transactions designed to disguise the original source of the funds.

1.3 Money that funds terrorism is also covered by money laundering legislation whether the funds originated from a legitimate source or not.

1.4 Money laundering can take many forms:

- Handling the proceeds of crime
- Being directly involved with criminal or terrorist property
- Entering into arrangements to facilitate laundering of criminal or terrorist property
- Investing the proceeds of crime into other financial products, property purchase of other assets

1.5 Criminals launder money in order to enjoy the fruits of their criminality. Most crime is acquisitive in nature, and it is necessary to give the proceeds of crime the appearance of being legitimate in order that the source of the funds can be disguised.

1.6 The money generated by these crimes needs to be laundered before the criminals can gain full benefit of it, and law enforcement agencies around the world are keen to make it hard for criminals to benefit in this way.

1.7 The UK terrorism legislation also addresses the issue of the funding of terrorism, much of which is directly related to criminal activity.

2. LEGISLATION

2.1 The legislation in respect of Money Laundering is set out in the following:

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

2.2 The combined legislation is referred to in this Policy as 'the money laundering legislation'.

2.3 Significant changes were made to the money laundering legislation which broadened the definition of money laundering and increased the range of activities caught by the statutory framework. As a result, the obligations impact on certain areas of Council business and require Councils to establish internal procedures to prevent the use of their services for money laundering. The Council undertakes many due diligence activities across its services to prevent money laundering, and the specific internal supporting procedure also forms part of this activity.

3. MONEY LAUNDERING OFFENCES

3.1 The Money Laundering Regulations apply to firms in the regulated sector (businesses which provide access to financial services).

3.2 There are three primary offences as set out in the Proceeds of Crime Act 2002:

- Concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 of the Proceeds of Crime Act 2002);
- 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 (section 328); or
- Acquiring, using or possessing criminal property (section 329).

3.3 These are the primary money laundering offences and are thus prohibited acts under the legislation. There are also secondary offences, which apply to the Council and its employees as detailed below:

- Failure to disclose: other nominated officers (section 332). A nominated officer in the non-regulated sector commits an offence if, as a result of a disclosure, he or she knows or suspects that another person is engaged in money laundering and fails to make a disclosure as soon as practicable to the Serious Organised Crime Agency (SOCA).
- 'Tipping off' offence: whereby a person knows or suspects that an investigation in connection with alleged money laundering has or is about to be commenced in respect of another person but nonetheless makes a disclosure to any other person which is likely to prejudice any such investigation; this is a secondary offence known as prejudicing an investigation (section 342).

3.4 These are serious offences: The primary offences carry a maximum penalty of 14 years imprisonment, the secondary offences carry a maximum penalty of 5 years imprisonment

4. POLICY STATEMENT

4.1 The Council will do all it can to:

- Prevent, wherever possible, the organisation, its employees and Members being exposed to money laundering.
- Identify the potential areas where money laundering may occur and take appropriate action to minimise the risk; and
- Comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases.

4.2 Every employee and elected Member has a personal responsibility to be vigilant.

5. SCOPE OF THE POLICY

5.1 This Policy applies to all Officers and elected Members of the Council. The Policy sets out the procedures that must be followed to enable the Council to comply with its legal obligations.

5.2 Officers are considered to be employees of the Council whether directly employed, seconded, or working via an agency, and other public authorities delivering a service on behalf of the Council, for example Ubico or Publica.

5.3 Failure to comply with the procedures set out in this Policy may lead to disciplinary action being taken in accordance with existing Council policies in addition to any criminal prosecution which may ensue.

5.4 This Policy should be read in conjunction with the Whistle-Blowing Policy and the Counter Fraud and Anti-Corruption Policy.

6. PURPOSE

6.1 The Council has a duty to ensure it complies with its obligations under the legislation, but it is acknowledged that it is low risk due to the limited number of areas to which it applies. Criminal sanctions may be imposed for breaches of the legislation.

6.2 The purpose of this Policy is to make Officers and Members aware of the money laundering legislation; their responsibilities regarding the legislation; and the consequences of non-compliance with this Policy.

6.3 Any Officer or Member of the Council could be subject to the provisions of the money laundering legislation if they suspect money laundering and either fail to report their concerns or become involved in any actions to process the suspicious transaction. This Policy sets out how any concerns should be raised.

7. THE COUNCIL'S OBLIGATIONS

7.1 Not all of the Council's business is "relevant" for the purposes of the legislation. It is mainly accountancy and audit services and financial, company and property transactions. The safest way to ensure compliance with the law is to apply the regulations to all areas of the Councils work. Therefore, all employees are required to adhere to the process set out in the supporting internal procedure.

