

Spelthorne Borough Council

**PROCEEDS OF CRIME & ANTI-MONEY LAUNDERING  
POLICY & PROCEDURES**

**1. Introduction**

- 1.1 There have been significant changes to legislation concerning money laundering that have broadened the definition of money laundering and increased the range of activities caught by the statutory framework. The relevant legislation includes the Terrorism Act 2000, the Proceeds of Crime Act 2002 and Money Laundering Regulations 2007 as amended. The obligations impact on certain areas of local authority business and require local authorities to set up internal procedures to prevent the use of their services for money laundering.
- 1.2 CIPFA has a code of practice 'Managing the risk of fraud and corruption' which has five key principles. These are:
- Acknowledge the responsibility of the governing body for countering fraud and corruption.
  - Identify the fraud and corruption risks.
  - Develop an appropriate counter fraud and corruption strategy.
  - Provide resources to implement the strategy.
  - Take action in response to fraud and corruption.

**2. Scope of the Policy**

- 2.1 This policy applies to all members and employees of the Council and aims to maintain high standards of conduct by preventing criminal activity through money laundering. The policy sets out the procedures that must be followed, such as reporting any suspicions of money laundering activity.
- 2.2 Further information is available from either Legal or Internal Audit. This policy and procedures is intended to work with the Council's Confidential Reporting Code and Anti-Fraud, Bribery and Corruption Strategy to strengthen our arrangements for corporate governance.
- 2.3 Failure to comply with the procedures set out in this policy may result in disciplinary action and criminal prosecution, the penalties for which are serious fines and / or imprisonment.

**3. What is Money Laundering?**

- 3.1 Money laundering means:
- 3.1.1 Concealing, disguising, converting, transferring criminal property or removing it from the UK
- 3.1.2 Entering into or becoming concerned in an arrangement **you know or suspect** facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person

- 3.1.3 Acquiring, using or possessing criminal property
- 3.1.4 **Becoming concerned in an arrangement facilitating concealment**, removal from jurisdiction, transfer to nominees or any other retention or control of terrorist property.
- 3.2 Potentially any member of staff could be caught by money laundering provisions **if they suspect money laundering and either become involved with it in some way and / or do nothing about it**. Practical examples might be receipt of a large cash payment for any sum due such as for business rates or council tax, and large or repeated overpayments to the authority that require significant refunds. An assessment of risks to Spelthorne indicates low likelihood of this happening, but if it did the impact on the authority and individuals involved could be significant.
- 3.3 This policy meets statutory duties and protects both the authority and individual staff members from risks associated with money laundering. Procedures set out how any concerns should be raised.

#### 4. Roles and Responsibilities

**Audit Committee:** The Council has an Audit Committee to review the assessment of fraud risks and potential harm to the council from fraud and corruption.

**Councillors:** Councillors are expected to act in a manner which sets an example to the community whom they represent and to the employees of the council who deliver services. Councillors will comply with the Code of Conduct for Councillors.

**Section 151 Officer:** has the statutory responsibility to ensure the proper arrangements of the council's financial affairs.

**Monitoring Officer:** will act as the MLRO

**Internal Audit:** will carry out reviews of the adequacy of the council's control environment and report on any weaknesses found. Investigation of any matters of irregularity.

**Employees:** employees are expected to be aware of the possibility that fraud, corruption and theft may exist in the workplace and share their concerns in accordance with this policy.

**Contractors and suppliers:** those organisations employed to work on behalf of the council are expected to maintain strong anti-fraud principles.

#### 5. Actions to be Taken

- 5.1 To meet its statutory duties, the Council must:
  - 5.1.1 Approve an appropriate policy and set of procedures for identifying and reporting money laundering
  - 5.1.2 Nominate a Money Laundering Reporting Officer (MLRO) to receive reports from colleagues and make reports as necessary to the National Crime Agency (NCA)
  - 5.1.3 Provide appropriate training to staff and
  - 5.1.4 Maintain required record keeping procedures

## 6. The Money Laundering Reporting Officer (MLRO)

- 6.1 The staff member nominated to receive reports about any known or suspected money laundering activity within the Council is the Group Head of Corporate Governance/Monitoring Officer. In the absence of the MLRO, the Deputy Monitoring Officer is authorised to deputise for them.

## PROCEDURES

## 7. Reporting to the MLRO

- 7.1 As soon as any money laundering activity becomes known or suspected, it must be reported to the MLRO. This should be within “hours” of the activity being identified, not days or weeks later. Failure to act in this way could lead to prosecution.
- 7.2 The report **must be written and include as much detail as possible**, such as:
- Full details of all people involved, including yourself if relevant, eg name, date of birth, address, company names, directorships, contact details etc
  - Full details of their / your involvement
  - The types of money laundering activity involved (as set out in para. 3 above)
  - The dates of such activities, including whether the transaction have happened, are ongoing or imminent, where they took place, how they took place, the likely amount of money or assets involved and exactly why you are suspicious.

**You should also copy any relevant supporting documentation.** The NCA will require as much detail as possible, as will the MLRO in making a decision on whether to report to NCA.

- 7.3 Further guidance on reporting is available from both Legal and Internal Audit. Please do not hesitate to seek advice from your manager, Legal and / or Internal Audit as soon as any activity is suspected. **Do not take any action such as stopping a suspect transaction.** It may be that NCA want to proceed with a transaction as part of their investigation. Our duty is **to report only.**
- 7.4 Once reported to the MLRO, **you must not make any further enquiries into the matter yourself. Any necessary investigation will be done by NCA.** All staff will be required to co-operate with the MLRO and authorities during any subsequent investigation.

- 7.5 **Also, at no time and under no circumstances should any indication of suspicion be made to the person(s) suspected of money laundering.** This must be observed even if NCA has given consent to a particular transaction proceeding. Otherwise, staff may commit a criminal offence of “tipping off” those suspected. So be careful not to make any reference on a client file to MLRO reporting. If the client sees their file, such a reference could tip them off and make staff liable to prosecution. The MLRO will keep appropriate confidential records.

## 8. Action by the MLRO

- 8.1 On receipt of a disclosure report, the MLRO must record the date or receipt, acknowledge receipt and set a deadline for reply to the reporting officer.
- 8.2 The MLRO should consider the report and any further internal information required, such as data on other transaction patterns and volumes, the length of any business relationship involved, the number of any one-off transactions and linked one-off transactions and any identification evidence held.

The MLRO should also make any other appropriate enquiries to ensure all available information is considered in deciding whether a report to NCA is required (without tipping off those involved).

- 8.3 Once the disclosure report and any other relevant information is evaluated, the MLRO must make a timely determination as to whether there is actual or suspected money laundering taking place, or there are reasonable grounds to know or suspect that is the case, and whether consent should be sought from NCA for a particular transaction to proceed.
- 8.4 Where the MLRO does so conclude, the matter must be disclosed to NCA as soon as possible on their standard report form and in the prescribed manner **unless** there is a reasonable excuse for non-disclosure to NCA. For example, a lawyer may wish to claim legal professional privilege for not disclosing the information. Up to date forms can be downloaded from the NCA website at [www.nationalcrimeagency.gov.uk](http://www.nationalcrimeagency.gov.uk)
- 8.5 Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then the report must be noted accordingly. The MLRO may then immediately give consent for any ongoing or imminent transactions to proceed. **Full legal advice must be obtained before this course of action is taken.**
- 8.6 Where consent is required from NCA for a transaction to proceed, no further action should be taken until specific consent is obtained or consent is deemed through expiry of relevant time limits without objection from NCA.

- 8.7 Where the MLRO decides there are no reasonable grounds to suspect money laundering, the report must be marked accordingly and the MLRO must give consent for any transactions to proceed.
- 8.8 All reports received by the MLRO and reports made to NCA must be kept by the MLRO in a confidential file for a minimum of five years.
- 8.9 **The MLRO commits a criminal offence if they know or suspect, or have reasonable grounds to do so through a disclosure made to them, that another person is engaged in money laundering and they do not disclose this as soon as practicable to NCA.**

## **9. Client Identification Procedure**

**Please note this procedure is restricted to finance, accountancy, audit and certain legal services.**

- 9.1 Where these services form an ongoing business relationship with a client, undertake a one-off transaction involving payment by or to the client of €15,000 or the current equivalent in Sterling or more, undertake a series of linked one-off transactions involving total payment by or to the client of €15,000 or the current equivalent in Sterling or more, or it is known or suspected that such transactions involve money laundering, then the following client identification procedure must be observed before any business is undertaken for that client.
- 9.2 In these circumstances, staff in the relevant service must obtain satisfactory evidence of the identity of the prospective client as soon as practicable after instructions are received (unless such evidence has already been obtained).
- 9.3 Evidence of identity should be obtained as follows:
  - 9.3.1 For internal clients, appropriate evidence of identity of Council departments will be signed, written instructions on Council headed notepaper or an internal email. Such instructions should be appropriately filed and clearly identified as such evidence.
  - 9.3.2 For external clients, the MLRO will maintain a central file of general client identification evidence regarding the external organisations to whom financial, accountancy, audit and legal services provide professional services (such as housing associations). Staff in these services should check with the MLRO that such external clients are recorded in the central file and check relevant details. If the organisation is not included in the central file, the MLRO should be informed. Appropriate evidence of identity for external clients will be written instructions on the organisation's official letterhead or an email from the organisations e-communication system.
  - 9.3.3 All such evidence should be kept for at least five years from the end of the business relationship or transactions.

**10. Record Keeping Procedures**

- 10.1 Records of client identification and all relevant business transactions carried out for clients must be kept for at least five years, so they may be used as evidence in any subsequent investigation by the authorities into money laundering. As external audit requires retention of key accounting documents for six years, this should not involve any changes to current procedures.
- 10.2 The exact form of records is not prescribed by law, but must be capable of providing an audit trail during any subsequent investigation. Again, this is usual practice for council services and should not involve any changes to current procedures.