

Isle of Wight Council
ANTI MONEY
LAUNDERING POLICY
March 2020 / DRAFT v0.1

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1. Introduction

- 1.1 The Isle of Wight Council (the Council) will do all it can to prevent the Council and its staff being exposed to money laundering, to identify the potential areas where it may occur, and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases.
- 1.2 The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (Money Laundering Regulations), which transposed the 4th EU Money Laundering Directive into UK Law, commenced on the 26th June 2017. Whilst these obligations are not directly imposed on local authorities, guidance provided from financial professions, including the Chartered Institute of Public Finance and Accounting (CIPFA), indicates that public service organisations should comply with the underlying spirit of the legislation and regulations and have in place internal procedures to prevent the use of their services for money laundering. Specific to these regulations is an enhanced risk based approach in conducting due diligence reviews, which are detailed further in this policy.
- 1.3 Money Laundering Regulations apply to cash transactions in excess of 15,000 Euros (approximately £13,000). However, the Proceeds of Crime Act 2002 (POCA) applies to all transactions and can include dealings with agents, third parties, property or equipment, cheques, cash or bank transfers.
- 1.4 Key points:
 - The Council is committed to the prevention, detection and reporting of money laundering.
 - All employees must be vigilant for the signs of money laundering.
 - Any employee who suspects money laundering activity must report this promptly to the Chief Internal Auditor (CIA) as the officer delegated to receive such reports.
 - All payments to the Council accepted in cash that exceed £10,000 should be reported to the CIA.
 - Where the Council is carrying out certain regulated activities by way of business then the customer due diligence procedure must be followed.
- 1.5 For the purposes of this policy a cash payment is a payment made using notes, coins or travellers' cheques, in any currency and for the avoidance of doubt shall exclude any transaction made by BACS or electronic transfer or debit or credit card.

2. Scope of this 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 reporting of suspicions of money laundering activity) to enable the Council and staff to comply with their legal obligations.
- 2.2 This Policy sits alongside the Council's Anti-Fraud, Bribery & Corruption Policy.
- 2.3 Failure by a member of staff to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them and may also lead to a conviction under POCA and the Money Laundering Regulations. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary Procedure.

3. What is Money Laundering?

- 3.1 Money laundering is the term used for a number of offences involving the proceeds of crime or terrorism funds. The following acts constitute the act of money laundering:-
 - Concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 POCA);
 - 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 POCA); or
 - Acquiring, using or possessing criminal property (section 329 POCA).

These are the primary money laundering offences, and are thus prohibited acts under the legislation. There are two secondary offences:

- Failure to disclose any of the three primary offences.
- 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. A person found guilty of tipping off or prejudicing an investigation offence is liable to imprisonment (maximum five years) a fine or both under the legislation. In addition, a new criminal offence was created whereby, any individual who recklessly makes a statement in the context of money laundering which is false or misleading, commits an offence punishable by a fine and or up to two years imprisonment.

- 3.2 Any member of staff could potentially be caught by the money laundering provisions as noted above, if they suspect money laundering and either become involved with it in some way and/or do nothing about it. This Policy therefore sets out how any concerns should be raised.
- 3.3. While 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 of employees is to promptly report any suspected money laundering activity to the CIA.

4. Obligations of the Council

- 4.1 When complying with the obligations the Council is required to:
- Appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees of money laundering activity
 - Implement risk sensitive policies and procedures relating to customer due diligence, reporting, record keeping, internal control, risk assessment and management, monitoring and management of compliance, along with the communication of policies and processes.

5. Nominated Officers

- 5.1 The officer nominated to receive such reports from staff within that Council is the Chief Internal Auditor, Elizabeth Goodwin , she can be contacted as follows:-

Elizabeth Goodwin,
Chief Internal Auditor,
Internal Audit

Telephone 02392 834682
E-Mail: elizabeth.goodwin@portsmouthcc.gov.uk

Alternatively and in the absence of the CIA you may also contact:

Geraint Newton
Audit Manager
Internal Audit

Telephone 01983 821000 ext. 6035
E-Mail: geraint.newton@iow.gov.uk

6. Reporting Arrangements

- 6.1 Cash payments to the Council exceeding £10,000 must be reported immediately to the CIA using the attached form (Appendix A) regardless of whether you suspect money laundering activities or not.
- 6.2 You must follow any subsequent directions of the CIA and must not yourself make any further enquiries into the matter. You must not disclose or otherwise indicate your suspicions to the person suspected of the money laundering. In addition you must not discuss the matter with others e.g. colleagues or note on the file that a report has been made to the CIA in case this results in the suspect becoming aware of the situation.
- 6.3 The CIA must promptly evaluate any Disclosure Report, to determine whether it should be reported to the National Crime Agency via the UK Financial intelligence Unit by means of a Suspicious Activity Report (SAR).
- 6.4 The CIA or any member of staff will commit a criminal offence if they know or suspect, or have reasonable grounds to do so, through a disclosure being made to them, that another person is engaged in money laundering and they do not disclose this as soon as practicable to the National Crime Agency.

7. Customer Due Diligence

- 7.1 Customer due diligence means that the Council must know its clients and understand their businesses. This is so that the Council is in a position to know if there is suspicious activity that should be reported
- 7.2 The Money Laundering Regulations require that the Council identifies its customers and verifies the identity on the basis of documents, data or information obtained from a reliable source. Where there is a beneficial owner who is not the customer then the Council must identify that person and verify the identity and where the beneficial owner is a trust or similar then the Council must understand the nature of the control structure of that trust. Finally the Council must obtain information on the purpose and intended nature of the business relationship. Here are some simple questions that will help you decide if customer due diligence is necessary.
 - Is the service a regulated activity? Note: Regulated activity is defined as the provision 'by way of business' of: advice about tax affairs, accounting services, treasury management, investment or other financial services, audit services, legal services, estate agency, services involving the formation, operation or arrangement of a company or trust or dealing in goods wherever a transaction involves a cash payment of £10,000 or more.
 - 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 is **yes** then you do need to carry out customer due diligence before any business is undertaken for that client.

7.3 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 identities of any directors;
- Seeking evidence from the key contacts or Individuals of their personal identity, for example their passport, and position within the organisation.

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

7.5 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 other's knowledge of the Customer and a regular scrutiny of the transactions involved.

7.6 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 is carrying out money laundering or terrorist financing, or has lied about their identity then you must report this to the CIA.

8. Enhanced Due Diligence

8.1 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. Note: A politically exposed person is an individual who at any time in the preceding year has held a prominent public function outside the UK and EU or international institution/ body, their immediate family members or close associates.
- 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.

8.2 Enhanced customer due diligence could include additional documentation, data or information that will confirm the customer's

identity and/or source of the funds to be used in the business relationship/transaction. If you believe that enhanced customer due diligence is required you must consult the CIA prior to carrying it out, to ensure that the checks are completed.

9. Record Keeping

- 9.1 Where 'relevant business' is carried out then the customer due diligence records and details of the relevant transaction(s) for that client must be retained for at least five years after the business relationship.
- 9.2 An electronic copy of every customer due diligence record must be sent to the CIA to meet requirements of the Regulations and in case of inspection by the relevant supervising body.

10. Guidance and Training

10.1 In support of the policy and procedure, the Council will:

- Endeavour to make all staff aware of the requirement and obligation placed on the Council and on themselves as individuals by the anti-money laundering legislation; and
- Provide targeted training where it has been identified staff are most likely to encounter money laundering.

11. Further Information

11.1 Further information can be obtained from the CIA and the following sources:

- Money Laundering Regulations
<http://www.legislation.gov.uk/ukxi/2017/692/made>
- National Crime Agency
<http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/economic-crime/proceeds-of-crime-centre>

OFFICIAL

Appendix A

REPORT TO CHIEF INTERNAL AUDITOR:

RE MONEY- LAUNDERING ACTIVITY

**To: Elizabeth Goodwin, Chief Internal Auditor, Internal Audit,
Isle of Wight Council, County Hall, Newport, PO30 1UD**

From: _____
(Insert employee name)

Service: _____

Dept & Ext/Tel No: _____
(Insert department, job title & ext.)

DETAILS OF SUSPECTED OFFENCE:

<p>Name(s) and address(es) of person(s) involved (If a company/public body please include details of their nature of business if known).</p>
<p>Name(s):</p>
<p>Address(es):</p>

<p>Nature, value and timing of activity involved (Please include full details e.g. date(s); what the payment was for and if this is a single transaction or has been identified as one of a series of transactions. Include all available evidence of the activity).</p>
<p>Date(s):</p>
<p>Description of activity:</p>
<p>Amount(s):</p>
<p>Where activity took place:</p>
<p>Evidence:</p>

(Please list and attach if possible)

Reasons for suspicion of activity:

Has any investigation been undertaken to the best of your knowledge?

(If yes please include full details)

Have you discussed your suspicions with anyone else?

(Please read the notes at the foot of the page)

If yes please explain who with and why such discussion was necessary:

Please detail below any other information you feel is relevant:

Signed: _____

Dated: _____

IMPORTANT: Please do not discuss the content of this report with anyone you believe to be involved in the suspected money laundering activity either directly or indirectly with anyone else who could alert the suspect(s) that they are under investigation. If you do, this may be considered as a 'tipping off' offence under the legislation, which carries a maximum penalty of 5 years' imprisonment.

THIS SECTION FOR CIA USE ONLY

Date Report Received: _____

Date Acknowledged: _____

Reference Number Allocated: _____

(Reference)

**CONSIDERATION OF DISCLOSURE TO THE NATIONAL
CRIME AGENCY**

Action Plan:

OUTCOME OF CONSIDERATION OF DISCLOSURE:

Are there reasonable grounds for suspecting money laundering activity?
Yes / No – State reasons

If there are reasonable grounds for suspicion, will a Suspicious Activity Report (SAR) be made to the NCA?
If yes please state date report submitted: _____

If no, please state below the reasons for non-disclosure to
--

the NCA:

(Please include details of any discussions with other Officers e.g. Legal Services, together with name(s) and advice given).

Is consent required from the NCA to any on-going or imminent transactions which would otherwise be prohibited acts?

If Yes please confirm full details

Details of liaison with the NCA

Consent Not Required:

Date SAR Report

Acknowledged: _____

Consent Requested:

Notice Period: From: _____ **To:**

(The NCA has 7 working days starting the first working day after the consent request is made to refuse continuation of the activity. If no refusal has been received consent is deemed to have been given and the activity may continue).

Moratorium Period: From: _____ **To:**

(If consent is refused during the notice period, a further 31 days starting with the day on which the consent is refused must elapse before the activity may continue. In the absence of any action to restrain the activity by law enforcement during the moratorium period the activity may continue).

Date and time consent given by the NCA: _____
(Telephone consent will often be given, which can be relied upon, and followed up in writing several days later).

<p>SOCA Consent Reference: _____</p> <p>Name and Contact Number of NCA Officer:</p> <p>_____</p> <p>Date consent given by you to the employee: _____</p>
<p>Any Other relevant information:</p> <p> </p>

Signed: _____

Dated: _____

Print Name: _____

IMPORTANT: This report and all other records relating to an investigation of suspected Money Laundering activity whether or not reported to the NCA must be kept in a confidential file for that purpose and retained for at least 5 years from the conclusion of the investigation.