

Anti-money Laundering Policy

Scope:	This policy applies to all employees, councillors, contractors, partners, suppliers, consultants, residents and service users of the council.
Effective Date:	October 2020
Review Date:	October 2021 (or sooner if there are changes to legislation)
Approval (Committee and Date):	TBC
Author:	Head of Resources
Policy Owned by:	Section 151 Officer
Statute:	Proceeds of Crime Act 2002 Money Laundering Regulation 2017 (as amended) Financial Services and Markets Act 2000 Terrorism Act 2000
National Standards and Guidance	Combating Financial Crime: Practical Advice for the Public Sector 2020 (<i>CIPFA</i>)
Related Policies	Anti-fraud and Corruption Policy Gifts and Hospitality Anti-money Laundering Policy Whistleblowing Policy Codes of Conduct for Employees and Members Contract Procedure Rules

1 Scope

- 1.1 This policy outlines the council's approach to bribery. It applies to all employees, councillors, contractors, partners, suppliers, consultants, volunteers, residents and service users of the council.
- 1.2 The policy applies to all council's activities, including its work with strategic partners, third parties, suppliers and others. In the case of partnership working, the council will seek to promote the adoption of this policy by its partners.

2 Background

- 2.1 Local authorities are not directly covered by the requirements of The Proceeds of Crime Act 2002 and the Money Laundering Regulations 2017 (as amended). However guidance from CIPFA indicates that they should comply with the underlying spirit of the legislation and regulations.
- 2.2 The council is committed to the highest possible standards of conduct and has therefore put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.
- 2.3 This policy appoints Anti-Money Laundering Reporting Officer to comply with legislation and to oversee the reporting of suspicious activity and money laundering to the National Crime Agency.

3 Definition of Money Laundering

- 3.1 Money laundering describes offences involving the integration of the proceeds of crime, or terrorist funds, into the mainstream economy. Such offences are defined under the Proceeds of Crime Act 2002 as the following 'prohibited acts':
 - Concealing, disguising, converting, transferring or removing criminal property from the UK. (s327);
 - Becoming involved in an arrangement which an individual knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person. (s328);
 - Acquiring, using or possessing criminal property (s329);
 - Doing something that might prejudice an investigation e.g. falsifying a document (s333);
 - Failure to disclose one of the offences listed in a) to c) above, where there are reasonable grounds for knowledge or suspicion (s330-332); and
 - Tipping off a person(s) who is or is suspected of being involved in money laundering in such a way as to reduce the likelihood of or prejudice an investigation. (s333).

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- 3.2 Provided the Council does not undertake activities regulated under the Financial Services and Markets Act 2000, the offences of ‘failure to disclose’ and ‘tipping off’ do not apply. However, the Council and its employees and Members remain subject to the remainder of the offences and the full provisions of the Terrorism Act 2000.
- 3.3 The Terrorism Act 2000 made it an offence for money laundering to become concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of terrorism or resulting from acts of terrorism.
- 3.4 Although the term ‘money laundering’ is generally used to describe the activities of organised crime, for most people it will involve a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.
- 3.5 Potentially very heavy penalties (unlimited fines and imprisonment up to fourteen years) can be handed down to those who are convicted of one of the offences.
- 3.6 Bribery is an inducement or reward offered, promised, or provided, to gain personal, commercial, regulatory or contractual advantage.

4 Key Principles

- 4.1 The main requirements of the legislation are:
- To appoint a Money Laundering Reporting Officer (MLRO);
 - Maintain client identification procedures in certain circumstances;
 - Implement a procedure to enable the reporting of suspicions of money laundering; and
 - Maintain record keeping procedures.

Its aim is to enable employees and Members to respond to a concern they have in the course of their dealings for the Council, and also places a duty upon them to report suspicious activity and money laundering to the MLRO.

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- 4.2 Individuals who have a concern relating to a matter outside of work should contact the Police. The objective of the policy is to provide a coherent and consistent approach to all employees and any person who performs services for and on behalf of Welwyn & Hatfield Borough Council (the Council), including contractors and subcontractors on ensuring compliance with the Bribery Act.
 - 4.3 It will enable employees, members, contractors and volunteers to understand their responsibilities and allow them to take the necessary action such as reporting any potential breaches of the policy.
 - 4.4 The policy will form part of the Council's Anti-Fraud and Corruption Framework.
 - 4.5 The Council is committed to preventing bribery and will not tolerate it in any of its activities.

5 Policy Statement

- 5.1 The Council is committed to countering bribery and corruption in all forms including money laundering and will not tolerate it in any of its activities.
- 5.2 All staff and those working or performing any service on or on behalf of the council be aware of their responsibilities and familiar with legal requirements. Officers considered likely to be exposed to suspicious situations, will be made aware of these by their senior officer and provided with appropriate training.
- 5.3 It is the duty of employees and members to report all suspicious transactions to the MLRO whether they have received training or not, using the reporting procedure.
- 5.4 A limit is set on payments to the Council in the form of cash, and no payment to the Council will be accepted in cash if it exceeds £5,000.
- 5.5 Where the Council is carrying out "relevant business" (accountancy, audit and certain legal services) and, as part of this:
 - forms an ongoing business relationship with a client; or
 - undertakes a one-off transaction involving payment by or to the client of €15,000 (approximately £13,000) or more; or
 - undertakes a series of linked one-off transactions involving total payment by or to the client(s) of €15,000 or more; or
 - it is known or suspected that a one-off transaction (or a series of them) involves money laundering; then the Client Identification Procedure must be followed before any business is undertaken for that client. This requirement does not apply if a business relationship with the client existed before 1 March 2004.

6 Responsibilities

- 6.1 Prevention detection and reporting of money laundering and other forms of corruption are the responsibility of all those working for the Council or under its control.
- 6.2 All staff, including third parties working or performing any service on or behalf of the Council, are to avoid activity that breaches this policy and must:
 - Ensure that they read, understand and comply with the policy;
 - Raise concerns as soon as possible if they suspect that this policy has been breached;
 - Act honestly with integrity at all times to safeguard the Council's resources for which they are responsible; and
 - Comply with the law (both in spirit and in the letter).

7 Client Identification Procedures

- 7.1 Although not a legal requirement, the Council has developed formal client identification procedures which must be followed when council land or property is being sold. These procedures require individuals and, if appropriate, companies to provide proof of identity and current address.
- 7.2 If satisfactory evidence is not obtained at the outset of a matter, then the transaction must not be progressed and a disclosure report must be submitted to the Money Laundering Reporting Officer.
- 7.3 All personal data collected must be kept in compliance with the councils Data Protection Policy and Procedures.

8 Identification and Reporting of Money Laundering

- 8.1 The Council has designated the Section 151 Officer as the Money Laundering Reporting Officer. In their absence the Deputy Section 151 Officer may deputise as MLRO.
- 8.2 They can be contacted using antifraud@welhat.gov.uk or at Welwyn Hatfield Borough Council, The Campus, Welwyn Garden City, Herts, AL8 6AE.
- 8.3 Where you know or suspect that money laundering activity is taking/has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the Act, you must disclose this as soon as practicable to the MLRO.
- 8.4 The disclosure should be within "hours" of the information coming to your attention, not weeks or months later. Your disclosure should be made to the MLRO using the disclosure report (**Appendix A**), the report must include as much detail as possible including:
 - Full details of the people involved;

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- Full details of the nature of their/your involvement;
 - The types of money laundering activity involved;
 - The date(s) of such activities;
 - Whether the transactions have happened, are ongoing or are imminent;
 - Where they took place;
 - How they were undertaken;
 - The (likely) amount of money/assets involved; and
 - Why, exactly, you are suspicious.
- 8.5 This should be provided along with any other available information to enable the MLRO to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering, and to enable them to prepare their report to the National Crime Agency (NCA), where appropriate. You should also enclose copies of any relevant supporting documentation.
- 8.6 If you are concerned that your involvement in the transaction would amount to a prohibited act under sections 327 – 329 of the Act, then your report must include all relevant details, as you will need consent from the NCA, via the MLRO, to take any further part in the transaction - this is the case even if the client gives instructions for the matter to proceed before such consent is given. You 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. a completion date or legal deadline.
- 8.7 Once you have reported the matter to the MLRO you must follow any directions the MLRO may give you. You must not make any further enquiries into the matter yourself, any necessary investigation will be undertaken by the NCA. Simply report your suspicions to the MLRO who will refer the matter on to the NCA if appropriate. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.
- 8.8 Similarly, at no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering, even if the NCA has given consent to a particular transaction proceeding, without the specific consent of the MLRO; otherwise you may commit a criminal offence of “tipping off”.
- 8.9 Do not, therefore, make any reference on a client file to a report having been made to the MLRO – should the client exercise their right to see the file, then such a note will 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 a confidential manner.
- 8.10 The employee must follow any subsequent directions of the MLRO or deputy and must not themselves make any further enquiries into the matter.
- 8.11 The employee must not disclose or otherwise indicate their suspicions to the person suspected of money laundering.

9 Consideration of the report by the Money Laundering Reporting Officer

- 9.1 Upon receipt of a disclosure report, the MLRO must note the date of receipt on their section of the report and acknowledge receipt of it. They should also advise you of the timescale within which they expect to respond to you.
- 9.2 The MLRO will consider the report and any other available internal information they think relevant, for example:
- reviewing other transaction patterns and volumes;
 - the length of any business relationship involved;
 - the number of any one-off transactions and linked one-off transactions; and
 - any identification evidence held.
- 9.3 The MLRO will undertake such other reasonable inquiries they think appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved). The MLRO may also need to discuss the report with you.
- 9.4 Once the MLRO has evaluated the disclosure report and any other relevant information, they must make a timely determination as to whether:
- there is actual or suspected money laundering taking place; or
 - there are reasonable grounds to know or suspect that is the case; and
 - whether they need to seek consent from the NCA for a particular transaction to proceed.
- 9.5 Where the MLRO does so conclude, then they must disclose the matter as soon as practicable to the NCA on their standard report form and in the prescribed manner, unless they have a reasonable excuse for non-disclosure to the NCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).
- 9.6 Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then they must note the report accordingly; they can then immediately give their consent for any ongoing or imminent transactions to proceed.
- 9.7 In cases where legal professional privilege may apply, the MLRO must liaise with the Council's Legal Department to decide whether there is a reasonable excuse for not reporting the matter to the NCA.
- 9.8 Where consent is required from the NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the NCA.

9.9 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then they shall mark the report accordingly and give their consent for any ongoing or imminent transaction(s) to proceed.

9.10 All disclosure reports referred to the MLRO and reports made by them to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.

9.11 The MLRO commits 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 does not disclose this as soon as practicable to the NCA.

10 Sanctions

10.1 Staff who breach this policy may face disciplinary action, which could result in dismissal for misconduct or gross misconduct.

10.2 Under the Public Contracts Regulations 2015 contracting authorities shall exclude a supplier from participation in a procurement where they have established that supplier has been convicted of certain offences, including bribery and corruption

11 Version History

Version no.	1.0	Date effective:	October 2020
Full / partial review?	Full		
Brief summary of changes:	Fundamental review of policy		
Staff consultation (teams):	Legal Governance Client Services Procurement Human Resources Finance/Payroll Trade Unions		
Resident consultation:	N/A		
Approved By Cabinet / Council:	TBC		
Author:	Richard Baker, Head of Resources		

Appendix A - Report to MLRO Template

To: The Money Laundering Reporting Officer antifraud@welhat.gov.uk

From Officer Reporting Suspected Activity:

Name:	
Position:	
Business Unit:	
Email address:	
Telephone numbers:	

Do not discuss the content of this report with anyone, especially the person you believe to be involved in the suspected money laundering activity you have described. To do so may constitute a tipping off offence.

Details of suspected offence:

Name(s) and address(es) of person(s) involved: (Please also include date of birth, nationality, national insurance numbers- if possible) (If a company please include details of nature of business, type of organisation, registered office address, company registration number, VAT registration number):
Nature, value and timing of activity involved: (Please include full details e.g. what, when, where, how.)
Nature of suspicions regarding such activity:
Has any investigation been undertaken (as far as you are aware), If yes, please include details below: Yes / No
Have you discussed your suspicions with anyone else, if yes, please specify below, explaining why such discussion was necessary: Yes / No
Have you consulted any supervisory body guidance re money laundering? (e.g. the Law Society) If yes, please specify below: Yes / No
Do you feel you have reasonable grounds for not disclosing the matter to the FCA? (e.g. are you a lawyer and wish to claim legal professional privilege?) If yes, please set out full details below: Yes / No

Are you involved in a transaction which might be a prohibited act under the Proceeds of Crime Act and which requires appropriate consent from NCA, If yes, please enclose details below: Yes / No

Please detail below any other information you feel is relevant:

FOR COMPLETION BY THE MONEY LAUNDERING REPORTING OFFICER

Date report received:

Date receipt of report acknowledged:

Consideration of Disclosure - Action plan

Are there reasonable grounds for suspecting money-laundering activity?

If there are reasonable grounds for suspicion, will a report be made to NCA? Yes / No

If yes, please confirm date of report to NCA:

Details of liaison with NCA regarding the report:

Is consent required from the NCA for any ongoing or imminent transactions that would otherwise be prohibited acts. If yes, please confirm full details; Yes / No

Date consent received from NCA:

Date receipt of report acknowledged:

Date consent given by you to employee:

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

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 reason(s) for non-disclosure:

Other relevant information:

Signed:..... Dated:.....

RETENTION PERIOD FIVE YEARS