

Havant Borough Council Anti Money Laundering Policy

1.0 INTRODUCTION

1.1 Money laundering can be defined as “a process that makes money with an illegal origin appear legal so that it may be used”. Legislation concerning money laundering (the Proceeds of Crime Act 2002, the Terrorism Act 2000 and the Money Laundering Regulations 2007) has broadened the definition of money laundering and increased the range of activities caught by the statutory framework. As a result, the obligations now impact on areas of local authority business and require local authorities to establish internal procedures to prevent the use of their services for money laundering.

1.2 Money laundering is the term used for a number of offences involving the proceeds of crime or terrorism funds. The following constitute the act of money laundering:

- concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 of the Proceeds of Crime Act 2002); or
- 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); or
- acquiring, using or possessing criminal property (section 329).

These are the primary money laundering offences, and are thus prohibited acts under the legislation. There are also two secondary offences: failure to disclose any of the three primary offences and tipping off. Tipping off is where someone informs 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.

1.3 Any member of staff could potentially 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. This policy sets out how any concerns should be raised.

1.4 Whilst 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 may be imposed for breaches of the legislation. The key requirement on employees is to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer (MLRO).

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. Within this policy the term employees refers to all employees and elected Members.

- 2.2 Anti money laundering legislation places responsibility upon Council employees to combat money laundering and covers a very wide area of financial transactions, including possessing, or in any way dealing with, or concealing, the proceeds of any crime. It applies to all employees involved with monetary transactions.

3.0 MONEY LAUNDERING REQUIREMENTS, FROM THIS COUNCIL'S POINT OF VIEW

- 3.1 Provision of training to relevant officers and staff (or contractor's staff) on the requirements of the legislation, including the identification of suspicious transactions, identity verification and reporting procedures.
- 3.2 Establishment of procedures for employees to report any suspicions to the MLRO – i.e. the Monitoring Officer.
- 3.3 Designation of an officer as the MLRO, who will receive any report, keep records and if considered appropriate, make reports to the Serious Organised Crime Agency (SOCA) - i.e. the Monitoring Officer.
- 3.4 Under the legislation employees dealing with money transactions will be required to comply with certain procedures.

4.0 PROCEDURES

4.1 Customer Due Diligence

Where the Council is carrying out certain 'regulated activities' then extra care needs to be taken to check the identity of the customer or client – this is known as carrying out 'Customer Due Diligence'.

The Regulations regarding customer due diligence are detailed and complex, but there are some simple questions that will help you decide if it is necessary:

- Is the service a regulated activity?
- Is the Council charging for the service i.e. is it 'by way of business'?
- Is the service being provided to a customer other than a UK public authority?

If the answer to any of these questions is **no** then you do not need to carry out customer due diligence.

If the answer to all of these questions is **yes** then you must carry out customer due diligence before any business is undertaken for that client. If you are unsure whether you need to carry out customer due diligence then you should contact the MLRO.

4.2 Where you need to carry out customer due diligence then you must seek evidence of identity, for example:

- checking with the customer's 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;
- seeking evidence from the key contact of their personal identity, for example their passport, and position within the organisation.

The requirement for customer due diligence applies immediately for new customers and should be applied on a risk sensitive basis for existing customers.

Ongoing customer due diligence must also be carried out during the life of a business relationship but should be proportionate to the risk of money laundering and terrorist funding, based on the officer's knowledge of the customer and a regular scrutiny of the transactions involved.

4.3 If, at any time, you suspect that a client or customer for whom you are currently, or are planning to carry out a regulated activity with, is carrying out money laundering or terrorist financing, or has lied about their identity then you must report this to the MLRO.

4.4 In certain circumstances enhanced customer due diligence must be carried out, for example where:

- the customer has not been physically present for identification;
- the customer is a politically exposed person;
- there is a beneficial owner who is not the customer – a beneficial owner is any individual who: holds more than 25% of the shares, voting rights or interest in a company, partnership or trust.

Enhanced customer due diligence could include any additional documentation, data or information that will confirm the customer's identity and/or the source of the funds to be used in the business relationship/transaction. If you believe that enhanced customer due diligence is required then you must consult the MLRO prior to carrying it out.

4.5 Where the client cannot be physically identified the employee should be aware:

- a) that there is greater potential for money laundering where the client is not physically present when being identified;
- b) if satisfactory evidence is not obtained the relationship or the transaction should not proceed;
- c) if the client acts, or appears to act for another person, reasonable measures must be taken for the purposes of identifying that person.

5.0 RECORD KEEPING PROCEDURES

- 5.1 Each Service of the Council and contractors working for the Council conducting relevant business must maintain records of:-
- a) Client identification evidence obtained; which must be kept for five years after the end of the transaction or relationship
 - b) Details of all relevant business transactions carried out for clients for at least five years from the completion of the transaction. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.

The Section 151 Officer must be informed of the existence and location of such records.

- 5.2 The precise nature of the records are not prescribed by law, however, they must provide an audit trail during any subsequent investigation, e.g. distinguishing the client and the relevant transaction and recording in what form any funds were received or paid.

6.0 THE MONEY LAUNDERING REPORTING OFFICER

- 6.1 The Officer nominated to receive disclosures about money laundering activity within the Council is the Chief Financial Officer or Monitoring Officer i.e. The Money Laundering Reporting Officer.
- 6.2 The Deputy Money Laundering Reporting Officers are the Service Manager Finance, Corporate Accountancy Team Leader and Deputy Monitoring Officer.

7.0 INTERNAL REPORTING PROCEDURE

- 7.1 Where an employee is aware, that money laundering may have taken place (or may be taking place), he or she must contact the MLRO for guidance as soon as possible regardless of the amount being offered. In such circumstance, no money may be taken from anyone until this has been done.
- 7.2 Any person knowing or suspecting money laundering, fraud or use of the proceeds of crime must report this to the MLRO on the form(s) as attached.
- 7.3 Upon receiving the report the MLRO will consider all of the admissible information in order to determine whether there are grounds to suspect money laundering.
- 7.4 If the MLRO determines that the information or matter should be disclosed it will be reported to the Serious Organised Crime Agency (SOCA).
- 7.5 During this process the client must not be tipped off.
- 7.6 At no time and under no circumstances should an employee voice any suspicions to the person(s) suspected of money laundering, even if the SOCA

has given consent to a particular transaction proceeding, otherwise the employee may be committing a criminal offence of “tipping off”. Therefore, no reference should be made 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 the employee liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

8.0 OTHER PROCEDURES

- 8.1 The Council will establish other procedures of internal control and communication as may be appropriate for the purpose of forestalling and preventing money laundering:-
- 8.2 **Regular receipts** - The Council in the normal operation of its services accepts payments from individuals and organisations e.g. in relation to council tax, sundry debtors etc. For all transactions under £2,000 the Money Laundering regulations do not apply but if an employee has reasonable grounds to suspect money laundering activities or proceeds of crime or is simply suspicious, the matter should still be reported to the MLRO.
- 8.3 **Cash receipts** – If the money offered in cash is £10,000 or more, then payment must not be accepted until the employee has received guidance from the MLRO or a deputy MLRO.
- 8.4 **Refunds** - Care will need to be taken especially with the procedures for refunds. For instance, a significant overpayment which results in a repayment will need to be properly investigated and authorised before payment.

In the event of any suspicious transactions, the MLRO will be contacted to investigate the case. The possible perpetrator should not be informed (i.e. not “tipped off”).

- 8.5 **Training** – The Council will take, or require its contractor to take, appropriate measures to ensure that relevant employees are:
- a) made aware of the provisions of these regulations, (under the Proceeds of Crime Act 2002, the Terrorism Act 2000 and the Money Laundering Regulations 2007); and
 - b) given training in how to recognise and deal with transactions which may be related to money laundering.

CONFIDENTIAL

Disclosure Form to MLRO

Date of disclosure:

Officer making disclosure:

Job title of officer:

Telephone details:

SUBJECT DETAILS

Title:

Surname:

Forename:

DoB:

Gender:

IN THE CASE OF A LEGAL ENTITY (COMPANY)

Name:

Address:

Company Number (if known)

Type of Business:

VAT no (if known):

DETAILS OF SUSPECTED OFFENCE

Nature, value and timing of activity involved:

please include full details e.g. what, when, where, how.

Nature of suspicions regarding such activity:

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
SOCA? (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 requires appropriate consent from SOCA?**

(please tick the relevant box)

Yes No

If yes, please set out full details 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 SOCA?
(please tick the relevant box)

Yes No

If yes, please confirm date of report to SOCA: _____ and complete the information below:

Details of liaison with SOCA regarding the report:

Notice Period: _____ to _____

Moratorium Period: _____ to _____

Is consent required from SOCA to any ongoing or imminent transactions which would otherwise be prohibited acts?
(please tick the relevant box)

Yes No

If yes, please set out the full details below:

Date consent received from SOCA:

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 SOCA, please set out 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 IS TO BE RETAINED FOR AT LEAST FIVE YEARS

Glossary of terms

Regulated activity	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
Politically exposed person	An individual who at any time in the preceding year has held a prominent public function outside of the UK, and EU or international institution/body, their immediate family members or close associates.

Money Laundering - Warning Signs

The following examples could indicate that money laundering is taking place:

Transactions or trade 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 criminal funds and not necessarily to make a profit, A launderer may therefore enter into 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;

Large volume/large cash transactions: all large cash payments should be the subject of extra care and before accepting cash the reasons for such payments should be fully understood. Payments should be encouraged through the banking system to avoid problems.

Payments received from third parties: Money launderers will often look to legitimate business activity in order to assist in 'cleaning' criminal funds and making payments on behalf of a legitimate company can be attractive to both parties. For the legitimate company it can be useful source of funding and for the launderer the funds can be repaid through a banking system

Examples of tell tale signs of organised money laundering:

1. Use of cash where other means of payment are normal;
2. Unusual transactions or ways of conducting business;
3. Unwillingness to answer questions/ secretiveness generally;
4. Use of overseas companies;
5. New companies; and
6. Overpayments of Council tax where refunds are needed.