

Anti-Money Laundering Policy

March 2014



INTRODUCTION

1. This policy explains what money laundering is and the legal and regulative framework that is in place to govern it. It also specifies the processes the Council needs to put in place to ensure that it does all it can to prevent the Council and its employees being exposed to money laundering and so ensure that the Council complies with all legal and regulatory requirements.
2. Money laundering can be defined as “a process that makes money with an illegal origin appear legal so that it may be used.” As a result, the obligations now impact on certain areas of local authority business and require local authorities to establish internal procedures to prevent the use of their services for money laundering.
3. Legislation concerning money laundering is included within the Proceeds of Crime Act 2002 (the POCA) [as amended by the Serious Organised Crime and Police Act 2005], Money Laundering Regulations 2007 and The Terrorism Act 2000. Offences under the Bribery Act 2010 may also constitute Money Laundering.

SCOPE OF THE POLICY

4. This policy applies to all officers and elected members of the Council and aims to maintain the high standards of conduct that currently exist in the Council by preventing criminal activity through money laundering. The policy sets out the procedures which must be followed to enable the Council to comply with its legal obligations. Within this policy the term employees refers to all employees and elected members. For the sake of clarity this definition will extend to casual employees and agency staff. Further the Council will ensure that its partners and all companies that it is in contract with will be fully informed of the procedures we have in place to combat money laundering.
5. Anti-money laundering legislation places responsibility upon employees to combat money laundering and covers a very wide area of financial transactions, including possessing, or in any way dealing with, or concealing, the proceeds of any crime. It applies to all employees involved with monetary transactions.
6. This policy sits alongside the Council’s Whistleblowing Policy, Anti-Fraud and Corruption Strategy and Combating Benefit Fraud Policy.
7. Failure by an employee to comply with the procedures set out in this policy may lead to disciplinary action.

WHAT IS MONEY LAUNDERING?

8. The term Money Laundering is generally used when describing dishonest activities that result in a financial gain. Money Laundering is the process of transferring 'dirty' money i.e. money obtained through unlawful activity (commonly known as the proceeds of crime), into 'clean money' by processing the ill-gotten gains through a legitimate organisation.
9. The legislation covers all criminal property where the alleged offender knows or suspects the property constitutes or represents benefit from any criminal conduct. Property is all property (including tax evasion) situated anywhere in the world for example:
 - money
 - all real, personal, heritable or 'moveable property'
 - intangible and incorporeal property
 - property obtained by a person who has an interest in it
 - things in action and other intangible or incorporeal property
 -
10. The following examples constitute Money laundering:-
 - concealing disguising, converting, transferring criminal property or removing it from the UK (section 327 of the 2002 Act); or
 - 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 of the 2002 Act); or
 - acquiring, using or possessing criminal property (section 329 of the 2002 Act); or
 - becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property (section 18 of the Terrorism Act 2000).
11. The 'tipping off' provisions under section 333A-E of the 2002 Act make it an offence, having submitted a Suspicious Activity Report (SAR), to reveal information which is likely to prejudice any resulting law enforcement activity.

These are the primary money laundering offences and thus prohibited acts under the legislation.

12. Potentially any employee could be caught by the money laundering provisions if they suspect money laundering and either become involved with it in some way and / or do nothing about it.
13. Whilst the risk to the Council of contravening the legislation is low, it is extremely important that all members and employees are familiar with their legal responsibilities.

Serious criminal sanctions may be imposed for breaches of the legislation.

SERIOUS ORGANISED CRIME AGENCY (SOCA)

14. In June 2011 the coalition government announced that SOCA's operations would be merged into a larger National Crime Agency. The new agency, created through the Crime and Courts Act 2013, commenced operations on 7 October 2013.

WHAT ARE THE OBLIGATIONS ON THE COUNCIL?

15. Organisations in the "regulated sector" and which undertake particular types of regulated activity 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.
 - Apply due diligence measures in certain circumstances
 - Obtain information on the purpose and nature of transactions/business relationships.
 - Conduct ongoing monitoring of certain business relationships
 - Maintain record keeping procedures.
 - Train relevant staff
16. Not all the Council's business is "relevant" for the purposes of the legislation. However, the safest way to ensure compliance with the law is to apply them to all areas of work undertaken by the Council – therefore all employees are required to comply with the reporting procedure set out in this policy.

THE MONEY LAUNDERING REPORTING OFFICER (MLRO)

17. The officer nominated to receive disclosures about money laundering activities is the Chief Executive Mike Nuttall. He can be contacted as follows: - telephone number 01772 625257 or email address mnuttall@southribble.gov.uk
18. In the absence of the MLRO, Garry Barclay the Head of Shared Assurance Services is authorised to deputise for him, and can be contacted on 01772 625272 or email address gbarclay@southribble.gov.uk

DISCLOSURE PROCEDURE

Reporting to the Money Laundering Officer

19. Where you know or suspect that money laundering activity is taking / has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the legislation, you must disclose this as soon as possible to the MLRO.

