



ANTI-MONEY LAUNDERING POLICY

JULY 2005

Wyre Forest District Council

Anti-Money Laundering Policy

1.0 INTRODUCTION

- 1.1 There have recently been significant changes to the legislation concerning money laundering (the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2003), which have broadened the definition of money laundering and increased the range of activities caught by the statutory framework. As a result, the new 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.

2.0 SCOPE OF THE POLICY

- 2.1 This Policy applies to all employees of the Council and aims to maintain the high standards of conduct which currently exist within the Council by preventing criminal activity through money laundering. The Policy sets out the procedures which must be followed (for example the reporting of suspicions of money laundering activity) to enable the Council to comply with its legal obligations.
- 2.2 Further information is set out in the accompanying Guidance Note. Both the Policy and the Guidance Note sit alongside the Council's Confidential Reporting (Whistleblowing) Policy and its Anti-Fraud and Corruption Strategy.

3.0 WHAT IS MONEY LAUNDERING?

- 3.1 Money laundering means:

- concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 of the Act);
- 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);
- acquiring, using or possessing criminal property (section 329);

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

- 3.2 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. The Guidance Note gives practical examples. This Policy sets out how any concerns should be raised.
- 3.3 Whilst the risk to the Council of contravening the legislation is low, ***it is extremely important that all employees are familiar with their legal responsibilities: serious criminal sanctions may be imposed for breaches of the legislation.***

4.0 WHAT ARE THE OBLIGATIONS ON THE COUNCIL?

4.1 Organisations conducting “relevant business” 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 record keeping procedures.

4.2 Not all of the Council’s business is “relevant” for the purposes of the legislation: it is mainly the accountancy and audit services carried out by Financial Services and the financial, company and property transactions undertaken by Legal Services. 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 section 6 below.

4.3 The following sections of this Policy provide further detail about the requirements listed in paragraph 4.1.

5.0 THE MONEY LAUNDERING REPORTING OFFICER

5.1 The officer nominated to receive disclosures about money laundering activity within the Council is the Head of Financial Services, Keith Bannister. He can be contacted as follows:

Keith Bannister
Wyre Forest District Council
Financial Services
Duke House
Clensmore Street
Kidderminster
DY10 2JX

Telephone: 01562 732100.(direct Line)

5.2 In the absence of the MLRO, the Head of Legal and Democratic Services, Caroline Caygill, is authorised to deputise for him and can be contacted at the Civic Centre Stourport on Severn or on telephone number 01562 732715 (direct line).

6.0 DISCLOSURE PROCEDURE

Reporting to the Money Laundering Reporting Officer

6.1 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 sections 327 – 329 of the Act, you must disclose this as soon as practicable to the MLRO. The disclosure should be within “hours” of the information coming to your attention, not weeks or months later. **SHOULD YOU NOT DO SO, THEN YOU MAY BE LIABLE TO PROSECUTION.**

6.2 Your disclosure should be made to the MLRO using the proforma report attached at Appendix 1. The report must include as much detail as possible, for example:

- Full details of the people involved (including yourself, if relevant), eg name, date of birth, address, company names, directorships, phone numbers, etc;
- Full details of the nature 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 Act, then your report must include all relevant details, as you will need consent from the National Criminal Intelligence Service (“NCIS”), 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 eg a completion date or court deadline;
- The types of money laundering activity involved:
 - if possible, cite the section number(s) under which the report is being made eg a principal money laundering offence under section 327 – 329 of the Act, or general reporting requirement under section 330 of the Act, or both;
- The dates of such activities, including:
 - whether the transactions have happened, are ongoing or are imminent;
- Where they took place;
- How they were undertaken;
- The (likely) amount of money/assets involved;
- Why, exactly, you are suspicious – the NCIS will require full reasons;

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

6.3 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 NCIS. Simply report your suspicions to the MLRO who will refer the matter on to the NCIS if appropriate. All employees will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

6.4 Similarly, **at no time and under no circumstances should you voice any suspicions** to the person(s) whom you suspect of money laundering, even if the NCIS has given consent to a particular transaction proceeding, without the specific consent of the MLRO; otherwise you may commit a criminal offence of “tipping off” (see the Guidance Note for further details).

