

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Policy and Resources Cabinet Board

21 September 2016

Report of the Head of Financial Services – David Rees

Matter for decision

Wards Affected: All

Anti Money Laundering Policy

Purpose of report

1. The report sets out a proposed Anti Money Laundering policy for member approval.

Executive Summary

2. Whilst local authorities are not directly covered by the requirements of the Money Laundering Regulations 2007, guidance from CIPFA indicates that they should comply with the underlying spirit of the legislation and regulations.
3. As such the Anti Money Laundering policy has been prepared for the Council to clearly demonstrate that it has put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.

Background

4. The policy which covers all Council employees allocates the role of Money Laundering Reporting Officer (MLRO) to the Director of Finance and Corporate Services, and outlines the requirements of this key role.
5. The other key aspects of the policy involve the procedures for reporting suspicions of money laundering which are dealt with in detail.

Financial Impact

6. There are no financial implications from this report.

Equality impact assessment

7. There was no requirement for an equality impact assessment on this issue.

Workforce impacts

8. There are no workforce impacts from this report.

Legal impacts

9. The legal implications are included in the policy itself.

Risk management

10. There are no risk management issues.

Consultation

11. There is no requirement under the Constitution for external consultation on this item.

Recommendations

12. It is recommended that members approve the attached policy.

Reasons for proposed decisions

13. The Council is committed to the highest standards of conduct and the policy demonstrates that it has put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.

Implementation of decision

14. The decision is proposed for implementation after the three day call in period.

Appendices

15. Appendix – Anti Money Laundering Policy.

List of background papers

16. None

Officer contact

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ANTI-MONEY LAUNDERING POLICY

September 2016

Version 1

1. Introduction

- 1.1 Although local authorities are not directly covered by the requirements of the Money Laundering Regulations 2007, guidance from CIPFA indicates that they should comply with the underlying spirit of the legislation and regulations.
- 1.2 Neath Port Talbot County Borough Council is committed to the highest standards of conduct and has, therefore, put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.

2. Scope of the Policy

- 2.1 This policy applies to all Council employees and aims to maintain existing high standards of conduct within the Council by preventing criminal activity through money laundering.
- 2.2 This Policy is particularly relevant for various services including cashiers, revenues, public protection, estates, property, housing and legal services.

2.3 Key Message

The key message of this Policy is that if you suspect that money laundering activity may be taking place or proposed in relation to anything you are dealing with you should immediately disclose those suspicions to the Council's Money Laundering Reporting Officer (MLRO) and do nothing further without instruction from the MLRO.

The Council's MLRO is the Director of Finance & Corporate Services.

3. Definition of Money Laundering

- 3.1 Money laundering describes offences involving the integration of the proceeds of crime, or terrorist funds, into the mainstream

economy. Such offences are defined under section 327 – 329 of the Proceeds of Crime Act 2002 as the following ‘prohibited acts’:

- Concealing, disguising, converting, transferring or removing criminal property from the UK
- Becoming involved in an arrangement which an individual knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person
- Acquiring, using or possessing criminal property
- Doing something that might prejudice an investigation e.g. falsifying a document
- Failure to disclose one of the offences listed above where there is a reasonable grounds for knowledge or suspicion
- Tipping off a person(s) who is/are or is/are suspected of being involved in money laundering in such a way as to reduce the likelihood of or prejudice an investigation

3.2 As the Council does not undertake activities regulated under the Financial Services and Markets Act 2000, the offences of failure to disclose and tipping off do not apply. However the Council and its employees remain subject to the remainder of the offences and the full provisions of the Terrorism Act 2000.

The Terrorism Act 2000 made it an offence of money laundering to become concerned in the arrangement relating to the retention or control of property likely to be used for the purposes of terrorism, or resulting from acts of terrorism.

Although the term ‘money laundering’ is generally used to describe the activities of organised crime, for most people it will involve a suspicion that someone they know, or know of is benefitting financially from dishonest activities.

Potentially very heavy penalties (unlimited fines and imprisonment up to 14 years) can be handed down to those who are convicted of one of the offences above.

4. Requirements of the Money Laundering Legislation

4.1 The main requirements of the legislation are:

- Appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees of any suspected money laundering activity
- Maintain client identification procedures in certain circumstances
- Implement a procedure to enable the reporting of suspicions of money laundering ie as set out by this report.

5. The Money Laundering Reporting Officer

5.1 The officer nominated to receive disclosures about money laundering activity within the Council is the Director of Finance & Corporate Services. His contact details are Director of Finance & Corporate Services, Civic Centre, Port Talbot, SA13 1PJ. Telephone 01639 763251 or email h.jenkins@npt.gov.uk. Some of the review work will be undertaken by Internal Audit.

5.2 In the absence of MLRO, the Head of Financial Services is authorised to deputise for him and can be contacted at the same address or on telephone number 01639 763634 or by email d.rees1@npt.gov.uk.

All suspicions must be reported directly to the MLRO or his deputy using the relevant documentation.

6. Identification of potential money laundering situations

6.1 It is not possible to give a definitive list of ways to identify money laundering or how to decide whether to make a report to the MLRO. The following are types of risk factors which may, either alone or cumulatively, suggest possible money laundering activity:

- Payment of a substantial sum in cash (over £10,000),
- Payment of lower cash sums where cash is not the normal means of payment,

- A secretive customer, e.g. refuses to provide requested information without a reasonable explanation,
- Concerns about the honesty, integrity, identity or location of a customer,
- Illogical third party transactions such as unnecessary routing or receipt of funds from third parties or through third party accounts,
- Involvement of an unconnected third party without a logical reason or explanation,
- Overpayments by a customer or payments of deposits subsequently requested back,
- Absence of an obvious legitimate source of funds,
- Unusual transactions or ways of conducting business, without reasonable explanation,
- A transaction without obvious legitimate purpose or which appears uneconomic, inefficient or irrational,
- The cancellation or reversal of an earlier transaction,
- Poor business records or internal accounting controls,
- A previous transaction for the same customer which has been, or should have been, reported to the MLRO,
- Lack of 'traceability' of the persons involved,
- Individuals or companies that are insolvent yet have funds.

7. Reporting Procedure for Suspicions of Money Laundering

7.1 When you know or suspect that money laundering activity is taking/has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the Act, you must disclose this as soon as practicable to the MLRO. The disclosure should be made within hours of the information coming to your attention, not days, weeks or month later. Your disclosure should be made to the MLRO using the form provided as appendix 1 of this policy. The report must include as much information as possible including:

- Full details of the people involved;
- Full details of the nature of their/your involvement;

- The types of money laundering activity involved;
- The dates of such activity;
- Whether the transactions have happened, are ongoing or are imminent;
- Where they took place;
- How they were undertaken;
- The amount of the money/assets involved;
- Why exactly you are suspicious;
- Any other available information which will assist the MLRO to make a judgement as to whether there are reasonable grounds for knowledge or suspicion of money laundering and enable him to prepare a report to the National Crime Agency (NCA) where appropriate. You should enclose copies of any relevant supporting documentation.

7.2 If you are concerned that your involvement in the transaction would amount to a prohibited act as detailed in paragraph 3.1 above then your report must include all relevant details, as you will need consent from the NCA via the MLRO, to take any further part in the transaction – this is the case even if the individual gives instructions for the matter to proceed before such consent is given. You should therefore make it clear in your report if such consent is required and clarify whether there are deadlines for giving such consent e.g. a completion date or court deadline.

7.3 Once you have reported the matter to the MLRO you must follow any directions he may give you. You must NOT make any further enquiries into the matter yourself; any necessary investigation will be undertaken by the NCA. Simply report your suspicions to the MLRO who will refer the matter to the NCA if appropriate. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

7.4 Similarly, at no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of, even if the NCA has given consent to a particular transaction proceeding,

without the specific consent of the MLRO'; otherwise you may commit a criminal offence of 'tipping off'.

Do not, therefore, make any reference 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 file note will obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

8. Consideration of the disclosure by the MLRO

8.1 Upon receipt of the disclosure report, the MLRO must note the date of receipt on his section of the report and acknowledge receipt of it. He should also advise you of the timescale within which he expects to respond to you.

The MLRO will consider the report and any other available internal information he thinks relevant e.g.:

- Reviewing other transaction patterns and volumes;
- The length of any business relationship involved;
- The number of any one-off transaction and linked one-off transactions;
- Any identification evidence held.

And undertake such other reasonable inquiries he thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA is required (such enquiries to be made in such a way as to avoid any appearance of tipping off those involved). THE MLRO may need to discuss your disclosure report with you.

8.2 Once the MLRO has evaluated the disclosure report and any other relevant information, he must make a timely determination as to whether:

- There is actual or suspected money laundering taking place; or
- There are reasonable grounds to know or suspect that this is the case; and

- Whether he needs to seek consent from the NCA for a particular transaction to proceed.

- 8.3 Where the MLRO does so conclude, then he must disclose the matter as soon as possible to the NCA on their standard report form and in the prescribed manner, unless he has a reasonable excuse for non-disclosure to the NCA (for example, if you are a lawyer and you wish to claim legal privilege for not disclosing the information). The MLRO should follow the attached for guidance on reporting of any suspicious activity:
[https://www.ukciu.gov.uk/\(4mzrub45tlkas5rgm10deimc\)/saronline.aspx](https://www.ukciu.gov.uk/(4mzrub45tlkas5rgm10deimc)/saronline.aspx)
- 8.4 Where the MLRO suspects money laundering but has a reasonable excuse for non – disclosure, then he must note the report accordingly; he can then immediately give his consent for any ongoing or imminent transactions to proceed.
- 8.5 If you are a legal adviser and consider that legal professional privilege may apply to the information, you should explain fully in the report form the reasons why you contend the information is privileged. The MLRO, in consultation with the Head of Legal Services will then decide whether the information is exempt from the requirement to report suspected money laundering to the National Crime Agency (NCA)
- 8.6 Where consent is required from the NCA for a transaction to proceed, then the transaction(s) in questions must not be undertaken or completed until the NCA has specifically given consent, or there is deemed enough consent through the expiration of the relevant time limits without objection from the NCA.
- 8.7 Where the MLRO concludes that there is no reasonable grounds to suspect money laundering then he shall mark the report

accordingly and give his consent for any ongoing or imminent transaction(s) to proceed.

8.8 All disclosures reports referred to the MLRO and reports made by him to the NCA must be retained by the MLRO for a minimum of 5 years.

8.9 The MLRO commits a criminal offence if he knows or suspects, or has reasonable grounds to do so, through a disclosure being made to him, that another person is engaged in money laundering and he does not disclose this as soon as practicable to the NCA.

9. Awareness Raising

9.1 The Council will take appropriate measures to ensure that all employees are made aware of their responsibilities in relation to money laundering.

10. Conclusion

10.1 Given a local authority's legal position with regard to the legislative requirements governing money laundering, the Council believes that this policy represents a proportionate response to the level of risk it faces of money laundering offences.

10.2 This policy will be reviewed as and when required.

TO BE COMPLETED BY REPORTING PERSON

Confidential

Report Re: Money Laundering Activity

To: Director of Finance & Corporate Services

Date _____

From: _____

[Insert name of employee]

Directorate: _____ Ext/Tel. No. _____

[Insert post title and business unit]

Details of suspected offence

Name(s) and address(es) of person(s) involved:

[if a company or public body please include details of nature of business]

Nature of suspicions regarding such activity:

[Please continue on a separate sheet if necessary]

Has any investigation been undertaken (as far as you are aware)

[Please delete as applicable] **YES NO**

If yes please include details below:

Have you discussed your suspicions with anyone else?

[Please delete as applicable] **YES NO**

If yes please specify below, explaining why such discussion was necessary

Signed _____ **Date** _____

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 carried a maximum penalty of 5 years imprisonment.

TO BE COMPLETED BY MONEY LAUNDERING REPORTING OFFICER

MLRO DECISION RECORD

Date report received: _____

Date receipt acknowledged: _____

Has any supervisory body guidance been obtained re money laundering? (e.g. the Law Society)?

[Please delete as applicable] **YES NO**

If yes please give details below:

Is there a valid reason for not disclosing the matter to NCA? (e.g. are you a lawyer and wish to claim legal professional privilege?)

[Please delete as applicable] **YES NO**

If yes, please set out full details below:

Is the transaction a prohibited act (under sections 327-329 of the 2002 Act or section 18 of the 2000 Act) and which requires consent from NCA?

[Please delete as applicable] **YES NO**

If yes, please enclose details in the box below:

Please set out below any other relevant information:

OUTCOME OF CONSIDERATION OF DISCLOSURE:

Are there reasonable grounds for suspecting money laundering activity?

Do you know the identity of the alleged money launderer or the whereabouts of the property concerned?

If there are reasonable grounds for suspicion, will a report be made to NCA?

[Please delete as applicable] **YES NO**

If yes, please confirm date of report to NCA: _____

And complete the box below:

Details of liaison with NCA regarding the report:

Is consent required from NCA to any ongoing or imminent transactions which would otherwise be prohibited acts?

[Please delete as applicable] **YES NO**

If yes, please confirm full details in the box below:

Date consent given by NCA: _____

Date consent given by MLRO to employee: _____

If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to NCA, please set out below the reason(s) for non-disclosure:

[Please set out any reason for non-disclosure]

Date consent given by MLRO to employee for any prohibited act transactions to proceed: _____

Other relevant information:

Signed by MLRO: _____ Date: _____

THIS REPORT MUST BE KEPT FOR AT LEAST FIVE YEARS