

RIBBLE VALLEY BOROUGH COUNCIL

REPORT TO POLICY AND FINANCE COMMITTEE

meeting date: 24 JANUARY 2023
title: ANTI-MONEY LAUNDERING POLICY
submitted by: DIRECTOR OF RESOURCES
principal author: LAWSON ODDIE

1 PURPOSE

- 1.1 To ask Members to consider and approve the recently fully reviewed and revised Anti-Money Laundering Policy.
- 1.2 Relevance to the Council's ambitions and priorities:
 - This report contributes to the council's ambition to be a well-managed council providing efficient services based on identified customer needs.

2 BACKGROUND

- 2.1 The Anti-Money Laundering Policy was originally developed from best practice guidance issued by CIPFA and was first produced in November 2010. Since then, there have been a number of revisions to reflect changing regulations.
- 2.2 Attached is the latest proposed version of the policy, which represents a substantial rewrite of the policy. As a result, a 'tracked changes' version of the policy has not been able to be presented.

3 POLICY REVIEW

- 3.1 Whilst the majority of money laundering activity in the UK falls outside of the public sector, vigilance by employees of the Council can help identify those who are or may be perpetrating crimes relating to the financing of terrorism and money laundering.
- 3.2 Guidance from finance and legal professions, including the Chartered Institute of Public Finance and Accounting (CIPFA), indicates that public service organisations should comply with the underlying spirit of the legislation and regulations and put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.
- 3.3 This policy aims to support staff in identifying potential suspect transactions during the course of their work at the council. The policy provides a mechanism for such transactions to be reported to an appropriate officer for evaluation and potentially passed on to the relevant authorities.
- 3.4 The revised policy includes clear documentation that should be completed by staff and also by the Money Laundering Reporting Officer.
- 3.5 The new policy also sees the level of reportable transaction changed from £3,000 to €10,000 (approximately £8,800). This is in line with the reporting requirements of the regulations.

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications

- Resources – There are no resource implications as a result of the approval of this policy other than training costs which would be able to be met from existing budgets. Such training should then also help in protecting the council's resources.
- Technical, Environmental and Legal – The policy includes references to the latest legislation and as such, the future annual reviews will allow us to ensure that the latest legislation is reflected, and that best practice is also observed.
- Political – not applicable
- Reputation – Transparency in our procedures can only enhance the council's reputation.
- Equality and Diversity – in following the steps outlined within the policy it will be ensured that requirements under the Equality Act 2010 are observed.

5 RECOMMENDED THAT COMMITTEE

5.1 Approve the Anti-Money Laundering Policy as set out at Annex 1

HEAD OF FINANCIAL SERVICES

DIRECTOR OF RESOURCES

PF14-23/LO/AC
13 January 2023

BACKGROUND WORKING PAPERS:

For further information please ask for Lawson Oddie, extension 4541



Ribble Valley
Borough Council

www.ribblevalley.gov.uk

ANTI-MONEY LAUNDERING POLICY

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POLICY ADMINISTRATION

Policy Ownership

For any queries about this policy, please contact the plan owner.

Department	Resources		
Owner	Lawson Oddie	lawson.oddie@ribblevalley.gov.uk	01200 414541
Committee	Policy and Finance Committee		

This policy is maintained and published on behalf of Ribble Valley Borough Council. A copy of this policy will be published on the Council Intranet and will be reviewed and updated as stated below.

Version Control and Review Date

Version	Date	Reason for Publication	Approved by Committee / Date	Next Due Review Date
V1.1	October 2010	Policy Produced	Policy and Finance Committee: 16 November 2010	
V1.2	June 2012	Review of the Policy	Policy and Finance Committee: 12 June 2012	
V1.3	January 2023	Review of the Policy	Policy and Finance Committee: 24 January 2023	January 2024

This policy will be reviewed, as a minimum, on an annual basis. However, consideration should be given to reviewing the policy should there be any changes in legislation or guidance. The policy/procedure owner will ensure the document is reviewed as stated.

