

# **Anti-Money Laundering and Terrorism Financing**

# **POLICY STATEMENT & PROCEDURES**

**Document Details: v1.1**

**Responsible Officer: s151 Officer Head of Finance**

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## **Anti-Money Laundering and Terrorism Financing Policy Statement and Procedures**

This Statement sets out Harlow District Council's (the Council's) policy in relation to money laundering. It has the full support of both the Council's senior management in the form of the Senior Management Board (SMB) and elected members through the Audit and Standards Committee.

The Council takes its responsibilities to protect the public purse very seriously and is fully committed to the highest ethical standards, in order to ensure the proper use and protection of public funds and assets. The Council has an ongoing commitment to continue to improve its resilience to fraud, corruption (including bribery and money laundering) and other forms of financial irregularity.

The Council advocates **strict adherence** to its anti-fraud framework and associated policies. Whilst individual circumstances of each case will be carefully considered, in all cases there will be a zero tolerance approach to fraud and corruption (including bribery and money laundering) in all of its forms. The Council will not tolerate fraud or corruption by its Councillors, employees, suppliers, contractors, partners or service users and will take all necessary steps to investigate all allegations of fraud or corruption and pursue sanctions available in each case, including removal from office, disciplinary action, dismissal, loss recovery and/or referral to the Police and/or other agencies. The Council's general belief and expectation is that those associated with it (employees, members, service users, contractors and voluntary bodies) will act with honesty and integrity.

This Anti-Money Laundering Policy is supplementary to the Council's wider Anti-Fraud and Corruption Strategy (the Strategy), which sets out what actions the Council proposes to take over the medium-term future to continue to develop its resilience to fraud and corruption.

# Anti-Money Laundering and Terrorism Financing Policy Statement and Procedures

## 1. Introduction

- 1.1 The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017) came into force in June 2017 and, for any offences committed after 26 June 2017, replace the Money Laundering Regulations 2007.
- 1.2 A key difference is that relevant persons are obliged to adopt a more risk-based approach towards anti-money laundering, in particular in how they conduct due diligence. Determining the appropriate level of due diligence requires analysis of risk factors based on the EU Directive and which are set out in MLR 2017.
- 1.3 The Council is alert to the possibility of being the target of money laundering and terrorism financing crimes when it undertakes transactions or enters into business relationships. All staff must be alert to the possibility that funds being processed via the Council may be the proceeds of such crimes and remain vigilant.
- 1.4 The Regulations came into force on the 26 June 2017, and put a greater onus on what authorities should do to prevent the proceeds of criminal activity being laundered through their systems.
- 1.5 The Proceeds of Crime Act 2002 (as amended by the Serious Organised Crime and Police Act 2005) (the 2002 Act), the Terrorism Act 2000 (as amended by the Anti-Terrorism, Crime and Security Act 2001) and 2006, the Counter Terrorism Act 2006 and the MLR 2017 impact on certain areas of local authority business and place obligations on the Council and its employees to establish and adhere to internal procedures to prevent the use of their services for money laundering.

## 2. What is Money Laundering?

- 2.1 Money laundering is the term used for a number of offences involving the proceeds of crime or terrorism funds. The following constitute the act of money laundering:
  - Concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 of the 2002 Act); or
  - Entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person (section 328); or
  - Acquiring, using or possessing criminal property (section 329);

- Becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property (section 18 of the Terrorism Act 2000).

These are the primary money laundering offences and thus prohibited acts under the legislation. A person guilty of one of the above offence will be subject to a fine or up to fourteen years imprisonment or both.

There are also two secondary offences: failure to disclose any of the primary offences and tipping off.

**Failure to disclose**, s330 of the 2002 Act, if you have knowledge or suspicion of money laundering and fail to inform the Money Laundering Responsible Officer (MLRO) of your concerns you could be guilty of failing to disclose a primary activity. The offence applies not only to serious proceedings but to dealings with proceeds of all crimes. There is a separate offence if the MLRO fails to disclose an offence he has been made aware of, s331 of the 2002 Act. A person guilty of either of these offences will be subject to a fine or up to five years imprisonment or both.

**Tipping off**, s333 of the 2002 Act, is where someone informs a person or people who are, or are suspected of being involved in money laundering, in such a way as to reduce the likelihood of their being investigated or prejudicing an investigation. A person guilty of this offence is subject to a fine or up to five years imprisonment or both.

Potentially any member of staff could be caught by the 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.

- 2.2 Money laundering is the process of channeling 'bad' money into 'good' money in order to hide the fact the money originated from criminal 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.

Most money-laundering offences concern far greater sums of money since the greater the sum of money obtained from a criminal activity, the more difficult it is to make it appear to have originated from a legitimate source or transaction.