6.5 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. The MLRO will keep the appropriate records in a confidential manner.

Consideration of the disclosure by the Money Laundering Reporting Officer

- 6.6 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.
- 6.7 The MLRO will consider the report and any other available internal information he thinks relevant eg:
- reviewing other transaction patterns and volumes;
 - the length of any business relationship involved;
 - the number of any one-off transactions and linked one-off transactions;
 - any identification evidence held;
- and undertake such other reasonable inquiries he thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCIS 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.
- 6.8 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; or
 - there are reasonable grounds to know or suspect that is the case; and
 - whether he needs to seek consent from the NCIS for a particular transaction to proceed.
- 6.9 Where the MLRO does so conclude, then he must disclose the matter as soon as practicable to the NCIS on their standard report form and in the prescribed manner, unless he has a reasonable excuse for non-disclosure to the NCIS (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).
- 6.9.1 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 imminent transactions to proceed.
- 6.9.2 In cases where legal professional privilege may apply, the MLRO must liaise with the legal adviser to decide whether there is a reasonable excuse for not reporting the matter to the NCIS.
- 6.9.3 Where consent is required from the NCIS for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the NCIS has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the NCIS.
- 6.10 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 transaction(s) to proceed.
- 6.11 All disclosure reports referred to the MLRO and reports made by him to the NCIS must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.

- 6.12 *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 and he does not disclose this as soon as practicable to the NCIS.*

7.0 CLIENT IDENTIFICATION PROCEDURE

7.1 Where the Council is carrying out relevant business (accountancy, audit and certain legal 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 15,000 Euro (approximately £10,000) or more; or
- c) undertakes a series of linked one-off transactions involving total payment by or to the client(s) of 15,000 Euro (approximately £10,000) or more; or
- d) it is known or suspected that a one-off transaction (or a series of them) involves money laundering;

then this Client Identification Procedure must be followed before any business is undertaken for that client. **Please note that unlike the reporting procedure, the client identification procedure is restricted to those operating relevant business, ie Financial Services and Legal Services.**

7.2 In the above circumstances, employees in the relevant unit 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 applies to existing clients, as well as new ones, but identification evidence is not required for matters entered into prior to 1 March 2004.

7.3 Once instructions to provide relevant business have been received, and it has been established that any of paragraphs 7.1 (a) to (d) apply, evidence of identity should be obtained as follows.

Internal clients:

7.3.1 Appropriate evidence of identity for Council divisions will be signed, written instructions on Council headed notepaper or an email on the internal GroupWise email system at the outset of a particular 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:

7.3.2 For external clients of the Council, appropriate evidence of identity will be written instructions on the organisation's official letterhead at the outset of the matter or an email from the organisation's e-communication system. 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.

7.3.3 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: please see the Guidance Note for more information.

7.4 In all cases, the evidence should be retained for at least five years from the end of the business relationship or one-off transaction(s).

7.5 ***If satisfactory evidence of identity is not obtained at the outset of the matter then the business relationship or one off transaction(s) cannot proceed any further.***

8.0 RECORD KEEPING PROCEDURES

8.1 Each section 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

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

8.2 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, for example distinguishing the client and the relevant transaction and recording in what form any funds were received or paid. In practice, the divisions of the Council will be routinely making records of work carried out for clients in the course of normal business and these should suffice in this regard.

9.0 CONCLUSION

9.1 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.

9.2 Should you have any concerns whatsoever regarding any transactions then you should contact the MLRO.

6th July 2005

PRIVATE AND CONFIDENTIAL

**Report to Money Laundering Reporting Officer
re money laundering activity**

To: Keith Bannister - Wyre Forest District Council -Money Laundering Reporting Officer

From:
[insert name of employee]

Division:
[insert post title and section]

Ext/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 eg 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 NCIS? (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 NCIS?

Yes

No

[Please tick the 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 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 NCIS? *[Please tick the 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 by 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