

NORTH HERTFORDSHIRE DISTRICT COUNCIL ANTI-MONEY LAUNDERING GUIDANCE NOTES

1. Purpose and Scope

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

1.2 This document details the internal procedures established for:

- Establishing the identity / authenticity of lenders as part of Treasury Management working practices;
- Verifying the authenticity of requests for the refund of a Council Tax / NNDR overpayment;
- Client identification procedures as part of the process for selling land / property;
- Reporting knowledge or suspicion of money laundering activity to the Money Laundering Reporting Officer (MLRO); and
- A MLRO investigation.

2. Treasury Management

2.1 **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'.

3. Council Tax and NNDR

3.1 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.'

4. Client Identification Procedures and the Sale of Land and Property

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

4.2 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.

4.3 The Council officer dealing with the transaction, must require individuals to provide evidence of identity in the form of one of the following documents:

- i) Current signed passport
- ii) Current full UK photocard driving licence (both sections)
- iii) Current UK provisional photocard driving licence (both sections)
- iv) Inland Revenue PAYE Coding Notice

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- v) Benefits book or Benefits Agency/Department for Work and Pensions Notification letter
- vi) Residence permit
- vii) Construction Industry Scheme (CIS) Certificate (CIS4(T), CIS4(P) or CIS6
- viii) Services Identity Card
- ix) Current Firearms Certificate

4.4 Additionally, an individual must prove their current address by providing one item from the following list:

- i) Current full UK photocard driving licence (if not already used as evidence of identity)
- ii) Current UK provisional photocard driving licence (if not already used as evidence of identity)
- iii) Bank, building society or credit union statement or passbook (with printed address)
- iv) Recent utility bill, i.e. gas, electric, water (not a mobile phone bill)
- v) Current local authority tax bill
- vi) Most recent original mortgage statement
- vii) Benefits book or Benefits Agency/Department for Work and Pensions Notification letter (if not already used as evidence of identity)
- viii) Solicitor's correspondence (relating to a house purchase and less than 2 months old)
- ix) Local council rent card or local council tenancy agreement

4.5 Original documents should be photocopied and the client requested to sign them thus confirming that the photocopies are an authentic copy of the original documents presented.

4.6 If a client is unable to visit in person, the client should be asked to provide documents 'certified as a true copy' by a notary public. Checks should then be made to ensure that the notary is registered with the Law Society. Once this has been confirmed, the notary should be contacted to confirm that they did indeed certify the documents.

4.7 Where the client is a company, identity should be established by means of:

- i) The company's full name and registration number;
- ii) Details of the registered office address; and
- iii) Any separate trading address relevant to the contract concerned

A company search should then be carried out to verify the details given and check the location of any relevant trading address.

4.8 In the event that one or a few individuals effectively own the company, the identity of the individual(s) should be confirmed as per paragraphs 2.3 and 2.4 above.

4.9 If satisfactory evidence of identity is not obtained at the outset of a matter then the matter should not be progressed.

4.10 Copies of the documents seen should be annotated as 'Evidence re Money Laundering' and filed on the individual client files in compliance with the requirements of the Data Protection and Freedom of Information Acts. The client file should be retained for five years from the conclusion of a matter and maintained in such a way as to provide an audit trail during any subsequent investigation. In practice, records of

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work carried out for clients in the normal course of Council business should suffice in this regard.

5. Making a Report to the Money Laundering Reporting Officer (MLRO)

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.

5.3 If you know or suspect that money laundering activity is taking or has taken place, or are concerned about your involvement in a matter, you should disclose this to the MLRO immediately if it is practicable. Failure to disclose information may leave you liable to prosecution.

5.4 Disclosures should be made to the MLRO using the proforma **Disclosure Report** and should include as much detail as possible:

- Full details of the people involved (including yourself, if relevant), e.g. name, date of birth, address, company names, directorships, phone numbers, etc
- Full details of the nature of their / your involvement.
- The types of money laundering activity involved.
- The dates of such activities, including whether the transactions have happened, are on-going or are imminent.
- Where they took place;
- How they were undertaken;
- The (likely) amount of money/assets involved;
- Why, exactly, you are suspicious – SOCA will require full reasons;
- Any other information that you believe may help the MLRO decide whether there are reasonable grounds for knowledge or suspicion of money laundering and hence whether a report to SOCA is required;
- Copies of any relevant supporting documentation.

5.5 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.

5.6 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.

5.7 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. Such an action could be seen as tipping off and may render an individual liable to prosecution.

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5.8 The MLRO will keep all records pertaining to an investigation for at least five years whilst ensuring compliance with the Data Protection and Freedom of Information Acts and document retention requirements.

6. The Role of the Money Laundering Reporting Officer

6.1 Upon receiving a disclosure report, the MLRO will date it and formally acknowledge its receipt. The acknowledgement letter will also advise of the timescale within which he expects to make a response.

6.2 The MLRO will consider the disclosure report and any other relevant internal information available to him. This might include:

- 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;
- Any identification evidence held.

6.3 The MLRO may undertake other reasonable inquiries to ensure that all available information is taken into account when deciding whether or not a report to SOCA is required. The MLRO may need to discuss his report with the reporting individual.

6.4 Once the MLRO has evaluated the disclosure report and any other relevant information, he must determine in a timely manner whether:

- there is actual or suspected money laundering taking place; or
- there are reasonable grounds to know or suspect that this is the case; and
- He needs to seek consent from SOCA for a particular transaction to proceed.

6.5 Where the MLRO either suspects money laundering but has reasonable grounds for non-disclosure; or concludes that there are no reasonable grounds to suspect or confirm money laundering, the disclosure report is annotated accordingly. All information known to the Council at the time is recorded and the reasons why the information obtained did not give rise to knowledge or suspicion of money laundering detailed. Consent can then be given for any ongoing or imminent transactions to proceed.

6.6 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.

6.7 Where the MLRO concludes that actual or suspected money laundering is taking place, (unless there are reasonable grounds for non-disclosure), he will disclose the matter as soon as practicable to SOCA on their standard report form and in the prescribed manner.

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

- a) Specifically given consent; or
- b) There is deemed consent through the expiration of the relevant time limits without objection from SOCA.

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6.9 The MLRO will act as the link between SOCA and the relevant Council officers to ensure that the appropriate action is taken in these circumstances.

7. Conclusion

7.1 These Guidance Notes have been written to help you understand your role and responsibilities and the role and responsibilities of the MLRO in situations where you know or suspect that money laundering is taking place in the workplace.

7.2 Should you have any concern whatsoever regarding a transaction or situation, then you should contact the MLRO who will provide you with advice and guidance on how to proceed.

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APPENDIX A

CONFIDENTIAL

**Disclosure Report
to the
Money Laundering Reporting Officer**

FOR COMPLETION BY THE OFFICER REPORTING THE SUSPECTED OFFENCE

To: Andrew Cavanagh, Money Laundering Reporting Officer, NHDC

From:

Directorate: **Tel:**

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)

Nature, value and timing of activity involved:
(Please include full details e.g. what, when, where, how. Continue on a separate sheet if necessary)

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Nature of suspicions regarding such activity:
(Please continue on a separate sheet if necessary)

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

Yes

No

If yes, please include details below:

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Have you discussed your suspicions with anyone else?

Yes

No

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

Have you consulted any supervisory body guidance re money laundering? (e.g. the Law Society)

Yes

No

If yes, please specify below:

Do you feel you have reasonable grounds for not disclosing the matter to the SOCA? (e.g. are you a lawyer and wish to claim legal professional privilege?)

Yes

No

If yes, please set out full details below:

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Are you involved in a transaction which might be a prohibited act under sections 327- 329 of the Act and which requires appropriate consent from SOCA?

Yes

No

If yes, please enclose details in the box below:

Please detail below any other information you feel is relevant:

Signed:.....

Dated:.....

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.

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FOR COMPLETION BY THE MONEY LAUNDERING REPORTING OFFICER

Date report received:

Date receipt of report acknowledged:

CONSIDERATION OF DISCLOSURE:

Action plan:

OUTCOME OF CONSIDERATION OF DISCLOSURE:

Are there reasonable grounds for suspecting money-laundering activity?

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

Yes

No

If yes, please confirm date of report to SOCA:

and complete the box below:

Details of liaison with SOCA regarding the report:

Notice Period: to

Moratorium Period: to

Is consent required from the SOCA for any ongoing or imminent transactions that would otherwise be prohibited acts?

Yes

No

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

Date consent received from SOCA:

Date consent given by you to employee:

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

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

Other relevant information:

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

THIS REPORT MUST BE RETAINED FOR AT LEAST FIVE YEARS