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

**A key requirement is for employees to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer (MLRO).**

3. The Terrorism Act 2000 as amended

The offences under the Terrorism Act mirror to a large extent the money laundering offences under the Proceeds of Crime Act 2002 (the 2002 Act).

The terrorism finance offences are each punishable by up to fourteen years imprisonment or fine or both. The offences are:

- (a) Fund-raising, receiving or providing money or other property knowing or having reasonable cause to suspect that it will or may be used for the purpose of terrorism;
- (b) Using or possessing money or other property knowing or having reasonable cause to suspect that it will or may be used for the purpose of terrorism;
- (c) Entering into or becoming concerned in an arrangement as a result of which money or other property is made available to another while having reasonable cause to suspect it will or may be used for the purposes of terrorism.
- (d) A separate terrorist money laundering offence is committed by a person who enters into or becomes concerned in an arrangement which facilitates the retention or control of terrorist property by concealment, removal from the jurisdiction, transfer to nominees or in any other way.

The MLR 2017 imposes new regulatory steps that must be taken into account by the Council when entering into money transactions to prevent the money laundering and terrorism financing.

It is an offence under Regulation 86 of the MLR 2017 to make a reckless statement in the context of money laundering or terrorism financing which is false or misleading in relation to the due diligence requirements of the MLR 2017. On conviction a person is liable to a fine or two years imprisonment or both.

## **4. Scope of the Policy**

- 4.1 This Policy applies to all employees of the Council and aims to maintain the high standards of conduct which currently exist within the Council by preventing criminal activity through money laundering. The Policy sets out the procedures which must be followed (for example the reporting of suspicions of money laundering activity) to enable the Council to comply with its legal obligations.
- 4.2 The Policy sits alongside the Council's suite of documents governing counter fraud, including the Whistleblowing Policy, Employee Code of Conduct, Members' Code of Conduct and the Anti-Fraud and Corruption Strategy.
- 4.3 Failure by a member of 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 Council's Disciplinary Policy.

## **5. What are the obligations on the Council?**

- 5.1 Organisations conducting "relevant business" must:
- appoint a Money Laundering Reporting Officer ("MLRO") to receive disclosures from employees of money laundering activity (their own or anyone else's);
  - implement a procedure to enable the reporting of suspicions of money laundering;
  - maintain client identification procedures in certain circumstances; and
  - maintain record keeping procedures.
- 5.2 Not all of the Council's business is "relevant" for the purposes of the legislation. It is mainly accountancy and financial; and company and property transactions undertaken by Legal Services. However, the safest way to ensure compliance with the law is to apply it to all areas of work undertaken by the Council; therefore, all staff are required to comply with the reporting procedure set out in section 8 below.

## **6. The Money Laundering Reporting Officer**

- 6.1 The officer nominated to receive disclosures about money laundering activity within the Council is the Head of Finance who is the MLRO 01279 446228.
- 6.2 The Head of Governance, is the deputy MLRO 01279 446099

## 7. Disclosure Procedure

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- 7.1 **No payment to the Council should automatically be accepted in cash (including notes, coins or travellers cheques in any currency) if it exceeds £10,000.**

This can be a single transaction, or a group of related transactions. However, it is important to be vigilant when receiving any cash payment over £1,000.

This does not, however, mean that cash transactions below this value will be valid and legal and should not arise any suspicion. Professional scepticism should remain at all times.

- 7.2 Staff who collect cash payments are asked to provide the details of any cash transaction over £10,000 to the MLRO so that precautionary checks can be performed. It is best practice to insist on payment by cheque or electronically from a UK clearing bank.

- 7.3 The Council, in the normal operation of its 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 £10,000 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 £10,000 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.

- 7.4 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 covering the previous 3 month period. Where the other party is a company, this can be done through company formation documents or business rate bill.

## 8. Possible Signs of Money Laundering

It is not possible to give a definitive list of ways in which to spot money laundering but facts which tend to suggest that something “odd” is happening may be sufficient for a reasonable suspicion of money laundering to arise.

The following are the types of risk factors which *may*, either alone or cumulatively with other factors suggest the possibility of money laundering activity:

- A new customer with no previous history with the Council;
- A secretive customer: for example one who refuses to provide requested information without a reasonable explanation;
- Concerns about the honesty, integrity or identity of a customer;
- Illogical third party transactions: for example unnecessary routing or receipt of funds from third parties or through third party accounts;
- Involvement of an unconnected third party without logical reason or explanation;
- Payment of a substantial sum in cash;
- Overpayments by a customer;
- Absence of an obvious legitimate source of the funds;
- Movement of funds to and from overseas;
- Where, without reasonable explanation, the size, nature and frequency of transactions or instructions is out of line with normal expectations;
- Cancellation or reversal of an earlier transaction.
- Cash transactions made that are significantly outside of normal expectations.