7.2 Organisations conducting "relevant business" under the legislation must:

- Appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees of money laundering activity (their own or anyone else's);
- Implement a procedure to enable the reporting of suspicions of money laundering;
- Maintain client identification procedures in certain circumstances; and
- Maintain records.

8. AREAS AT RISK OF MONEY LAUNDERING

- Property sales, shared ownership, staircasing (the gradual purchasing of additional shares in a shared ownership property), other sales
- Cash payments in excess of £10,000 or cash payments that have totalled £10,000 in four or less transactions
- Refunds of overpayments to accounts
- Fraud, internal or external
- Suspiciously low tenders

9. IDENTIFYING SUSPICIOUS ACTIVITY

9.1 Employees dealing with transactions that involve income for goods and services (or other income) are most likely to identify suspicious activity, particularly where:

- Large amounts of cash are received
- Overpayment is received by cash and a refund is requested
- Overpayment is received by credit or debit card, and a cheque refund is requested
- Property sales:
    - Checking the seller's/buyer's identity is difficult
    - Buyer reluctant to provide details of their identity
    - Financial circumstance of buyer has changed significantly
    - Money is paid by a third party who has no obvious link to the transaction
- Misuse of Council properties:
    - Cannabis farm

- Human trafficking, modern slavery and exploitation
- Tenancy fraud and sub-letting

9.2 These employees will receive training and will be referred to the supporting flowchart and internal procedure document to ensure they are confident about identifying activity and how to report it.

10. PROCEDURE

10.1 The Officer nominated to receive disclosures about money laundering activity is the Officer appointed under section 151 of the Local Government Act 1972 and is known as the Money Laundering Reporting Officer or MLRO.

10.2 Where it becomes known or is suspected, that money laundering is taking/has taken place or there is concern by an Officer that involvement in a matter may amount to a prohibited act under the legislation (see definition above), it must be disclosed immediately to the MLRO. Disclosure must be within hours of the information becoming known. Failure to disclose may lead to prosecution.

10.3 A template Disclosure Report and guidance on how and what to refer to can be found within the supporting internal procedure.

10.4 On receiving a disclosure report, the MLRO must note the date of receipt on his/her section of the report and acknowledge receipt of it. He/she should also advise the Officer, who made the report, of the timescale within which he/she expects to respond. The MLRO will consider the report and any other available internal information they think relevant. The steps to follow can be found within the supporting internal procedure.

11. CLIENT IDENTIFICATION PROCEDURE

11.1 Where the Council is carrying out relevant business (examples of relevant business may be defined for this Council as, legal services, investments, cash handling and accountancy services) and:

a) Forms an ongoing business relationship with a client; or

b) Undertakes a one-off transaction involving payment by or to the client of €10,000 (or equivalent) or more; or

c) Undertakes a series of linked one-off transactions involving a total payment by or to the client(s) of €10,000 (or equivalent) or more; or

d) It is known or suspected that a one-off transaction or a number of them involves money laundering; then this Client Identification Procedure must be followed before any business is undertaken.

11.2 In the above circumstances employees in the applicable department must obtain satisfactory evidence of the identity of the prospective client as soon as practicable after instructions are received. This applies to existing clients, where such information has not been obtained, as well as new clients (see Customer Due Diligence process outlined in the supporting internal procedure.

11.3 The evidence should be retained for at least five years from the end of the business relationship or one-off transaction.

11.4 If satisfactory evidence is not obtained at the outset, then the business relationship or one-off transaction cannot proceed. If there is an unjustifiable delay in obtaining evidence of identity or the where the client is deliberately not providing evidence a disclosure will have to be made.

12. RECORD KEEPING

12.1 Employees within the areas of the Council conducting relevant business must maintain records of:

- Client identification evidence obtained and;
- Details of all relevant business transactions carried out for clients.

12.2 As a minimum the records must provide an audit trail to aid any subsequent investigation, for example, distinguishing the client and the relevant transaction and recording in what form any funds were received or paid.

12.3 In all cases evidence should be retained for at least five years from the end of the business relationship or transaction(s). This is so that they may be used as evidence in any subsequent investigation.

13. GUIDANCE & TRAINING

13.1 In support of this Policy the Council will make employees aware of the requirements and obligations placed on the Council and on themselves as individuals by the legislation and give training to those most likely to encounter money laundering.

13.2 As a minimum they should be made aware of the relevant legislation, and their responsibilities as set out in the supporting internal procedure.