



ANTI-MONEY LAUNDERING & TERRORIST FINANCING POLICY

Index

Section	Contents
1	Introduction
2	Scope of the Policy
3	What is Money Laundering?
4	How to Report Concerns
5	Responsibilities
6	Policy Review

Appendix A – Signs of Potential Money Laundering

Appendix B – Guidance for officers undertaking Regulated Activity

Appendix C – Money Laundering Officer Disclosure Process

Appendix D – Suspicious Activity Reporting Form

1 Introduction

- 1.1 Money laundering is the process of taking profits from crime and corruption and transforming them into legitimate assets. It takes illegally obtained money and converts it into other assets so they can be reintroduced into legitimate commerce. This process conceals the true origin or ownership of the funds, and so 'cleans' or 'launders' them. Money or assets gained as a result of crime can ultimately be used to fund terrorism.
- 1.2 The Council undertakes transactions and delivers services which can fall under UK anti-money laundering legislation, which includes, but is not limited to:
 - the Terrorism Act 2000
 - the Proceeds of Crime Act 2002
 - the Money Laundering, Terrorist Financing, and Transfer of Funds (Information on Payer) Regulations 2017
 - the Criminal Finance Act 2017
 - the Money Laundering Regulations.
- 1.3 Anti-money laundering legislation has been updated regularly by the Government in recent years. While the legislation does not specifically target local authorities, some types of council activity can fall under the requirements of the law. It is therefore important for councils to assess money laundering risks and put sufficient controls in place to prevent their organisation from being used for money laundering.
- 1.4 All employees should be aware of the threat of money laundering, the need to report suspicions of money laundering, and the consequences of not following the principles and processes set out in this Policy. A list of key risk factors for employees to be aware of is included in **Appendix A**.
- 1.5 The Council has a Money Laundering Reporting Officer (MLRO) who is responsible for raising awareness of the issue within the Council and reporting appropriate concerns to the National Crime Agency (NCA) when they arise. The MLRO is the Head of Internal Audit and can be contacted on 01904-552940. If the MLRO is unavailable the Council has a Deputy MLRO. The Deputy MLRO is the Senior Lawyer (Governance) for the Assistant Chief Executive (Legal and Democratic Services) and can be contacted on 01609-532458.
- 1.6 Some types of work undertaken by the Council may fall under the definition of regulated activity in the legislation (see paragraph 2.3). There are more specific detailed requirements for employees working in these areas and guidance is set out in **Appendix B**. The Council has a Chief Money

Laundrying Compliance Officer (CMLCO) who has oversight of all Council anti-money laundering arrangements and is specifically responsible for overseeing regulated activity. The CMLCO is the Council's Assistant Chief Executive (Legal and Governance) and can be contacted on 01609-532173.

- 1.7 This Policy contains a form that should be submitted to the MLRO when money laundering concerns arise (**Appendix D**). This form may be used by any employee to report a suspected issue.

2 Scope of the Policy

- 2.1 This Policy applies to all employees of the Council. It aims to maintain the high standards of conduct expected by the Council by preventing criminal activity through money laundering.
- 2.2 To ensure the Council complies with its legal obligations, all employees must be aware of the content of this Policy. Failure by an employee to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them and could constitute a criminal offence. Any disciplinary action will be dealt with in accordance with the Council's disciplinary policies and procedures.
- 2.3 Money laundering legislation sets out some activities that are subject to specific requirements. These are areas that are at greater risk of being targeted by criminals for money laundering (for example certain financial and legal services, and those dealing in property sales and acquisitions). These areas, amongst others, are known as regulated activities. Some work undertaken by the Council may fall under the definition of regulated activity. This is generally in higher risk areas, where the Council carries out work on behalf of other organisations such as:
- accounting and treasury management services
 - legal and company related work
 - property services
 - payroll services.
- 2.4 Employees undertaking work that could be considered regulated activity need to be aware of the more detailed requirements set out in **Appendix B**. If anyone is unsure of whether their work falls into this category, further advice can be sought from the CMLCO, the MLRO, or the Deputy MLRO.

3 What is money laundering?

- 3.1 Money laundering is a general term for any method of disguising the origin of assets obtained through crime. Assets including money and property are described as “criminal property” in legislation. Criminal property may be the proceeds of any criminal activity including terrorism, drugs trafficking, corruption, tax evasion and theft. The purpose of money laundering is to hide the origin of the criminal property so that it appears to have come from a legitimate source. Unfortunately, no organisation is safe from the threat of money laundering, particularly where it is receiving funds from sources where the identity of the payer is unclear. There is therefore a real risk that the Council may be targeted by criminals seeking to launder the proceeds of crime.
- 3.2 It is possible that the proceeds of crime may be received from individuals or organisations who do not know that the assets involved originated from criminal activity. However, this could still be an offence under the legislation. It is no defence for a payer or recipient of funds to claim that they did not know that they were committing an offence if they should have been aware of the origin of assets. All employees dealing with the receipt of money or having contact with third parties from whom money may be received need to be aware of the possibility of money laundering taking place. This includes a wide range of service areas. As an example, an area where money laundering may need to be considered includes cases where the Council takes possession of money belonging to a customer, for safekeeping, under its statutory care duties.
- 3.3 Money laundering offences include:
- concealing, disguising, converting, transferring criminal property or removing it from the UK;
 - 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;
 - acquiring, using or possessing criminal property;
 - an attempt, conspiracy or incitement to commit such an offence; or
 - aiding, abetting, counselling or procuring such an offence
 - becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property.

- 3.4 The broad definition of money laundering means that the legislation applies to a very wide range of everyday activities within the Council. This means that any employee (irrespective of what sort of work they do at the Council) could encounter money laundering and be required to report it.
- 3.5 Whilst the risk to the Council of contravening the legislation is relatively low, **it is important that all employees are familiar with their responsibilities. Serious criminal sanctions may be imposed for breaches of the legislation.** Any person found guilty of a money laundering offence is liable to imprisonment (maximum sentence of 14 years), a fine or both. However, an offence is not committed if any suspected money laundering activity is reported to the Council's MLRO and, where necessary, official permission is obtained to continue with a transaction¹.

Potential signs of money laundering

- 3.6 It is impossible to give a definitive list of how to spot potential money laundering or how to decide whether to make a report to the MLRO. The following are examples of major risk factors which may, either alone or cumulatively with other factors, suggest the possibility of money laundering activity. A more exhaustive list is contained in **Appendix A**.

General factors

- Payment of a substantial sum in cash (over £10,000).
- A secretive client or customer: for example, they refuse to provide requested information without a reasonable explanation, don't want to provide identification, or they supply unsatisfactory identification.
- Concerns about the honesty, integrity, identity, or location of a client or customer.
- The cancellation or reversal of an earlier transaction (where the client or customer is likely to request the return of previously deposited monies).
- Any other activity which by its nature is likely to be related to money laundering, tax evasion, or terrorist financing.

Property transactions

- A cash buyer.
- Funds received for deposits or prior to completion from an unexpected source, or where instructions are given for settlement funds to be paid to an unexpected destination.

¹ Where money laundering is suspected the MLRO will report this to the National Crime Agency (NCA). The NCA may give permission to proceed with a suspect transaction – for example to avoid those involved becoming alert to suspicions having been raised.

- No clear explanation as to the source of funds along with a lack of clarity as to how the client would be in a position to finance the purchase.
- 3.7 Property transactions are a higher risk for the Council. Tenants have the ability to purchase their council property under the Right to Buy scheme and the Council may choose to sell land to a developer or other third party. In any sale of property or land, checks need to be made to establish the source of funding and ensure that money laundering offences are not occurring. In addition, if a buyer has no legal representation, then client identification must be sought before business is conducted. If a buyer has legal representation, then that representative is responsible for undertaking the required identification.
- 3.8 Facts which tend to suggest that something odd is happening may be sufficient for a reasonable suspicion of money laundering to arise. Be on the look-out for anything out of the ordinary. If something seems unusual, stop and question it. If anyone is unsure of any transaction then further advice should be sought from the MLRO.

4 How to report concerns

- 4.1 Where an employee knows or suspects that money laundering activity is taking place (or has already) they must disclose this as soon as possible to the MLRO.
- 4.2 The disclosure should be made to the MLRO using the form attached in **Appendix D**. The report must include as much detail as possible. It should contain all available information to help the MLRO decide whether there are reasonable grounds to show knowledge or suspicion of money laundering. The MLRO will use this information to prepare a report to the National Crime Agency (NCA) if needed. Copies of any relevant supporting documentation should be sent to the MLRO along with the form.
- 4.3 Once an issue has been reported to the MLRO employees must follow any directions they may give. Employees must not make any further enquiries into issues themselves. If an investigation is needed it will be carried out by the NCA. All employees are required to cooperate with the MLRO and the NCA (or other external authorities such as the police) during any subsequent money laundering investigation.
- 4.4 Employees must at no time and under no circumstances voice any suspicions to people who they suspect of money laundering (or to anyone other than a line manager (unless possibly implicated) or the MLRO). Doing so could result in a criminal offence ("tipping off") being committed.
- 4.5 No references should be made on any Council files or systems that a report has been made to the MLRO. If a client exercised their right to see a file (for example through a subject access request under data protection legislation)

then a note could tip them off to a report having been made. The MLRO will keep appropriate records in a confidential manner.

- 4.6 The MLRO will advise the employee of the timescales in which they will respond to the report. They may wish to discuss the report with the employee and gather further information.

5 Responsibilities

- 5.1 The Council has a responsibility to prevent money laundering from occurring within the organisation whether that be in the course of day-to-day business or in work that is considered to be regulated activity. It is the responsibility of every employee to be vigilant and report any concerns of money laundering.
- 5.2 The Chief Money Laundering Compliance Officer has overall responsibility for monitoring anti-money laundering policy, regulations and procedures. The CMLCO will appoint a MLRO and deputy MLRO. The CMLCO will ensure appropriate procedures for regulated activity are in place and obtain approval of the policy from the Audit Committee. The CMLCO will also ensure that directorate departments undertaking regulated activity have appropriate training and risk assessments in place.
- 5.3 The Money Laundering Reporting Officer (and deputy) have responsibility for receiving reports of suspicions of money laundering, considering those reports and, where appropriate, submitting reports to the National Crime Agency (see **Appendix C**). The MLRO will convey instructions from the NCA eg, to halt or proceed with a transaction. They will also maintain records of all reports on behalf of the Council.
- 5.4 The Head of Internal Audit will ensure there is an independent audit function to evaluate and make recommendations about the policies, controls, and compliance in relation to anti-money laundering. Veritau will regularly promote awareness of the Anti-Money Laundering Policy to all employees.

6 Policy review

- 6.1 This Policy will be reviewed every three years or as soon as any significant changes to anti-money laundering legislation, regulations, or guidance occurs.

POLICY APPROVED 22 02 2023

Signs of potential money laundering

It is not possible to give a definitive list of ways in which to identify money laundering or how to decide whether to make a report to the Money Laundering Reporting Officer. However, the following are types of risk factors which may, either alone or cumulatively, suggest possible money laundering activity.

Concerns about transactions

- Payment of a substantial sum in cash (over £10,000).
- Complex or unusually large transactions or systems.
- The source or destination of funds differs from the original details given by the client.
- Movement of funds overseas, particularly to a higher risk country or a tax haven².
- Where, without reasonable explanation, the size, nature and frequency of transactions or instructions (or the size, location, or type of a client) is out of line with normal expectations. For example, the use of cash where other means of payment are normal.
- Unusual patterns of transactions which have no apparent economic, efficient, or visible lawful purpose.
- Transactions at substantially above or below fair market rates.

Other activity of concern

- Transactions that don't seem logical from a third party's perspective. For example, receipt of unexpected funds, or unnecessary routing of transactions through another party's accounts.
- Overpayments by a client (or money given on account). Care needs to be taken, especially with requests for refunds. For example, if a significant overpayment is made which results in repayment being needed – this should be properly investigated and authorised before payment.
- Helping to set up trusts or company structures, which could be used to obscure ownership of property.
- The cancellation or reversal of an earlier transaction (where the client is likely to request the return of previously deposited monies).

² See Financial Action Task Force list of high risk countries, [https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/?hf=10&b=0&s=desc\(fatf_releasedate\)](https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/?hf=10&b=0&s=desc(fatf_releasedate))

- Requests for release of client account details other than in the normal course of business.
- Companies and trusts:
 - Bodies with a complicated ownership structure, which could conceal underlying beneficiaries.
 - Extensive use of corporate structures and trusts in circumstances where the client's needs are inconsistent with the use of such structures.
- Any other activity which by its nature is likely to be related to money laundering, tax evasion, or terrorist financing.

Concerns about a client

- A secretive client: for example, they refuse to provide requested information without a reasonable explanation, don't want to provide identification, or they supply unsatisfactory identification.
- A client you have not met.
- Difficulties in establishing the identity of the client.
- Concerns about the honesty, integrity, identity, or location of a client. For example, a client who is not present in the area and where there is no good reason why they would have dealings with the Council; or information reveals that a client is linked with criminality.
- Involvement of an unconnected third party without logical reason or explanation.
- Absence of an obvious legitimate source of the funds.
- Poor business records or internal accounting controls.
- Individuals or companies that are insolvent yet have funds.
- A previous transaction for the same client which has been, or should have been, reported to the MLRO.

Concerns about property transactions

- A cash buyer.
- Sudden change of buyer.
- The client's financial profile does not fit.
- Unusual property investment transactions if there is no apparent investment purpose or rationale.
- Instructions to receive and pay out money where there is no linked substantive property transaction involved (surrogate banking).

- Funds received for deposits or prior to completion from an unexpected source, or where instructions are given for settlement funds to be paid to an unexpected destination.
- No clear explanation as to the source of funds along with a lack of clarity as to how the client would be in a position to finance the purchase.
- Money comes from an unexpected source.

Guidance for officers undertaking Regulated Activity

1 Introduction

- 1.1 Money laundering legislation and guidance defines a number of commercial activities that are subject to specific anti-money laundering requirements. These are areas that are at greater risk of being targeted by criminals for laundering money (for example financial services, and those dealing in property sales and acquisitions). These areas are known as regulated activities. Further details on regulated activities are set out in paragraph 2.1 below.
- 1.2 It is clear from the money laundering regulations and guidance from supervisory bodies, that councils and their in-house lawyers and accountants are not intended to be caught within the definition of regulated activities when carrying out normal council business. For example, because they are not acting as external or independent advisors for their council.
- 1.3 However, with the growth in external commercial work being undertaken by councils in recent years, there are a growing number of circumstances where lawyers, accountants and others working for councils could be caught within the scope of the legislation. For example, where employees undertake work for organisations other than the Council under contract. Such external work may be classed as being undertaken “by way of business” and could bring those activities within the regulated sector. Guidance issued by supervisory bodies states that where there is uncertainty over the application of the regulations, the broadest possible approach to compliance with the regulations should be undertaken.

2 Definition of regulated activity

- 2.1 Regulated activity is defined as:
 - material aid or assistance or advice in connection with the tax affairs of another person by a practice or sole practitioner (whether provided directly or through a third party);
 - the provision to other persons of accountancy services by a firm or sole practitioner who by way of business provides such services to other persons;
 - legal or notarial services involving the participation in financial or real property transactions concerning:
 - the buying and selling of real property or business entities;
 - the managing of client money, securities, or other assets;

- the opening or management of bank, savings, or securities accounts;
- the organisation of contributions necessary for the creation, operation, or management of companies;
- the creation, operation or management of trusts, companies, or similar structures;

by a firm or sole practitioner who by way of business provides legal or notarial services to other persons (a person participates in a transaction by assisting in the planning or execution of the transaction or otherwise acting for a client in relation to it);

- forming companies or other legal persons;
- acting, or arranging for another person to act:
 - as a director or secretary of a company;
 - as a partner of a partnership;
 - in a similar position in relation to other legal persons;
- providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;
- acting, or arranging for another person to act, as:
 - a trustee of an express trust or similar legal arrangement;
 - a nominee shareholder for a person other than a company whose securities are listed on a regulated market.

- 2.2 In general, the areas where the Council is carrying out activities that may fall within the definition of regulated activities relate to accounting services, treasury management, payroll services and legal services in relation to financial, company or property transactions. However, this will only be the case if the work is carried out for external clients. Work undertaken on behalf of Council services (including traded services where there is no separate legal entity involved) would not fall under the scope of regulated activity.

3 Responsibilities

- 3.1 All officers undertaking regulated activity within the Council should be aware of the potential to become involved in money laundering and terrorist financing. Members of staff may be liable to criminal charges if they fail to report their concerns. These criminal charges relate to someone's actions (or lack of them) where money laundering activity is suspected. A criminal offence could be committed if an employee:
- knows or suspects (or has reasonable grounds to do so) that another person is engaged in money laundering;

- can identify a money launderer or the whereabouts of laundered property (or they believe, or it is reasonable to expect them to believe, that information held would assist in identifying a money launderer or the whereabouts of laundered property); and
 - does not disclose information held to the MLRO as soon as practicable.
- 3.2 As set out in paragraph 1.7 of the Policy, the Council's Assistant Chief Executive (Legal and Governance) is the senior officer within the Council responsible for ensuring compliance with anti-money laundering requirements (the Chief Money Laundering Compliance Officer – CMLCO). The CMLCO is responsible for ensuring that the Council has appropriate policy, procedures, and controls in place to manage money laundering risks.
- 3.2 In relation to regulated activities, the CMLCO will:
- ensure there are arrangements in place within the Council for conducting money laundering and terrorist financing, and tax evasion risk assessments;
 - establish appropriate systems, policies, controls and procedures to address identified risks of money laundering – and ensure that the arrangements have been approved by the relevant body or bodies;
 - ensure arrangements are in place to screen relevant employees, including an assessment of their skills, knowledge, and expertise to carry out their functions effectively and of their conduct and integrity;
 - support and facilitate independent internal audit of money laundering arrangements;
 - ensure training on anti-money laundering is provided to relevant employees.

4 Due diligence

- 4.1 Where the Council is carrying out regulated activities (see 2.1 above), and any of the following apply, then customer due diligence measures must be applied.
- The Council forms a business relationship with a client (which is expected to have an element of duration) – this includes the formation of a company;
 - The Council undertakes an occasional transaction amounting to 15,000 Euros (approximately £13,000) or more whether carried out in a single operation or several linked ones;
 - The Council suspects money laundering or terrorist financing;
 - The Council suspects tax evasion from the UK or a foreign country;

- The Council doubts the veracity or adequacy of information previously obtained for the purposes of client identification or verification.
- 4.2 Information on customer due diligence procedures is set out in 4.5 below. If due diligence is needed, it must reflect the corporate regulated activity AML risk assessment, and the assessed level of risk in the individual case – taking account of factors such as:
- the purpose of an account, transaction, or business relationship;
 - the level of assets to be deposited/size of the transactions undertaken by the client;
 - the regularity and duration of the business relationship.
- 4.3 The customer due diligence procedure set out below must be followed before the establishment of the relationship or carrying out of the transaction (or during, provided that verification is completed as soon as practicable after contact is first established and this is necessary not to interrupt the conduct of business and there is little risk of money laundering).
- 4.4 The Council is not required to undertake the customer due diligence checks set out below if its customer is another public authority, unless it suspects money laundering or terrorist funding.
- 4.5 Applying customer due diligence means:
- identifying the client (unless their identity is already known and has been verified) and verifying the client's identity (unless already verified) on the basis of documents or information obtained from a reliable and independent source and assessing (and where appropriate obtaining information on) the purpose and intended nature of the business relationship/occasional transaction:
 - Where the client is acting or appears to be acting for someone else, reasonable steps must also be taken to establish the identity of that other person (although this is unlikely to be relevant to the Council).
 - where the client is beneficially owned by another person, identifying the beneficial owner and taking reasonable steps to verify their identity so that the Council can be satisfied that it knows who the beneficial owner is. In the case of a beneficial owner being a legal person, trust, company, foundation or similar legal arrangement, officers must take reasonable measures to understand the ownership and control structure of it. Reliance cannot solely be placed on the statutory register of people with significant control:
 - In terms of clients for whom the Council provides regulated services, "beneficial owner" would include bodies corporate (eg our public

authority clients) and any individual who exercises control over the management of the body (eg Chief Executive Officer).

UNLESS the client is a company which is listed on a regulated market, in which case the above steps are not required.

- where the client is a body corporate:
 - obtaining and verifying its name, company/registration number, registered office address (and if different, its principal place of business address);
 - taking reasonable measures to determine and verify (UNLESS the client is a company which is listed on a regulated market, in which case the steps below are not required):
 - the law to which it is subject;
 - its constitution (whether set out in its articles of association or other governing documents);
 - the full names of the board of directors (or if there is no board, the members of the equivalent management body) and the senior persons responsible for the body's operations;
 - where the client is a body corporate and the beneficial owner cannot be identified or where the individual identified as the beneficial owner cannot be verified as such, despite exhausting all possible means, officers must take reasonable measures to identify and verify the identity of the senior person responsible for managing the body. In these circumstances officers must keep written records of all steps taken to identify the beneficial owner, all action taken, and difficulties encountered.
- where another person purports to act on the client's behalf, officers must verify that they are authorised to so act, identify them and verify their identity from a reliable source, independent of both parties;
- assessing and where appropriate obtaining information on the purpose and intended nature of the business relationship or occasional transaction.

4.6 Where customer due diligence is required, employees in the relevant team must obtain and verify satisfactory evidence of the identity of the prospective client, and full details of the purpose and intended nature of the relationship/transaction, as soon as practicable after instructions are received and before the establishment of the business relationship or carrying out of the occasional transaction. However, the legislation does allow organisations to vary customer due diligence and monitoring

according to the risk of money laundering or terrorist financing which depends on the type of customer, business relationship, product or transaction. This recognises that not all clients present the same risk. Satisfactory evidence of identity is that which:

- is capable of establishing, to the satisfaction of the person receiving it, that the client is who they claim to be, and
- does in fact do so.

4.7 In the Council, details of proposed transactions are usually, as a matter of good case management practice, recorded in writing in any event and proposed ongoing business relationships are usually the subject of Terms of Business Letters, Service Level Agreements or other written record which will record the necessary details.

4.8 Customer due diligence measures must also be applied at other times to existing clients on a risk-based approach and when the Council becomes aware that such existing clients' circumstances have changed, relevant to the risk assessment, taking into account:

- any indication that the identity of the client/its beneficial owner, has changed;
- any transactions which are not reasonably consistent with knowledge of the client;
- any change in the purpose or intended nature of the Council's relationship with the client;
- any other matter which might affect officers' assessment of the money laundering or terrorist financing risk in relation to the client.

Opportunities to do this will differ, however one option is to review these matters as part of the ongoing monitoring of the business arrangements, as is usually provided for in the Terms of Business Letter, Service Level Agreement or other written record.

4.9 Council staff conducting regulated business need to be able to demonstrate that they know their clients and the rationale behind particular instructions and transactions.

4.10 Once instructions to provide regulated business have been received, and it has been established that any of the conditions in paragraph 4.1 above apply, or it is otherwise an appropriate time to apply due diligence measures to an existing client, evidence of identity and its verification and information about the nature of the particular work should be obtained or checked.

4.11 Most of the external clients to whom the Council provides potentially regulated business services are UK public authorities and consequently, as

above, proportionate, simplified customer due diligence measures should be undertaken. Full details about the nature of the proposed transaction should be recorded on the client file or suitable central record (kept by the relevant team), and the identity of such external clients should continue to be checked, along with other external clients (eg designated public bodies). Officers should also then obtain the appropriate additional evidence: appropriate additional evidence of identity will be written instructions on the organisation's official letterhead at the outset of the matter or an email from the organisation's e-communication system. Such correspondence should then be placed on the relevant client file or central record along with a prominent note explaining which correspondence constitutes the evidence and where it is located.

4.12 In some circumstances, however, **enhanced due diligence** (eg obtaining additional evidence of identity or source of funds to be used in the relationship/transaction) and enhanced ongoing monitoring must be carried out, for example where:

- there is an identified high risk of money laundering. Risk factors to be considered include:
 - the type and nature of customers;
 - the countries or geographic areas in which a business operates;
 - where customers are based;
 - customers' behaviour;
 - how customers come to do business with the Council;
 - the products or services to be provided;
 - the nature of transactions;
 - delivery channels and payment processes (eg cash over the counter, cheques, electronic transfers or wire transfers);
 - where customers' funds come from or go to.
- the client is a "politically exposed person" (an individual who at any time in the preceding year has held a prominent public function in the UK, and EU or international institution/body, a family member or known close associate). This is unlikely to ever be relevant to the Council but the provision must be included in local procedures;
- the business relationship or transaction is with a person established in a high-risk third country;
- the client has provided false/stolen identification evidence and the Council wishes to continue to deal with them;

- the transaction is complex or unusually large, or there is an unusual pattern of transactions, or it has no apparent economic or legal purpose;
- the nature of the situation presents a higher risk of money laundering or terrorist financing.

4.13 Enhanced due diligence measures *must* include

- examining the background and purpose of the transaction;
- increasing the degree and nature of the monitoring of the business relationship to determine whether the transaction appears suspicious.

4.14 With instructions from new clients, or further instructions from a client not well known to the Council, officers may wish to seek additional evidence of the identity of key individuals in the organisation and of the organisation itself, for example:

- checking the organisation's website to confirm the identity of key personnel, its business address and any other details;
- conducting an on-line search via Companies House to confirm the nature and business of the client (including any registered office and registration number) and to confirm the identities of any directors;
- where the client is a company, appropriate evidence might be company formation documents or a business rate bill;
- attending the client at their business address
- asking the key contact officer and/ or any individual who exercises control over the management of the body (eg the Chief Executive Officer) to provide evidence of their personal identity and position within the organisation, for example:
 - passport;
 - photocard driving licence;
 - birth certificate;
 - medical card;
 - utility bill;
 - bank/building society statement (but not if used to prove address and no older than 3 months);
 - National Insurance number;
 - signed, written confirmation from their Head of Service or Chair of the relevant organisation that such person works for the organisation.

If such additional evidence is obtained, then copies should be retained on the relevant client file or a suitable central record.

- 4.15 Relevant persons are still able to rely on the customer due diligence carried out by a third party if that third party is either subject to the Money Laundering Regulations 2017 or an equivalent regime. However, the conditions for doing so are prescriptive. The third party must effectively provide the customer due diligence information it has obtained and enter into a written agreement under which it agrees to immediately provide copies of all customer due diligence documentation in respect of the customer and/or its beneficial owner.
- 4.16 In all cases, the due diligence evidence should be retained for at least five years from the end of the business relationship or transaction(s). This could be used in any future money laundering investigation. Such personal data should be recorded and stored carefully and in compliance with the Council's information governance requirements.
- 4.17 If satisfactory evidence of identity is not obtained and verified at the outset of the matter then generally the business relationship or one off transaction(s) cannot proceed any further and any existing business relationship with that client must be terminated (however there are some exceptions).

5 Ongoing monitoring and record keeping

- 5.1 Each team conducting potentially regulated business must monitor, on an ongoing basis, their business relationships in terms of scrutinising transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure that the transactions are consistent with their knowledge of the client, its business and risk profile; and reviewing existing records and keeping due diligence information up-to-date. Particular scrutiny should be given to:
- complex or unusually large transactions;
 - unusual patterns of transactions which have no apparent economic or visible lawful purpose;
 - any other activity particularly likely by its nature to be related to money laundering, terrorist financing, or tax evasion.
- 5.2 Teams should also maintain records of:
- client identification/verification evidence obtained (or references to it), and
 - details of all regulated business transactions carried out for clients

for at least five years from the end of the transaction/relationship. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.

- 5.3 The precise nature of the records is not prescribed by law however they must be capable of providing an audit trail during any subsequent investigation, for example distinguishing the client and the relevant transaction and recording the source of, and in what form, any funds were received or paid. In practice, Council teams will be routinely making records of work carried out for clients in the course of normal business and these should suffice in this regard.

Money Laundering Report Officer Disclosure Process

- 1.1 It is important that the appointed MLRO (and deputy) are aware of the National Crime Agency's (NCA) processes for submitting suspicious activity reports (SARs). SARs should be submitted via the SAR Online platform. On appointment the MLRO (and deputy) should create an account on SAR Online promptly¹.
- 1.2 Upon receipt of a disclosure report, the MLRO must note the date of receipt on their section of the AML Reporting Form (**Appendix D**) and acknowledge receipt of it.
- 1.3 The MLRO should consider the report and any other available internal information they think relevant, for example:
 - reviewing other transaction patterns and volumes;
 - the length of any business relationship involved;
 - the number of any one-off transactions and linked one-off transactions;
 - any due diligence information held;and undertake such other reasonable enquiries they think appropriate in order to ensure that all available information is taken into account in deciding whether a report to NCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved).
- 1.4 The MLRO should consider NCA guidance on how and when to submit a SAR² in evaluating the AML Reporting Form and any other relevant information. The MLRO should make a timely determination as to whether:
 - there is actual or suspected money laundering taking place;
 - there are reasonable grounds to know or suspect that is the case;
 - the identity of the money launderer or the whereabouts of the property involved is known, or they could be identified, or the information may assist in such identification;
 - whether they should seek consent from NCA for a particular transaction to proceed.
- 1.5 The MLRO should also consider whether the report indicates suspicions of other crimes that should be reported to the Police, eg a vulnerable person

¹ See NCA [SAR Online User Guidance](#).

² See NCA [Guidance on submitting better quality Suspicious Activity Reports](#).

or child at immediate risk of harm, supply of firearms, or modern slavery/human trafficking.

- 1.6 If the MLRO concludes that the matter should be reported then they should do that as soon as practicable via NCA's [Online SAR Portal](#), unless there is a reasonable excuse for non-disclosure to NCA (for example, if the form has been completed by a lawyer and they wish to claim legal professional privilege³ for not disclosing the information).
- 1.7 Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then they must note this on the AML Reporting Form; they can then immediately give their consent for any ongoing or imminent transactions to proceed.
- 1.8 Where consent is required from NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from NCA.
- 1.9 If the MLRO concludes that there are no reasonable grounds to suspect money laundering then they should record this on the AML Reporting Form and give their consent for any ongoing or imminent transaction(s) to proceed.
- 1.10 All disclosure reports referred to the MLRO, reports made to NCA, and any subsequent communications from the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.

³ In cases where legal professional privilege may apply, the MLRO must liaise with the legal adviser to decide whether there is a reasonable excuse for not reporting the matter to NCA.

**Money Laundering Reporting Officer
Suspicious Activity Reporting (SAR) Form**
Confidential

To: Money Laundering Reporting Officer, North Yorkshire Council

From:
Job Title:

Email:
Department:

Note – if no response to a required field, put ‘Unknown’.

Main Subject

Is the main subject a person or a legal entity eg a Company?			
Surname		Forename(s)	
Title		Gender	
Date of Birth		Occupation	
Address			
Address Type	Accommodation Address, Foreign Address, Home Address, Other, Previous, Registered Office, Trading Address, UK Address, Unknown		

Current Address?	Yes, No, Unknown
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Company Name		Companies House Number	
Company Type		Name of Officer(s) representing Company	
Address			
Address Type	Accommodation Address, Foreign Address, Home Address, Other, Previous, Registered Office, Trading Address, UK Address, Unknown		
Current Address?	Yes, No, Unknown		

Additional Information - fill in any of these, if known

Email address	
Website address	
Car registration	
Mobile number (home or work)	
NHS number	
National Insurance number	
Passport No	
Phone number (home or work)	
Tax Ref number	

Associated Subject – any joint account holders, on the account to be used for the transaction

Subject Status	Victim, Suspect, Unknown		
Surname		Forename(s)	
Title		Gender	
Date of Birth		Occupation	
Address			
Address Type	Accommodation Address, Foreign Address, Home Address, Other, Previous, Registered Office, Trading Address, UK Address, Unknown		
Current Address?	Yes, No, Unknown		

Details of Transaction

Date		Amount	
Credit/Debit		Currency	
Property			
Type	Cash, Property Transaction, Cash/Cheque, Cheque, Credit Card, Currency, Draft, Electronic Transfer, Loan, Mixed, Mortgage, On-Line, Other, Policy, Purchase, Share Transfer, Smart Card, Travellers Cheques, Unknown, Wire Transfer		

Details of the subject's account

Account Holder		Account Number	
Institution Name		Sort Code	
Date Opened		Date Closed	
Account Balance		Balance Date	
Turnover Credit		Turnover Debit	
Turnover Period			

Reason for Suspicion

Please provide as much information as possible, including,

- (i) the information or other matter which gives the grounds for your knowledge, suspicion or belief;
- (ii) a description of the property that you know, suspect or believe is criminal property; and
- (iii) a description of the prohibited act for which you seek a defence (by prohibited act, we mean the proposed activity that you are seeking a defence to undertake).

Enquiries already undertaken

Please answer the questions below and provide as much information as possible, including,

- (i) Is the report about an ongoing transaction? What is the current state of the transaction?
- (ii) Has the matter been investigated? By whom and what were the findings?
- (iii) Have you discussed your suspicions with anyone else? If yes then to whom and why was this necessary?
- (iv) Have you consulted any supervisory body guidance eg the Law Society?
- (v) Do you feel you have a reasonable explanation for not disclosing this matter to NCA (eg you are a lawyer and wish to claim legal professional privilege?)

To be completed by MLRO

Date report received	Click or tap to enter a date.		
Date receipt of report acknowledged	Click or tap to enter a date.		
Are there reasonable grounds for suspecting money laundering activity?	Yes	<input type="checkbox"/>	No <input type="checkbox"/>

Do you know the identity of the alleged money launderer, or whereabouts of the property concerned?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Do the circumstances described above meet the NCA's threshold to submit a Suspicious Activity Report (SAR) to obtain a Defence Against Money Laundering (DAML)?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to NCA, or it would not meet their threshold, please set out the reasons for non-disclosure				
Date SAR is sent to the NCA (if applicable)		Click or tap to enter a date.		

Signed

Date: Click or tap to enter a date.

Signed (MLRO).....

Date: Click or tap to enter a date.

THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS