

NORTH HERTFORDSHIRE DISTRICT COUNCIL ANTI-MONEY LAUNDERING POLICY

1. Introduction

- 1.1 North Hertfordshire District Council is committed to the highest possible standards of conduct. Although as a local authority it is not directly covered by the requirements of current anti-money laundering legislation, it has responded to guidance from the finance and legal professions and developed an Anti-Money Laundering Policy and accompanying Guidance Notes.

2. Scope of the Policy

- 2.1 This Policy and its accompanying Guidance Notes apply to all employees and Members of the Council. They sit alongside the Council's Confidential Reporting Code and Code of Conduct as components of the Council's Corporate Governance regime.
- 2.2 Individuals could become aware of potential money laundering activities both in their work and private lives. It therefore follows, that they have the potential to commit a money laundering offence both inside and outside work. This policy has been developed to enable employees to respond to a concern they have in the workplace. Individuals who have a concern relating to a matter outside work should contact the Police.
- 2.3 Individuals who fail to comply with current anti-money laundering legislation could find themselves liable to prosecution through the courts.

3. What is Money Laundering?

- 3.1 Money laundering is the term used to describe a number of offences involving the proceeds of crime or terrorist funds. Under the Proceeds of Crime Act 2002, the following acts constitute the act of money laundering:

Principal Offences

- a) Concealing, disguising, converting, transferring or removing criminal property from England and Wales or from Scotland or from Northern Ireland; (section 327)
 - b) Becoming concerned in an arrangement in which an individual knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person; (section 328) and
 - c) Acquiring, using or possessing criminal property. (section 329)
- 3.2 In addition to the above principal offences, there are a further two third party offences relating to money laundering:

Third Party Offences

- i) Failure to disclose one of the principal offences listed in a) to c) above, where there are reasonable grounds for knowing or suspecting the money was a proceed of crime; (section 330) and
 - ii) 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.
- 3.3 Money laundering offences can be tried in either a Magistrate's Court or at Crown Court. Trials at the former can attract fines of up to £5,000 and / or up to six months in prison.

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In a Crown Court, fines are unlimited and sentences of up to fourteen years can be handed out.

4. The Council's response

4.1 In response to the legislation and regulations, North Hertfordshire District Council has:

- a) Identified areas of the Council's activity that could be vulnerable to money laundering;
- b) Updated relevant procedure notes in response to this identified risk;
- c) Established client identification procedures for certain activities;
- d) Appointed a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees regarding money laundering activity; and
- e) Implemented a procedure to enable the reporting of knowledge or suspicions of money laundering.

4.2 The Council believes that some small risk of money laundering could be posed to the following services:

- a) Treasury Management
- b) Council Tax and NNDR
- c) Sale of land and property

Treasury Management

4.3 **Treasury Management Practice 9** (TMP9) includes procedures for establishing the identity / authenticity of lenders. It states that 'NHDC does not accept loans from individuals. All loans are obtained from the Public Works Loan Board (PWLB) or from authorised institutions under the Banking Act 1987. The Financial Services Authority (FSA) maintains a register of authorised institutions which can be accessed through their website on www.fsa.gov.uk'.

4.4 Additionally, TMP9 refers officers to the guidance in this policy with regard to the reporting of any concerns they might have to the Money Laundering Reporting Officer's attention. Formal training is provided to Treasury Management staff at least every two years with update training given as appropriate to ensure they remain equipped to identify activity of concern.

Council Tax and NNDR

4.5 The guidance notes relating to Credits and Refunds state that 'Refunds that exceed £500.00 for Council Tax and £5000.00 for NNDR Tax will be subject to a Money Laundering check. This involves the Senior Officer/Manager checking the validity of the refund and confirming that the refund is being paid to the correct party (i.e. the party responsible for the payment). The Cheque/Bacs requisition form should be 'ticked' in the appropriate box by the Senior Officer/ Manager confirming that these checks have being carried out.'

Sale of Land and Property

4.6 Where the Council is proposing to sell either land or property with a value in excess of £10,000, client identification must be sought before business is conducted.

4.7 Evidence of the identity of the prospective client should be obtained as soon as practicable after instructions are received unless evidence of the client has already been obtained. This requirement applies to both new and existing clients.

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- 4.8 Evidence obtained from an individual should confirm proof of identity and proof of their current address. Evidence obtained with regard to an organisation should allow the company to be fully identified in terms of registered office, registration number etc. If satisfactory evidence of identity is not obtained at the outset of a matter then the matter should not be progressed.
- 4.9 Evidence should be annotated 'Evidence re Money Laundering', placed on the Council's client file and retained for at least five years from the end of the business relationship or one-off transaction(s). This is to ensure that it could be used in a future investigation into money laundering. Care must be taken to ensure compliance with the Data Protection Act when storing individuals' personal data.
- 4.10 Records should be maintained in such a way as to provide an audit trail during any subsequent investigation. In practice, records of work carried out for clients in the normal course of Council business should suffice in this regard.

5. The Money Laundering Reporting Officer

- 5.1 The Council's Money Laundering Reporting Officer (MLRO) is the Head of Finance, Performance and Asset Management, Andy Cavanagh. He can be contacted by telephone on 01462 474243 or by email at Andrew.cavanagh@north-herts.gov.uk.
- 5.2 Howard Crompton, Head of Revenues and Benefits and Norma Atlay, Strategic Director of Finance, Policy and Governance are his deputies. Howard Crompton can be contacted by telephone on 01462 474247 or by email at howard.crompton@north-herts.gov.uk and Norma Atlay by telephone on 01462 474297 or by email at norma.atlay@north-herts.gov.uk.

6. Reporting to the Money Laundering Reporting Officer

- 6.1 Knowledge or suspicion that money laundering activity is taking / has taken place or concern about involvement in a matter, must be disclosed to the MLRO as soon as is practicable. Failure to do this may leave an individual liable to prosecution.
- 6.2 Disclosures should be made on the proforma **Disclosure Report** contained within the Council's Anti Money Laundering Guidance notes. They must show as much detail as possible and include any relevant supporting documentation. The MLRO will use this information to determine whether or not there are reasonable grounds for knowledge or suspicion of money laundering. If the MLRO believes that reasonable grounds exist, he will submit a report to the Serious Organised Crime Agency (SOCA).
- 6.3 Once the matter has been reported to the MLRO, the individual reporting it must make no further enquiries into the matter and should follow any directions the MLRO gives. Any necessary investigation will be undertaken by SOCA with whom the individual and any other officers identified as relevant to the investigatory process may be required to co-operate.
- 6.4 The individual suspected of money laundering must not be informed of the suspicion. Disclosure of information relating to an investigation may constitute 'tipping off' and could result in a criminal case being brought against the individual who made the disclosure.
- 6.5 Reference to a MLRO report should not be made on a client file. Clients can request sight of their file under the Freedom of Information Act and hence could become aware of an investigation in this way.

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7. Consideration of the disclosure by the Money Laundering Reporting Officer

7.1 When evaluating the disclosure report and any other relevant information, the MLRO seeks to determine whether:

- Actual or suspected money laundering is taking place; or
- There are reasonable grounds to know or suspect that this is the case; and
- SOCA's consent is needed before a particular transaction can proceed.

7.2 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering, then the disclosure report is marked accordingly. Consent can then be given for any ongoing or imminent transaction(s) to proceed.

7.3 Where the MLRO suspects money laundering but has reasonable grounds for non-disclosure, the report is annotated accordingly. Consent can then be given for ongoing or imminent transactions to proceed.

7.4 In cases where legal professional privilege may apply, the MLRO will liaise with the Corporate Legal Manager to decide whether there are reasonable grounds for not reporting the matter to the SOCA..

7.5 If the MLRO concludes that actual / suspected money laundering is taking / has taken place, then unless there are reasonable grounds for non-disclosure, the matter will be disclosed to SOCA in the appropriate manner as soon as is practicable.

7.6 Where consent is required from SOCA for a transaction(s) to proceed, then the transaction(s) in question must not be undertaken or completed until either

- SOCA has specifically given consent; or
- There is deemed consent through the expiration of the relevant time limits without objection being received from the SOCA.

7.7 The MLRO will keep all records relating to an investigation for at least five years from its conclusion and in compliance with the Data Protection and Freedom of Information Acts and document retention requirements.

8. Training

8.1 The Council ensures that all employees who work in identified vulnerable areas are specifically made aware of current anti-money laundering regulations and the Council's response to them.

8.2 Additionally, all employees are familiarised with the legal and regulatory requirements relating to money laundering and how they affect both the Council and themselves through corporate briefings.

9. Conclusion

9.1 Given a local authority's legal position with regard to the legislative requirements governing money laundering, the Council believes that this Policy represents a proportionate response to the very low risk it faces of money laundering offences.