

CAERPHILLY COUNTY BOROUGH COUNCIL

ANTI MONEY LAUNDERING POLICY



1. Introduction

Although local authorities are not directly covered by the requirements of the Money Laundering Regulations 2007, guidance from the Chartered Institute of Public Finance and Accounting (CIPFA) indicates that they should comply with the underlying spirit of the legislation and regulations.

The legislative requirements concerning money laundering procedures are lengthy and complex. Caerphilly County Borough Council is committed to the highest possible standards of conduct. This policy has been written to enable the Council to meet the legal requirements in a way that is proportionate to the Council's risk of contravening the legislation and to ensure that there are adequate safeguards and reporting arrangements to ensure that the Council is not used by 3rd parties for the purpose of money laundering.

The policy sets out the procedures which must be followed and it is suggested that this be read in conjunction with the Anti- Fraud, Bribery and Corruption Policy and the Financial Procedure Rules which govern the day to day operation of the Authority's financial administration.

2. Scope Of The Policy

This policy applies to:

- All Council employees (permanent, temporary or casual)
- Elected Members
- Agency Staff
- Consultants
- Contractors
- Partners

The aim of this policy is to enable officers and Members to respond to a concern they have in relation to suspicions of money laundering activity as part of their work and sets out the procedures that must be followed.

Individuals who have a concern relating to a matter outside work should contact the Police.

3. Definition of Money Laundering

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
- 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
- Acquiring, using or possessing criminal property
- Doing something that might prejudice an investigation, e.g. falsifying a document
- Failure to disclose one of the offences above, where there are reasonable grounds for knowledge or suspicion.
- 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.

Whilst the risk of the Council contravening the legislation is low, it is extremely important that all employees are familiar with their legal responsibilities as serious criminal sanctions may be imposed for breaches of the legislation.

4. What Are The Obligations On The Council

The main requirements of the legislation are:

- Appoint a Money Laundering Reporting Officer to receive disclosures from employees of money laundering activity
- 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 key areas covered by the Act relate mainly to Accountancy, Audit Services and property transactions undertaken by Legal Services. However, to ensure compliance with the law, all staff are required to comply with the reporting / disclosure procedure set out in section 6 below.

5. **The Money Laundering Reporting Officer (MLRO)**

The Council has designated the S.151 Officer as the Money Laundering Reporting Officer. She can be contacted by email: scammn@caerphilly.gov.uk, or by telephone: 01443 863031.

The Money Laundering Reporting Officer is responsible for receiving reports of suspicious activities relating to money laundering and evaluating the information provided, before determining if a referral should be made to the National Crime Agency.

6. **Reporting Procedure For Suspicions Of Money Laundering**

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. 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, available on the Council’s Intranet, via the governance link on the home page. The report should include as much detail as possible including:

- Full details of the people involved
- Full details of the nature of their/your involvement
- The types of money laundering activity involved
- The dates 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
- Why, exactly, you are suspicious.

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 her to prepare her report to the National Crime Agency (NCA), where appropriate. You should also enclose copies of any relevant supporting documentation.

If you are concerned that your involvement in the transaction would amount to a prohibited act under Sections 3279-329 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 court deadline.

Once you have reported the matter to the MLRO you must follow any directions she 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.

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”.

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.

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

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. The MLRO should also advise you of the timescale within which he expects to respond to you.

The MLRO will consider the report and any other available internal information he thinks 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
- any identification evidence held

The MLRO will undertake such other reasonable inquiries he thinks 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.

Once the MLRO has evaluated the disclosure report and any other relevant information, he 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 he needs to seek consent from the NCA for a particular transaction to proceed

Where the MLRO does so conclude, then he must disclose the matter as soon as practicable to the NCA on their standard report form and in the prescribed manner, unless he has 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).

Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then he must note the report accordingly; he can then immediately give his consent for any ongoing or imminent transactions to proceed.

In cases where legal professional privilege may apply, the MLRO must liaise with the Council’s Monitoring Officer to decide whether there is a reasonable excuse for not reporting the matter to the NCA.

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.

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

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

The MLRO commits a criminal offence if he knows or suspects, or has reasonable grounds to do so, through a disclosure being made to him, that another person is engaged in money laundering and he does not disclose this as soon as practicable to the NCA.

8. **Client Identification**

Although there is no legal requirement for the Council to have formal procedures for evidencing the identity of those they do business with, staff should be alert to potentially suspicious circumstances. Where there may be doubt and in particular, when forming a new business relationship or considering a significant one off transaction, identification of the party to the transaction(s) should be sought.

9. **Record Keeping**

Each section of the Council conducting relevant business (Accountancy, Audit and certain Legal Services) must maintain appropriate records of:

- Client identification evidence obtained and
- Details of all relevant business transactions carried out for clients for at least five years. This is so that they may be used as evidence in any subsequent investigation into money laundering

The precise nature of the records to be held is not prescribed by law, however they must be capable of providing an audit trail during any subsequent investigation, for example distinguishing the party giving rise to concern and the relevant transactions and recording in what form any funds were received or paid.

10. **Training & Awareness**

The Council does not have any areas of activity that are considered to be especially vulnerable to money laundering. This is supported by the fact that local authorities are not included as a “relevant person” in the Money Laundering Regulations 2007 and are therefore not covered by those regulations.

Those receiving, or arranging to receive cash on behalf of the Council must ensure they are familiar with this policy. As the types of transactions which may be used by money launderers are almost unlimited, it is difficult to define a suspicious transaction.

Training will be delivered upon request.

11. **Further Information**

Money laundering guidance is available from professional bodies (for example ACCA, CIPFA, LLA, The Law Society) and HM Revenue and Customs.

12. **Review**

This policy will be reviewed and updated periodically.