### **Reporting to the Money Laundering Reporting Officer (MLRO)**

8.1 Any employee who becomes concerned that their involvement in a matter may amount to a prohibited act under the legislation must disclose this promptly to the MLRO or deputy. This can be done verbally or completing the 'Report to Money Laundering Reporting Form'. Proforma at Appendix 2.

**The disclosure should be at the earliest opportunity of the information coming to your attention, not weeks or months later. Should you not do so, then you may be liable to prosecution.**

8.2 The employee must follow any subsequent directions from the MLRO or deputy and must not make any further enquiries themselves into the matter. Additionally, they must not take any further steps in the transaction without authorisation from the MLRO or deputy.

8.3 The employee must not disclose or otherwise indicate their suspicions to the person(s) suspected of money laundering. They must not discuss the matter with others or note on a file that a report has been made to the MLRO in case this results in the suspect becoming aware of the suspicion.

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## **Consideration of the disclosure by the Money Laundering Reporting Officer**

8.4 The MLRO or deputy must promptly evaluate any disclosure to determine whether it should be reported to the National Crime Agency (NCA).

8.5 The MLRO or deputy must, if they so determine, promptly report the matter to the NCA on their standard 'Suspicious Activity Report' (SAR) form and in the prescribed manner. Up to date forms can be downloaded from the NCA website at:

[https://www.ukciu.gov.uk/\(osvifg55vxdphzrs40egnj45\)/saronline.aspx](https://www.ukciu.gov.uk/(osvifg55vxdphzrs40egnj45)/saronline.aspx) (a direct link to the NCA's electronic SAR referral form)

<https://www.gov.uk/guidance/money-laundering-regulations-report-suspicious-activities> (general advice on the referral process)

8.6 All disclosure reports referred to the MLRO or deputy and reports made to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years. The Money Laundering Disclosure Form (Appendix 1) should be used by the MLRO to facilitate the recording of any action taken.

8.7 The MLRO or deputy will commit a criminal offence if they know or suspect, or have reasonable grounds to do so, through a disclosure being made to them, that another person is engaged in money laundering and they do not disclose this as soon as practicable to the NCA.

## **9. Record Keeping**

9.1 The MLRO will keep a record of all referrals made to him and of any action taken / not taken. The precise nature of these records is not set down in law but should be capable of providing an audit trail during any subsequent investigation.

## **10. Guidance and Training**

10.1 In support of this policy, the Council will:

- make all staff aware of the requirements and obligations placed on the Council and on themselves as individuals by the anti-money laundering legislation; and
- give targeted training to those most likely to encounter money laundering.

10.2 It is not possible to give a definitive list of ways in which to spot money laundering but facts which tend to suggest that something “odd” is happening may be sufficient for a reasonable suspicion of money laundering to arise.

## **11. Risk Management and Internal Control**

11.1 The risk to the Council of contravening the anti-money laundering legislation will be assessed on a periodic basis and the adequacy and effectiveness the Anti-Money Laundering Policy will be reviewed in light of such assessments.

### **Client identification procedure**

Where the Council is carrying out business that could be deemed to be ‘relevant’ and:

- forms an ongoing business relationship with a client; or
- undertakes a one-off transaction involving payment by or to the client of £10,000 or more; or
- undertakes a series of linked one-off transactions involving total payment by or to the client(s) of £10,000 or more; or
- it is known or suspected that a one-off transaction (or a series of them) involves money laundering;

then you must follow the Client Identification Procedure below before undertaking any business.

Satisfactory evidence of identity establishes that the client is who they claim to be. This applies to existing clients if evidence is not already on file, as well as new ones. In all cases, you must retain the evidence for at least five years from the end of the business relationship or transaction(s).

Where satisfactory evidence of identity is not available the business arrangement or one off transaction should not proceed.

Where the client is acting or appears to be acting for someone else, you must also take reasonable steps to establish the identity of that other person.

The law states that particular care must be taken when the client is not physically present when being identified.

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**Client Identification Procedure:** For all clients there must be a signed, written instructions on their organisation's headed paper at the outset of the business relationship. Additional evidence must also be in place, for example:

- check the organisation's website to confirm the identity of personnel, its business address and any other details;
- meet the client at their business address;
- confirm that the organisation is included in the telephone directory;
- ask the key contact officer to provide evidence of personal identity and position within the organisation, for example:
- passport, photo ID card, driving licence;
- signed, written confirmation from an appropriate senior person in their organisation confirming that they work for the organisation and are empowered to conduct this type of transaction.

