

Draft anti-money laundering policy

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Introduction

1. This is a joint policy adopted by South Oxfordshire District Council and Vale of White Horse District Council. The policy aims to provide guidance on how to report a suspicion of money laundering.
2. In carrying out their functions and responsibilities, the councils wish to promote a culture of openness and fairness and expect all those who work for and with the councils to adopt the highest standards of propriety and accountability.
3. New obligations were imposed by the Proceeds of Crime Act 2002 and the Money Laundering regulations 2003 which broaden the definition of money laundering and increase the range of activities caught by the statutory control framework; in particular, the duty to report suspicions of money laundering is strengthened and criminal sanctions imposed for failure to do so.
4. Local authorities are required to establish internal procedures to prevent the use of their services for money laundering. The councils are required to:
 - appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees of money laundering activity;
 - implement a procedure to require the reporting of suspicions of money laundering;
 - maintain client identification procedures in certain circumstances; and
 - maintain record keeping procedures.
5. Details of how these requirements have been implemented by the councils are set out within this policy.
6. The broad definition of money laundering means that potentially anybody (and therefore any council employee, irrespective of what sort of council business they are undertaking) could commit a money laundering offence if they become aware of, or suspect the existence of criminal or terrorist property, and continue to be involved in the matter without reporting their concerns.
7. Our policy is to do all we can to prevent, wherever possible, the organisation and its staff being exposed to money laundering, to identify the potential areas where it may occur, and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases (adapted from CIPFA Guidance, 2005).
8. All staff dealing with the receipt of funds or having contact with the public must therefore be aware of the councils' anti-money laundering policy.

9. It is every member of staff's responsibility to be vigilant.

Money Laundering – Definition and Offences

10. Money laundering is the term used for a number of offences involving the proceeds of crime or terrorist funds. There are three principal offences (set out in Sections 327-329 of the Proceeds of Crime Act 2002):

- Concealing is where someone knows or suspects a case of money laundering, but conceals or disguises its existence (or transfers or removes it from England and Wales, or Scotland or Northern Ireland);
- Arranging is where someone involves himself or herself in an arrangement to assist in money laundering; and
- Acquisition/use/possession is where someone seeks to benefit from money laundering by acquiring, using or possessing criminal property.

11. There are also third party offences:

- Failure to disclose one of the three principal offences;
- Tipping off a suspect, either directly or indirectly, is where someone informs a person or people who are, or are suspected of being, involved in money laundering, in such a way as to reduce the likelihood of their being investigated; and
- Prejudicing an investigation is where you know or suspect that an appropriate officer is, or is about to be, conducting a money laundering investigation and you make a disclosure to a third party that is likely to prejudice the investigation.

12. Criminal property is defined very widely. It includes, for example, the retention of monies from non-payment of income tax.

13. All the money laundering offences may be committed by an organisation or by the individuals working for it.

Scope of the Policy

14. This policy applies to all employees of both councils and aims to maintain the high standards of conduct, which currently exist within the councils by preventing criminal activity through money laundering. Employees should refer to the councils' joint whistleblowing policy when making a report under the anti money laundering policy.

15. The procedures which must be followed (for example the reporting of suspicions of money laundering activity) to enable the councils to comply with its legal obligations, are set out below.

Anti-Money Laundering Procedure

16. Local authorities are required to establish internal procedures to prevent the use of their services for money laundering. The councils are required to:

- appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees of money laundering activity;
- implement a procedure to require the reporting of suspicions of money laundering;
- maintain client identification procedures in certain circumstances; and
- maintain record keeping procedures.

MONEY LAUNDERING REPORTING OFFICER (MLRO)

17. The organisation has nominated the Section 151 Officer to be the MLRO, and to be responsible for anti-money laundering measures within the organisation.

PROCEDURE FOR REPORTING SUSPICIONS OF MONEY LAUNDERING

18. 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 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. Your disclosure should be made to the MLRO using the proforma report (Appendix 1) and should include as much detail as possible.

19. Once you have reported the matter to the MLRO you must follow any directions given to you. You must not make any further enquiries into the matter yourself.

20. Do not voice any suspicion to the person(s) whom you suspect of money laundering, otherwise you may commit a 'tipping off' offence. Similarly do not make any reference on a client file to a report having been made to the MLRO. The MLRO will keep appropriate records in a confidential manner.

CONSIDERATION OF THE DISCLOSURE BY THE MLRO

21. Once the MLRO has evaluated the disclosure report and any other relevant information, the MLRO 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 this is the case; and
- Whether the MLRO needs to seek consent from the National Criminal Intelligence Service (NCIS) for a particular transaction to proceed.

22. All disclosure reports referred to the MLRO and reports made by the MLRO to the NCIS must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.

23. The MLRO commits a criminal offence if the MLRO knows or suspects, or has reasonable grounds to do so, through a disclosure being made to the MLRO, that another person is engaged in money laundering and the MLRO does not disclose this as soon as practicable to the NCIS.

CLIENT IDENTIFICATION PROCEDURE

24. Where the councils are carrying out relevant business (accountancy, audit and certain legal services) and:

- forms an ongoing business relationship with a client; or
- undertakes a one-off transaction involving payment by or to the client of approximately £10,000 or more; or
- undertakes a series of linked one-off transactions involving total payment by or to the client of approximately £10,000 or more; or
- 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 as mentioned above.

