

Appendix B

ANTI-MONEY LAUNDERING POLICY

Date of Implementation: 1 June 2020

London Borough of Sutton

Anti – Money Laundering Policy

1 Policy Statement

- 1.1. The London Borough of Sutton is committed to achieving the highest possible standards of service, including honesty, openness and accountability, and recognises that employees have an important role to play in achieving this goal.
- 1.2. The Council will take all reasonable steps to prevent its systems and processes being used for money laundering. Money Laundering is a criminal offence and it is the responsibility of the Council and Council officers to take reasonable precautions to prevent its involvement in money laundering, either knowingly or as a result of inaction.
- 1.3. Criminals could launder illicitly obtained funds through the council in a number of ways. For example: by making large payments in cash, such as for business rates, council tax or when purchasing assets.
- 1.1 This policy draws on the Anti-Money Laundering Practical Guidance for Public Service Organisations published by the Chartered Institute of Public Finance and Accountancy (CIPFA).

2 Scope

- 2.1 This Code applies to all of the council's activities, its personnel, including those permanently employed, temporary staff, agency staff, contractors, Members (including independent members), volunteers and consultants.
- 2.2 It is important that all employees are familiar with their responsibilities as serious criminal sanctions may be imposed for breaches of anti-money laundering legislation. Failure by any member of staff to comply with this Code may lead to prosecution and disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the council's Disciplinary Procedures.
- 2.3 Whilst it is stressed that the risk to the Authority 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. The key requirement for staff is to:
 - ***Promptly report any suspected money laundering activity to the Money Laundering Reporting Officer.***

3. Background

- 3.1. Money laundering is the term used for a number of offences involving the proceeds of crime or terrorist funds. The following acts constitute the act of

money laundering:

- concealing, disguising, converting, transferring or removing criminal property from the United Kingdom
- becoming concerned in an arrangement which facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person, either knowingly or merely by way of suspicion.
- Acquiring, using or possessing criminal property

- 3.2. Although the term 'money laundering' is generally used when describing the activities of organised crime – for which the legislation and regulations were first and foremost introduced – to most people who are likely to come across it or be affected by it, it involves a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.
- 3.3. 'Criminal property' is defined very widely in the law relating to money laundering. It includes not only the proceeds of crime committed by somebody else, but also possession of the proceeds of an individual's own crime – for example, the retention of monies from non-payment of income tax. It does not matter how small the amount of money involved is. It also includes the proceeds of crime that take place abroad.
- 3.4. The Consultative Committee of Accounting Bodies (CCAB) advice is that internal procedures should be in place regarding money laundering even if the employee's work is outside regulated business. It should be noted that local authorities are outside regulated business.
- 3.5. In recent years, new laws have been passed which significantly shifts the burden of identifying acts of money laundering away from government agencies and more towards organisations and their employees. They prescribe potentially very heavy penalties, including imprisonment, for those who are convicted of breaking the law.
- 3.6. It is vital to recognise that the regime under which money laundering is monitored operates on an 'all crimes' basis, and that there is no de minimis provision in the money laundering legislation. In other words, every crime, however small, is subject to the money-laundering regime.

4. Existing Laws to Control Money Laundering

- 4.1 The legislation and regulations which embody the UK anti-money laundering regime is contained in the following:
 - The Proceeds of Crime Act 2002 (POCA), as amended by the Serious Organised Crime and Police Act 2005 (SOCPA) and relevant statutory instruments
 - The Terrorism Act 2000 (TA 2000), as amended by the

Anti-Terrorism Crime and Security Act 2001 (ATCSA) and the Terrorism Act 2006 (TA 2006) and relevant statutory instruments

- The Money Laundering Regulations 2007 (2007 Regulations) as amended by the Money Laundering Regulations 2012.

4.2. Money laundering is an act falling within section 340 (11) of the Proceeds of Crime Act 2002 (the POCA) (as amended by the Anti-Terrorism and Security Act 2001 and the Terrorism Act 2006)

- consolidated, updated and reformed criminal law in regard to money laundering
- it defines money laundering and the offences relating to it
- it creates mechanisms for investigating and recovering the proceeds of crime
- it sets out some of the obligations placed on organisations and individuals to report known or suspected money laundering activities.

