Anti-Money Laundering Policy

Author	**Steven Pink – Chief Finance Officer (S151)**
Approved by	**Audit & Finance Committee**
Approval date	**30th October 2023**
Review date	**30th October 2024**

1. Purpose

1.1 This policy has been put in place to both provide structure, guidance and a framework to help employees understand their responsibilities, the expectations on them and the procedures to follow in the case of reporting any concerns or breaches.

2. Scope

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 Page 3 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.

Havant BOROUGH COUNCIL

3. Introduction

3.1 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.

3.2 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.

3.3 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.

3.4 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).

4. Money Laundering requirements, from Havant Borough Council's point of view

4.1 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.

4.2 Establishment of procedures for employees to report any suspicions to the MLRO – i.e. the Monitoring Officer.

4.3 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.

4.4 Under the legislation employees dealing with money transactions will be required to comply with certain procedures.

.

5. Procedures

5.1 **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.

5.2 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.

5.3 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.

5.4 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.

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

i. that there is greater potential for money laundering where the client is not physically present when being identified;

ii. if satisfactory evidence is not obtained the relationship or the transaction should not proceed;

iii. if the client acts, or appears to act for another person, reasonable measures must be taken for the purposes of identifying that person.

6. Record Keping Procedures

6.1 Each Service of the Council and contractors working for the Council conducting relevant business must maintain records of:-

- Client identification evidence obtained; which must be kept for five years after the end of the transaction or relationship

- 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.

6.2 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.

7. The Money Laundering Reporting officer

7.1 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.

7.2 The Deputy Money Laundering Reporting Officers are the Service Manager Finance, Corporate Accountancy Team Leader and Deputy Monitoring Officer.

8. Internal reporting procedure

8.1 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.

8.2 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.

8.3 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.

8.4 If the MLRO determines that the information or matter should be disclosed it will be reported to the Serious Organised Crime Agency (SOCA).

8.5 During this process the client must not be tipped off.

8.6 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 Page 6 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.

9. Other procedures

9.1 The Council will establish other procedures of internal control and communication as may be appropriate for the purpose of forestalling and preventing money laundering:

9.2 **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.

9.3 **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.

9.4 **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”).

9.5 **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.

Anti-Money Laundering Policy

Version control record

Version number	Date	Author / reviewer	Comments / changes
V0.1	10/10/2023	Steven Pink	Review and update of existing policy

Havant
BOROUGH COUNCIL