Equality Implications

	Action	Yes / No
	An Equality Impact Assessment (EIA) has been completed	NO
EIA Hyperlink	EIA Checklist Completed – Full Assessment Not Required	

Supporting Documents or Legislation Relating to this Policy

Please include any supporting documents / legislation
1. Money Laundering and Terrorist Financing (Amendment) (No 2) Regulations 2022
2. Money Laundering Financing and Transfer of Funds (Information on the Payer) Regulations 2017
3. Proceeds of Crime Act 2002

INTRODUCTION

1. The Money Laundering and Terrorist Financing (Amendment) (No 2) Regulations 2022 (MLR 2022) came into force on 1 September 2022. These regulations updated the existing UK anti-money laundering (AML) legislation by making some time sensitive updates to The Money Laundering Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (the MLRs).
2. The fundamentals of performing risk assessments and due diligence as required by The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017) which came into force on 26 June 2017 remain unchanged.
3. Whilst the majority of money laundering activity in the UK falls outside of the public sector, vigilance by employees of the Council can help identify those who are or may be perpetrating crimes relating to the financing of terrorism and money laundering.
4. This policy aims to support staff in identifying potential suspect transactions during the course of their work at the council. The policy provides a mechanism for such transactions to be reported to an appropriate officer for evaluation and potentially passed on to the relevant authorities.

WHAT IS MONEY LAUNDERING

5. Money laundering is the generic term used to describe the process by which criminals disguise the original ownership and control of the proceeds of criminal conduct by making such proceeds appear to have derived from a legitimate source. In other words, the process of changing 'bad' money into 'good' money in order to hide the fact that the money originated from criminal activity.

Primary Offences

6. The following primary offences constitute the act of money laundering:
 - concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 of the Proceeds of Crime Act 2002); 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);

Secondary Offences

7. There are also two secondary offences: failure to disclose any of the primary offences and tipping off.
 - **Failure to Disclose** – A Council employee commits an offence if they know or have reasonable grounds to suspect that another person is engaged in money laundering and they do not make the required disclosure as soon as is practicable after the information comes to them.
 - **Tipping Off** – A Council employee commits an offence if they inform 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 it being investigated or prejudicing an investigation.

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

Examples of Money Laundering Activity

9. By way of example, consider the following hypothetical scenario:

‘A Housing Grants Officer is assessing a grant applicant’s finances to calculate how much should be paid towards the cost of improvement works, and then goes on to arrange for a grant to be awarded, in the course of which they become aware of, or suspect the existence of, criminal property.’

10. In this scenario the Housing Grants Officer may commit an offence under the section 328 by ‘being concerned in an arrangement’ which they know or suspect ‘facilitates the acquisition, retention, use or control of criminal property’ if they do not report their concerns. Any lawyer involved could also be guilty of an offence if they assist in the transaction.
11. Any person found guilty of a primary money laundering offence is liable to imprisonment (maximum of 14 years), a fine or both; however an offence is not committed if the

Possible Indicators of Money Laundering

12. It is impossible to give a definitive list of ways in which to spot money laundering or how to decide whether to make a report to the MLRO. The following table gives the types of risk factors which may suggest the possibility of money laundering activity within the normal conduct of the Council’s activities:

Indicator	Area(s) of Activity	Comments
General		
a) Attempted payment of a substantial sum in cash (over €10,000 or £8,800 in the case of this Council).	Any activity where cash payments are accepted	Cash payments in excess of £8,800 should not be accepted unless firstly approved by the Director of Resources or the Head of Financial Services.
b) Overpayments or money paid on account.	Council Tax Business Rates Other Debts Rents	Care must be taken, especially with requests for refunds. A significant overpayment (whether by cash or other means), which results in a repayment should be properly investigated and authorised before payment.
c) Where, without reasonable explanation, the size, nature and frequency of transactions is out of line with normal expectations.	Council Tax Business Rates	A real threat is, for example a landlord who owns several properties, which were acquired through the proceeds of crime, who attempts to pay Council Tax

