# ANTI-MONEY LAUNDERING POLICY & PROCEDURES

## 1. Introduction

1.1 This policy and the accompanying procedures and reporting forms, represents an important part of the Council's approach to dealing with the risk of fraud and corruption. This Policy seeks to complement both the Counter Fraud Strategy and Whistleblowing Policy and contribute to the overall framework of Corporate Governance, established to ensure that the Council is well managed and fulfils its statutory and regulatory duties in a proper and responsible manner.

1.2 The Proceeds of Crime Act 2002 and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017) are the principal laws relating to money laundering.

1.2 Local authorities can unwittingly and unwillingly facilitate crime and money laundering. Criminals or people who can be linked to crime and money laundering have to make use of certain legal structures in order to launder their money. They have to apply for permits, they may need housing etc.

1.3 Although local authorities are not directly covered by the requirements of the MLR 2017, guidance from the Chartered Institute of Public Finance and Accountancy (CIPFA) recommends that local authorities comply with the underlying spirit of the legislation and regulations. The purpose of the Anti-Money Laundering Policy is to clearly demonstrate that the Council embraces the underlying principles of money laundering legislation and is taking reasonable steps to minimise the likelihood of such activities occurring, by developing a suitable framework of arrangements to safeguard itself against action of this nature, whilst making satisfactory provisions to achieve compliance to legal and regulatory requirements, where appropriate.

## 2. Scope of the Policy

2.1 This Policy applies to all employees of the Council and aims to prevent criminal activity through money laundering. It is extremely important that all members and employees are familiar with their legal responsibilities and are vigilant at all times. 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 (MLRO).**

2.2 Failure by any employee to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary Policy and Procedure.

## 3. What is Money Laundering?

3.1 Money laundering is defined as:

'The process by which the proceeds of crime are converted into assets which appear to have a legitimate origin, so that they can be retained permanently or recycled into further criminal enterprises'

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

- Money laundering offences
- Failure to report money laundering offences

3.3 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 or through the acquisition of property/assets
- concealing, disguising, converting, transferring or removing criminal property from anywhere within the UK
- 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
- transferring criminal property

**These are the primary money laundering offences and are therefore prohibited acts under the obligations**.

3.4 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 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 report
- Prejudicing an investigation
- Providing information which is false or misleading in a material particular

These money laundering offences may be committed by an organisation or by individuals working for an organisation.

3.5 Money laundering regulations apply to cash transactions in excess of 10,000 Euros (approximately £9,000). Cash is defined as notes, coins or traveller's cheques in any currency, but does not include bank transfers. 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.

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

## 4. The legal and regulatory framework

4.1 The main laws and regulations which set out the money laundering regulations are:

- The Proceeds of Crime Act 2002
- The Terrorism Act 2000
- The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

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

- appoint a Money Laundering Reporting Officer (MLRO) to receive reports from employees of suspicions of money laundering activity
- implement policies and procedures relating to customer due diligence, reporting , record keeping and risk management
- communicate all relevant policies and procedures

## 5. The Money Laundering Reporting Officer (MLRO)

5.1 The Council has nominated the Deputy Chief Finance Officer as the Money Laundering Reporting Officer (MLRO); in their absence, the Finance Manager – General Fund Services acts as the Deputy Money Laundering Reporting Officer. Their contact details are as follows:

| **MLRO** | **Deputy MLRO** |
|---|---|
| Michelle White | Nicola Morley |
| Deputy Chief Finance Officer | Finance Manager – General Fund Services |
| X5221 | X5245 |
| michelle.white@exeter.gov.uk | nicola.morley@exeter.gov.uk |

5.2 Your responsibility under this Policy is to ensure that any suspicions or concerns that money laundering has occurred, or could occur, is reported to the MLRO immediately; as soon as the suspicion arises. You must not take any further action until consent is received from the MLRO.

5.3 It is an offence for the MLRO to fail to disclose information that comes into his/her possession in certain circumstances. On conviction, the penalty may be a term of imprisonment or a fine or both.

***Please be aware that delays or failure to report may leave you personally liable to prosecution.***

## 6. Reporting Procedure

6.1 The MLRO will send you a form, please refer to Appendix 1, for you to complete to ensure that all available information is provided to them to investigate and enable them to make an informed judgement as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable them to submit a Suspicious Activity Report (SAR) report to the National Crime Agency (NCA).

6.2 Once you have made a report to the MLRO you should not make any further enquiries into the matter yourself and any further action must be with the approval of the MLRO. Do not voice your suspicions to the suspect or tell them that you have reported the transaction. Otherwise you may commit a criminal offence of ‘tipping off’ which carries a maximum penalty of 5 years imprisonment and unlimited fine.

6.3 Do not make any reference on records held to the fact that you have made a report to the MLRO. If a customer exercises their right to see their record, any such note would obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

6.4 Upon receipt of a report, the MLRO will acknowledge receipt of the report and will give an indication of the timescale within which they expect to respond.

## 7. Identification of potential money laundering situations

7.1 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
- Payment of deposits which are subsequently requested back
- Lack of 'traceability' of persons involved
- Individuals and companies that are insolvent yet have funds

7.2 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 in conjunction with other factors, suggest the possibility of money laundering activity:

- Payment of a substantial sum in cash (over £5,000)
- A new customer to the Council
- 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 with 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
- Regarding property transactions, funds received for deposits or prior to completion from an unexpected source or where instructions are given for settlement funds to be from/to an unexpected destination
- A previous transaction for the same customer which has been, or should have been, reported to the MLR

## 8 Customer Due Diligence

8.1 Where the Council is carrying out activities in the course of business, extra care needs to be taken to check the identity of the customer. Not all of the Council's business is "relevant" for the purposes of the legislation regarding customer due diligence. Relevant services as defined by the legislation include investments, accountancy and audit services and the financial, company and property transactions undertaken by Property Services and Legal Services.

8.2 Legal, Finance, Accounting and Audit staff must follow the procedures set out in Appendix 2 in order to ascertain the true identity of clients and ensure record keeping procedures (e.g. for evidence of identity obtained, details of transactions undertaken, for at least 5 years afterwards).

8.3 Legal Services are subject to particular provisions applying to legal professional standards.

8.4 As part of standard procedures in respect of Right to Buy applications, all applicants are required to complete an Anti-Money Laundering Declaration Form and provide proof of identity and source/s of funds, as part of customer due diligence.

**9. Enhanced Customer Due Diligence**

Although considered highly unlikely, in the event that the Council may transact with high-risk customers (higher risk of money laundering) enhanced customer due diligence is necessary, which may include obtaining further information to establish identity, extra measures to check documents supplied by a credit or financial institution etc.

This may include transactions with a person/entity from a high risk third country. HM Treasury classify high risk third countries, which may have unsatisfactory money laundering and terrorist financing controls.

**10 Record Keeping Procedures**

10.1 Each service of the Council and contractors working for the Council conducting relevant business must maintain records for at least five years from the end of the business relationship or one-off transaction(s) of:

- identification evidence obtained; and
- details of all relevant business transactions carried out for those persons or organisations for whom we have obtained evidence

This is so they may be used as evidence in any subsequent investigation by the authorities into money laundering.

10.2 The precise nature of the records is not prescribed by law, however they must be capable of providing an audit trail during any investigation, for example distinguishing the person or organisation and the relevant transaction and recording in what form any funds were received or paid. In practice, Council business units will be routinely making records of work carried out for persons or organisations in the course of normal business and these should be sufficient for this requirement.

10.3 Any record keeping should be in line with GDPR and the originating departments Privacy Statement.

**10 Training**

10.1 The Council will take appropriate measures to ensure that all employees are made aware of the law relating to money laundering.

**11 Review of the Policy**

11.1 The Policy will be reviewed at least every 3 years, by the Money Laundering Reporting Officer (or more frequently if required by changes to statutory legislation) and approved by Audit and Governance Committee