

Report to:	Audit and Governance Committee	Date of Meeting:	Wednesday 16 December 2020
Subject:	Sefton Council Anti-Money Laundering Policy		
Report of:	Executive Director of Corporate Resources and Customer Services	Wards Affected:	(All Wards);
Portfolio:	Regulatory, Compliance and Corporate Services		
Is this a Key Decision:	No	Included in Forward Plan:	No
Exempt / Confidential Report:	No		

Summary:

The report provides Members with the Council's Anti-Money Laundering Policy.

Recommendation(s):

That the Anti-Money Laundering Policy be approved.

Reasons for the Recommendation(s):

Guidance from the Chartered Institute of Public Finance and Accountancy ("CIPFA") indicates that local authorities should comply with the underlying spirit of the legislation and regulations. 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 Proceeds of Crime Act 2002 and Money Laundering Regulations 2017.

Alternative Options Considered and Rejected: (including any Risk Implications)

Not having a policy would leave Officers at risk from the Proceeds of Crime Act 2002 and Money Laundering Regulations 2017.

What will it cost and how will it be financed?

(A) Revenue Costs

None.

(B) Capital Costs

None.

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets): There may be some staffing time required for training purposes.
Legal Implications: The Council must implement the policy to ensure that any suspected cases of money laundering are reported to the National Crime Agency.
Equality Implications: There are no equality implications.

Contribution to the Council's Core Purpose:

Protect the most vulnerable: N/A
Facilitate confident and resilient communities: N/A
Commission, broker and provide core services: N/A
Place – leadership and influencer: N/A
Drivers of change and reform: N/A
Facilitate sustainable economic prosperity: N/A
Greater income for social investment: N/A
Cleaner Greener N/A

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD/FD6220/20) is the author of the report.

The Chief Legal and Democratic Officer (LD/4412/20) has been consulted and any comments have been incorporated into the report.

(B) External Consultations

None

Implementation Date for the Decision

Immediately following the Committee meeting.

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Appendices:

There are no appendices to this report

Background Papers:

There are no background papers available for inspection.

1 Introduction/Background

Money Laundering is the process by which criminally obtained money or property is exchanged for “clean” money or other assets with no obvious link to their criminal origins. The term is used for several offences involving the integration of “dirty money” (i.e. the proceeds of crime) into the mainstream economy. The aim is to legitimise the possession of such monies through circulation and this effectively leads to “clean” funds being received in exchange.

Guidance from the Chartered Institute of Public Finance and Accountancy (“CIPFA”) indicates that local authorities should comply with the underlying spirit of the legislation and regulations. 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 Proceeds of Crime Act 2002 and Money Laundering Regulations 2017.

The anti-money laundering policy is at appendix A

APPENDIX A

Anti-Money Laundering Policy

1. Introduction/Background

1.1 Sefton Council is committed to establishing and maintaining effective arrangements to prevent and detect attempts to launder money through the council. All Members and employees are required to demonstrate the highest standards of honesty and integrity, including compliance with appropriate legislation.

The council is committed to working constructively with the Police and other relevant agencies in relation to combating money laundering. The council will seek to ensure that employees and Members have access to the appropriate guidance. Failure to comply with the procedures set out in this document may constitute a disciplinary and/or criminal offence.

1.2 Scope

This Policy applies to all Members and employees of the council, including temporary or agency staff as well as those employed in community schools, voluntary controlled schools and maintained nursery schools. It aims to uphold the high standards of conduct, which currently exist within the council, by preventing criminal activity. The Policy sets out the procedures which must be followed to enable the council and staff to comply with their obligations.

This Policy sits alongside the council's Anti-Fraud, Bribery and Corruption Policy.

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 Proceeds of Crime Act 2002 and Money Laundering Regulations 2017. Any disciplinary action will be dealt with in accordance with the council's Disciplinary Policy.