Indicator	Area(s) of Activity	Comments
d) Unusual patterns of transactions which have no apparent economic, efficient or visible lawful purpose.		on those properties in cash by way of several transactions, the aggregate of which exceeds the money laundering limit of €10,000 or £8,800 (this is recognised nationally as a method of attempting to avoid detection).
e) The cancellation or reversal of an earlier transaction (where the person is likely to request the return of previously deposited monies).	Council Tax Business Rates	Where a payment is made using a credit or debit card then any refund must be made to the credit or debit card in question and not, under any circumstances, in any other form because to do so one could unwittingly facilitate the laundering of money.
f) Any other activity which is particularly likely by its nature to be related to money laundering or terrorist financing.	Markets Activities involving Property visits/ inspections	e.g. individuals holding or attempting to transfer/ sell stocks of electrical goods.
Property Matters		
a) A cash buyer.	Council property sales and purchases Conveyancing	Property transactions are a slightly higher risk for the Council. For example, if the Council agrees to sell a parcel of land to a developer or other third party, at a price that is far in excess of its estimated value, or the buyer offers to pay the full price in cash, then this may be evidence of money laundering activity.
b) A sudden change of buyer.		
c) Unusual property investment transactions if there is no apparent investment purpose or rationale.		
d) Re property transactions, funds received for deposits or prior to completion from an unexpected source or where instructions are given for settlement funds to be paid to an unexpected destination.		
e) No clear explanation as to the source of funds along with lack of clarity as to how the party would be in a position to finance the purchase.		
f) Money comes in from an unexpected source.		

WHAT ARE THE OBLIGATIONS ON THE COUNCIL?

13. Whilst Local Authorities are not directly covered by the requirements of the Money Laundering Regulations 2017, guidance from finance and legal professions, including the Chartered Institute of Public Finance and Accounting (CIPFA), indicates that public service organisations should comply with the underlying spirit of the legislation and regulations and put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.
14. The Regulations apply to “relevant persons” acting in the course of business carried on by them in the UK. Not all of the council’s business is “relevant” for the purposes of the legislation. It is mainly accountancy and financial, company and property transactions. However, the safest way to ensure compliance with the law is to apply them to all areas of work undertaken by the Council; therefore, all staff are required to comply with the reporting procedure set out in this policy.
15. The obligations on the Council are to establish and maintain appropriate and risk sensitive policies and procedures. Organisations must:
 - appoint a Money Laundering Reporting Officer (“MLRO”) 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.
16. Directors, Heads of Service and other staff must immediately notify the internal audit service, on behalf of the Director of Resources, upon discovery or suspicion of any financial irregularity.

CUSTOMER DUE DILIGENCE (CLIENT IDENTIFICATION PROCEDURE)

Standard Customer Due Diligence

17. Where the Council is carrying out certain regulated business (accountancy, audit and tax services and legal services re financial, company or property transactions) and as part of this
 - a) forms an ongoing business relationship with a client
 - b) undertakes a one off or occasional transaction amounting to €10,000 (approximately £8,800) or more (whether carried out as a single transaction or several linked ones)
 - c) suspects money laundering or terrorist financing;

then the Customer Due Diligence Procedure must be followed before any business is undertaken for that client. This basically means identifying the customer and verifying the customer's identity on the basis of information obtained from a reliable and independent source (i.e. passport/driving licence)

Enhanced Customer Due Diligence (and Ongoing Monitoring)

18. It will in certain circumstances be necessary to undertake what is known in the Regulations as Enhanced Customer Due Diligence. In summary, this will be necessary where:
- The customer has not been physically present for identification purposes; or
 - In any other situation which by its nature can present a higher risk of money laundering or terrorist financing.
19. Where this applies, the Council will need to take adequate measures to compensate for the higher risk. For example, this will mean ensuring that the customer's identity is established by additional documents, data or information and ensuring ongoing monitoring is carried out for the duration of the business relationship.
20. Similarly, where the Council is in an ongoing "business relationship" with a customer, the Regulations impose a special obligation to carry out ongoing monitoring.

THE MONEY LAUNDERING REPORTING OFFICER (MLRO)

21. The officer nominated to receive disclosures about money laundering activity within the council is the Internal Audit Manager.
22. In the absence of the MLRO, the Head of Financial Services will be able to assist.
23. Both of these officers can be contacted as follows:

Ribble Valley Borough Council
Council Offices
Church Walk
CLITHEROE
BB7 2RA
Internal Audit Manager
01200 414540
ruth.parker@ribblevalley.gov.uk

Head of Financial Services
01200 414541
lawson.oddie@ribblevalley.gov.uk

24. All disclosures will also be reported in confidence to the Monitoring Officer (the Head of Legal and Democratic Services) and the S151 Officer (the Director of Resources).
25. The MLRO must promptly evaluate any disclosure to determine whether it should be reported to the National Crime Agency ("NCA").
26. A "Suspicious Activity Report" can be completed online on the NCA website: www.nationalcrimeagency.gov.uk. The NCA can also be contacted on 0370 496 7622.

DISCLOSURE PROCEDURE AND REPORTING REQUIREMENTS

Regular Receipts, Cash Payments, and Refunds

27. Regular receipts – the Council in the normal operation of its business accepts payments from individuals and organisations in respect of a range of activities. If an employee or elected Member has reasonable grounds to suspect the existence of a money laundering activity or proceeds of crime or is simply suspicious, the matter should be reported to the MLRO, prior to processing the payment irrespective of the amount involved.
28. Cash payments – no payment will be accepted in cash (including notes, coins or travellers cheques in any currency) if it exceeds €10,000 or £8,800 unless there are compelling reasons to do so. In any such case the Director of Resources or the Head of Financial Services must approve the cash transaction and document the justification for accepting the payment.
29. Refunds – any significant overpayment, which results in a repayment, will need to be properly investigated and authorised before payment.

Reporting to the Money Laundering Reporting Officer (MLRO)

30. Any employee who suspects money laundering activity is taking place, or an 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.
31. The disclosure should be made to the MLRO using the proforma report attached at Appendix 1. The report must include as much detail as possible.
32. The employee must follow any subsequent directions from the MLRO 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.
33. 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.

RISK MANAGEMENT AND INTERNAL CONTROL

34. The risk to the Council of contravening the Anti-Money laundering legislation will be assessed on a periodic basis and the adequacy and effectiveness of the Anti-Money Laundering Policy will be reviewed in light of such assessments. Money Laundering as a risk is included on the Council's Risk Management System.

Record Keeping

35. To comply with the legislation, records must be kept for a period of five years and be sufficient to provide an audit trail for any subsequent investigation.

CONFIDENTIAL

REPORT TO MONEY LAUNDERING REPORTING OFFICER
PLEASE ATTACH ANY SUPPORTING DOCUMENTATION OR EVIDENCE

From:

Department and Section:.....

Ext/Tel No:.....

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 eg what, when, where, how. Continue on a separate sheet if necessary]

Nature of suspicions regarding such activity and the type of money laundering activity involved:
[Please continue on a separate sheet if necessary]

ANNEX 1

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:

ANNEX 1

Do you feel you have a reasonable excuse for not disclosing the matter to the NCA? (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 Act and which requires appropriate consent from the NCA?

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:.....

I confirm that I have disclosed all relevant information and I also acknowledge that the matter may be reported onwards to the National Crime Agency by the MLRO.

Dated:.....

Please do not discuss the content of this report with anyone else and in particular with anyone you believe is involved in the suspected money laundering activity described above. To do so may constitute a Tipping Off offence, which carries a maximum penalty of 5 years' imprisonment.

ANNEX 1

THE FOLLOWING PART OF THIS FORM IS FOR COMPLETION BY THE 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 a money laundering activity?

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

Yes No

[Please tick the relevant box]

If yes, please confirm date of the report to the NCA:

and complete the box below:

Details of liaison with the 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?

ANNEX 1

Yes No

[Please tick relevant box]

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

Date consent received from the NCA:

Date consent given by you to the Council's employee:

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

Signed:.....

Dated:.....

THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS