



**NEWARK &
SHERWOOD**
DISTRICT COUNCIL

ANTI-MONEY LAUNDERING POLICY

Revised: February 2021

Next revision due: February 2023

INTRODUCTION

Newark and Sherwood District Council is committed to preventing the Council and its employees being exposed to money laundering, to identify the risks where it may occur and to comply with legal and regulatory requirements.

The development of legislation (The Proceeds of Crime Act 2002 and the Terrorism Act 2000) and regulations (Terrorist Financing and Transfer of Funds Regulations 2017) places obligations on the Council and its employees to ensure procedures are in place to prevent services being used for money laundering or terrorist financing.

Money laundering is linked to Terrorist Financing – this is the process by which terrorists fund operations in order to perform terrorist acts. Terrorists need financial support to carry out their activities and achieve their goals.

Any business in any sector can be subject to money laundering risks – local government is no exception.

DEFINITION

Money laundering is the process by which the proceeds of crime are converted into assets which appear to have a legitimate origin in order that they can be retained permanently or recycled into further criminal enterprises.

Money laundering often involves 3 steps:

- Placement – 'dirty' cash is introduced into the financial system
- Layering – the proceeds are moved through a series of transactions. The purpose of this is to conceal the illegal source
- Integration – a legitimate explanation for the source of funds is created and financial wealth can be retained and potentially invested or assets acquired

Money laundering may range from a single act to complex and sophisticated schemes involving multiple parties.

SCOPE

All employees should be vigilant for signs of money laundering.

This policy applies to all employees and Members of Newark and Sherwood District Council and sets out procedures to be followed when there are suspicions of money laundering activity. Not all staff will need a detailed knowledge of the criminal

offences covered by the legislation although some employees will require additional guidance to ensure awareness of money laundering.

The Policy is consistent with other Council policies including the Anti-Fraud and Corruption Policy and the Whistleblowing Policy.

Failure by a Council employee to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them.

OBJECTIVES

The policy outlines the Council's arrangements around:

- The Money Laundering Reporting Officer (MLRO) role
- The arrangements to receive and manage concerns of staff about money laundering and to make reports to the National Crime Agency (NCA) where required
- Ensuring those staff most likely to be exposed to money laundering situations are aware of the requirements placed on the organisation and them as individuals by the relevant legislation
- Procedures designed to prevent money laundering
- Provision of training to those most likely to encounter money laundering

Money Laundering Reporting Officer (MLRO)

The Council is also required to ensure a Money Laundering Reporting Officer (MLRO) is appointed to receive disclosures from employees of money laundering activity.

The nominated officer at Newark and Sherwood District Council to receive disclosures about money laundering activity is Sanjiv Kohli. They can be contacted as follows:

- Sanjiv Kohli
Deputy Chief Executive, Director of Resources & S151 Officer
01636 655303
Sanjiv.kohli@newark-sherwooddc.gov.uk

The Deputy Money Laundering Reporting Officer is:

- Nick Wilson
Business Manager – Financial Services
01636 655317
nick.wilson@newark-sherwooddc.gov.uk

The main functions of the MLRO are:

- Produce written risk assessment for the business
- Point of contact between the business and NCA
- Receive notifications of potential terrorist money laundering or terrorist financing
- Analyse notifications - to reach decision on whether to file a SAR
- Consider staff training needs
- Responsibility for policies and controls
- Guardian of records relating to SARs

Reporting concerns to the Money Laundering Reporting Officer (MLRO)

Staff that know or suspect they may have encountered criminal activity and that they may be at risk of contravening the legislation in place, should contact the MLRO to notify their concerns – the disclosure should be made at the earliest opportunity. Under Schedule 2(1)(2) of the Data Protection Act 2018, confidentiality does not apply where money laundering is suspected.

The employee must follow any subsequent instructions made by the Council's MLRO – no further enquiries into the matter may be taken without authorisation from the MLRO. Where a report has been made, at no time should you voice any suspicions to the person suspected of money laundering. You may commit an offence of “tipping off”, which could be prosecuted under the Act.

All disclosure reports made to the MLRO (and the reports submitted to the NCA) must be retained by the MLRO for a minimum of 5 years – the MLRO will keep a record of all referrals received and any action taken to ensure an audit trail is maintained. The Money Laundering Disclosure Form should be used to record any action taken. This is appended at Appendix B.

Reporting to the National Crime Agency

The disclosure will be noted by the MLRO and they will evaluate the information provided to identify if there are reasonable grounds for suspicion of money laundering. The MLRO may commence an investigation to enable a decision on whether to report the matter to the NCA.

If a decision is made to submit a report, the NCA provide forms for completion to enable a Suspicious Activity Report to be submitted – The MLRO must promptly make a Suspicious Activity Report (SAR) to the National Crime Agency (NCA) on line at www.nationalcrimeagency.gov.uk

If the MLRO or Deputy MLRO know or suspect that a person is engaged in money laundering and they do not disclose this to the NCA, they are committing a criminal offence. Care should be taken that the client suspected of money laundering is not alerted that a report has been made to the NCA – tipping off is a specific offence under the Proceeds of Crime Act 2002.

If no report is made, the reasons for this must be recorded by the MLRO.

Money Laundering Offences

There are 3 principal money laundering offences under Proceeds of Crime Act 2002. An offence is committed if a person knows or suspect property has been purchased with the proceeds from a criminal act and:

- conceals, disguises, converts or transfers or removes the property from the UK - Section 327
- enters into arrangement which he/she knows or suspects will facilitate another person to acquire, retain, use or control that property – Section 328
- acquires, uses or possesses the property – Section 329

Property can include money, real or moveable property including inherited assets and also intangible property (e.g. mortgages, leases, rights etc).

The money laundering offences are aimed at criminals and their associates but any person can be caught by the offences if they suspect money laundering and either become involved or do nothing about it. It is not necessary to have benefitted in any way to be guilty of the offences.

The key requirement for Council employees and partners is to promptly report (Section 337 disclosure) any suspected money laundering activity to the Council's MLRO – while the risk to the Council of contravening the legislation is low, it is important that all employees are familiar with their responsibilities as serious criminal sanctions can be imposed for breaches of legislation.

Section 337 of the Proceeds of Crime Act 2002 provides protection to employees when they report suspected money laundering. There are conditions to this:

- the information must come to the employee's notice in the course of their trade, profession, business or employment and
- causes the employee to know or suspect (or give reasonable ground to know or suspect) that another person is engaged in money laundering and
- the disclosure is made to a constable, customs officer or the nominated MLRO

It is also important to note that when a proposed act or transaction is a suspected money laundering offence anyone knowing or suspecting money laundering who is

then involved in the act or transaction is guilty of the same offence unless they have made a Section 337 Disclosure and appropriate consent has been given.

A Section 337 money laundering disclosure is strictly confidential. There must be no disclosure or other indication to the person suspected of money laundering. Section 342 of the Proceeds of Crime Act states that a person may be guilty of this offence if they:

- make a disclosure likely to prejudice the investigation
- falsify, conceal, destroy or dispose of documents relevant to the investigation

Failure to comply with these requirements could amount to the criminal offence of Prejudicing an Investigation.

GENERAL PROCEDURES

Cash Payments

Cash receipts over a value of £1,500 shall be reported to the Council's Money Laundering Reporting Officer, who shall be responsible for taking the appropriate action as per the above. Cash is defined as notes, coins or any currency.

Identification of new clients

It is important to 'know your customer' - employees should be wary of situations where funds flow through the Council from sources with which it is not familiar. Where the Council is forming a new business relationship and/or is considering a significant one off transaction with a new client, evidence of identity of the prospective client should be obtained before proceeding

It is good practice to have either:

- One government document that verifies the name, address and date of birth or
- A government document that verifies their full name and another supporting document which verifies name and either their date of birth or address

Where it is not possible to obtain such documents, it is necessary to consider the risks associated with the client and seek advice from the MLRO or Deputy MLRO.

Possible signs of Money Laundering

The following signs may be possible indicators of money laundering taking place and employees should be vigilant about:

- Concerns about honesty, integrity or location of the client
- Secretive behaviour e.g. refusal to provide information
- Attempted payment of a substantial sum of cash
- Transactions which appear uneconomic, inefficient or irrational
- Illogical third party transactions – unnecessary routing of funds from third parties
- Illogical involvement of an unconnected third party
- Funds received from an unexpected source
- Instructions for payment to an unexpected source
- Significant overpayments (and subsequent request for refund)
- Refunds following reversal or cancellation of an earlier transaction
- No obvious legitimate source of funds
- Unusual request for client account details
- Poor business records or internal controls

Staff training and awareness

Staff can undertake a general Fraud Awareness e-learning course and this includes Money Laundering. There are some areas of the Council's activities that may be more vulnerable to attempts to launder money. The risks will be assessed by the Counter Fraud Team and enhanced awareness training provided where applicable.

FURTHER INFORMATION

Further information can be obtained from the MLRO and the following sources:

- National Crime Agency - <https://www.nationalcrimeagency.gov.uk/>
- www.legislation.gov.uk
 - Terrorism Act - <https://www.legislation.gov.uk/ukpga/2000/11/contents>
 - Proceeds of Crime Act 2002 - <https://www.legislation.gov.uk/ukpga/2002/29/contents>
 - Terrorist Financing and Transfer of Funds Regulations 2017 - http://www.legislation.gov.uk/uksi/2017/692/pdfs/uksi_20170692_en.pdf

GUIDANCE NOTE - DISCLOSURE PROCEDURE

Reporting to the Money Laundering Reporting Officer (MLRO)

- a) 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 legislation, you must disclose this as soon as practicable to the MLRO. The disclosure should be within “hours” of the information coming to your attention, not weeks or months later. **SHOULD YOU NOT DO SO, THEN YOU MAY BE LIABLE TO PROSECUTION.**
- b) Your disclosure should be made to the MLRO using the form attached at Appendix B. The report must include as much detail as possible, for example:
- 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;
 - If you are concerned that your involvement in the transaction would amount to a prohibited act (under sections 327 – 329 of the 2002 Act), then your report must include all relevant details, as the MLRO will need to obtain consent from the Serious Organised Crime Agency (SOCA), for the Council 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 whether there are any deadlines for receiving such consent e.g. a completion date or court deadline;
 - The types of money laundering activity involved:
 - If possible, cite the section number(s) under which the report is being made e.g. a principal money laundering offence under the 2002 Act (these are detailed above) (or 2000 Act), or general reporting requirement under section 330 of the 2002 Act (or section 21A of the 2000 Act), or both; Advice should be sought from the Legal section
 - The dates of such activities, including:
 - 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;
 - Why, exactly, you are suspicious –along with any other available information to enable the MLRO to assess whether there are reasonable grounds for knowledge or suspicion of money laundering, and to enable them to prepare their report to the SOCA, where appropriate. You should also enclose copies of any relevant supporting documentation.

- c) 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 the SOCA. Simply report your suspicions to the MLRO who will refer the matter on to the SOCA if appropriate. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.
- d) Similarly, **at no time and under no circumstances should you voice any suspicions** to the person(s) whom you suspect of money laundering without the specific consent of the MLO, even if the SOCA has given consent to a particular transaction proceeding; otherwise you may commit a criminal offence of “tipping off” (see the Anti-Money Laundering Policy for further details).
- e) Do not, make any reference on a client file to a report having been made to the MLRO. Under the Data Protection Act 2018 a client has the right to see their file and the mentioning of a report in the file could be construed as “tipping off” and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

Consideration of the disclosure by the Money Laundering Reporting Officer

- f) Upon receipt of a disclosure report, the MLRO must note the date of receipt on his section of the report and acknowledge receipt of it. He should also advise you of the timescale within which he expects to respond to you.
- g) The MLRO will consider the report and any other available internal information he thinks relevant through e.g.:
 - reviewing other transaction patterns and volumes;
 - considering the length of any business relationship involved;
 - evaluating the number of any one-off transactions and linked one-off transactions;
 - reviewing any identification evidence held;

They will undertake such other reasonable enquiries they think are appropriate in order to ensure that all available information is taken into account in deciding whether a report to the SOCA is required. Enquiries will be 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.
- h) 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 SOCA for a particular transaction to proceed.
- i) Where the MLRO does so conclude, then they must disclose the matter as soon as practicable to the SOCA on their standard report form and in the prescribed manner, unless

they have a reasonable excuse for non-disclosure to the SOCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).

- In cases where legal professional privilege may apply, the MLRO must liaise with the legal adviser to decide whether there is a reasonable excuse for not reporting the matter to the SOCA.
 - Where the MLRO has a reasonable excuse for nondisclosure, then they must note the report accordingly; they can then immediately give their consent for any ongoing or imminent transactions to proceed.
 - Where consent is required from the SOCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the SOCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the SOCA.
- j) 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.
- k) All disclosure reports referred to the MLRO and reports made by them to the SOCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.
- l) **The MLRO commits a criminal offence if they know or suspects, or has reasonable grounds to do so, through a disclosure being made to them, that another person is engaged in money laundering and he does not disclose this as soon as practicable to the SOCA.**

CONFIDENTIAL

Report of Money Laundering Activity

From: _____

Service Area: _____

Ext/Tel No: _____

URGENT: YES/NO

Date by which response needed: _____

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:
<i>[Please continue on a separate sheet if necessary]</i>

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Has any investigation been undertaken (as far as you are aware)? <i>[Delete as appropriate]</i>	Yes / No
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If yes, please include details below:

Have you discussed your suspicions with anyone else? <i>[Delete as appropriate]</i>	Yes / No
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If yes, please specify below, explaining why such discussion was necessary:

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 TO BE COMPLETED BY THE MLRO

Date report received: _____

Date receipt of form 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 SOCA? <i>[Delete as appropriate]</i>	Yes / No
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If yes, please confirm date of report to SOCA: and complete the box below:

Details of liaison with the SOCA regarding the report:		
Notice Period:	from:	to:
Moratorium Period:	from:	to:

Is consent required from the SOCA to any ongoing or imminent transactions which would otherwise be prohibited acts? <i>[Delete as appropriate]</i>	Yes / No
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If yes, please confirm full details in the box below:

Date consent received from SOCA:

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 SOCA, please set out below the reason(s) for non-disclosure:

[Please set out any reasonable excuse for non-disclosure]

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

Other relevant information:

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Signed: _____ Dated: _____

THIS REPORT TO BE RETAINED