1.3 What is Money Laundering?

Money laundering is the process where criminals attempt to change the identity of the proceeds of their crime so that they appear legitimate. The various stages are termed placement, layering and integration:

- **Placement** – “dirty money” is placed directly into the financial system
- **Layering** – the proceeds are moved through a series of financial transactions, making it harder to establish their origin
- **Integration** – the money launderer creates a legitimate explanation for the source of the funds allowing them to be retained, invested into the legitimate economy or to acquire assets.

An example in a council setting is where illicit cash is used (placed) to pay for the annual non-domestic rates on commercial premises (possibly also by means of a large overpayment), and then within a very short time the property is vacated (layering). A refund is made to the individual from the council, ‘integrating’ the source of the money.

The primary offences of money laundering are:

- Concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 of the 2002 Act);
- 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);
- Acquiring, using or possessing criminal property (section 329);
- Becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property (section 18 of the Terrorist Act 2000).

There are also two secondary offences: failure to disclose any of the primary offences and tipping off. Tipping off is where someone informs any individual(s) who are, or are suspected of, being involved in money laundering, in such a way as to reduce the likelihood of their being investigated.

Potentially any Member, employee, partner or external bodies working on behalf of the council could be captured by the money laundering provisions if they suspect money laundering and become involved with it in some way or they are aware of it and fail to report it, whether they are involved or not.

Further details are provided in Appendix B: Offences Table, and Appendix C: Possible Activities Affected by Money Laundering.

1.4 Council's Obligations

There are specific obligations for those carrying out "relevant business". This term relates to any of the following activities carried out in the course of business: credit institutions; financial services; tax advice; audit services; legal services; trust or company service providers; estate agency; and dealing in goods wherever a transaction or several linked transactions involve a cash payment that is equal to or more than €15,000 (c. £12,000). Whilst local authorities are not separately identified in the list of 'relevant business', there are some local authority activities that could be included within the scope of the regulations.

Organisations conducting relevant business must:

- appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees of money laundering activity (their own or anyone else's);
- implement a procedure to enable the reporting of suspicions of money laundering;
- maintain client identification procedures in certain circumstances; and
- maintain record keeping procedures.

The safest way to ensure compliance with the law is to apply it to all areas of work undertaken by the council. Therefore, all staff are required to comply with the reporting procedure set out below.

1.5 The Money Laundering Reporting Officer (MLRO)

If an individual becomes aware that their involvement in a matter may amount to money laundering then they must report it to the Money Laundering Reporting Officer (MLRO)

and not take any further action until they have received consent from the MLRO, who may have to be granted such consent by the National Crime Agency.

The Section 151 Officer is the Money Laundering Reporting Officer (MLRO) as designated by Sefton Council:

Address: Magdalen House, 30 Trinity Road, Bootle

Telephone Number: 0151 934 4081

Email: Stephan.VanArendsen@sefton.gov.uk

In the absence of the MLRO or in instances where it is suspected that the MLRO is involved in suspicious transactions, concerns should be raised with the Chief Internal Auditor:

Address: Magdalen House, 30 Trinity Road, Bootle

Telephone Number: 0151 934 4053

Email: David.Eden@sefton.gov.uk

The MLRO will be responsible for notifying the National Crime Agency (NCA) of any suspected cases of money laundering committed within the accounts of the council as soon as possible and fulfil other duties as defined by legislation or regulation related to the post. Simultaneously, the Cabinet Member for Regulatory Compliance and Corporate Services will be kept informed of any notifications to NCA and of any issues arising from them.

1.6 Reporting a Concern to the MLRO

Any employee who suspects that money laundering activity is taking place, or who becomes concerned that their involvement in a matter may amount to a prohibited act under the legislation, must disclose this promptly to the MLRO (see Appendix E: Disclosure Form). This disclosure should be within 'hours' of the information coming to light. If there is any doubt as to whether or not to file a report, the employee must err on the side of caution and do so.

The employee must follow any subsequent directions from the MLRO or deputy and must not make any further enquiries themselves into the matter. Additionally, they must not take any further steps in the transaction without the necessary authorisation from the MLRO or deputy.

The employee must not disclose or otherwise indicate their suspicions to the person(s) suspected of money laundering. They must not discuss the matter with others or note on a file that a report has been made to the MLRO in case this results in the suspect becoming aware of the suspicion.

Line managers may be consulted before a report is submitted. In this case, both the employee and the line manager must disclose a report to the MLRO individually as it is not a defence for the employee to presume that a report to the MLRO has been made on their behalf. If the line manager is not informed prior to the making of the report, the employee must not thereafter discuss any aspect of the matter with the line manager without any prior approval from the MLRO.

All employees and Members are required to cooperate with the MLRO and the authorities during any money laundering investigation.

Further details for reporting a suspicious transaction is set out in Appendix D: Suspicious Transaction Procedure Flow Chart.

1.7 Consideration of Disclosure Report by MLRO

Once a disclosure report has been received, the MLRO should note the date and acknowledge receipt. The employee should be advised on the timescale within which there will be a response.

The MLRO will consider the report and any other relevant internal information that is relevant, for example:

- other transaction patterns and volumes;
- the length of any business relationship that is involved;
- the number of any one-off transactions and linked one-off transactions;
- any identification evidence held.

The MLRO should undertake any other reasonable enquiries that are appropriate to ensure that all information is taken into account in deciding whether a report to the NCA is required.

Upon evaluation of the disclosure report and any other relevant information, the MLRO must make a timely decision as to whether:

- there is actual or suspected money laundering taking place;
- there are reasonable grounds to know or suspect that is the case;
- consent from the NCA is required for a particular transaction to proceed.

Where the MLRO determines that a report should be submitted to the NCA, they must disclose the matter as soon as practicable on their standard report form (accessible on the NCA website) and in the prescribed matter, unless there is a reasonable excuse for a non-disclosure.

The MLRO may commit an offence under section 331 of the Act if, through a disclosure being made, they know or suspect that another person is involved in money laundering and this is not disclosed to the NCA as soon as practicable.

Where the MLRO determines that no money laundering is taking place, or suspects money laundering but has a reasonable excuse for non-disclosure, they must note the report accordingly and then give consent for any ongoing transactions to proceed. Where consent is required from the NCA for a transaction to proceed, the transaction(s) must not be undertaken or completed until the NCA has specifically provided consent, or the expiration of the relevant time limits deems consent without objection from the NCA.

1.8 Customer Due Diligence

Where Sefton Council is carrying out activities that may be classified as 'relevant business', extra care needs to be taken to check the identity of the customer – this is

known as customer due diligence, covered in Section 7 of the Money Laundering Regulations 2007.

The requirement for customer due diligence applies when one or both of the following questions are correct:

1. Is the service a relevant business?
2. Does the activity involve a cash payment or a series of cash payments of at least £1,000?

Customer due diligence must be carried out before any business is undertaken for that customer, unless the service is being provided to a UK public authority. Ongoing customer due diligence must also be carried out, particularly when money launderer is suspected, or if doubts arise about previously obtained identification information.

Due diligence essentially means identifying the customer and verifying their identity based on documents, data or information obtained from reliable sources and depending upon the intended nature and purpose of the business relationship. The legislation recognises that not all customers present the same risk and allows organisations to vary customer due diligence and monitoring according to the risk of money laundering.

HM Revenues and Customs have issued 'core guidance' for undertaking customer due diligence checks. Consideration should be given to taking one or more of the following, where applicable:

- Confirming the identity of the client via documentation, data or information obtained from a reliable and independent source, e.g. passport.
- Obtaining confirmation from Companies House as to the registration details of the Company and details of the Company business.
- Seeking electronic verification, e.g. credit checks.
- Obtaining confirmation to regulated industries bodies.
- Requesting copies of financial statements.
- Obtaining information on the intended nature and purpose of the business relationship.

1.9 Enhanced Customer Due Diligence

Enhanced customer due diligence must be carried out where, for example, the customer has not been physically present for identification, is a politically exposed person or where there is a beneficial owner who is not the customer (i.e. an individual who holds more than 25% of shares/voting rights/interest in a company).

Enhanced due diligence could include any additional documentation, data or information that will confirm the customer's identity and/or the course of the funds to be used in the business relationship/transaction. If enhanced customer due diligence is required, then the MLRO must be consulted prior to it being carried out.

1.10 Guidance and Training

In support of the Policy and Procedure, the council will:

- Make all Members, employees, partners, external bodies working on behalf of the council aware of the requirements and obligations placed on the council and on themselves as individuals by the anti-money laundering legislation; and
- Give targeted training to those most likely to encounter money laundering.

The training plan is contained in Appendix F.

1.11 Monitoring and Review of Compliance

It is essential that all Members, employees, partners and external bodies working on behalf of the council are aware of the potential for criminal activity and terrorist financing activity to be concealed through Money Laundering. It is the responsibility of all Executive Directors and Heads of Service to undertake regular monitoring and review of their department's compliance with the Anti-Money Laundering Policy and Procedures, and to ensure that the procedure to be adopted is communicated to all Members, employees, partners, and external bodies working on behalf of the council.

1.12 Review of Policy

This policy will be reviewed on an annual basis to ensure that it complies with best practice, any relevant legislation and any internal changes.

Appendix B

Proceeds of Crime Act – Table of Offences

Section Reference	Type of Offence	Definition	Punishment if Convicted
S327	Money Laundering Offence: Concealing Criminal Property	Concealing, disguising, converting or transferring criminal property, or removing criminal property from England and Wales.	Maximum sentence of 14 years imprisonment, or a fine, or both.
S328	Money Laundering Offence: Arrangements	Being actively involved in some arrangement which helps someone else get, keep, use or control the proceeds of a crime.	As under S327
S329	Money Laundering Offence: Acquisition, Use and Possession	Using or possessing criminal property having the knowledge or suspicion that the property represents the proceeds of a crime.	As under S327
S330	Failure to Disclose Offence: Regulated Sector	An employee of a business in the regulated sector having the knowledge or suspicion of another person's involvement in money laundering, and not making a report through the appropriate channels. The employee will be tried upon what they should have known given their experience, knowledge and training.	Maximum sentence of 5 years imprisonment and/or a fine.

S331	<p>Failure to Disclose Offence: Nominated Officers in the Regulated Sector</p>	<p>A nominated officer (MLRO) of a business in the regulated sector having the knowledge or suspicion of another person's involvement in money laundering, and not making a report through the appropriate channels without an acceptable excuse under the legislation. The nominated officer will be tried upon what they should have known given their experience, knowledge and training.</p>	As under S330
S332	<p>Failure to Disclose Offence: Other Nominated Officers</p>	<p>A nominated officer (MLRO) of a business outside of the regulated sector having the knowledge or suspicion of another person's involvement in money laundering and not making a report through the appropriate channels without an acceptable excuse under the legislation. The nominated officer will be tried upon what they knew or suspected, and not on what they might have been expected to know or suspect.</p>	As under S330
S333	<p>Tipping Off Offence</p>	<p>An officer or Member making a disclosure which is likely to prejudice an investigation being</p>	<p>Maximum sentence of 5 years imprisonment, or a fine, or both.</p>

		carried out by a law enforcing authority, knowing that such an investigation is in motion.	
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Appendix C

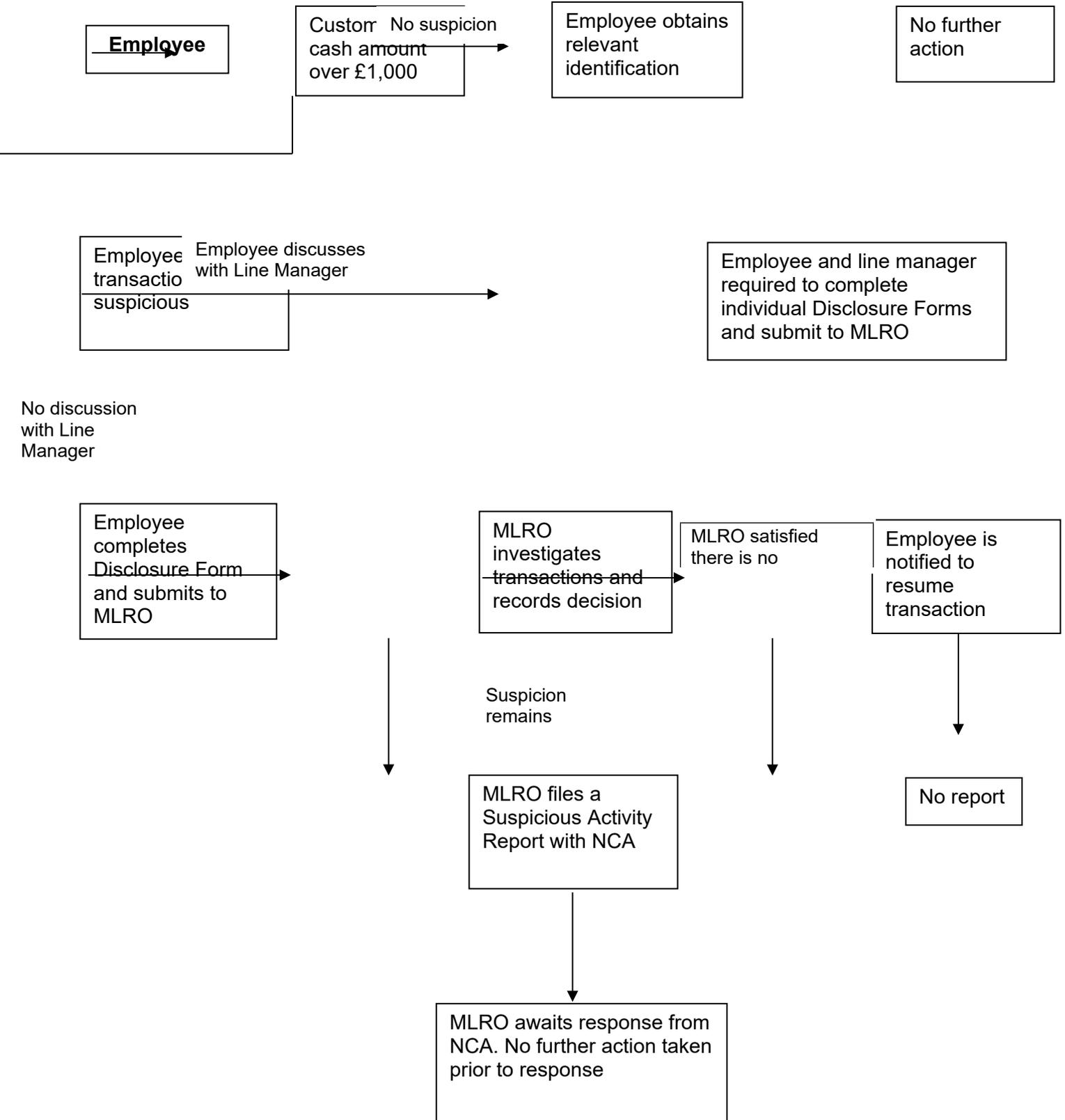
Possible Activities within the Council that may be Affected by Money Laundering

Activity	Types of Activity that may be Affected
New customers with high value transactions	<ul style="list-style-type: none">• Renting out property to individuals or businesses• Entering into other lease agreements• Undertaking services for other organisations
Secretive clients	<ul style="list-style-type: none">• Housing benefits claimants with sums of money entering into/out of their bank account• People buying or renting property who may not say what it is for• People receiving grant funding who refuse to demonstrate what the funding was used for
Customers who are potentially acting dishonestly or illegally	<ul style="list-style-type: none">• People paying for council services who do not provide details about themselves• People making unusual requests for payment arrangements
Illogical transactions	<ul style="list-style-type: none">• People paying in cash and then requesting refunds• Requests for the council to pay seemingly unconnected third parties in respect of goods/services provided• Requests for the council to pay in foreign currencies for no apparent reasons
Payments of substantial sums by cash	<ul style="list-style-type: none">• Large debt arrears paid in cash• Refunding overpayments• Deposits/payments for property
Movement of funds overseas	<ul style="list-style-type: none">• Requests to pay money overseas, potentially for 'tax purposes'
Cancellation of earlier transactions	<ul style="list-style-type: none">• No payment demanded even though good/service has been provided• Sudden and unexpected termination of lease agreements

Requests for client account details outside normal course of business	<ul style="list-style-type: none"> • Queries from other companies regarding legitimacy of customers • council receiving correspondence or information on behalf of other companies
Poor accounting records and internal financial control	<ul style="list-style-type: none"> • Companies tendering for contracts unable to provide proper financial information or the information provided raises concerns • Tender for a contract which is suspiciously low
Unusual property investments or transactions	<ul style="list-style-type: none"> • Requests to purchase council assets/land with no apparent purpose • Requests to rent council property with no apparent business motive
Overcomplicated legal arrangements/multiple solicitors	<ul style="list-style-type: none"> • Property transactions where the council is dealing with several different parties

Appendix D

Suspicious Transaction Reporting Flow Chart



Appendix E:

Money Laundering Disclosure Form

CONFIDENTIAL

Report to Money Laundering Reporting Officer	
Name	
Post/Service/Division	
Phone Number	
Email	
Details of Suspected Offence	
Names and addresses of the persons involved (if a company/public body, include the nature of their business if known)	
Nature, value, timing of activity (include full details e.g. whether this has already occurred or is likely to occur, when/where this occurred, how it arose, value of money/assets involved etc. Provide any evidence available)	
Nature of suspicions regarding such activity	
Has any investigation been undertaken to the best of your knowledge? (If yes, include full details)	

<p>Have you discussed your suspicions with any other person(s)? (If yes, explain who and why such discussion was necessary)</p>	
<p>Details of any other relevant information</p>	

Signed: _____

Dated: _____

IMPORTANT: 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.

For Completion by the MLRO	
Date received	
Are there reasonable grounds for suspecting money laundering activity?	
If yes, will a report be made to the NCA? (If yes, confirm date of report to the NCA)	
Is consent required from the NCA to any ongoing or imminent transactions which would otherwise be prohibited acts? (If yes, provide full details)	
Date consent received from the 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, provide reason(s) for non-disclosure	

Date consent given by you to employee for any prohibited act transactions to proceed	
Details of any other relevant information	

Signed: _____

Dated: _____

THIS REPORT IS TO BE RETAINED SECURELY FOR AT LEAST FIVE YEARS

Appendix F:

Training Plan

Officers training

Officers working in the following areas are those that will be impacted by the policy:

Customer Contact Centre
Leisure centres
Libraries
Parking
Registrars
Cemeteries and Crematoria
Golf Courses
The Atkinson

The Customer Centric Service Manager will be responsible for disseminating this policy and the steps to be followed in Appendix D to all relevant staff within the Customer Contact Centre. The Service Manager Treasury and Capital will take responsibility for the remaining areas. This will be carried out when the policy is approved.

For those requiring specific training HM Revenue & Customs have a number of webinars and courses available which give guidance on money laundering supervision. These can be accessed through the

<https://www.gov.uk/guidance/help-and-support-for-anti-money-laundering>

These for example include webinars for all businesses on how to how to make suspicious activity reports to the National Crime Agency, what happens to those reports, and how to improve the quality of those reports.