

**Isle of Wight Council**

**ANTI MONEY**

**LAUNDERING POLICY**

**20 March 2023 / DRAFT**

## Document Information

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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 Proceeds of Crime Act 2002 (POCA 2002), the Terrorism Act 2000, the Criminal Finance Act and money laundering legislation (see below) place obligations on the Council and its employees with respect to suspected money laundering.
- 1.3 On the 26<sup>th</sup> June 2017, The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 came into force. They implement the EU's 4th Directive on Money Laundering seeking to prevent new means of terrorist financing, including through e-money and prepaid cards.
- 1.4 The 2017 Regulations requires that financial sectors take a more risk-based approach towards anti- money laundering, particularly, in the conduct of due diligence. Determining the appropriate level of due diligence requires analysis of risk factors. In general, this new Regulation does not apply to Local Authorities, however, the council recognises this as good practice and therefore this policy provides that officers comply with the aims and objectives of the legislation.
- 1.5 On the 26<sup>th</sup> March 2021, amendments of the Money Laundering and Terrorist financing and Transfer of Funds (information on the payer) Regulations 2017 came into force. The Money Laundering and Terrorist Financing (Amendment) (High-Risk Countries) Regulations 2021 removes references to the European Commission's list of high-risk third countries and defines high risk third countries for the purposes of the MLRs as those countries identified in a new Schedule 3ZA.  
<https://www.legislation.gov.uk/ukxi/2021/392/made/data.xht?view=snippet&wrap=true>
- 1.6 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 £5,000 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.
- In keeping with the Money Laundering, Terrorist, Financing and Transfer of Funds Regulations 2017, the Council has completed a risk analysis to identify, where appropriate, the sectors or areas of lower and greater risk of money laundering and terrorist financing.
- In keeping with the regulations which came into force on the 26<sup>th</sup> March 2021, advanced due diligence will be required for any High Risk Country listed on schedule 3ZA.
- The Money Laundering Regulations are detailed and complex – if you are in any doubt about the application of this Policy, please contact the Chief Internal Auditor.

## **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 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 of the proceeds of Crime Act 2002  
<https://www.legislation.gov.uk/ukpga/2002/29/section/327>
  - 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:  
<https://www.legislation.gov.uk/ukpga/2002/29/section/328> or
  - Acquiring, using or possessing criminal property (section .329).  
<https://www.legislation.gov.uk/ukpga/2002/29/section/329>

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.

- 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. Nominated Officers**

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

Elizabeth Goodwin,  
Chief Internal Auditor,  
Internal Audit

Telephone 02392 834682

E-Mail: [elizabeth.goodwin@portsmouthcc.gov.uk](mailto:elizabeth.goodwin@portsmouthcc.gov.uk)

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

Geraint Newton  
Audit Manager  
Internal Audit

Telephone 07788 288604

E-Mail: [geraint.newton@iow.gov.uk](mailto:geraint.newton@iow.gov.uk)

## **5. Reporting Arrangements**

- 5.1 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. If you would prefer, you can discuss your suspicions with the CIA. Note: Cash is defined as including notes, coins or travellers' cheques in any currency. Please ensure that as much information as possible is included in the report to the CIA.
- 5.2 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.
- 5.3 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).
- 5.4 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.

## **6. Customer Due Diligence**

- 6.1 Where the Council is carrying out certain 'relevant business activities' then extra care is needed to be taken to check the identity of the customer or client - this is known as carrying out 'Customer Due Diligence'.
- 6.2 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? 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?



- Is the Country of origin listed on the 3ZA and recognised as a High Risk requiring Enhanced due diligence.

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 need to 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 CIA.

6.3 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.

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

6.5 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.

6.6 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.

## 7. **Enhanced Due Diligence**

7.1 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.
- Where there is a high risk of money laundering or terrorist financing.
- In any case where the client has provided false or stolen identification documentation or information on establishing a relationship.
- In cases where the transactions are complex and unusually large, or there is an unusual pattern of transactions.
- The Country of origin from which the money is being received is listed on schedule 3ZA  
<https://www.legislation.gov.uk/ukxi/2021/392/made/data.xht?view=snippet&wrap=true>

7.2 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.

## **8. Record Keeping**

- 8.1 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.
- 8.2 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.**

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

(If a company/public body please include details of their nature of business if known).

Name(s):

Address(es):

**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).

Date(s):

Description of activity:

**Amount(s):**

**Where activity took place:**

**Evidence:**

(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).

**SOCA Consent Reference:** \_\_\_\_\_

**Name and Contact Number of NCA Officer:** \_\_\_\_\_

Date consent given by you to the employee: \_\_\_\_\_

Any Other relevant information:

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.