

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

ANTI-MONEY LAUNDERING POLICY

Version	2.1
Date	March 2012

1. Introduction

- 1.1 The Proceeds of Crime Act 2002 (POCA) consolidated, updated and reformed criminal law with regard to money laundering. The Chartered Institute of Public Finance and Accountancy (CIPFA) have expressed the view that many public service organisations have been unclear about their obligations and responsibilities under money laundering legislation and regulations. Their conclusion has been that reasonable steps should be taken to minimise the likelihood of money laundering occurring by putting in place proper policies and procedures.
- 1.2 This policy has therefore been adopted in order to introduce safeguards to help identify and report on instances where money laundering is suspected.
- 1.3 The Council will do all it can to prevent the Council and its staff being exposed to money laundering, identify the potential areas where it may occur and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases.

Key Issues

- The Council is committed to the prevention, detection and reporting of money laundering
- All employees must be vigilant for the signs of money laundering
- Any employee who suspects money laundering activity must report this promptly to the Money Laundering Reporting Officer – Section 151 Officer or in his/her absence the Deputy Section 151 Officer
- Where the Council is carrying out relevant business then the Client Identification Procedure must be followed.

2. Scope of the Policy

- 2.1 This policy applies to all 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 which must be followed to enable the Council to comply with its legal obligations.
- 2.2 This policy sits within the Council's Anti-Fraud and Anti-Corruption Strategies.

3. What is Money Laundering?

- 3.1 Money laundering can be defined as the process of moving illegally acquired cash through financial systems so that it appears to be from a legitimate source. Money laundering offences include:
 - concealing, disguising, converting, transferring criminal property or removing it from the UK (Section 327 of POCA);
 - 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 of POCA); and
 - acquiring, using or possessing criminal property (Section 329 of POCA).

3.2 There are also two secondary offences:

- failure to disclose any of the three primary offences above;
- 'tipping off' whereby somebody informs a person or persons who are, or who are suspected of being involved in money laundering, in such a way as to reduce the likelihood of them being investigated or prejudicing an investigation.

3.3 Any member of staff could potentially 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.

3.4 Whilst the risk to the Council of contravening the legislation is low, it is important that all employees are familiar with their 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.

4. The Money Laundering Reporting Officer (MLRO)

4.1 The officer nominated to receive disclosures about money laundering activity within the council is the Section 151 Officer. In his/her absence such disclosures should be made to the Deputy Section 151 Officer.

5. Reporting Procedures

5.1 Any employee who suspects money laundering activity must report their suspicion promptly to the MLRO, either by discussing the suspicion or using the appropriate money laundering form. A copy of the form is included in the Guidance Notes attached at Appendix A.

5.2 The employee must follow any subsequent directions of the MLRO, and must not themselves make any further enquiries into the matter. They must not take any further steps in any related transaction without authorisation from the MLRO.

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

5.4 The MLRO must promptly evaluate any disclosure report, to determine whether it should be reported to the Serious Organised Crime Agency (SOCA).

5.5 The MLRO must, if they determine it necessary, promptly report the matter to SOCA on their standard form and in the prescribed manner.

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

6. Client Identification Procedure

6.1 Where the Council is carrying out 'relevant business' and as part of this:

- forms an ongoing business relationship with a client;
- undertakes a one-off transaction involving payment by or to the client of £10,000 or more;
- 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 series of them) involves money laundering;

then the Client Identification Procedure (as set out below) must be followed before any business is undertaken for that client. Unlike the reporting procedure, the Client Identification Procedure is restricted to those operating relevant business i.e. Financial Services and Legal Services. This requirement does not apply if a business relationship with the client existed before 1st March 2004.

6.2 Where the 'relevant business' is being provided to another public sector body then you must ensure that you have signed, written instructions on the body's headed paper before any business is undertaken.

6.3 Where the 'relevant business' is not a public sector body, then you should seek additional evidence of identity, for example:

- checking with the organisation's website to confirm their business address;
- conducting an on-line search via Companies House;
- seeking evidence from the key contact of their personal identity and position within the organisation.

6.4 With instructions from new clients or further instructions from a client not well known to you, you may seek additional evidence of the identity of key individuals in the organisation and of the organisation itself – please see the Guidance Note for more information.

6.5 If satisfactory evidence of identity is not obtained at the outset then the business relationship or one off transaction(s) cannot proceed any further.