4.3. The Money Laundering Regulations 2007 became effective on 15th December 2007 repealing and replacing the Money Laundering Regulations 2003. They set administrative requirements for the anti-money laundering regime within the regulated sector and outline the scope of customer due diligence.

4.4. It is concerned with measures to restrict the opportunities for money laundering in certain types of business – known as relevant business - by ensuring that money laundering reporting systems and staff training etc., identification, record keeping and internal reporting procedures are employed.

4.5 There is a requirement to maintain ongoing scrutiny of transactions, to confirm the identity of existing clients at appropriate times and to put in place a training regime to ensure staff know how to deal with suspicious transactions.

4.6 The new regulations have been extended to include new supervisory bodies, with responsibility for ensuring compliance with anti-money laundering legislation. These include the Office of Fair Trading together with Local Authority Trading Standards.

5 What are the Main Money Laundering Offences?

5.1 Money laundering is defined as the process of moving illegally acquired cash through financial systems so that it appears to be from a legitimate source. It is interpreted very widely and includes possessing, or in any way dealing with, or concealing, the proceeds of any crime.

5.2 The main offences relating to money laundering established by Part 7 (sections 327-329) of Proceeds of Crime Act 2002 (the POCA) are:

- Concealing, disguising, converting, transferring or removing criminal property from the UK (S.327 POCA). Concealing is where someone knows or suspects a case of money laundering, but conceals or

disguises its existence

- Being concerned in an arrangement which a person knows or suspects facilitates the acquisition, retention, use or control of criminal property (S.328 POCA)
- Acquiring, using or possessing criminal property (S.329 POCA).

5.3 Other offences under POCA are:

- Failure to disclose money laundering offences (s.330-332)
- Tipping off a suspect, either directly or indirectly (s.333)
- Doing something that might prejudice an investigation (s.342)

5.4 All of the above money laundering offences may be committed by an organisation or by the individuals working for it if they suspect money laundering and either become involved with it in some way and/or do nothing about it. The key requirement on employees is to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer (MLRO).

6 High Risk Areas

6.1 In order to minimise the risk of money laundering when dealing in high risk areas, or where customers or clients meet any of the following criteria, see below, an Identification Procedure must be followed before any business is undertaken with that organisation or person

- Undertake a one-off transaction involving payment by or to the client of 15,000 Euro (approximately £13,500) or more
- Undertake a series of linked one-off transactions involving total payment by or to the client of 15,000 Euro (approximately £13,500) or more
- It is known or suspected that a one-off transaction (or a series of them) involves money laundering

6.2 The Council is committed to raising awareness and where necessary specific guidance and training will be provided to services assessed at high risk of money laundering and terrorist financing.

7 Identification Procedures and Customer Due Diligence

7.1 For any new business relationship or any business involving a considerable

one-off transaction the officer concerned should set up and maintain identification procedures regarding the parties involved, in particular if the new party is not present or acting on behalf of a third party. Satisfactory evidence must be obtained as soon as practicable after instructions are received and should be capable of establishing, to the satisfaction of the person receiving it, that the client is who they claim to be. Documentary evidence i.e. birth certificate, drivers licence, a power of attorney, signed written instructions on headed paper is an example of what can be obtained for this procedure.

7.2. Where the Council is carrying out certain regulated business (accountancy, audit and tax services and legal services re financial, company or property transactions) and:

7.3 This should be done as soon as practicable after instructions are received (unless evidence has already been obtained) and no dealings should take place until this has been completed.

7.4 Satisfactory evidence is evidence which establishes that the client (company and/or person) is who they claim to be. This can include, but is not limited to, some of the following:

- Signed, written instructions on official letterhead at the outset of the dealings, which confirms the company name and location
- Verification of company registration and VAT numbers, website details and registered office address
- checking with the customer/suppliers website to confirm their business address;
- conducting an on-line search via Companies House to confirm the nature and business of the customer and confirm the identities of any directors;
- Proof of personal identification, if dealing with an individual, through meeting the client in person and verifying their identity against the passport or photo-card driving licence.
- Copies of the identity evidence obtained must be retained on file for at least five years. This retention can be in an electronic format (e.g. scanned documentation) as long as it is available for inspection with sufficient notice.

