

ANTI-MONEY LAUNDERING POLICY

1. INTRODUCTION

- 1.1 The Government have introduced legislation to reform and update the laws in respect of money laundering. The legislation, the *Proceeds of Crime Act 2002 (POCA 2002)* and the *Terrorism Act 2000 (TA 2000)*, together with the *Money Laundering Regulations 2003 (MLR 2003)*; have widened the statutory definition of money laundering and has increased the range of activities covered by the legislation.
- 1.2 As a consequence of these changes, which impact on certain areas of the Council's work, there are obligations on local authorities to have in place internal procedures to prevent the use of its services for money laundering.
- 1.3 Whilst the degree to which the legislation applies to individual activities is not clearly defined, it is essential that the Council complies with the spirit as well as the letter of the legislation.

2. SCOPE OF THE POLICY

- 2.1 This policy will apply to all employees of the Council. It aims to maintain the Council's high ethical standards by seeking to prevent criminal activity through money laundering.
- 2.2 This policy sets out the procedures that must be followed, for example the suspicions of money laundering activity, in order for the Council to comply with its legal obligations.
- 2.3 This policy forms part of the Council's wider financial governance with its Whistle Blowing Policy and the Anti-Fraud & Corruption Strategy.
- 2.4 The policy does not apply to staff working for the Council's various contractors. However, managers responsible for letting and monitoring such contracts must ensure that such contracts include effective policies and procedures for dealing with potential money laundering.

3. WHAT IS MONEY LAUNDERING?

3.1 Money Laundering has been defined by the Law Society as “the process by which the proceeds of crime and the true ownership of these proceeds is changed so that the proceeds appear to come from a legitimate source.”

3.2 The legislation states that money laundering is:

- Concealing, disguising, converting, transferring or removing from the UK any “criminal property” (s 327 POCA 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 (s 328 POCA2002).
- Acquiring, using or possessing “criminal property” (s 329 POCA 2002).

3.3 Criminal property can apply to anything of value, including cash, any type of financial security, investment, land, benefit under a contract etc., that is the proceeds of any crime **and** the alleged money launderer knows or suspects it is the proceeds of crime

3.4 Consequently, there is the potential for any member of staff to break the regulations 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 such concerns should be dealt with.

3.5 Whilst it is stressed that the risk to the Council is low, it is extremely important that all staff are familiar with their legal responsibilities as serious criminal sanctions may be imposed for breaches of the legislation.

4. WHAT ARE THE COUNCIL’S OBLIGATIONS?

4.1 As an organisation undertaking “relevant business” the Council has a number of obligations under the legislation:

- To appoint a Money Laundering Officer (MLO) to receive disclosures from employees or from employees of suspected money laundering activity.
- To establish internal procedures to help forestall and prevent money laundering.
- To make arrangements to receive and manage the concerns of staff about money laundering and any suspicions thereof, to make internal enquiries and to make reports, as necessary, to the National Criminal Intelligence Service (NCIS) via the MLO.
- To provide training to appropriate staff.

- To maintain, in certain circumstances, client identification procedures, and
- To maintain record keeping procedures.

4.2 Only limited elements of the Council's activities can be defined as "relevant" under the legislation. It is mainly Treasury management, property transactions and any income collection undertaken directly by the Council, rather than by a contractor on its behalf. However, as the offences under the legislation apply to all employees of the Council, the safest way to ensure compliance is to apply them to all areas of the Council's activities. Therefore, **all** staff are required to comply with the reporting procedure set out below.

5. THE MONEY LAUNDERING OFFICER

5.1 The officer nominated to receive disclosures of suspected money laundering activity within the Council is:

Paul McCallum
 Director of Resources
 Reigate & Banstead Borough Council
 Town Hall
 Castlefield Road
 Reigate
 Surrey
 RH2 0SH

Telephone 01737 276551

5.2 In the absence of the MLO, Graham Friday, Head of Finance & Procurement is authorised to deputise for him.

6. DISCLOSURE PROCEDURE

Reporting to the Money Laundering Officer

6.1 Where you know, or have reason to suspect money laundering activity is taking place or has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under s 327-329 POCA, you must disclose this as soon as practicable to the MLO. Any disclosure must be made "within hours "of the information coming to your attention, rather than weeks or months later. **SHOULD YOU NOT DO SO, THEN YOU MAY BE LIABLE TO PROSECUTION.**

6.2 The disclosure to the MLO should be made using the standard pro-forma (Annex 1). The disclosure should include as much detail as possible, e.g.

- Full details of the person(s) involved (including yourself, (if relevant). This may include name, date of birth, address, company names, phone numbers etc.
- Full details of the nature of their/your involvement. If you are concerned that any involvement in the transaction would amount to a prohibited act under s327 – 329 of the POCA, then your report must include all relevant details, as the consent of the NCIS, via the MLO, is needed to continue with the transaction. This applies even if the client gives instructions for the matter to proceed before any consent is given. Consequently, your report should make it clear if such consent is required. It should also clarify if there are any deadlines for obtaining such consent, e.g. a completion date or a court deadline.
- The types of money laundering activity involved. If possible you should cite the relevant section of the legislation that the report is being made under.
- The date(s) of the activity or whether they are on going or imminent.
- Where the incident(s) took place.
- How they were undertaken.
- The (likely or actual) amount of money or assets involved.
- The reasons for your suspicions, as the NCIS will require full reasons for the referral.
- Any other information that is available that will enable the MLO to make an evaluation as to whether there are reasonable grounds for the knowledge or suspicion of money laundering. This will allow the MLO to prepare a report for the NCIS if appropriate.

6.3 The completed disclosure form should be e-mailed to “Paul McCallum (Director of Resources)” named person at 5.1 using the Council’s internal e-mail system, or to paul.mccallum@reigate-banstead.gov.uk if being sent from an external source. Any supporting documentation should be attached to the e-mail if possible, or forwarded by hard copy to the MLO at the address given.

6.4 When you have made a report to the MLO you must follow any instruction that you are given by him. **You must not under any circumstances, make any further enquiries yourself.** Any further investigations that may be required will be made by the MLO and all staff are required to cooperate with the MLO and any other authorities in any subsequent money laundering investigation.

6.5 **Under no circumstances should you voice any suspicions** to the person(s) you suspect of money laundering, even if the NICS has given consent to the transaction proceeding, without the specific consent of the MLO. If you do you may commit the offence of “Tipping-off” .

- 6.6 You should not make any written reference on a client file of a report being made to the MLO. If the client exercises their right to see the file the note of the report will tip them off and you may be liable for prosecution. The MLO will ensure that the appropriate records are kept securely.

Consideration of the disclosure by the MLO

- 6.7 When the MLO receives a disclosure they will record the date of its receipt. They will advise the discloser of the timescale by which they anticipate responding to you.
- 6.8 The MLO will evaluate the evidence and undertake any further investigations that he considers appropriate in order to ensure that all available information is taken into account when deciding whether a report to NCIS is required. These enquiries will be undertaken confidentially so as to avoid tipping off those involved. The MLO may also need to discuss the report with the individual making the initial disclosure.
- 6.9 Once the MLO has completed evaluating the disclosure report, together with any other information gathered, he must make a timely determination as to whether;
- There is actual or suspected money laundering taking place.
 - There are reasonable grounds to know or suspect that that is the case.
 - Whether he needs to seek the consent of NCIS for a particular transaction to proceed.
- 6.10 If the MLO determines that the matter should be reported, it must be done as soon as practicable, using the standard NCIS report form and in the prescribed manner, unless they have a reasonable excuse for non-disclosure to NCIS, e.g. if a lawyer wishes to claim legal professional privilege (see 6.12 below).
- 6.11 If the MLO suspects money laundering but has a reasonable excuse for non-disclosure, the report must be annotated accordingly. The MLO can then give consent for the transaction(s) to proceed.
- 6.12 In those cases where legal professional privilege may apply, the MLO will liaise with the Head of Legal & Property to determine whether there is a reasonable excuse for not reporting the matter to NCIS

- 6.13 In the cases where consent from NCIS is required for a transaction to proceed, the transaction must not be undertaken or completed until NCIS have given their specific consent, or there is deemed consent through the expiry of the relevant time limits without objection from NCIS. Consent, is deemed to have been received if there is no response from NCIS declining consent within 7 working days from the date of the report. Consent, is also deemed to have been given if there has been an initial refusal of consent but a period of 31 days (includes weekend) has elapsed since the initial refusal of consent without any further steps being taken by NCIS.
- 6.14 When the MLO determines that there are no reasonable grounds for suspecting money laundering, he will endorse the report accordingly and give consent for the ongoing or imminent transactions to proceed.
- 6.15 The MLO shall retain in a confidential file all disclosure reports received, together with all reports made to NCIS. These shall be retained for a minimum of five years.
- 6.16 **The MLO commits a criminal offence if they know or suspect, or have reasonable grounds to do so, through a disclosure being made to them, that another person is engaged in money laundering and they do not disclose this as soon as possible to NCIS.**

7. CLIENT IDENTIFICATION

- 7.1 The Money Laundering Regulations impose specific requirements on those carrying out “relevant business” see 4.2, above. They require that the Council has in place procedures to identify those with whom it does such business, and:
- Forms an ongoing business relationship with a client, or
 - Undertakes a one-off transaction involving payment by or to the client of 15,000 euro (approximately £10,000) or more, or
 - Undertakes a series of one-off transactions involving payment by or to the client of a cumulative total value of 15,000 euro (approximately £10,000) or more, or
 - It is known or suspected that a one-off, transaction involves money laundering.
- 7.2 In such cases the appropriate Client Identification Procedure must be followed before any business undertaken for that client. **It should be noted that this Client Identification Procedure only applies to those operating relevant business.**

7.3 In the above circumstances staff in the relevant section of the Council must obtain satisfactory evidence of the identity of the prospective client as soon as practicable after - instructions are received, unless evidence of the client has already been obtained. This not only applies to new clients, but also to existing ones. However, identification evidence is not required for matters entered into prior to 1st March 2004.

7.4 Once instructions to provide relevant business have been received and it has been established that any of the points in 7.1 above, apply, evidence of identity should be obtained as appropriate.

7.5 The guidance notes that support this policy provide details of the checks that should be carried out.

8. RECORD KEEPING

8.1 Each unit of the Council conducting “relevant business” is required to maintain records of:

- Client identification evidence obtained, and
- Records of all relevant business transactions carried out for clients must also be kept for at least 5 years

8.2 Whilst the legislation does not specify the precise nature of the records to be maintained, they should be sufficient to provide a complete audit trail for any investigation that may subsequently be required, e.g. client details, details of the specific transaction and manner in which the funds were received or paid.

9. CONCLUSION

9.1 This policy has been written so as to enable the Council to meet its legal obligations in response to requirements, which are lengthy and complex.

9.2 If you have any concerns about any transactions, you should contact the MLO.

9.3 Further details are set out in the guidance notes, which support this policy.

10. ADDITIONAL INFORMATION

10.1 Additional information or advice can be obtained from:

- RBBC Anti Money Laundering Guidance Notes
- RBBC Whistle Blowing Policy
- RBBC Anti Fraud & Anti Corruption Strategy – A Policy Statement

- RBBC Fraud & Corruption – Guidance for Managers
- RBBC Fraud & Corruption – Guidance for Staff
- RBBC Anti Fraud Policy (Benefits)
- RBBC Anti Fraud Strategy (Benefits)
- The Money Laundering Officer (Paul McCallum, Director of Resources)
- <http://www.moneylaunderingreporting.co.uk/>
- <http://www.cipfa.org.uk/>
- <http://www.frc.org.uk/>
- <http://www.fsa.gov.uk/>

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| Internal Auditors, Bentley Jennison, Jeremy Barton | 0786 6817 784 |
| Bentley Jennison Fraud Hotline | 0800 1974 520 |
| External Auditors, Baker Tilly, Henry Arthurs | 020 8461 8000 |
| Audit Commission Fraud Line | 020 7630 1019 |
| Public Concern at Work | 020 7404 6609 |
| RBBC Benefit Fraud Line | 01737 276483 |

CONFIDENTIAL**Report to Money Laundering Officer
re Money Laundering Activity**

| | | |
|--|--------------------|----------------|
| From: <i>(Name & position)</i> | Department: | Tel No: |
|--|--------------------|----------------|

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 an investigation been undertaken (as far as you are aware)?

(Please tick relevant box)

Yes

No

If yes, please include details below:

Has the matter been discussed with any other person? Yes No
(Please tick relevant box)

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

Have you consulted any supervisory body guidance re money laundering? (e.g. the Law Society) Yes No
(Please tick relevant box)

If yes, please specify below:

Do you feel you have a reasonable excuse for not disclosing the matter to the NCIS? (e.g. are you a lawyer and wish to claim Claim legal professional privilege?) Yes No
(Please tick relevant box)

If yes, please set out full details below:

Are you involved in a transaction which might be a prohibited act under sections 327-329 of the Act and which required appropriate Consent from the NCIS? Yes No
(Please tick relevant box)

If yes, please enclose details in the box below:

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.

**THE FOLLOWING PART OF THIS FORM IS FOR
COMPLETION BY THE MLO**

| | |
|---|--|
| Date report received: | |
| Date receipt of report acknowledged: | |

Consideration of Disclosure:

Action plan:

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 NCIS? *(Please tick relevant box)*

Yes

No

| | |
|---|--|
| If yes, please confirm date of report to NCIS and complete the box below: | |
|---|--|

Details of liaison with the NCIS regarding the report:

Notice Period: to

Moratorium Period: to

Is consent required from the NCIS to any ongoing or imminent transactions which would otherwise be prohibited acts?

Yes

No

If yes, please confirm full details in the box below:

| | |
|--|--|
| Date consent received from NCIS: | |
| Date consent given to you to employee: | |

If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to the NCIS, please set out below the reason(s) for non-disclosure:

Please set out any reasonable excuse for non-disclosure:

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

Other relevant information:

Signed:.....

Dated:.....

THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS