

METROPOLITAN BOROUGH OF KNOWSLEY

POLICY AND PROCEDURES: PROCEEDS OF CRIME AND ANTI-MONEY LAUNDERING

1. What is money laundering?

Money laundering is the term used for several offences involving the proceeds of crime or terrorism. This includes possessing, or in any way dealing with, or concealing, or converting the proceeds of **any** crime, as well as funds likely to be used for terrorism, as well as the proceeds of terrorism.

Money laundering is generally used to describe the activities of organised criminals converting the proceeds of crime into legitimate activities, thus hiding their true sources. The original legislation and regulations were designed to combat this scale of criminal activity. However, the current legislation now covers **all** proceeds of crime, both money and property, regardless of how small the value. In reality, to most people who are likely to come across it, it involves a suspicion that someone they are dealing with is benefiting financially from dishonest activities. Hence, the money laundering aspect would be the attempt to transact legitimate business with the Council using assets and monies derived from the proceeds of crime or terrorism.

This guidance is designed to help you familiarise yourself with the legal and regulatory requirements relating to money laundering, both as they affect the Council and you personally.

2. What laws exist to control money laundering?

In recent years, new laws have been passed which significantly shift the burden for identifying acts of money laundering from Police and Government agencies to organisations and their employees. The principal legislation and regulation relating to money laundering are the Proceeds of Crime Act 2002, the Terrorism Act 2000, and the Money Laundering Regulations 2007.

There are three primary offences of concealing, arranging, and acquisition/use/possession:-

- **'concealing'** is where someone knows or suspects a case of money laundering, but conceals or disguises its existence;
- **'arranging'** is where someone involves himself or herself in an arrangement to assist money laundering; and,
- **'acquisition', 'use', or 'possession'** is where someone seeks to benefit from money laundering by acquiring, using, or possessing the property concerned.

There are also two third party offences of failing to disclose a primary offence, and tipping off:-

- **'failing to disclose a primary offence'** is where someone becomes aware or suspects money laundering, but fails to take action in reporting it; and,
- **'tipping off'** is where someone informs a person who is, or is suspected of being, involved in money laundering, in such a way as to reduce the likelihood of being investigated, or prejudicing an investigation.

These money laundering offences may be committed by the Council itself or by any of the Members and employees working within it. Depending on the severity of the suspected offence, the Magistrates' Court can issue fines of up to £5,000, or sentences of up to 6 months in prison (or both), and, in the Crown Court, fines are unlimited, and sentences of up to 14 years may be handed out.

3. What is the Council's response to money laundering?

Local authorities have a responsibility for the proper conduct of public business. The consequences of the Council or any of its Members or employees facing prosecution under the money laundering legislation would be very serious and reflect poorly not only on the Council, but on the public service as a whole.

Although local authorities are unlikely to be a prime target for money laundering, the size and scope of services is such that it is not possible to be wholly immune from the risks surrounding money laundering. Public authorities are not defined as *relevant persons* under the 2007 Regulations, and therefore the Council is not obliged to follow the requirements of the Regulations. However, in order to mitigate the risks associated with money laundering, the Council has embraced the underlying principles behind the money laundering legislation and regulations and issued this guidance and associated reporting arrangements.

Management should ensure that arrangements are in place to prevent the Council and its Members and employees being exposed to money laundering in those services where there is a potential risk. They should also ensure that those Members and employees who may become exposed to money laundering are made fully aware of this guidance and are suitably trained.

It should be noted that the professional bodies of some employees (e.g. accountants and solicitors) have issued guidance on personal obligations and responsibilities relating to money laundering, and those employees should familiarise themselves with that guidance.

4. What are the implications for staff who become involved?

Examples of possible situations involving exposure to money laundering are found in the appendix to this document. However, it cannot be stressed too strongly that it is every Member and employee's responsibility to be vigilant, and to be aware of the requirement to report actual or suspected cases of money laundering.

While it is unlikely that a Member or employee would commit one of the three primary offences, a failure to disclose a suspicion of money laundering is a serious matter in itself.

5. How do we ensure due diligence?

The Money Laundering Regulations 2007 for the first time require the identification and monitoring of clients on a risk-sensitive basis. Where relevant business is undertaken, the clients need to be subject to some form of risk based due diligence. Most of the Council's business is not at risk of money laundering; it is mainly those services involving accountancy, treasury management, audit, legal, and property transactions.

In most cases, the business undertaken will be where the client is another public or statutory body, and therefore the risk assessment indicates that no further due diligence about the status of the client is needed. However, for other third party clients or politically exposed persons (see appendix for definition) there needs to be formal and recorded due diligence checks. In these rare circumstances, guidance on performing the due diligence checks can be obtained from the Internal Audit Manager.

6. What should I do if I suspect a case of money laundering?

While stressing the importance of reporting suspicions, it should be understood that failure to do so is only an offence if the suspicion relates, in the event, to an actual crime. Therefore, a common sense approach needs to be taken, so as not to cause unnecessarily large amounts of time to be wasted.

The Council has nominated the Chief Internal Auditor as the officer responsible for dealing with any suspicions of money laundering. You should therefore report any suspicious transactions or concerns to the Internal Audit Manager in writing. The matter would then be discussed with you and a decision made whether to make a formal report to the National Crime Agency.

A. Examples of possible situations involving exposure to money laundering

1. There may be situations where funds come into the Council from an unfamiliar source. In particular, if the Council is forming a new business relationship, or is considering undertaking a significant one-off transaction, it would be prudent to identify fully the parties involved. This will be especially true if the parties concerned are not physically present, or may be acting for absent third parties.
2. Transactions involving the handling of the proceeds of asset disposals, for example land sales, can be especially vulnerable, and may demand further enquiry. Caution should be exercised in respect of:-
 - unusual arrangements;
 - offshore funds being used;
 - transactions involving a third party who is not known to the Council, or where the identity of a party is difficult to establish or is undisclosed;
 - where an intermediary is involved, or where the ultimate ownership of a company is hidden; and,
 - situations where a party is evasive as to the source of funds.
3. Members or employees having direct contact with the public or businesses may become suspicious where the nature of the goods or the amounts of the cash seems inconsistent with what might, in the circumstances, be regarded as normal.
4. Cashiers may be asked, in the normal course of their work, to accept payments in unusually amounts of cash for the settlement of debts. As a guide, £2,000 would be regarded as a sum of cash that should be reported.
5. Circumstances which might arouse particular suspicion are where cash is tendered which exceeds significantly the amount of the debt, or are paid twice or more and the person or business requests subsequently a refund from the Council of the balance.

B. Politically Exposed Persons

The Regulations define politically exposed persons as a person “...who is or has, at any time in the preceding year been entrusted with a prominent public function *by a state other than the United Kingdom, an European Community institution or an international body*” or a family member or known close associate of such a person.