8 Recognising Money laundering

8.1 Any employee who knows of or suspects a money laundering activity, must immediately report it to the MLRO. Please note that a failure to immediately report to MLRO may result in a criminal offence. At all times employees should:

- Be wary of unusually large cash transactions
- Be wary of the absence of an obvious legitimate source of funds

- Be alert to the possibility of money laundering by a client or a prospective client

8.2 The National Crime Agency (NCA) has produced a list of possible “indicators of suspicion” for money laundering activity:

- Is the person’s behaviour unusual in the circumstances?
- Has the person refused to supply any form of identification, and if so, why?
- Is the activity unusual in itself?
- Is the activity unusual for the customer?
- Do I have other knowledge which leads me to believe the customer or activity is criminal?
- Do I think the property may be criminal?

8.3 The following examples may indicate money laundering activity:

- Payment of a substantial sum in cash (over £5000) by a single client in a single transaction or over a short period of time. Overpayments or duplicate payments made by a client followed by a refund, or a request for a refund
- Right to Buy property sold before expiry of discount period
- Purchase of land and buildings re-sold within 3 -12 months
- Purchase of council assets re-sold within 3 months

8.4 As a general rule, staff who collect cash payments, should forward details of any cash transactions of over £5000 to the MLRO so that precautionary checks can be performed.

9 When Money Laundering is suspected

9.1 Any knowledge or suspicion must be reported to the MLRO, even if the employee believes that the same money laundering activity has already been reported. Disclosure should be within hours, not weeks or months. If this is not the case, then the employee may be liable to prosecution.

9.2 After reporting:

- The employee must follow any subsequent directions of the MLRO, and must not themselves make any further enquiries into the matter.
- They must not take further steps in any related transaction without

authorisation from the MLRO.

- The employee must not disclose or otherwise indicate their suspicions to the person suspected of the money laundering. They must also not discuss the matter with others as this can result in “tipping off” the suspect
- The employee should not record on the file that a report has been made to the MLRO in case this results in the suspect becoming aware of the situation and could constitute a tip off.

9.3 Employees should be aware that:

- Ignoring the obvious can be considered a criminal offence.
- A reasonable cause for knowledge or suspicion of money laundering offence will be required. Speculation or gossip is unlikely to be sufficient to allow an investigation.
- The size or significance of the money laundering offence is irrelevant as money laundering covers the proceeds of any crime, no matter how minor and irrespective of the size of the benefit gained.

10. MLRO Reporting Responsibilities

10.1 Upon receipt of reporting form, the MLRO will:

- Advise the reporting officer of the timescale within which he expects to respond
- Consider the referral and any other available internal information he thinks relevant
- Undertake such other reasonable inquiries as he thinks appropriate
- Seek specialist legal and financial advice (if necessary)
- Promptly evaluate any disclosure report, to determine whether it should be reported to the National Crime Agency (NCA) by way of a Suspicious Activity Report (SAR) ([form can be located on the NCA website](#))

10.2 The MLRO will commit a criminal offence if they know or suspect, or have reasonable grounds to do so, through a disclosure being made, that another person is engaged in money laundering and they do not disclose this as soon as practicable to the NCA.

11. Money Laundering Reporting Officer (MLRO)

11.1 The officer nominated to receive disclosures about money laundering activity within Sutton Council is **Margaret Culleton**, the Head of Internal Audit. Contact

details are as follows:

Head of Internal Audit,
London Borough of Sutton
Civic Centre
Sutton
Surrey
Email: Margaret.culleton@sutton.gov.uk

11.2 The MLRO is responsible for ensuring; to ensure that sufficient guidance is available to officers identified as working in areas of higher risk of money laundering or terrorist financing; and for maintaining a central register of reportable incidents which are promptly assessed and where disclosure is deemed necessary reported to the National Crime Agency.

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