

ANTI MONEY LAUNDERING POLICY STATEMENT AND PROCEDURES

Control

Owner / Policy Lead Officer: Lucy Pledge

Location: Orchard House, County Offices, Lincoln

Consultation: Audit Committee / Executive / County Council

Date: January 2014

Review Arrangements: Every three years (Owner/Policy Lead Officer and Audit Committee)

Introduction

Lincolnshire County Council is committed to prevent the Council and its employees being exposed to money laundering, to identify the risks where it may occur, and to comply with legal and regulatory requirements, especially with regard to reporting suspected cases.

Key points:

- The Council is committed to the prevention, detection and reporting of money laundering
- All employees should be vigilant for signs of money laundering
- An employee who suspects money laundering activity should report this promptly to the Money Laundering Reporting Officer
- The Council will not accept payments in cash that exceed £1,000.

The Proceeds of Crime Act 2002 and the Terrorism Act 2000 place obligations on the Council and employees with regard to suspected money laundering.

What is money laundering?

Money laundering is the process where criminals attempt to hide and change the true identity of the proceeds of their crime so that they appear legitimate. The various stages are termed placement, layering and integration:

- ◆ placement – „dirty money“ is placed directly into the financial system

- ◆ layering – the proceeds are moved through a series of financial transactions, making it harder to establish their origin
- ◆ integration – the money launderer creates a legitimate explanation for the source of the funds allowing them to be retained, invested into the legitimate economy or to acquire assets

There are 3 principal money laundering offences under the Proceeds of Crime Act 2002. An offence is committed if a person knows or suspects property is or was purchased with the proceeds of any criminal act and:

- ◆ conceals, disguises, converts or transfers it or removes it from the UK (Section 327)
- ◆ enters into or becomes involved in an arrangement which he/she knows or suspects will facilitate another person to acquire, retain, use or control it (Section 328)
- ◆ acquires, uses or possesses it (Section 329)

The legislation defines property as all property and includes:

- ◆ money
- ◆ all real or moveable property including inherited assets
- ◆ intangible property (e.g. leases, mortgages, rights)
- ◆ property obtained by a person who has an interest in it
- ◆ things in action and other intangible property (e.g. cheques)

Criminal conduct is any act amounting to a criminal offence in the UK¹ and includes for example tax evasion, fraudulent expenses and benefits claims.

The money laundering offences are aimed at criminals and their associates but any person can be caught by the offences if they suspect money laundering and either become involved with it or do nothing about it. It is not necessary to have benefitted in any way to be guilty of the offences.

The key requirement for Council employees and partners is to promptly report (Section 337 Disclosure) any suspected money laundering activity to the Council's Money Laundering Reporting Officer.

¹ Therefore includes an act committed outside the UK but which, if it took place in the UK would be a criminal offence

While the risk to the Council of contravening the legislation is low, it is important that all employees are familiar with their responsibilities; serious criminal sanctions can be imposed for breaches of the legislation.

Scope

This Policy applies to all employees of the Council and its partners. It sets out the required procedures which should be followed for reporting suspicions of money laundering activity to enable the Council to comply with its legal obligations.

This Policy is consistent with all other Council policies including the Counter Fraud Policy and the Whistleblowing Policy.

Failure by an Council employee to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them.

The Money Laundering Reporting Officer (MLRO)

The nominated Disclosure Officer (MLRO) in the Council is the Head of Audit and Risk Management:

Lucy Pledge
Head of Audit & Risk Management
Resources Directorate
Lincolnshire County Council
County Offices, Newland,
Lincoln. LN1 1YG
Telephone: 01522 553692
E-mail: lucy.pledge@lincolnshire.gov.uk

The authorised Deputy is:

Donald Adams
Principal Investigator
Address as above
Telephone 01522 553689
E-mail: donald.adams@lincolnshire.gov.uk

Reporting Procedures

Protected Disclosure

Section 337 of the Proceeds of Crime Act 2000 protects employees from liability under any other legislation (e.g. Data Protection Act) when they report suspected money laundering. The conditions are that the information:

- ◆ came to his/her notice in the course of their trade, profession, business or employment and
- ◆ causes him/her to know or suspect or gives reasonable ground to know or suspect that another person is engaged in money laundering and
- ◆ the disclosure is made to a constable, a customs officer or the nominated MLRO

Any employee who knows or has reasonable grounds to suspect that any person is engaged in money laundering activity should report their suspicion immediately to the Council's MLRO or Deputy.

The only exception to this rule is if the employee is a professional legal adviser and the information has come to their attention in privileged circumstances – in these cases the employee should report the matter immediately to the Head of Legal Services. The Head of Legal Services will promptly evaluate any disclosure to determine if it should be reported to the MLRO.

The employee must follow any subsequent instructions made by the Council's MLRO. No further enquiries into the matter or any further steps in any related transaction may be taken without authorisation from the MLRO.

The MLRO must promptly make² a Suspicious Activity Report (SAR) to the National Crime Agency (NCA) on line at www.nationalcrimeagency.gov.uk

Proposed transactions

When a proposed act or transaction is a suspected money laundering offence anyone knowing or suspecting money laundering who is then involved in the act or transaction is guilty of the same criminal offence unless:

- ◆ he / she has made a Section 337 Disclosure and
- ◆ appropriate consent has been given

After the MLRO has made the disclosure to National Crime Agency, they will receive (within 7 days) notification of whether consent is given for the act or transaction to proceed. If, after 7 days, the National Crime Agency does not contact the MLRO, the consent is deemed to be given.

² It is a Criminal Offence (Section 332) for the MLRO to fail to disclose to NCA unless he / she has a reasonable excuse for not doing so. A preliminary evaluation which establishes that money laundering is not or has not taken place is a reasonable excuse.

All instructions from the National Crime Agency (or relevant law enforcement agency) issued at any time following a Section 337 Disclosure **must be followed**.

Prejudicing an Investigation

A Section 337 money laundering disclosure is strictly confidential. There must be no disclosure or other indication to the person suspected of money laundering. The matter must not be discussed with anyone else or any action taken that may jeopardise the confidentiality around the report to the Council's MLRO. Notes must not be made on client files/records that a disclosure has been made.

Any documentation or evidence associated with the disclosure should be retained in its original form for any subsequent money laundering investigation.

Failure to comply with these requirements could amount to the criminal offence of Prejudicing an Investigation. Section 342 of the Proceeds of Crime Act states that a person may be guilty of this offence if they:

- ◆ make a disclosure (to any other person) likely to prejudice the investigation
- ◆ falsify, conceal, destroy or otherwise dispose of or permit the falsification, concealment, destruction or disposal of documents which are relevant to the investigation

General Procedures

Cash payments

No payment to the Council will be accepted in cash if it exceeds £1,000. Cash is defined as including notes, coins or travellers' cheques in any currency.

Identification of new clients

Employees should be wary of situations where funds flow through the Council from sources with which it is not familiar. Where the Council is forming a new business relationship and/or is considering undertaking a significant one off transaction with a new client, evidence of the identity of the prospective client should be obtained before proceeding.

It is good practice to have either:

- ◆ one government document which verifies either name and address or name and date of birth or

- ◆ a government document which verifies their full name and another supporting document which verifies their name and either their date of birth or address

Where it is not possible to obtain such documents consider the reliability of other sources and the risks associated with the client. In these circumstances, advice may be sought from the MLRO or Deputy.

Where the new client is not present or a third party is acting in their absence, additional evidence of identity should be sought to verify the client's credentials.

Possible signs of Money Laundering

It is not possible to give a prescriptive guide to spot money laundering but the following signs may be helpful:

- ◆ concerns about honesty, integrity, identity or location of the client
- ◆ secretive behaviour e.g. unexplained refusal to provide information
- ◆ attempting payment of a substantial sum of cash
- ◆ transaction which appears uneconomic, inefficient or irrational
- ◆ illogical third party transactions – unnecessary routing of funds from third parties or through third party accounts
- ◆ illogical involvement of unconnected third party
- ◆ funds received prior to completion of the transaction from an unexpected source
- ◆ instructions for settlement payments to an unexpected source
- ◆ significant overpayments and subsequent request for refund
- ◆ refunds following the cancellation or reversal of an earlier transaction
- ◆ no obvious legitimate source of funds
- ◆ unusual request for client account details
- ◆ poor business records or internal accounting controls

Guidance and Training

In support of the policy and procedure, the Council aims to:

- ◆ make all employees aware of the requirements and obligations placed on the Council and on themselves as individuals by the anti-money laundering legislation
- ◆ deliver training to those most likely to encounter money laundering.

Further Information

Further information can be obtained from the MLRO and the following sources:

- ◆ www.nationalcrimeagency.gov.uk
- ◆ “Combating Financial Crime” – CIPFA revised publication 2009
- ◆ www.legislation.gov.uk (Home Office) – Proceeds of Crime Act 2002 / Terrorism Act 2000 / Money Laundering Regulations 2007