Should you not do so you may be liable to prosecution

20. Your disclosure should be made to the MLRO using the report form attached at Appendix 1. The report must include as much information as possible, e.g.

- a. Full details of the people involved e.g. name, date of birth, address, company names, directorships, phone numbers, etc.
- b. Full details of their / your involvement:
 - If you are concerned that your involvement in the transaction would amount to a prohibited act under sections 327 – 329 of the 2002 Act (please see section 10 above), then your report must include all relevant details, as you will need consent from the National Crime Agency, via the MLRO, to take any further part in the transaction – this is the case even if the client gives instructions for the matter to proceed before such consent is given.
 - You should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent e.g. a completion date or court deadline.
- c. The types of money laundering activity involved:-
 - If possible, cite the section number(s) under which the report is being made, e.g., a principal money laundering offence under the 2002 Act (or 2000 Act), or general reporting requirement under section 330 of the 2002 Act (or section 21A of the 2000 Act), or both
- d. The dates of such activities
- e. Whether the transactions have happened, are ongoing or are imminent
- f. Where they took place
- g. How they are undertaken
- h. The (likely) amount of money / assets involved
- i. Why, exactly, you are suspicious – National Crime Agency will require full reasons

along with any other available information to enable the MLRO to make a sound judgement as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable him to prepare his report to the National Crime Agency, where appropriate. You should also enclose copies of any supporting documentation.

21. Once you have reported the matter to the MLRO you must follow any directions he may give you.

You must NOT make any further enquiries into the matter yourself.

Any necessary investigation will be undertaken by the National Crime Agency. Simply report your suspicions to the MLRO, who will refer the matter onto the National Crime Agency if appropriate. All Members and employees will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

22. **Similarly, at no time and under no circumstances should you voice any suspicions to the person(s) you suspect of money laundering.**

23. 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 and may render you liable to prosecution.

Consideration of the Disclosure by the Money Laundering Officer

24. Upon receipt of a disclosure report, the MLRO must note the date of receipt on his section of the report and acknowledge receipt of it. He should also advise you of the timescale within which he expects to respond to you.

25. The MLRO will consider the report and other available internal material he thinks relevant, e.g.,

- reviewing other transaction patterns and volumes
- the length of any business relationship involved
- the number of any on-off transactions and linked one off transactions
- any identification evidence held

26. The MLRO will undertake such other reasonable enquiries he thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to the National Crime Agency is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved). The MLRO may also need to discuss the report with you.

27. Once the MLRO has evaluated the disclosure report and any other relevant information, 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 is the case
- he knows the identity of the money launderer or the whereabouts of the property involved or they could be identified or the information may assist in such identification, and
- whether he needs to seek consent from the National Crime Agency for a particular transaction to proceed

28. Where the MLRO does so conclude, then he must disclose the matter as soon as practicable to the National Crime Agency on their standard report form or via SAR online and in the prescribed manner, unless he has a reasonable excuse for non-disclosure to the National Crime Agency (e.g., if you are a lawyer and wish to claim legal professional privilege for not disclosing the information).
29. Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then he must note the report accordingly; he can then immediately give his consent for any ongoing or immediate transactions to proceed.
30. In cases where legal professional privilege may apply, the MLRO shall liaise with the Legal Services Manager to decide whether there is a reasonable excuse for not reporting the matter to the National Crime Agency. .
31. Where consent is required from the National Crime Agency for a transaction to proceed, then the transactions in question must not be undertaken or completed until the National Crime Agency has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the National Crime Agency.
32. 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 transactions to proceed.
33. All disclosure reports referred to the MLRO and reports made by him to the National Crime Agency must be retained by the MLRO in a confidential file kept for that purpose for a period of five years.
34. 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 of whom he knows the identity or the whereabouts of laundered property in consequence of the disclosure, that the person or property's whereabouts can be identified from that information, or he believes, or it is reasonable to expect him to believe, that the information will or may assist in such identification and he does not disclose this as soon as practicable to the National Crime Agency .

CUSTOMER DUE DILIGENCE PROCEDURE

35. Where the Council is carrying out certain regulated business (accountancy, audit and certain legal services) and:
- a. forms an ongoing business relationship with a client; or
 - b. undertakes an occasional transaction amounting to 15,000 Euro or more whether carried out in a single operation or several linked ones; or
 - c. suspects money laundering or terrorist financing; or
 - d. doubts the veracity or adequacy of information previously obtained for the purposes of client identification or verification

then customer due diligence measures must be applied and this Customer Due Diligence Procedure must be followed before the establishment of the relationship or carrying out of the transaction.

36. Applying customer due diligence means:
- a. identifying the client and verifying the client's identity on the basis of documents, data or information obtained from a reliable and independent source;
 - b. identifying the beneficial owner (where he/she or it is not the client) so that you are satisfied that you know who the beneficial owner is, including, in the case of a legal person, trust or similar legal arrangement, measures to understand the ownership and control structure of the person, trust or arrangement, and
 - c. obtaining information on the purpose and intended nature of the business relationship

Please note that unlike the reporting procedure, the Customer Due Diligence Procedure is restricted to those employees undertaking relevant business.

37. In the above circumstances, employees in the relevant services of the Council must obtain satisfactory evidence of the identity of the prospective client, and full details of the purpose and intended nature of the relationship/transaction, as soon as practicable after instructions are received.
38. There is also now an ongoing legal obligation to check the identity of existing clients and the nature and purpose of the business relationship with them at appropriate times. The opportunity should also be taken at times to scrutinise the transactions undertaken throughout the course of the relationship (including, where necessary, the source of the funds) to ensure they are consistent with your knowledge of the client, its business and risk profile. Particular scrutiny should be given to the following:
- a. complex or unusually large transactions;
 - b. unusual patterns of transactions which have no apparent economic or visible lawful purpose; and
 - c. any other activity likely by its nature to be related to money laundering or terrorist financing.

39. Once instructions to provide relevant business have been received, and it has been established that Paragraph 35 above applies or it is otherwise an appropriate time to apply due diligence measures to an existing client, evidence of identity and information about the nature of the particular work should be obtained/checked as follows:-

Internal Clients

Under the legislation there is no need to apply customer due diligence measures where the client is a UK public authority. However, as a matter of good practice, identity of internal clients should continue to be checked.

Appropriate evidence of identity will be written and signed instructions on Council-headed notepaper at the outset of the matter. Such correspondence should then be placed on the Council's client file along with a prominent note explaining which correspondence constitutes the evidence and where it is located.

External Clients

Most of the external clients to whom the Council provides regulated business services are UK public authorities and consequently, as above, there is no need to apply customer due diligence measures. However, again as a matter of good practice, identity of external clients should be checked.

Appropriate evidence of identity will be written and signed instructions on the organisation's official letter head at the outset of the matter. Such correspondence should then be placed on the Council's client file along with a prominent note explaining which correspondence constitutes the evidence and where it is located.

With instructions from new clients, or further instructions from a client not well known to you, you may wish to seek additional evidence of the identity of key individuals in the organisation and of the organisation itself.

40. In all cases, the due diligence evidence should be retained for at least five years from the end of the business relationship or transaction(s).
41. If satisfactory evidence of identity is not obtained at the outset of the matter, then the business relationship or transaction(s) cannot proceed any further.

RECORD KEEPING PROCEDURES

42. Each Service Area conducting relevant business must maintain records of:-

- client identification evidence obtained
- details of all relevant business transactions carried out for clients

for at least five years. This is so that they may be used in evidence in any subsequent investigations by the authorities into money laundering.

43. The precise nature of the records is not prescribed by law, however, they must be capable of providing an audit trail during any subsequent investigation, e.g., distinguishing the client and the relevant transaction and record in what form funds were received or paid.
44. In practice, the Service Areas will be routinely making records of work carried out for clients in the course of normal business and these should suffice in this regard.

45. Each Service Area of the council conducting regulated business must monitor, on an ongoing basis, their business relationships in terms of scrutinising transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure that the transactions are consistent with their knowledge of the client, its business and risk profile.

TRAINING

46. The Council will take appropriate measures to ensure that all employees are made aware of the law relating to money laundering and will arrange targeted, ongoing training to key individuals most likely to be affected by the legislation.

CONCLUSION

47. The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This policy has been written so as to enable the Council to meet the legal requirements in a way which is proportionate to the very low risk to the Council of contravening the legislation.
48. Should you have any concerns whatsoever any transactions then you should contact the MLRO.

APPENDIX 1

SOUTH RIBBLE BOROUGH COUNCIL –
ANTI MONEY LAUNDERING POLICY

Report to Money Laundering Reporting Officer

Money Laundering Activity

CONFIDENTIAL

To: Mike Nuttall, **Money Laundering Reporting Officer**

From:
[insert name of employee]

Service Area: Ext/Tel No:.....
[insert post title]

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 any investigation been undertaken (as far as you are aware)?
[Please tick the relevant box]

Yes

No

If yes, please include details below:

Have you discussed your suspicions with anyone else?
[Please tick the relevant box]

Yes

No

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) [Please tick the relevant box]

Yes

No

If yes, please specify below:

Do you feel you have a reasonable excuse for not disclosing the matter to the National Crime Agency? (e.g. are you a lawyer and wish to claim legal professional privilege?)

[Please tick the relevant box]

Yes

No

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 requires appropriate consent from the National Crime Agency?

[Please tick the relevant box]

Yes

No

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 MLRO

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 National Crime Agency? [Please tick the relevant box]

Yes

No

If yes, please confirm date of report to SOCA:

.....

and complete the box below:

Details of liaison with the National Crime Agency regarding the report:

Notice Period: to

Moratorium Period: to

Is consent required from the National Crime Agency 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 National Crime

Agency:

Date consent given by you to employee:

If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to the National Crime Agency, 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