25. In the above circumstances, staff must obtain satisfactory evidence of the identity of the prospective client.

INTERNAL CLIENTS

26. Appropriate evidence of identity for council departments will be signed, written instructions on council headed notepaper or an email on the internal email system at the outset of a particular matter. Such correspondence should then be

placed on the relevant client file along with a prominent note explaining which correspondence constitutes the evidence and where it is located.

EXTERNAL CLIENTS

27. Appropriate evidence of identity will be written instructions on the councils' official letterhead or an email from the organisation's e-communication system. Such correspondence should then be placed on the relevant client file along with a prominent note explaining which correspondence constitutes the evidence and where it is located. With new clients, or clients not well known to you, you may also seek additional evidence, for example:

- checking the organisation's website to confirm the identity of personnel, its business address and any other details;
- attending the client at their business address;
- a search of the telephone directory;
- evidence of the personal identity of the key contact officer (passport, photo driving licence).

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

RECORD KEEPING PROCEDURE

29. Where the councils are carrying out relevant business each service area 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.

30. The precise nature of the records is not prescribed by law however they must be capable of providing an audit trail, for example distinguishing the client and the relevant transaction and recording in what form any funds were received or paid. In practice, service areas will routinely make records in the course of normal business and these should suffice.

Examples of situations most likely to give rise to money laundering or suspicion of it (adapted from CIPFA 2005 and IIA 2003 guidance)

31. A transaction involving an unusually large amount of cash. This will particularly be suspicious if the cash paid exceeds the amount necessary to settle a transaction and would result in a non-cash refund. This would include double payments.
32. Transactions or trades that appear to make no commercial or economic sense from the perspective of the other party. A money launderer's objective is to disguise the origin of the criminal funds, and not necessarily to make a profit. A launderer may therefore undertake transactions at a financial loss if it will assist in disguising the source of the funds and allow the funds to enter the financial system.
33. Payments received from third parties. Money launderers will often look to legitimate business activity to 'clean' criminal funds by making payments on behalf of a legitimate company.
34. Transactions where the identity of the party is difficult to establish or is undisclosed.
35. Transaction where the party is evasive as to the source or destiny of funds.
36. Transactions with companies in offshore jurisdictions. Some jurisdictions can provide money launderers with the facility to hide their true identity. Extra care should be taken when undertaking business with such companies.
37. Changes to payment instructions to the use of offshore funds. Payments are normally made to or from a UK bank to establish a business relationship and then changed to a bank in an off shore jurisdiction.
38. The cancellation or reversal of an earlier transaction.

Suspicion

39. The concept of a 'suspicion' of money laundering features a number of times in the legislation but is not defined. The courts have defined it as being beyond mere speculation, being based on some foundation. For a transaction to be suspicious, the exact nature of the criminal offence need not be certain.

INDIVIDUAL RESPONSIBILITIES

40. To be alert to where the councils may be targeted by individuals trying to launder the proceeds of crime

41. To avoid alerting anyone dealing with the councils that you have a suspicion that they may be attempting to launder, or have laundered, the proceeds of crime.
42. To report any suspicions of money laundering to the councils' MLRO using the specified form.
43. It is not your responsibility to decide whether a suspicious transaction actually constitutes money laundering. If you have any suspicions that a transaction may involve laundering the proceeds of crime, then you must report it to the MLRO.

This policy was approved by South Oxfordshire District Council's <> on <date>

This policy was approved by Vale of White Horse District Council's <> on <date>

Policy review date: <date>

Additional sources of information

The following are associated policies and procedures that are referred to in this policy or can be used as additional sources of information:

Joint policies: South and Vale	South policies	Vale policies
Anti-fraud and corruption response plan		
	Budget and policy framework procedure rules	Budget and policy framework procedure rules
	Code of conduct for councillors and its associated complaints procedure	Code of conduct for councillors and its associated complaints procedure
	Code of conduct for employees	Staff code of conduct
	Complaints policy and procedure	How to make a comment, complaints and suggestion
	Contracts procedure rules	Contracts standing orders
	Councillors' allowances scheme	Members' allowances scheme
Dignity at work policy		
Disciplinary procedure (for employees)		
	Financial procedure rules	Financial regulations

Joint policies: South and Vale	South policies	Vale policies
	Gifts and hospitality guidance for officers	Gifts and hospitality code
Grievance procedures (for employees)		
	Local code of governance	
	Protocol on councillor/employee relations	Member/officer relations
	Scheme of delegation	Scheme of delegation
	Service specific procedure manuals	Service specific procedure manuals
Whistleblowing policy		

Alternative formats of this publication are available on request. These include large print, Braille, audio cassette or CD, email and alternative languages.

此文檔備有中文版本以供選擇。如需索取，請通過以下的電話聯繫地區議會。如果您不會講英語，您可以請講英語的親屬或朋友為您代勞。

Please contact democratic services at South Oxfordshire District Council on ☎ 01491 823649

Please contact <> at Vale of White Horse District Council on ☎ 01235 <>

APPENDIX 1

CONFIDENTIAL

Report to Money Laundering Reporting Officer

Re: Suspicion money laundering activity

To: Steve Bishop, Money Laundering Reporting Officer

From:
[name of employee]

Post title:

Service Area:

Ext/Tel:

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 Proceeds of Crime Act and which requires appropriate consent from the NCIS?

Yes

No

(See Definition and Offences within Policy)
[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