



ANTI-MONEY LAUNDERING POLICY

Introduction

1. The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (“MLR 2017”) commenced on 26 June 2017.
2. They impact on certain areas of Council business and in particular require us to maintain internal procedures to prevent the use of services for money laundering with a risk-based approach.

Scope of the Policy

3. 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. It sets out the procedures which must be followed (for example the reporting of suspicions of money laundering activity) to enable the Council to comply with its legal obligations.
4. Failure to comply with the procedures may lead to disciplinary action.

What is money laundering?

5. Money laundering activity includes:
 - Acquiring, using or possessing criminal property,
 - Handling the proceeds of crimes such as theft, fraud and tax evasion,
 - Being knowingly involved in any way with criminal or terrorist property,
 - Entering into arrangements to facilitate laundering criminal or terrorist property,
 - Investing the proceeds of crime in other financial products
 - 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.
 - Investing the proceeds of crimes through the acquisition of property/assets,
 - Transferring criminal property.
6. There are further associated offences regarding due diligence and disclosures:

Due diligence

- Failure to apply customer due diligence.
- Failure to apply on-going monitoring of business relationship and customer due diligence.
- Failure to comply with timing on verification of clients and any beneficial owner.
- Failure to apply enhanced customer due diligence and monitoring where required.
- Failure to keep required records.
- Continuing with a business relationship where unable to apply customer due diligence

Disclosures

- Making a disclosure to a person which is likely to prejudice a money laundering investigation (“tipping off”).
 - Failing to disclose.
 - Prejudicing an investigation.
7. The MLR 2017 apply to cash transactions in excess of 15,000 Euros (approximately £13,000). However, the Proceeds of Crime Act (POCA) applies to all transactions and can include dealings with agents, third parties, property or equipment, cheques, cash or bank transfers.
8. Although instances of money laundering are likely to be rare given the nature of services provided by the Council, failure to comply with legal requirements could have significant implications for both the Council and the individuals concerned.

The Obligations of the Council

9. MLR 2017 requires the Council to:
10. Appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees of money laundering activity (their own or anyone else’s),
11. Implement risk sensitive policies and procedures relating to customer due diligence, reporting, record keeping, internal control, risk assessment and management, the monitoring and management of compliance and the internal communication of such policies and procedures.
12. Have in place appropriate systems of internal control to prevent activities relating to money laundering and terrorist financing. There must be management controls in place to identify the possibility that criminals may be attempting to launder money or fund terrorism, so as to enable appropriate action to prevent or report it to be taken.
13. Implement systems of internal control capable of identifying unusual or suspicious transactions or customer activity and quickly report the details to the MLRO. Systems of internal control should include the following:
- Identification of senior management responsibilities.
 - Provision of information to senior management on money laundering and terrorist financing risks.
 - Training of relevant employees on the legal and regulatory responsibilities for money laundering and terrorist financing controls and measures.
 - Documentation of the Council’s risk management policies and procedures.
 - Measures to ensure that money laundering and terrorist financing risks are taken into account in the day to day operations of the organisation.

The Money Laundering Reporting Officer (MLRO)

14. The officer nominated to receive disclosures about money laundering activity within the Council is TO BE CONFIRMED
- 15 All disclosures will be reported in confidence to the Monitoring Officer (currently the Corporate Director) and the s151 Officer (currently the Chief Executive).

Identification of potential money laundering situations

16 Examples of signs of money laundering where suspicions should arise include:

- Identification of potential money laundering situations
- Use of cash where other means of payment are normal,
- Unusual transactions or ways of conducting business,
- Unwillingness to answer questions/general secretiveness,
- Use of new/shell companies,
- Payment of deposits which are subsequently requested back,
- Lack of 'traceability' of persons involved,
- Individuals and companies that are insolvent yet have funds.

17 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 MLRO. The following are types of risk factors which may, either alone or with other factors, suggest the possibility of money laundering activity:

- Payment of a substantial sum in cash
- A new customer,
- 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 transaction such as unnecessary routing or receipt of funds from third parties or through third party accounts,
- Involvement of an unconnected third party without logical reason or explanation,
- Overpayments by a customer,
- Absence of an obvious legitimate source of funds,
- Movement of funds overseas, particularly to a higher risk country or tax haven,
- Transactions which are out of the line of normal expectations, without reasonable explanation,
- A transaction without obvious legitimate purpose or which appears uneconomic, inefficient or irrational,
- The cancellation or reversal of an earlier transaction,
- Requests for release of customer account details other than in the normal course of business,
- Transactions at substantially above or below fair market values,
- 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.

18 In addition to the money laundering offences, MLR 2017 also sets out further offences of failure to report suspicions of money laundering activities. Such offences are committed where you know or suspect, or have reasonable grounds to do so that another person is engaged in money laundering and you do not disclose this as soon as is practicable to the MLRO.

19 Potentially any employee could be caught by this if they become involved with it in some way and/or do nothing about it.

- 20 There are serious criminal penalties for breach of this. However, an offence is not committed if the suspected money laundering activity is reported to the MLRO and, where necessary, official permission obtained to continue in the transaction.
- 21 Whether or not you have reported a suspicion of money laundering to the MLRO you should not discuss it with anyone else: you may commit a further offence of 'tipping off'.
- 22 Anyone who recklessly makes a statement in the context of money laundering which is false or misleading commits an offence.
- 23 Your disclosure should be made immediately using the form ML 1, Money Laundering Suspicion Report Form, which is attached at Appendix A. The disclosure report must contain as much detail as possible, for example:
- 24 You should also supply any other available information to enable the MLRO to make a sound judgement as to the next steps to be taken and you should enclose copies of any relevant supporting documentation.
- 25 If you are a legal adviser and consider that legal professional privilege may apply to the information, you should explain fully in the ML 1 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).
- 26 Once you have reported the matter to the MLRO you must follow any directions they may give you. You must NOT make any further enquiries into the matter yourself. Any necessary investigation will be undertaken by NCA. All employees will be required to co-operate during any subsequent money laundering investigation.
- 27 Do not make any reference on records held to the fact that you have made a report to the MLRO. If a customer exercises their right to see their record, any such note would 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 confidential manner.
- 28 In all cases no further action must be taken in relation to the transaction(s) in question until either the MLRO or NCA (if applicable) has specifically given their written consent to proceed.

Consideration of disclosure report by the MLRO

- 29 Upon receipt of a disclosure report, the MLRO will record the date of receipt on the report. The MLRO will acknowledge receipt of the report and will give an indication of the timescale within which they expect to respond.
- 30 The MLRO will consider the report and any other available internal information they think relevant. This may include
 - Reviewing other transactions patterns and volumes,
 - The length of any business relationship involved,
 - The number of any one-off transactions and linked one-off transactions,
 - Any identification evidence.
- 31 The MLRO will undertake any other inquiries deemed appropriate and will ensure that all available information has been obtained.

- 32 The MLRO may also need to discuss the report with the employee who reported the case.
- 33 The MLRO will then consider all aspects of the case and will decide whether a report to NCA is required. The MLRO must make a timely determination as to:
- Whether there is actual or suspected money laundering taking place,
 - Whether there are reasonable grounds to know or suspect that money laundering is taking place,
 - Whether they need to seek consent from the NCA for a particular transaction to proceed.
- Where the MLRO concludes one or more of the above the MLRO will record the conclusion and disclose the matter as soon as possible to National Crime Agency (NCA) online or submit their standard report form which can be downloaded from the internet at <http://www.nationalcrimeagency.gov.uk>
- 34 Once the MLRO has made a disclosure, NCA consent will be needed before you can take any further part in the transaction. Consent will be received in the following way:
- Specific consent,
 - No refusal of consent during the notice period (seven working days starting with the first working day after the MLRO makes the disclosure),
 - Refusal of consent during the notice period but the moratorium period has expired (31 days starting with the day on which the MLRO receives notice of refusal of consent).
- 35 The MLRO should therefore make it clear in the report if such consent is required, and clarify whether there are any deadlines for giving such consent, e.g. completion date or court deadline.
- 36 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering this will be recorded appropriately and he will give his consent for any ongoing or imminent transaction(s) to proceed.
- 37 All disclosure reports referred to the MLRO and reports made by him to NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.
- 38 The MLRO commits a criminal offence if they know or suspect, or has reasonable grounds to do so, through a disclosure being made, that another person is engaged in money laundering and they do not disclose this as soon as possible to the NCA.