6.6 "Relevant Business" is defined as:

- the provision, by way of business, of advice about the tax affairs of another person by a body corporate;
- the provision, by way of business, of accountancy services by a body corporate;
- the provision, by way of business, of audit services;
- the provision, by way of business, of legal services by a body corporate which involves participation in a financial or real property transaction (whether by assisting in the planning or execution of any such transaction or otherwise by acting for, or on behalf of, a client in any such transaction);
- the provision, by way of business, of services in relation to the formation, operation or management of a company or a trust;
- The activity of dealing in goods of any description, by way of business, whenever a transaction involves accepting a total cash payment of 15,000 euros (approximately (£10,000) or more;

- The activity of dealing in and managing investments 'by way of business'.

7. Record Keeping Procedures

- 7.1 Where the 'relevant business' is carried out then the client identification evidence and details of the relevant transaction(s) for that client must be retained for at least five years.

8. Guidance & Training

- 8.1 In support of this policy and procedure, 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.

As a minimum they should be aware of:

- The Money Laundering Regulations 2007
- The Proceeds of Crime Act 2002, part 7
- The Anti-Terrorism, Crime and Security Act 2001, section 117
- The Terrorism Act 2000, sections 18 & 21a

GUIDANCE AND PROCEDURE NOTES HAVE BEEN PREPARED FOR THE BENEFIT OF STAFF AND A COPY IS ATTACHED AT APPENDIX A.

9. Further Information

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

- www.soca.gov.uk – website of the Serious Organised Crime Agency (SOCA)
- Proceeds of Crime (Anti-Money Laundering) Practical Guidance for Public Service Organisations – CIPFA
- The Consultative Committee of Accountancy Bodies – CCAB (www.ccab.org.uk)
- Anti-Money Laundering (Proceeds of Crime and Terrorism) – Guidance for Accountants
- www.lawsociety.org.uk – Money Laundering Guidance from the Law Society

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

**ANTI-MONEY LAUNDERING
GUIDANCES AND PROCEDURES**

Version	2.1
Date	March 2012

Introduction

It is management responsibility to maintain adequate control systems and to ensure that the organisation's resources are applied in the manner and the activities intended, including the responsibility for ensuring staff are aware of their individual responsibilities and comply with the Authority's Anti-Money Laundering Policy. The Internal Audit Service role is to contribute to this process by examining and evaluating the extent of internal control and reporting to management on its adequacy and effectiveness. These notes are designed to help management and individuals familiarise themselves with the legal and regulatory requirements.

What is money laundering?

Money laundering is the term used for a number of offences involving the proceeds of crime or terrorist funds. The term now goes beyond the transformation of the proceeds of crime into apparently legitimate money or assets; it covers a range of activities, which do not necessarily need to involve money. It is defined as any act constituting an offence under sections 327 to 329 of the Proceeds of Crime Act 2002 i.e:

- concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327); or
- entering into or becoming concerned in an arrangement which a person knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person (section 328);
- acquiring, using or possessing criminal property (unless there was adequate consideration) (section 329);
- an attempt, conspiracy or incitement to commit such an offence; or
- aiding, abetting, counselling or procuring such an offence; and
- an offence under section 18 of the Terrorist Act 2000, namely becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property.

"Criminal property" is widely defined as a person's benefit from criminal conduct. It includes all property, real or personal (situated in the UK or abroad), including money, and also includes an interest in land or a right in relation to property other than land. It does not matter how small the value of the benefit is.

"Terrorist property" means money or other property that is likely to be used for the purposes of terrorism, proceeds of the commission of acts of terrorism, and acts carried out for the purposes of terrorism.

The broad definition of money laundering means that potentially anybody (and therefore any Council employee, irrespective of what sort of Council business they undertake) could contravene the money laundering offences if they become aware of, or suspect existence of, criminal or terrorist property, and continue to be involved in the matter without reporting their concerns.

What legislation exists to control money laundering?

In recent years, new laws have been passed which shift the burden for identifying acts of money laundering away from government agencies and more towards organisations and their employees. The main obligations are contained in the Proceeds of Crime Act 2002 (POCA) and the Money Laundering Regulations 2007, which broaden the definition of money laundering and increases the range of activities caught by the statutory control framework. In particular, the duty to report suspicions of money laundering is strengthened and criminal sanctions can be imposed for failure to do so.

What are the main money laundering offences?

There are three principal offences:

- **Concealing** is where someone knows or suspects a case of money laundering, but conceals or disguises its existence
- **Arranging** is where someone involves himself or herself in an arrangement to assist in money laundering
- **Acquisition** is where someone seeks to benefit from money laundering by acquiring, using or possessing the property concerned.

There are also two 'third party' offences:

- **Failure to disclose** one of the three principal offences above or,
- **Tipping off** is where someone informs a person or people who are, or are suspected or being, involved in money laundering, in such a way as to reduce the likelihood of them being investigated, or prejudicing an investigation.

All the money laundering offences may be committed by an organisation or by the individuals working for it. Whilst it is considered most unlikely that a member of staff would commit one of the three principal offences, the failure to disclose a suspicion is a serious offence in itself, and there are only very limited grounds in law for not reporting a suspicion. Whilst stressing the importance in reporting your suspicions, you should understand that failure to do so is only an offence if your suspicion relates, in the event, to an actual crime.

What are the penalties?

The consequences for staff of committing an offence are potentially very serious. Money laundering offences may be tried at a magistrate's court or in the Crown Court, depending on the severity of the suspected offence. Trials at the former can attract fines of up to £5,000, up to six months in prison or both. In a Crown Court, fines are unlimited, and sentences from two to fourteen years may be handed out.

What is NWLDC's policy on money laundering?

There is no statutory requirement on the Council to adopt a Money Laundering Policy or appoint a Money Laundering Reporting Officer, however, there is a statutory duty on the organisation and on individuals to disclose suspicions that may arise during the course of normal business.

Our policy is to do all we can to prevent, whenever possible, the Council and its staff being exposed to money laundering, to identify the potential areas where it may occur and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases. It is every member of staff's responsibility to be vigilant.

NWLDC has accepted the responsibility for ensuring that those of its staff who are most likely to be exposed to money laundering make themselves fully aware of the law, and where necessary, are suitably trained. Procedures have been implemented for reporting suspicious transactions and, if necessary, making an appropriate report to the Serious Organised Crime Agency (SOCA). The Council has nominated the Section 151 Officer, or in his/her absence the Deputy Section 151 Officer, to act as the Money Laundering Reporting Officer (MLRO) to be responsible for anti-money laundering measures within the organisation.

In addition, areas of the Council's business that could be deemed to be 'relevant' are required to obtain, verify and maintain evidence and records of the identity of new clients and transactions undertaken, and report suspicions to the MLRO. Relevant business is defined with reference to the nature of the activities undertaken rather than referring to the organisation as a whole. Some of the Council's business could be classed as "relevant" for the purpose of the legislation:

- the provision, by way of business, of advice about the tax affairs of another person by a body corporate,
- the provision, by way of business, of accountancy services by a body corporate,
- the provision, by way of business, of audit services,
- the provision, by way of business, of legal services by a body corporate which involves participation in a financial or real property transaction (whether by assisting in the planning or execution of any such transaction or otherwise by acting for, or on behalf of, a client in any such transaction),
- the provision, by way of business, of services in relation to the formation, operation or management of a company or a trust,
- The activity of dealing in goods of any description, by way of business, whenever a transaction involves accepting a total cash payment of 15,000 euros (approximately (£10,000) or more,
- The activity of dealing in and managing investments 'by way of business'.

What should I do if I suspect a case of money laundering?

Where you know or suspect that money laundering activity is taking, or has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the legislation, you must disclose this as soon as practicable to the MLRO. Should you not do so, then you may be liable to prosecution.

Your disclosure should be made to the MLRO by using the Report to the Money Laundering Reporting Officer form, or if you prefer, in a discussion. Your report must include as much detail as possible including:

- Full details of the people involved e.g. name, date of birth, address, company names, directorships, phone numbers, etc.
- Full details of the nature of their and your own involvement.

If you are concerned that your involvement in the transaction would amount to a prohibited act under the 2002 Act (sections 327 to 329), then your report must include all relevant details, as you will need consent from the Serious Organised Crime Agency (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. 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. principal money laundering offence under the 2002 Act (or 2000 Act), or general requirement under section 330 of the 2002 Act (or section 21A of the 2000 Act), or both.
- The dates of such activities, including whether the transactions have happened, are ongoing or are imminent.
- Where they took place.
- How they were undertaken.
- The (likely) amount of money/assets involved.

- Why, exactly, you are suspicious (as SOCA will require full reasons).
- 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 the MLRO to prepare a report to SOCA as appropriate, should be provided.

You should also enclose copies of any relevant supporting documentation. Once you have reported the matter to the MLRO you must follow any directions given to you. You must not make any further enquiries into the matter yourself. All members of staff will be required to co-operate with the MLRO and other authorities during any subsequent investigation.

Tipping Off Offences

Where you suspect money laundering and report it to the MLRO, be very careful what you say to others afterwards: you may commit a further offence of "tipping off" (sections 333A to 333E of the 2002 Act) if, knowing a disclosure has been made, you say or do anything which is likely to prejudice any investigation that might be conducted. For example, a lawyer who reports his suspicions of a money laundering offence by a client to the MLRO, may commit a tipping off offence if he then reports his disclosure to that client.

However, preliminary enquiries of a client to obtain more information (e.g. confirm their identity, clarify the source of funds) will not amount to tipping off, unless you know or suspect that a report has been made.

Even if you have not reported the matter to the MLRO, if you know or suspect that such a disclosure has been made and you mention it to someone else, this could amount to a tipping off offence. You must not, therefore, make any reference on a file to a report having been made to the MLRO because, should the client exercise the right to see the file under Data Protection or FOI Acts, such a note will obviously "tip them off" and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

Prejudicing an Investigation Offence

If you know or suspect that an appropriate officer is, or should be, conducting a money laundering investigation and you make a disclosure to a third party that is likely to prejudice the investigation, then you commit an offence (section 342 of the 2002 Act).

Any person found guilty of tipping off or prejudicing an investigation is liable to imprisonment (maximum 5 years), a fine or both. However, defences are available for both such offences, for example:

- Where you did not know or suspect that the disclosure was likely to be prejudicial;
- where you disclose information in exercising a function under the 2002 Act or any act relating to criminal conduct;
- Where you disclose information under section 333A(2) or (3)(a) of the 2002 Act;
- Where you disclose information in exercising a function or in line with a requirement under the Coroners and Justice Act 2009;
- Where you are a professional legal adviser and the disclosure was:
 - a) to a client (or his representative) in connection with the giving of legal advice or;
 - b) to any person in connection with legal proceedings (existing or contemplated); but not where information was given with the intention of furthering a criminal purpose.

What do I do if I am involved in an activity deemed to be 'relevant' business?

The Money Laundering Regulations 2007 impose specific obligations on those carrying out relevant business, requiring them to:

- obtain sufficient knowledge to ascertain the true identity of clients, by maintaining client identification procedures;
- ensure evidence of identity obtained and details of transactions undertaken are held for at least 5 years.

Where the Council is carrying out relevant business (e.g. accountancy, audit and certain legal services) and:

- forms an ongoing business relationship with a client;
- undertakes a one-off transaction involving payment by, or to, the client of 15,000 Euro (approximately £10,000) or more;
- undertakes a series of linked one-off transactions involving total payment by or to the client(s) of 15,000 Euro (approximately £10,000) or more; or
- it is known or suspected that a one-off transaction (or a series of them) involves money laundering

then the Client Identification Procedure should be followed before any business is undertaken with that client.

Where the client is acting or appears to be acting for someone else, reasonable steps must also be taken 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. This is often likely to be the case for the Council.

Client Identification Procedure

Satisfactory evidence of identity establishes, to the satisfaction of the person receiving it, that the client is who they claim to be.

The Council's Client Identification Procedure requires basic identity checks for existing clients as follows:

- **internal clients:** signed, written instructions on Council headed notepaper or an email on the internal email system at the outset of the business relationship
- **external clients:** signed, written instructions on the organisation in question's headed paper at the outset of the business relationship.

The reason for this low level procedure is because the Council's risk of exposure to money laundering is assessed as low, so the procedure is considered appropriate to this perceived risk. The risk assessment takes account of regulations that restrict the extent to which services can be provided and the organisations with which the Council can contract.

The Client Identification Procedure should enable us to have confidence in accepting instructions from a known client. If, however, you are undertaking work for a new client, then you may also wish to seek additional evidence, 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 the person's identity and position within the organisation, for example:
 - a) passport, photo ID card, driving licence;
 - b) signed, written confirmation from the Head of Service or Chair of the relevant organisation that such person works for the organisation.

Record Keeping Procedure

Each department of the Council conducting relevant business must maintain records for at least five years of:

- client identification evidence obtained; and
- details of all relevant business transactions carried out for clients.

This is necessary so that the information may be used as evidence in any subsequent investigation into money laundering by the authorities.

The precise nature of the records is not prescribed by law. However, they must provide an audit trail should such information be required during any subsequent investigation.

For example, identifying the client, the relevant transaction and recording the form in which any funds were received or paid. In practice, Council departments routinely produce and maintain records of work carried out for clients in the course of normal business and these should suffice in this regard.

How do I know whether money laundering is taking place?

There is no clear definition of what constitutes suspicion. As such, common sense and objectivity will need to be applied in all instances. Although it is not necessary to have actual evidence that money laundering is taking place, it is reasonable to expect that speculation or gossip is not the basis upon which knowledge or suspicion of money laundering activities is to be founded. However, if you deliberately choose to ignore situations in which money laundering is obviously occurring, you will not be absolved of your personal responsibilities under the legislation.

Examples of Money Laundering Activity:

By way of example, consider the following hypothetical scenario:

A visiting officer is assessing a service user's finances to establish entitlement to Housing Benefit. In the course of this process the visiting officer becomes aware of, or suspects the existence of criminal property.

In this scenario the Visiting Officer may commit an offence under section 328 of POCA by:

"being concerned in an *arrangement*" which s/he knows/suspects "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.

Possible Indications of Money Laundering:

It is impossible to give a definitive list of ways through which to identify money laundering or how to decide whether to make a report to the MLRO. The following are

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

General:

- A new client;
- A secretive client: e.g. refuses to provide requested information without a reasonable explanation;
- Concerns over the honesty, integrity, identity or location of a client;
- Illogical third party transactions: unnecessary routing or receipts 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 (over £10,000);
- Overpayments by a client;
- Absence of an obvious legitimate source of the funds;
- Movement of funds overseas, particularly to a higher risk country or tax haven;
- Where, without reasonable explanation, the size, nature and frequency of transactions or instructions (or the size, location, type of a client) is inconsistent with normal expectations;
- A transaction without obvious legitimate purpose or which appears uneconomic, inefficient or irrational;
- The cancellation or reversal of an earlier transaction;
- Requests for release of client account details other than in the normal course of business;
- Companies and trusts: extensive use of corporate structures and trusts in circumstances where the client's needs are inconsistent with the use of such structures;
- Poor business records or internal accounting controls;
- A previous transaction for the same client, which has been, or should have been, reported to the MLRO.

Property Matters:

- Unusual property investment transactions if there is no apparent investment purpose or rationale;
- Instructions to receive or pay out money where there is no linked substantive property transaction involved (surrogate banking);
- Funds received for property deposits or prior to completion from an unexpected source or where instructions are given for settlement funds to be paid to an unexpected destination.

Facts that tend to suggest that something odd is happening may be sufficient for a reasonable suspicion of money laundering to arise.

In short, the money laundering offences apply to your own actions and to matters in which you become involved. If you become aware that your involvement in the matter may amount to money laundering under the 2002 Act then you must discuss it or report it to the MLRO and not take any further action until you have received, through the MLRO, the consent of the SOCA. For example, if you receive cash that you suspect is from the proceeds of crime, you must not bank it but set it aside securely until you receive an instruction from the MLRO on how to proceed.

What if I fail to report a suspicion?

If you are in any doubt as to whether or not to file a report with the MLRO then you should err on the side of caution and do so. Remember, failure to report may render

you liable to prosecution (for which the maximum penalty is an unlimited fine, five year's imprisonment, or both). The MLRO will not refer the matter to SOCA if there is no need.

You must still report your concerns, even if you believe someone else has already reported their suspicions of the same money laundering activity. Such reports to the MLRO will be protected in that they will be exempt from disclosures requested under the Freedom of Information Act. There are various defences against non-disclosure, including:

- where you have a reasonable excuse for non disclosure (e.g. a lawyer may be able to claim legal professional privilege for not disclosing the information);
- where you did not know or suspect that money (or other criminal property) was being laundered and had not been provided with appropriate training by the Council. However, given the low risk to the Council of money laundering activity, this Guidance Note will provide sufficient training for most members of staff, although further guidance may be issued from time to time and targeted training provided to those staff more directly affected by the legislation.

Relevant Guidance

When considering any offence under the legislation, the Court will consider whether you followed any relevant guidance approved by the Treasury, a supervisory authority, or any other appropriate body, which includes, for example, the Law Society, the Financial Services Authority or a CCAB body.

What will the MLRO do?

When the MLRO receives a disclosure from a member of staff and concludes that there is actual money laundering taking place or there are reasonable grounds to suspect so, then a report must be made as soon as practicable to SOCA on their standard report form and in the prescribed manner, unless there are reasonable grounds for non disclosure.

Where relevant, the MLRO will also need to request appropriate consent to proceed with the transaction from SOCA for any acts/transactions which would amount to prohibited acts under section 327 to 329 of the 2002 Act.

The MLRO may receive appropriate consent from SOCA in the following ways:

- specific consent;
- no refusal of consent during the notice period (seven working days starting with the first working day after the MLRO makes the disclosure); or
- refusal of consent during the notice period but the moratorium period has expired (31 days starting with the day on which the MLRO received notice of refusal of consent).

The MLRO commits a criminal offence under section 331 of the 2002 Act if s/he knows or has reasonable grounds to suspect, through a disclosure having been made, that another person is engaged in money laundering and this is not disclosed as soon as practicable to the SOCA.

Upon receipt of a disclosure report, the MLRO must note the date of receipt on the report, acknowledge receipt and advise the discloser of the timescale within which they can expect a response.

The MLRO will consider the report and any other available internal information s/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.

The MLRO will undertake such other reasonable inquiries deemed appropriate in order to ensure that all available information is taken into account in deciding whether a report to the SOCA is required. Such enquiries should be made in such a way as to avoid any appearance of tipping off those involved. The MLRO may also need to discuss the report with you.

Once the MLRO has evaluated the disclosure report and any other relevant information, they 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 this is the case; and
- Whether s/he needs to seek consent from SOCA for a particular transaction to proceed.

There are a small number of exemptions for non-disclosure to the SOCA (e.g. if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information). However, if in any doubt, always disclose.

Where the MLRO concludes that there are no grounds to suspect money laundering, or suspects money laundering but has a good reason for non-disclosure, then this must be noted in the report accordingly and consent given in writing for any ongoing or imminent transactions to proceed. The MLRO should consult with the Head of Legal and Support Services (Monitoring Officer) before reaching a non-disclosure decision.

In cases where legal professional privilege may apply, the MLRO must liaise with the Head of Legal and Support Services (Monitoring Officer) to decide whether there is a reasonable reason for not reporting the matter to the SOCA.

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.

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

Conclusion

Given the nature of the Council's services and for whom these services are provided, instances of suspected money laundering are unlikely to arise often, if at all. However, we must be mindful of the legislative requirements, as failure to comply with them may render individuals liable for prosecution.

Please take prompt and proper action if you have any suspicions and feel free to consult the MLRO at any time should you be concerned regarding a matter.

CONFIDENTIAL

Report to the Money Laundering Reporting Officer of Suspected Money Laundering Activity

FROM	
DIRECTORATE	
EXTENSION	
URGENT	YES/NO
DATE BY WHICH RESPONSE NEEDED	

Details of suspected offence:

Name(s) and address(es) of person(s) involved:
<i>[if a company/public body please include details of nature of business]</i>

Nature, value and timing of activity involved:
<i>[Please include full details e.g. what, when, where, how. Continue on a separate sheet if necessary]</i>

Nature of suspicions regarding such activity:
<i>[Please continue on a separate sheet if necessary]</i>

Has any investigation been undertaken (as far as you are aware)?	Yes/No
---	--------

If yes, please include details below:

If yes, please specify below, explaining why such discussion was necessary:

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 and an unlimited fine.

THE FOLLOWING PART OF THIS FORM TO BE COMPLETED BY THE MLRO

Date report received: _____

Date receipt of form acknowledged: _____

CONSIDERATION OF DISCLOSURE

Action plan:

OUTCOME OF CONSIDERATION OF DISCLOSURE

Are there reasonable grounds for suspecting money laundering activity?

If there are reasonable grounds for suspicion, will a report be made to the SOCA? <i>[Delete as appropriate]</i>	Yes/No
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If yes, please confirm date of report to the SOCA: and complete the box below:

<u>Details of liaison with the SOCA regarding the report:</u>		
Notice Period:	from:	to:
Moratorium Period:	from:	to:

Is consent required from the SOCA to any ongoing or imminent transactions which would otherwise be prohibited acts? <i>[Delete as appropriate]</i>	Yes/No
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If yes please confirm full details in the box below:

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Date consent received from the SOCA:

Date consent given by you to employee:

If there are any 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:

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

Other relevant information:

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Signed: _____ Dated: _____

THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS