



Performance and Audit Scrutiny Committee 12 November 2012

Joint Anti-Money Laundering Policy

1. Summary and reasons for recommendation

- 1.1 The Policy aims to maintain and improve upon the high standards of conduct which currently exist within St Edmundsbury Borough Council to ensure that third parties are not able to use the Council for the purposes of money laundering. The Policy sets out the procedures which must be followed to enable the Council to comply with its legal obligations.
- 1.2 The Council's current Anti-Money Laundering Policy was last revised in December 2010. It is good practice to review arrangements periodically and as such a review of the Policy has been undertaken to ensure it continues to reflect best practice, legislation and shared services arrangements. The revised joint Policy between St Edmundsbury Borough Council and Forest Heath District Council is set out at Appendix A to this report. This draft Policy was approved with no amendments by the Forest Heath District Council Performance and Audit Committee (and recommended for adoption to Cabinet and formal adoption by Council), on 18 October 2012.
- 1.3 The purpose of this Policy is to make all councillors and staff aware of the legislative framework, their responsibilities regarding this framework, and the consequences of non-compliance. Potentially any councillor or member of staff could be subject to money laundering provisions if they suspect money laundering and either become involved with it in some way and/or do nothing about it. This Policy sets out how any concerns should be raised.

2. Recommendation

- 2.1 That the Joint Anti-Money Laundering Policy between St Edmundsbury Borough Council and Forest Heath District Council, as set out at Appendix A to Report D180, be recommended for approval through Cabinet and full Council.

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3. Corporate priorities

3.1 The recommendation meets the following, as contained within the Corporate Plan:

Corporate priority: *'working together for an efficient council'*.

4. Key issues

- 4.1 Potentially any councillor or member of staff could be subject to money laundering provisions if they suspect money laundering and either become involved with it in some way and/or do nothing about it. This Policy sets out how any concerns should be raised.
- 4.2 Whilst the likelihood of an event arising that leads to the Council contravening the legislation is low, it is extremely important that all councillors and staff are familiar with their legal responsibilities as serious criminal sanctions may be imposed for breaches of the legislation.
- 4.3 The Money Laundering Regulations 2007 require an organisation to put in place certain controls to prevent abuse from money laundering. These include:
- assessing the risk of our organisation being used by criminals to launder money
 - checking the identity of our customers
 - checking the identity of 'beneficial owners' of corporate bodies and partnerships
 - monitoring our customers' business activities and reporting anything suspicious to the Serious Organised Crime Agency (SOCA) through the designated Money Laundering Reporting Officer
 - making sure we have the necessary management control systems in place
 - keeping all documents that relate to financial transactions, the identity of our customers, risk assessment and management procedures and processes
 - making sure that all councillors and staff are aware of the regulations and have received any necessary training
- 4.4 The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This Policy has been written so as to enable the Council to meet the legal requirements in a way which is proportionate to the low risk to the Council of contravening the legislation.

5. Other options considered

5.1 There are no alternative options as the Council needs to ensure it has adequate measures in place with regard to potential contravention of the regulations, and to ensure that the requirements of the Act are implemented appropriately in the Council.

6. Community impact

6.1 **Crime and disorder impact** *(including Section 17 of the Crime and Disorder Act 1998)*

6.1.1 None arising directly from this report.

6.2 **Diversity and equality impact** *(including the findings of the Equality Impact Assessment)*

6.2.1 None arising directly from this report.

6.3 **Sustainability impact** *(including completing a Sustainability Impact Assessment)*

6.3.1 None arising directly from this report.

6.4 **Other impact** *(any other impacts affecting this report)*

6.4.1 None arising directly from this report.

7. **Consultation** *(what consultation has been undertaken, and what were the outcomes?)*

7.1 No external consultation was required or undertaken in producing this report.

8. **Financial and resource implications** *(including asset management implications)*

8.1 There are no direct financial implications arising from this report.

9. **Risk/opportunity assessment** *(potential hazards or opportunities affecting corporate, service or project objectives)*

Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
The Council could suffer reputational and other damage if malpractice goes undiscovered, or if disclosures are made in an inappropriate way.	Low / Medium	Clear guidance for recognising and reporting potential money laundering activities	Low

10. Legal and policy implications

10.1 The proposed changes will ensure that the Council meets its legislative requirements concerning money laundering (the Proceeds of Crime Act 2002, and the Money Laundering Regulations 2003 and 2007) and continues to follow best practice guidelines of the Serious Organised Crime Agency (SOCA) and CIPFA.

11. Ward(s) affected

11.1 All.

12. Background papers

12.1 None.

13. Documents attached

13.1 Appendix A – Draft Joint Anti-Money Laundering Policy.

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APPENDIX A



JOINT ANTI MONEY LAUNDERING POLICY

October 2012

(This policy will next be reviewed October 2013, unless it requires early review in the light of the shared services initiatives)

This Policy applies to all staff (including external appointments, such as consultants) and elected councillors of the Councils.

1.0 INTRODUCTION

- 1.1 The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This Policy has been written so as to enable both Forest Heath District Council and St Edmundsbury Borough Council to meet the legal requirements in a way which is proportionate to the risk of either Council contravening the legislation.
- 1.2 Money laundering is the process by which criminally obtained money or other assets (criminal property) are exchanged for clean money or assets with no obvious link to their criminal origins. It also covers money, however come by, which is used to fund terrorism.

There are 3 principal offences:

Concealing;
Arranging; and
Acquisition, use or possession.

Concealing is where someone knows or suspects a case of money laundering but conceals or disguises it.

Arranging is where someone is involved in arranging money laundering.

Acquisition is where someone seeks to benefit from money laundering by acquiring, using or possessing the property concerned.

- 1.3 The legislation concerning money laundering (the Proceeds of Crime Act 2002, and the Money Laundering Regulations 2003 and 2007) provides broad definition of money laundering and the range of activities described by the statutory framework. The obligations now impact on some areas of local authority business and require local authorities to establish internal procedures to prevent the use of services for money laundering.

2.0 SCOPE OF THE POLICY

- 2.1 The Policy aims to maintain and improve upon the high standards of conduct which currently exist within both Councils to ensure that third parties are not able to use either Council for the purposes of money laundering.
- 2.2 The Policy sets out the procedures which must be followed to enable both Councils to comply with their legal obligations. The risk of either Council contravening the legislation is low compared to many other institutions but ***it is still extremely important that all councillors and staff are familiar with their legal responsibilities, as serious criminal sanctions can be imposed for breaches of the legislation. The key requirement on all councillors and staff is***

to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer.

- 2.3 This Policy applies to all staff (including external appointments, such as consultants) and elected councillors of the Councils.
- 2.4 Failure by councillors or staff to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Councils' Disciplinary Procedures.
- 2.5 This Policy is to be read in conjunction with the Councils' Joint Whistleblowing Policy and each Council's Anti-Fraud and Anti-Corruption Strategy.

3.0 PURPOSE

- 3.1 The purpose of this Policy is to make all councillors and staff aware of the legislative framework, their responsibilities regarding this framework, and the consequences of non compliance.
- 3.2 Potentially any councillor or member of staff could be subject to money laundering provisions if they suspect money laundering and either become involved with it in some way and/or do nothing about it. This Policy sets out how any concerns should be raised.
- 3.3 Whilst the likelihood of an event arising that leads to either Council contravening the legislation is low, it is extremely important that all councillors and staff are familiar with their legal responsibilities as serious criminal sanctions may be imposed for breaches of the legislation.
- 3.4 The Money Laundering Regulations 2007 require organisations to put in place certain controls to prevent abuse from money laundering. These include:
- assessing the risk of our organisations being used by criminals to launder money
 - checking the identity of our customers
 - checking the identity of 'beneficial owners' of corporate bodies and partnerships
 - monitoring our customers' business activities and reporting anything suspicious to the Serious Organised Crime Agency through the designated Money Laundering Reporting Officer
 - making sure we have the necessary management control systems in place
 - keeping all documents that relate to financial transactions, the identity of our customers, risk assessment and management procedures and processes
 - making sure that all councillors and staff are aware of the regulations and have received any necessary training

Our response to meeting these requirements is covered in the following sections.

4.0 THE MONEY LAUNDERING REPORTING OFFICER

- 4.1 Any councillor or member of staff knowing or suspecting money laundering, fraud or use of the proceeds of crime must report this to the Money Laundering Reporting Officer (MLRO) on the Disclosure Form - Part 1, (Appendix 1 of this policy).
- 4.2 The officer within the Councils nominated to receive any information regarding possible money laundering activities (the designated MLRO), is the Internal Audit Manager. The role of Deputy MLRO is filled by the Senior Auditor. Communication with the MLRO can be through emailing 'Money Laundering Reporting Officer' in Outlook Mail.
- 4.3 The MLRO is responsible for deciding whether information received regarding possible money laundering activities should be reported to the Serious Organised Crime Agency (SOCA) and if appropriate make such reports to the SOCA in the form of a Suspicious Activity Report (SAR). (Refer to Section 6 'Disclosure Procedure' and the Appendix 'Disclosure form' below)
- 4.4 The MLRO will report any suspected money laundering activity in the Annual Fraud report delivered to the Performance and Audit Scrutiny Committee or the Performance Audit Committee, as appropriate, unless earlier reporting is considered necessary.
- 4.5 The Internal Audit Section is also available to give advice as required.

5.0 CASH PAYMENTS AND POTENTIAL MONEY LAUNDERING ACTIVITY

Money laundering often occurs in three steps: first, cash is introduced into the financial system by some means ("placement"), the second involves a financial transaction in order to camouflage the illegal source ("layering"), and the final step entails acquiring wealth generated from the transactions of the illicit funds ("integration"). An example is where illicit cash is used (placed) to pay for the annual non domestic rates on a commercial premises (possibly also a large overpayment), and then within a very short time the property is vacated (layering). A refund is made to the individual from the Council, 'integrating' the source of the money.

Cash Payments

- 5.1 No payment to either Council should automatically be accepted in cash (including notes, coins or travellers' cheques in any currency) if it exceeds £2,000. See paragraphs 6.4 to 6.8 below for further details.

- 5.2 Staff who collect cash payments are asked to provide the details of any cash transaction over £2,000 to the MLRO so that precautionary checks can be performed (see procedure below)
- 5.3 Both Councils, in the normal operation of their services, accept payments from individuals and organisations. If an employee has no reason to suspect or know that money laundering activity is taking/has taken place and if the money offered is less than £2000 in cash as payment or part payment for goods/services offered by the Authority then there is no need to seek guidance from the MLRO. If a member of staff has reasonable grounds to suspect money laundering activities or proceeds of crime, or is simply suspicious, the matter should still be reported to the MLRO. If the money offered is £2000 or more in cash then payment must not be accepted until guidance has been received from the MLRO even if this means the person has to be asked to wait.
- 5.4 Any officer involved in a transaction of this kind should ensure that the person provides satisfactory evidence of their identity personally, through passport/photo driving licence plus one other document providing evidence of current address in the form of a bank statement, credit card statement, mortgage or insurance details or a utility bill. Where the other party is a company, this can be done through company formation documents or business rate bill.
- 5.5 Where identification evidence is obtained it must be kept for five years starting from the date that the business relationship ends.

Potential Money Laundering Activity

- 5.6 The following are examples of where extra vigilance should be applied or concerns should be discussed with the MLRO: -
- any transaction involving an unusually large amount of cash (relative to normal transactions) should cause questions to be asked about the source. This will particularly be the case where cash paid exceeds the amount necessary to settle a transaction, and the person(s) concerned request a non-cash return of the excess. This will include double payments.
 - the use of trusts or offshore funds for handling the proceeds or settlement of a transaction.
 - a third party intermediary becomes involved in a transaction without logical reason or explanation
 - the identity of a party is difficult to establish or is undisclosed
 - a vehicle company is used by a third party and the ultimate ownership is concealed or difficult to establish
 - a party is evasive as to the source or destiny of funds
 - a transaction without obvious legitimate purpose or which appears uneconomic, inefficient or irrational
 - absence of an obvious legitimate source of the funds
 - the cancellation or reversal of an earlier transaction
 - requests for release of client account details other than in the normal course of business

5.7 There are three further types of offences relevant to individuals. These are:

- failing to disclose offences;
- tipping off; and
- prejudicing an investigation.

5.8 Councillors and staff are reminded that the suspected person must not be tipped off and that this in itself is a serious offence. At no time and in under no circumstances should an officer voice any suspicions to the person suspected of money laundering, even if SOCA has given consent to a particular transaction proceeding and therefore no reference should be made on a client file to a report having been made to the MLRO.

5.9 No further monies should be taken from the client until notification is received from the MLRO or SOCA that the transaction is proceeding.

5.10 Please note also that care will need to be taken with the procedure for refunds. For instance, a significant overpayment which results in a refund will need to be properly investigated and authorised before payment. All refunds should only be made to the source of the payment and not a different account.

6.0 DISCLOSURE PROCEDURE

6.1 Any councillor or member of staff who knows, suspects, or has reasonable grounds for knowing or suspecting that a person is engaged in money laundering or terrorist financing must report such matters to the MLRO. The disclosure should preferably be within "hours" of the information coming to the councillor or member of staff's attention or as soon as is practically possible. **Should the individual not do so, then he/she may be liable to prosecution.**

6.2 Where a member of staff knows or suspects money laundering activity is taking/has taken place, or they become concerned that their involvement in a matter may amount to a prohibited act under the legislation, before taking any money they must telephone the MLRO for guidance as soon as possible regardless of the amount being offered.

6.3 If a member of staff has no reason to suspect or know that money laundering activity is taking/has taken place and if the money offered is less than £2,000 in cash as payment or part payment for goods/services offered by either authority then there is no need to seek guidance from the MLRO.

6.4 However, if the money offered is £2,000 or more in cash then payment must not be accepted until guidance has been received from the MLRO even if this means the person has to be asked to wait. The member of

staff can give the reason for this delay to the person concerned, as they and the Council have a responsibility to ensure there is no breach of law.

- 6.5 Before telephoning the MLRO privately for guidance, wherever possible staff should take the name and address of the person offering the cash payment. (See Section 7 Customer Due Diligence) If the money is subsequently taken a receipt must be issued bearing the name and address of the person paying.
- 6.6 Once a member of staff has reported their concern to the MLRO they must follow any directions the MLRO may give. **An individual must NOT make any further enquiries into the matter themselves:** any necessary investigation will be undertaken by the SOCA. All members of staff will be required to co-operate with the MLRO and the relevant authorities during any subsequent money laundering investigation.
- 6.7 **A member of staff's disclosure to the MLRO (or failing that, the Deputy MLRO) should be made on the appropriate disclosure form. See Disclosure Form - Part 1, (Appendix 1 of this policy).**

The form must include as much detail as possible, for example

Section 1 – Is this a suspected offence?

Section 2 - Full details of the people involved (including yourself, if relevant), e.g. name, date of birth, address, company names, directorships, phone numbers, etc;

Section 3 - Full details of the type of transaction being dealt with, 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,¹ then your report must include all relevant details as you will need consent from SOCA via the MLRO, to take any further part in the transaction. 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;
- 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 (or 2000 Act), or general reporting requirement under section 330 of the 2002 Act (or section 21A of the 2000 Act)², or both;
- the dates of such activities, including: whether the transactions have happened, are ongoing or are imminent;
- where they took / are taking place;
- how they were / are being undertaken;
- the (likely) amount of money/assets involved;

¹ See extracts in Appendix 2

² See extracts in Appendix 2

Section 4 - Why you are suspicious – the SOCA will require full reasons, together with any other available information to enable the MLRO to make a sound judgement as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable him to prepare his report to the SOCA, where appropriate, if reasons for your suspicion are not given to SOCA they may return your form. You should also enclose copies of any relevant supporting documentation

Section 5 – Are you aware of any investigation already being undertaken by your Department or others in relation to this matter?

Section 6 – Examples of who else you may have discussed this with including other staff or team leaders

Section 7 – State full details of who you have contacted, their response / guidance / action to be taken.

Section 8 – If you are a lawyer advising clients in the course of litigation you are exempt from POCA 2002 to report suspicions of money laundering.

Section 9 – Add any other information which you think may be relevant.

- 6.8 Upon receipt of a completed **Disclosure Form (Part 1)** the MLRO must note the date of receipt on his section of the **Disclosure Form (Part 2)** and acknowledge receipt of it. He should also advise the member of staff of the timescale within which he expects to respond to them.
- 6.9 The MLRO will consider the completed form and any other available internal information he thinks relevant e.g.
- 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; and undertake such other reasonable inquiries he thinks appropriate in order to ensure that all available information is taken into account in deciding whether to report to the SOCA.
- 6.10 Once the MLRO has evaluated the completed disclosure form and any other relevant information, he must make a timely determination as to whether:
- there is actual or suspected money laundering or terrorist financing taking place; or
 - there are reasonable grounds to know or suspect that is the case; and

- whether he needs to seek consent from the SOCA for a particular transaction to proceed.

6.11 Where the MLRO does so conclude, then he must disclose the matter as soon as practicable to the SOCA.

6.12 Where the MLRO suspects money laundering but has reasonable cause for non-disclosure, then he must note the report accordingly (the MLRO must liaise with the legal adviser to decide whether there is a reasonable excuse for not reporting the matter to the SOCA), he can then immediately give his consent for any ongoing or imminent transactions to proceed.

Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then he shall complete the **Consent to Proceed Form (Part 3)** accordingly and give his/her consent for any ongoing or imminent transaction(s) to proceed. **A member of staff cannot proceed to complete the transaction before they are in receipt of this form.**

6.13 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.

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

6.15 **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 SOCA.**

6.16 **At no time and under no circumstances should staff or councillors voice any suspicions** to the person(s) whom they suspect of money laundering, even if the SOCA has given consent to a particular transaction proceeding, otherwise they may commit a criminal offence of "tipping off" (see the Guidance Note, Proceeds of Crime (Anti-Money Laundering) – Practical Guidance for Public Service Organisations, (CIPFA) for further details).

http://www.tisonline.net/internalaudit/content/anti-money_laundrying_guidance.pdf

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.

7.0 CUSTOMER DUE DILIGENCE PROCEDURE

7.1 Within the UK the Financial Services Authority (FSA) applies the "Know Your Customer" ("KYC") principle.

7.2 KYC describes the process of obtaining, retaining and using information about a customer such that his identity and residential address are verified, the source of his funds and wealth are understood, his financial circumstances are understood, and the nature of the transactions he undertakes are understood in the context of his known personal circumstances and activities. Similar concepts apply to corporate, trust and other business, modified accordingly. The term "Customer Due Diligence" ("CDD") is being used to represent the same concepts

7.3 Where Councils carry out certain 'regulated activities' (see 7.4 below) then extra care needs to be taken to check the identity of the customer or client – this is known as carrying out Customer Due Diligence.

7.4 Customer due diligence means:

- (a) identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source;³
- (b) identifying, where there is a beneficial owner who is not the customer, the beneficial owner and taking adequate measures, on a risk-sensitive basis, to verify his identity so that the relevant person is satisfied that he knows who the beneficial owner is, including, in the case of a legal person, trust or similar legal arrangement, measures to understand the ownership and control structure of the person, trust or arrangement; and
- (c) obtaining information on the purpose and intended nature of the business relationship.

7.5 The Regulations regarding customer due diligence are detailed and complex, but there are some simple questions that will help decide if it is necessary:

- is the service a regulated activity? (See 7.6)
- is the Council charging for the service i.e. is it 'by way of business'?
- is the service being provided to a customer other than a UK public authority?

If the answer to any of these questions is **no** then there is no need to carry out customer due diligence.

If the answer to all these questions is **yes** then customer due diligence must be carried out before any business is undertaken for that client.

³ Photographic evidence such as Passport or Driving Licence, formal letter / bill from a utility company, bank, council etc.(not printed from an email)

If there is uncertainty whether customer due diligence is required then the MLRO should be contacted for advice.

- 7.6 Regulated activity is defined as the provision 'by way of business' of: advice about tax affairs; accounting services; treasury management, investment or other financial services; audit services; legal services; estate agency; services involving the formation, operation or arrangement of a company or trust or; dealing in goods wherever a transaction involves a cash payment of €15,000 (approx £12,500) or more."
- 7.7 Where customer due diligence is required then evidence of identity must be sought, for example:
- checking with the customer's website to confirm their business address;
 - conducting an on-line search via Companies House to confirm the nature and business of the customer and confirm the identities of any directors;
 - seeking evidence from the key contact of their personal identity, for example their passport, and position within the organisation.
- 7.8 The requirement for customer due diligence applies immediately for new customers and should be applied on a risk sensitive basis for existing customers. Ongoing customer due diligence must also be carried out during the life of a business relationship but should be proportionate to the risk of money laundering and terrorist funding, based on the officer's knowledge of the customer and a regular scrutiny of the transactions involved.
- 7.9 If, at any time, it is suspected that a client or customer for whom the Council is currently, or is planning to carry out, a regulated activity is carrying out money laundering or terrorist financing, or has lied about their identity then this must be reported to the MLRO.
- 7.10 In certain circumstances enhanced customer due diligence must be carried out for example where:
- The customer has not been physically present for identification
 - The customer is a politically exposed person
 - There is a beneficial owner who is not the customer – a beneficial owner is any individual who: holds more than 25% of the shares, voting rights or interest in a company, partnership or trust.
- 7.11 Enhanced customer due diligence could include any additional documentation, data or information that will confirm the customer's identity and/or the source of the funds to be used in the business relationship / transaction. If it is believed that enhanced customer due diligence is required then the MLRO should be consulted prior to carrying it out.

8.0 RECORD KEEPING PROCEDURES

8.1 Each unit of the Councils conducting relevant business must maintain 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 by the authorities into money laundering.

8.2 The precise nature of the records is not prescribed by law however they must be capable of providing an audit trail during any subsequent investigation, for example distinguishing the client and the relevant transaction and recording in what form any funds were received or paid. In practice, the business units of the Councils will be routinely making records of work carried out for clients in the course of normal business and these should suffice in this regard.

8.3 An electronic copy of every customer due diligence record must be sent to the MLRO to meet the requirements of the Regulations and in case of inspection by the relevant supervising body.

9.0 CONCLUSION

9.1 The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This Policy has been written so as to enable both Councils to meet the legal requirements in a way which is proportionate to the low risk to each Council of contravening the legislation.

9.2 Councillors and staff will be made aware of this Policy and receive training as necessary and appropriate.

9.3 Any concerns whatsoever regarding any transactions should be reported to the MLRO.

10.0 FURTHER INFORMATION

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

www.soca.gov.uk – website of the Serious and Organised Crime Agency

“Proceeds of Crime (Anti-Money Laundering) – Practical Guidance for Public Service Organisations” – CIPFA

http://www.tisonline.net/internalaudit/content/anti-money_laundering_guidance.pdf

“Anti-Money Laundering (Proceeds of Crime and Terrorism) – Second Interim Guidance for Accountants” – CCAB (www.ccab.org.uk)

Money Laundering Guidance at www.lawsociety.org.uk

SI 2007 No. 2157 The Money Laundering Regulations 2007 at:
<http://www.legislation.gov.uk/ukSI/2007/2157/contents/made>

Proceeds of Crime Act 2002

<http://www.legislation.gov.uk/ukpga/2002/29/contents>

Please complete **all** shaded boxes

Money Laundering Disclosure Form - Part 1

Report to Money Laundering Reporting Officer (Internal Audit Manager)

DETAILS OF MEMBER OF STAFF:

From

(insert staff name)

Contact Details

(insert post title and Service)

Date

1. Are you dealing with a transaction which might be a prohibited act under Part 7 of the Proceeds of Crime Act 2002 and Money Laundering Act 2007 which requires appropriate consent from the SOCA?

Yes

No

DETAILS OF SUSPECTED OFFENCE :

2. Identities of the person(s) subject to the enquiry

Name

Address

Contact Details

(If a company/public body please include details of nature of business)

3. Nature and details of activity

(Please include full details of activity e.g. what, when, where, how. Continue on a separate sheet if necessary)

4. Nature of suspicions regarding such activity:

(Please continue on a separate sheet if necessary)

5. To your knowledge has any investigation been undertaken?

Yes

If yes please include details below:

(Please continue on a separate sheet if necessary)

6. Have you discussed your suspicions with anyone else?

Yes

No

If yes please specify below with whom, explaining reasons for such discussion and the outcome of the discussion:

(Please continue on a separate sheet if necessary)

7. Have you consulted any supervisory body for guidance?

(e.g. the Law Society) *If yes please provide details:*

Yes

No

(Please continue on a separate sheet if necessary)

8. Do you feel you have a reasonable excuse 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 below full details for not wanting to disclose the matter to SOCA :

(Please continue on a separate sheet if necessary)

9. Please set out below any other information you feel is relevant :

(Please continue on a separate sheet if necessary)

Signed

Dated

Once completed please forward this form to the Councils' MLRO (Internal Audit Manager). 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.

Do not proceed with the transaction until you receive formal clearance(Consent to Proceed Form Part 3) from the MLRO

Money Laundering Disclosure Form - Part 2

The following part of this form is for completion by the MLRO

DETAILS OF MLRO

Name

(insert name of MLRO)

Contact Details

(insert post title and Service)

Date report received

Receipt of report acknowledge on

1. Has the report submitted been considered?

If no please state reasons

Yes

No

(Please continue on a separate sheet if necessary)

2. If you feel there are no grounds to suspect Money Laundering activity have you informed the employee to continue with the transaction?

Yes

No

3. If there are reasonable grounds for suspicion will a report be made to the SOCA?

Yes

No

If no please state reasons and go to question 5

If yes has a report been made to SOCA?

Please confirm date of report to SOCA

Details of liaison with the SOCA regarding the report

Name of SOCA person spoken to

Notice Period

to

4. Is consent required from the SOCA to any ongoing or imminent transactions which would otherwise be prohibited acts?

Yes

No

If yes has consent been obtained?

Name of SOCA person spoken to

Contact Details

Date consent received from SOCA

Date consent given by you to employee

5. 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 transactions to proceed

Money Laundering Consent to Proceed Form - Part 3

This form is for completion by the MLRO and return to initiator.

DETAILS OF MLRO

Name

[Redacted]

(insert name of MLRO)

Directorate

[Redacted]

Contact Details

[Redacted]

(insert post title)

DETAILS OF EMPLOYEE :

Name

[Redacted]

(insert name of employee)

Directorate

[Redacted]

Contact Details

[Redacted]

(insert post title and Service)

DETAILS OF REPORT :

Name of person involved

[Redacted]

Contact Details

[Redacted]

Date of Report

[Redacted]

OUTCOME :

I can confirm that the above transaction/query can/cannot proceed

Signed

[Redacted]

(MLRO)

Date

[Redacted]

Appendix 2:

Extracts from the Proceeds of Crime Act 2002

327 Concealing etc

(1) A person commits an offence if he—

- (a) conceals criminal property;
- (b) disguises criminal property;
- (c) converts criminal property;
- (d) transfers criminal property;
- (e) removes criminal property from England and Wales or from Scotland or from Northern Ireland.

(2) But a person does not commit such an offence if—

- (a) he makes an authorised disclosure under section 338 and (if the disclosure is made before he does the act mentioned in subsection (1)) he has the appropriate consent;
- (b) he intended to make such a disclosure but had a reasonable excuse for not doing so;
- (c) the act he does is done in carrying out a function he has relating to the enforcement of any provision of this Act or of any other enactment relating to criminal conduct or benefit from criminal conduct.

(3) Concealing or disguising criminal property includes concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it.

328 Arrangements

(1) A person commits an offence if he enters into or becomes concerned in an arrangement which he knows or suspects facilitates (by whatever means) the acquisition, retention, use or control of criminal property by or on behalf of another person.

(2) But a person does not commit such an offence if—

- (a) he makes an authorised disclosure under section 338 and (if the disclosure is made before he does the act mentioned in subsection (1)) he has the appropriate consent;

- (b) he intended to make such a disclosure but had a reasonable excuse for not doing so;
- (c) the act he does is done in carrying out a function he has relating to the enforcement of any provision of this Act or of any other enactment relating to criminal conduct or benefit from criminal conduct.

329 Acquisition, use and possession

(1) A person commits an offence if he—

- (a) acquires criminal property;
- (b) uses criminal property;
- (c) has possession of criminal property.

(2) But a person does not commit such an offence if—

- (a) he makes an authorised disclosure under section 338 and (if the disclosure is made before he does the act mentioned in subsection (1)) he has the appropriate consent;
- (b) he intended to make such a disclosure but had a reasonable excuse for not doing so;
- (c) he acquired or used or had possession of the property for adequate consideration;
- (d) the act he does is done in carrying out a function he has relating to the enforcement of any provision of this Act or of any other enactment relating to criminal conduct or benefit from criminal conduct.

(3) For the purposes of this section—

- (a) a person acquires property for inadequate consideration if the value of the consideration is significantly less than the value of the property;
- (b) a person uses or has possession of property for inadequate consideration if the value of the consideration is significantly less than the value of the use or possession;
- (c) the provision by a person of goods or services which he knows or suspects may help another to carry out criminal conduct is not consideration.

330 Failure to disclose: regulated sector

- (1) A person commits an offence if each of the following three conditions is satisfied.
- (2) The first condition is that he—
 - (a) knows or suspects, or
 - (b) has reasonable grounds for knowing or suspecting, that another person is engaged in money laundering.
- (3) The second condition is that the information or other matter—
 - (a) on which his knowledge or suspicion is based, or
 - (b) which gives reasonable grounds for such knowledge or suspicion, came to him in the course of a business in the regulated sector.
- (4) The third condition is that he does not make the required disclosure as soon as is practicable after the information or other matter comes to him.
- (5) The required disclosure is a disclosure of the information or other matter—
 - (a) to a nominated officer or a person authorised for the purposes of this Part by the Director General of the National Criminal Intelligence Service;
 - (b) in the form and manner (if any) prescribed for the purposes of this subsection by order under section 339.
- (6) But a person does not commit an offence under this section if—
 - (a) he has a reasonable excuse for not disclosing the information or other matter;
 - (b) he is a professional legal adviser and the information or other matter came to him in privileged circumstances;
 - (c) subsection (7) applies to him.
- (7) This subsection applies to a person if—
 - (a) he does not know or suspect that another person is engaged in money laundering, and

- (b) he has not been provided by his employer with such training as is specified by the Secretary of State by order for the purposes of this section.
- (8) In deciding whether a person committed an offence under this section the court must consider whether he followed any relevant guidance which was at the time concerned—
- (a) issued by a supervisory authority or any other appropriate body,
 - (b) approved by the Treasury, and
 - (c) published in a manner it approved as appropriate in its opinion to bring the guidance to the attention of persons likely to be affected by it.
- (9) A disclosure to a nominated officer is a disclosure which—
- (a) is made to a person nominated by the alleged offender's employer to receive disclosures under this section, and
 - (b) is made in the course of the alleged offender's employment and in accordance with the procedure established by the employer for the purpose.
- (10) Information or other matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to him—
- (a) by (or by a representative of) a client of his in connection with the giving by the adviser of legal advice to the client,
 - (b) by (or by a representative of) a person seeking legal advice from the adviser, or
 - (c) by a person in connection with legal proceedings or contemplated legal proceedings.
- (11) But subsection (10) does not apply to information or other matter which is communicated or given with the intention of furthering a criminal purpose.
- (12) Schedule 9 has effect for the purpose of determining what is—
- (a) a business in the regulated sector;
 - (b) a supervisory authority.

- (13) An appropriate body is any body which regulates or is representative of any trade, profession, business or employment carried on by the alleged offender.