Additional requirements for Finance and Legal employees.

- 39 In addition to the disclosure procedure set out above, those employees providing financial and legal services must also comply with the customer identification procedure, 'due diligence' and the record keeping procedures.
- 40 There are various levels of 'due diligence'. MLR 2017 require due diligence to be carried out on a risk sensitive basis (taking account of customer and geographical risk factors), so that:

- Simplified due diligence is only permitted where it is determined that the business relationship or transaction presents a low risk of money laundering or terrorist funding, taking into account the risk assessment
- 'Enhanced due diligence' for those with a high-risk status, for example remote transactions where the customer is not physically present to be identified would require additional appropriate documents to be requested.
- The 'beneficial owner', i.e. the individual that ultimately owns or controls the customer or on whose behalf a transaction or activity is being conducted, should be identified.
- The business relationship should be scrutinised throughout its existence and not just at the beginning.

41 You may rely on due diligence undertaken by those regulated by the FSA or supervised by a listed professional regulator e.g. the Solicitors Regulation Authority. Any information obtained may be used as evidence in any subsequent investigation.

42 In all cases, the evidence of the customer identification and record of the relationship/transaction should be retained for at least five years from the end of the business relationship of transaction(s). The records that must be kept are:

- A copy of, or references to, the evidence of the identity obtained under the customer due diligence requirements in MLR 2017,
- The supporting evidence and records in respect of the business relationships and occasional transactions which are the subject of customer due diligence measures or ongoing monitoring,
- A copy of the identification documents accepted and verification evidence obtained,
- References to the evidence of identity,
- Transaction and business relationship records should be maintained in a form from which a satisfactory audit trail may be compiled, and which may establish a financial profile of any suspect account or customer.

43 If satisfactory evidence of identity is not obtained at the outset of the matter then the business relationship or one off transaction(s) cannot proceed any further.

44 The customer identification procedure must be carried out when the Council is carrying out 'relevant business' and:

- Forms a business partnership with a customer
- Undertakes a one-off transaction (including a property transaction or payment of a debt) involving payment by or to a customer of £3,000 or more,
- Undertakes a series of linked one-off transactions involving total payment by or to the customer(s) of £3,000 or more,
- It is known or suspected that a one-off transaction, or a series of them, involves money laundering.

This must be completed before any business is undertaken for that customer in relation to accountancy, procurement, asset management, audit and legal services with a financial or real estate transaction.

45 In the above circumstances, employees must:

- Identify the person seeking to form the business relationship or conduct the transaction (an individual or company),
 - Verify their identity using reliable, independent sources of information,
 - Identify who benefits from the transaction,
 - Monitor transactions to make sure they are consistent with what you understand about that person or country,
 - Understand the source of their funds,
 - Ensure there is a logical reason why they would want to do business with the Council.
- This applies to existing customers, as well as new ones, but identification evidence is not required for matters entered into prior to 1 March 2004.

46 In relation to Council business appropriate evidence would be signed written instructions on Council headed note paper or an e-mail at the outset of a particular matter. Such correspondence should then be placed on file along with a prominent note explaining which correspondence constitutes the evidence and where it is located.

47 In relation to external bodies the MLRO will maintain a central file of general client identification evidence regarding the external organisations to which Finance and Legal Services provide professional services.

48 You should check with the MLRO that the organisation in respect of which you require identification is included in the MLRO's central file and check the precise details contained in relation to that organisation. If the organisation is not included in the central file, you should discuss this with the MLRO.

49 Records must be capable of providing an audit trail during any subsequent investigation, for example distinguishing the client and the relevant transaction and recording in what form any funds were received or paid. In practice, the Council will be routinely making records of work carried out in the course of normal business and these should suffice in this regard.

Risk Register

50 Whilst all employees must be aware of the existence of this Policy, it is possible to identify those areas of Council business most at risk of potential involvement in money laundering, in order to target training at those relevant employees. Under MLR 2017 risk mitigation policies must be in writing and be proportionate to the risks identified. They must include internal controls over money-laundering and terrorist financing risks. They must also include revised customer due diligence procedures as well as reporting, record keeping and monitoring requirements.

51 In order to identify such areas of Council business the MLRO has established and will maintain a Money Laundering Risk Register. To do this a number of steps have been taken to determine how to manage and mitigate the money laundering and terrorist financing risks faced by the Council. The steps followed were to:

- Identify the money laundering and terrorist financing risks that were relevant to the Council.
- Assess the risks presented by the particular customers, products and services, delivery channels and geographical area.
- Design and implement controls to manage and mitigate these assessed risks.
- Apply customer due diligence measures to verify the identity of customers and any beneficial owners obtaining additional information on customers,
- Conduct ongoing monitoring of the transactions and activity of customers with whom there is a business relationship,
- Have systems to identify and scrutinise unusual transactions and activity to determine whether there are reasonable grounds for knowing or suspecting that money laundering or terrorist financing may be taking place.

52 Risks will be reviewed annually.

Training Arrangements

53 The Council's risk assessment shows that it has low risk of being exposed to money laundering. On this basis mandatory training for all teams is not required. The risk assessment shows that the higher risk areas of the Finance Team and the Legal Team should be made aware of the existence and possible use of the policy and reporting.

Record Keeping

- 54 Copies of documents and information used to fulfil customer due diligence obligations will be kept for a period of 5 years following the completion of a transaction or the end of a business relationship. At the end of the 5-year period personal data will be deleted unless: -
- It is required to be retained under an enactment or for the purposes of court proceedings or there are reasonable grounds for believing the records need to be maintained for legal proceedings
 - The consent of the person whose data it is has consented

Conclusion

55 The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This document has been written to enable the Council to meet the legal requirements in a way that is proportionate to the low risk to the Council of contravening the legislation. Should you have any concerns whatsoever regarding any transactions then you should contact the MLRO.

56 The policy will be reviewed regularly and updated/amended as necessary.



Appendix A

CONFIDENTIAL

Report to the Money Laundering Reporting Officer (MLRO)

Alleged Money Laundering Activity

To: Money Laundering Reporting Officer

From:
[insert name of employee]

Service:

Details of suspected offence

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

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

Empty box for Name(s) and address(es) of person(s) involved.

Nature, value and timing of activity involved

[Please included full details, eg what, when, where, how]



Empty box for Nature, value and timing of activity involved.

Nature of suspicions regarding such activity

[Please continue on a separate sheet if necessary]

Empty box for Nature of suspicions regarding such activity.

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

Yes No

If Yes, please include details below:



The logo for the Borough of Pendle is centered in the box. It features the text 'Borough of' in a grey sans-serif font above a horizontal line. Below the line, the word 'Pendle' is written in a large, bold, light green font. To the right of 'Pendle' is a stylized graphic of a landscape with a green hill and a grey silhouette of buildings. Below the graphic, the slogan 'Putting people first' is written in a grey, lowercase sans-serif font.

Have you discussed your suspicions with anyone else?

Yes

No

If Yes, please specify below, explaining why such discussion was necessary:

A large empty rectangular box for providing details.

Yes

No

Have you consulted any supervisory body guidance re Money Laundering (eg the Law Society)

If Yes, please specify below:

Do you feel you have a reasonable excuse for not disclosing the matter to the NCA? (eg are you a lawyer and wish to claim legal professional privilege?)

Yes

No

If Yes, please set out full details below:



Please set out below any other information you feel is relevant

Signed:.....

Dated

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 carries a maximum penalty of 5 years imprisonment.



THE FOLLOWING PART OF THIS FORM IS COMPLETED BY THE MLRO

Date Report Received:

Date Receipt of Report Acknowledged:

Consideration of Disclosure:

Action Plan:

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Outcome of Consideration of Disclosure

Are there reasonable grounds for suspecting money laundering activity?



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

Yes No

If Yes, please confirm the date of report to NCA:
and complete the box below:

Details of liaison with the NCA regarding the report:

Notice period:to

Moratorium periodto

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

Yes

No

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



Date consent received from NCA

Date consent given by you to employee

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

Empty rectangular box at the top of the page.

Date consent given by you to employee for any prohibited act transactions to proceed

Other relevant information:

Large empty rectangular box for providing other relevant information.



Signed: Dated:
Money Laundering Reporting Officer

Putting people first

THIS REPORT IS TO BE RETAINED FOR AT LEAST FIVE YEARS