Further advice on documentation requirements can be sought from the Council's Legal Services Manager

**Activities carried out by the Council that could be deemed as relevant under the Acts and Regulations.**

- Provision 'by way of business' of legal services which involves participation in a financial or real property transaction
- Provision 'by way of business' of services which involve the formation, operation or management of a company or trust
- Dealing in goods of any description 'by way of business' whenever a transaction involves accepting a total cash payment of £10,000 or more.
- Dealing in and managing investments 'by way of business'.

## **12. Further Information**

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

- Proceeds of Crime Act 2002 (as amended by the Serious Organised Crime and Police Act 2005)
- Terrorism Act 2000 (as amended by the Anti-Terrorism, Crime and Security Act 2001)
- The Counter Terrorism Act 2006

- Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017)
- National Crime Agency (NCA) – <http://www.nationalcrimeagency.gov.uk/>
- CIPFA - <http://www.cipfa.org/members/members-in-practice/anti-money-laundering>
- CCAB - Anti-Money Laundering (Proceeds of Crime and Terrorism) – Guidance for Accountants – [www.ccab.org.uk/documents/20140217%20FINAL%202008%20CCAB%20guidance%20amended%202014-2-17pdf.pdf](http://www.ccab.org.uk/documents/20140217%20FINAL%202008%20CCAB%20guidance%20amended%202014-2-17pdf.pdf) (direct link)
- [The Law Society - Anti-Money Laundering Guidance and Advice – https://www.lawsociety.org.uk/policy-campaigns/articles/anti-money-laundering-guidance/](https://www.lawsociety.org.uk/policy-campaigns/articles/anti-money-laundering-guidance/)

### 13. Policy Review

The Director of Finance (s.151 Officer) and the Council's Audit and Standards Committee will ensure the continuous review and amendment of this policy document, to ensure that it remains compliant with good practice national public sector standards, primarily CIPFA's Code of Practice on Managing the Risk of Fraud and Corruption and the Local Government Fraud Strategy – Fighting Fraud Locally, and meets the needs of Harlow District Council..

Responsible Officer: Simon Freeman S151 Officer

Next Review date: ~~July 2019~~ March 2022 (and biennially thereafter)

### 14. Appendices

Appendix 1 – Money Laundering Disclosure Form (proforma for use by MLRO)

Appendix 2 – Money Laundering Reporting Form to MLRO

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**APPENDIX 1: MONEY LAUNDERING DISCLOSURE FORM**

***THE FOLLOWING PART OF THIS FORM IS FOR COMPLETION BY THE MONEY LAUNDERING REPORTING OFFICER (MLRO)***

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 the NCA?**

Yes/No (please select the relevant option)

**If yes, please confirm date of report to the NCA:.....  
and complete the box below:**

**Details of liaison with NCA regarding the report:**

**Notice Period: ..... To .....**

**Moratorium Period: ..... To .....**

**Is consent required from the NCA to any ongoing or imminent transactions which would otherwise be prohibited acts?**

Yes/No (please select the relevant option)

**If yes, please enter full details in the box below:**

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Date consent received from NCA: .....

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

*[Please set out reasons for non-disclosure]*

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

.....

Other relevant information:

**Signed:** .....

**Dated:** .....

**THIS REPORT IS TO BE RETAINED FOR AT LEAST FIVE YEARS.**

**CONFIDENTIAL**

Report to Money Laundering Reporting Officer

**Re money laundering activity**

**To: Money Laundering Reporting Officer**

From: .....  
*[insert name of employee]*

Service: ..... Ext/Tel No:.....  
*[insert post title and Service]*

**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, whereabouts, value and timing of activity/property involved:**

*[Please include full details e.g. what, when, where, how. Please also include details of current whereabouts of the laundered property, so far as you are aware. Continue on a separate sheet if necessary]*

**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

*[Please tick the relevant box]*

**If yes, please include details below:**

**Have you discussed your suspicions with anyone else?**

- Yes  
 No

*[Please tick the relevant box]*

**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

*[Please tick the relevant box]*

**If yes, please specify below:**

**Do you feel you have a reasonable excuse for not disclosing the matter to Serious Organised Crime Agency (SOCA)? (e.g. are you a lawyer and wish to claim legal professional privilege?)**

- Yes  
 No

*[Please tick the relevant box]*

**If yes, please set out full details below:**

**Are you involved in a transaction which might be a prohibited act (under sections 327- 329 of the Proceeds of Crime Act 2002 or section 18 of the Terrorism Act 2000) and which requires appropriate consent from the Serious Organised Crime Agency (SOCA)?**

- Yes  
 No

*[Please tick the relevant box]*

**If yes, please enclose details in the box below:**

**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.***

**THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS**