



Anti-Money Laundering Policy

Version: 1.1

Approved: 12/10/2017

Review Due: 30/06/2020

Owner: A Hill

1. BACKGROUND

Over a number of years various pieces of legislation and regulations (e.g. the Proceeds of Crime Act 2002, the Serious Organised Crime and Police Act 2005 and the Money Laundering Regulations 2007) have broadened the definition of money laundering and increased the range of activities covered by the statutory and regulatory framework. As a result the requirements 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. SCOPE OF THE POLICY

This Policy applies to all members and 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.

The Policy also links to the council's suite of counter fraud documents including the Anti-Fraud, Theft and Corruption Strategy, Confidential Reporting (Whistleblowing) Policy and the Codes of Conduct for both Members and Employees. The policy should be read in conjunction with these complementary documents.

3. WHAT IS MONEY LAUNDERING?

Money laundering is the term used for a number of offences and includes the following:

- concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 of the Proceeds of Crime Act 2002);
- entering into or becoming involved 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. However there are also two secondary offences:

- failure to disclose any of the three primary offences;
- tipping off a person or people who are, or who are suspected of being involved in money laundering, in such a way as to reduce the likelihood of their being investigated or prejudicing an investigation.

Potentially any member or employee could be caught by the money laundering provisions if they suspect money laundering and become involved with it in some way and/or do nothing about it. This Policy sets out how any concerns should be raised.

Whilst the risk to the council of contravening the legislation is low, it is important that all members and employees are familiar with their responsibilities and appropriate and

proportionate anti-money laundering procedures and reporting arrangements are put in place.

4. POLICY STATEMENT

Erewash Borough Council is committed to the prevention, detection and reporting of money laundering and will do all it can:

- **to prevent the council and its staff being exposed to money laundering;**
- **to identify the potential areas where it may occur;**
- **to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases.**

The council expects all members and employees to be vigilant for the signs of money laundering and any suspicions of money laundering activity must be reported promptly to the Money Laundering Reporting Officer (MLRO).

4. THE MONEY LAUNDERING REPORTING OFFICER

The officer nominated to receive disclosures about money laundering activity within the council is the Internal Audit Manager who can be contacted as follows:

Andy Hill
Internal Audit Manager
Resources Directorate
Erewash Borough Council
Ilkeston Town Hall, Wharncliffe Road,
Ilkeston, Derbyshire. DE7 5RP

Tel: 0115 9072244 Ext 3533

Email: andy.hill@erewash.gov.uk

5. OBLIGATIONS AND REPORTING ARRANGEMENTS

The Chartered Institute of Public Finance and Accountancy's guidance advises that the council should;

- implement a procedure to enable the reporting of suspicions of money laundering;
- provide training to those considered most likely to encounter money laundering activities;
- maintain client identification procedures in certain circumstances;
- maintain robust record keeping procedures;
- report any suspicions of money laundering to the National Crime Agency (NCA) or relevant successor body.

The safest way to ensure compliance with the law is to apply these requirements to all areas of work undertaken by the council; therefore, all members and employees are required to comply with the reporting procedure set out in section 6 below.

6. REPORTING ARRANGEMENTS

Any member or employee who suspects money laundering activity must report their suspicion promptly to the MLRO, using the prescribed form (Appendix A). However, they may wish to first discuss their suspicions with the MLRO.

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

The member or employee must not disclose or otherwise indicate their suspicions to the person suspected of the money laundering. They must not discuss the matter with others or note on the file that a report has been made to the MLRO in case this results in the suspect becoming aware of the situation.

The MLRO must promptly evaluate any disclosure report received to determine whether it should be reported to the NCA or relevant successor body. If it is so determined to report the matter it should be done promptly and in the prescribed manner.

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

7. CLIENT IDENTIFICATION

Where the council is carrying out certain regulated activities care needs to be taken to check the identity of the customer or client. This is known as carrying out customer due diligence. "Regulated activity is defined as the provision 'by way of business' of: advice about tax affairs, accounting services; treasury management; investment or other financial services; audit services; legal services; estate agency; services involving the formation, operation or arrangement of a company or trust or; dealing in goods wherever a transaction involves a cash payment of 15,000 or more Euros."

The council currently has a ceiling of £2,000 in respect of any single cash payment transaction, (subject to revision by the MLRO in consultation with the Director of Resources) and it is not expected that work of the council will fall under the definition of "relevant business" but staff must be aware of the need to carry out appropriate checks on new partners in accordance with any guidance issued.

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.

Although the specific detail of the records to be kept is not prescribed in law 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 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.

8. CONCLUSION

The requirements concerning anti-money laundering procedures may be satisfied in a number of ways and this Policy has been written so as to enable the council to meet those requirements in a way that is proportionate to the risk to the council of contravening the legislation.

PRIVATE AND CONFIDENTIAL

Erewash B. C. - Notification of Money Laundering Activity Suspicion

To: Internal Audit Manager - Money Laundering Reporting Officer (MLRO)

From: Name _____
Position _____
Directorate _____
Tel. Ext. 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]

[Please continue on a separate sheet if necessary]

Nature, value and timing of activity involved:
[Please include full details e.g. what, when, where, how]

Nature of suspicions regarding such activity: *[Please continue on a separate sheet if necessary]*

[Please continue on a separate sheet if necessary]

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:

[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:

[Please continue on a separate sheet if 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:

[Please continue on a separate sheet if necessary]

Do you feel you have a reasonable excuse for not disclosing the matter to the NCA or relevant successor body? (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:

[Please continue on a separate sheet if necessary]

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 NCA or relevant successor body?

[Please tick the relevant box]

Yes

No

If yes, please enclose details in the box below:

[Please continue on a separate sheet if necessary]

Please set out below any other information you feel is relevant:

[Please continue on a separate sheet if necessary]

DECLARATION:

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 to suspect money laundering, but you do not intend to report the matter to the NCA or relevant successor body, 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 member or employee for any prohibited act transactions to proceed:

Other relevant information:

Signed:.....Dated:.....

THIS REPORT IS TO BE RETAINED FOR AT LEAST FIVE YEARS