

Money laundering is the term used for a number of offences involving the proceeds of crime and terrorist funds. The following acts constitute the act of money laundering:

- Concealing, disguising, converting, transferring or removing criminal property from England and Wales, or from Scotland, or from Northern Ireland.
- Becoming concerned in an arrangement in which someone knowingly or suspects and facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person.
- Acquiring, using or possessing criminal property.

Anti-Money Laundering Policy and Procedures

1. Money laundering is the term used for a number of offences involving the proceeds of crime or terrorist funds. It includes processing, or in any way dealing with, or concealing, the proceeds of any crime. It also involves similar activities in relation to terrorists' funds, which include funds that are likely to be used for terrorism, as well as the proceeds of terrorism. Failure to disclose one of these offences or tipping off are also offences. Tipping off 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.
2. Anti-money laundering legislation lays significant obligations on officers who encounter money laundering, or those who could be involved in it. Although the obligations are greater and more detailed for those working within the Financial Services sector such as banks, building societies and investment brokers, Council Members and Officers are recommended to obtain a general knowledge of the legislation, their obligations under it and implement them accordingly. The legislation and regulations relating to Money Laundering are shown in Annex 1.
3. Councils are not immune to the risks surrounding money laundering, and have a responsibility for the proper conduct of public business. Councils are required to take all reasonable steps to minimise the likelihood of money laundering occurring by putting in place proper policies and procedures
4. Council Officers are therefore required to ensure that those they do business with, are not benefiting or suspected of benefiting financially from dishonest activities. One of the key requirements is to "Know your Counterparty". If you know who you are dealing with, the risk of crime is reduced.
5. Detailed guidance on responsibilities under legislation and regulations relating to Money Laundering are contained within Annex 1.

Proceeds of crime (Anti- Money Laundering) – Thanet District Council's and YOUR own personal responsibilities

Purpose

These notes are important. They are designed to help you familiarise yourself with the legal and regulatory requirements relating to money laundering, as they affect both the organisation and you personally.

What is Money Laundering?

Money laundering is the term used for a number of offences involving the proceeds of crime and terrorist funds. The following acts constitute the act of money laundering:

- Concealing, disguising, converting, transferring or removing criminal property from England and Wales, or from Scotland, or from Northern Ireland.
- 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.
- Becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention of control of terrorist property.
- Acquiring, using or possessing criminal.

Although the term 'money laundering' is generally used when describing the activities of organised crime – for which the legislation and regulations were first introduced – to most people who are likely to come across it or be affected by it, it involves a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.

'Criminal property' is defined very widely in the law relating to money laundering. It includes not only the proceeds of crime committed by somebody else but also possession of the proceeds of an individual's own crime, for example, the retention of monies from non-payment of income tax. It does not matter how small the amount of money involved is. It also includes the proceeds of crimes that take place abroad.

What Laws exist to control Money Laundering?

In recent years, new laws have been passed which shift significantly the burden for identifying acts of money laundering away from government agencies and more towards organisations and their employees. They prescribe potentially very heavy penalties, including imprisonment, for those who are convicted of breaking the law. These laws are important and, for those who wish to refer to them, and we hope you will, a list of them appears at the end of these notes, together with a list of useful websites.

What is this Council's policy on Money Laundering?

Our policy is to do all we can to prevent, wherever possible, the organisation 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. We cannot stress too strongly however, that it is every member of staff's responsibility to be vigilant.

The Council has nominated Matthew Sanham to be responsible for anti- money laundering measures within the organisation.

What are the main Money Laundering offences?

(A) Concealing:

Where someone knows or suspects a case of money laundering, but conceals or disguises its existence.

(B) Arranging:

Arranging is where someone is involved in an arrangement to assist in money laundering.

(C) Acquisition:

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

(D) Tipping off:

Tipping off 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.

All the money laundering offences may be committed by an organisation or by the individuals working for it.

Types of Transactions to watch for /Identification procedures

Officers should pay particular attention to all 'cash' transactions of £10,000 or more. These may be individual transactions or a series of transactions which appear to be linked, totalling £10,000 or more, or where there is a suspicion that the transaction involves money laundering. Cash means notes, coins or travellers' cheques in any currency. Non-cash transactions (cheques/bank transfers etc.) are not included as cash.

Where cash to the value of £10,000 or more is offered, the following guidance should be followed:

- Satisfactory evidence of identity should be established. This is defined as evidence which is reasonably capable of establishing (and does in fact establish to the satisfaction of the person who obtains it) that the customer is who he claims to be.
- Identification procedures should be initiated as early as possible, and preferably with the customer present. The customer should be able to produce at least two pieces of identity – one to confirm who he is, preferably with a photograph, and the other to confirm his address. Copies of the evidence produced should be taken. If evidence is not obtained, the transaction should not proceed any further and the Anti-Money Laundering Policy Officer should be contacted. Evidence of identity may include passport (current and valid), drivers licence, birth certificate, medical card, bank or building society statement (no older than three months), national insurance number. Evidence of address may include any utility bill (in customers' own name and no older than three months), bank or building society statements (but not if used to prove identity and must be no older than three months), letter from solicitor, letter from Inland Revenue or other Government office.
- If the customer is acting for another person, reasonable measures must be taken to establish the identity of that other person. This may be, for example, by checking with another member of staff who may have dealings with them.

What are the implications for the Council and its staff?

The Council has accepted the responsibility to ensure that those of its staff who are most likely to be exposed to money laundering can make themselves fully aware of the law, and, where necessary, are suitably trained.

The Council has also implemented procedures for reporting suspicious transactions, and if necessary, making an appropriate report to the National Criminal Intelligence Service (NCIS).

The consequences of staff committing an offence are potentially very serious. Whilst it is considered most unlikely that a member of staff would commit one of these three principal offences, the failure to disclose a suspicion of a case of money laundering is a serious offence in itself, and there are only very limited grounds in law for not reporting a suspicion.

Whilst stressing the importance of reporting your suspicions, however, 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?

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 should I do if I suspect a case of Money Laundering?

You should report the case immediately to the Finance Manager, Matthew Sanham, either using a form he will give you or, if you prefer, in a discussion. The Finance Manager will decide whether to make a report to the NCIS.

There is no clear definition of what constitutes suspicion – common sense will be needed. If you are considered most likely to be exposed to suspicious situations, your senior officer will make you aware of these and, where appropriate, training will be provided.

Record keeping

A copy of evidence of identity must be retained for five years.

The supporting records (consisting of the original documents or copies) in respect of a business relationship or transaction which is the subject of customer due diligence measures or ongoing monitoring must be retained for five years.

Summary

Robust money laundering procedures are essential if this organisation and its staff are to comply with our responsibilities and legal obligations.

It falls to you as a member of the Council's staff, as well as to the organisation itself, to follow these procedures rigorously.

Legislation and Regulations relating to Money Laundering

- The Proceeds of Crime Act 2002
- The Terrorism Act 2000
- The Money Laundering Regulations 2007

Further information

For more information or advice, please contact Matthew Sanham on 01843 577227.

Legislation and Regulations relating to Money Laundering

ACT	Description	Impact on Local Authorities	Details
Financial Services and Markets Act 2000	Defines relevant /regulated business activities	HIGH	Clarifies the fact that Council activities fall outside the relevant activities specified for the purpose of money laundering regulations
Statutory Instrument 2001 no. 544	Specifies the types of regulated activity.	MEDIUM	Councils deposit taking and mortgage operations are exempt from the direct money laundering regulations.
Statutory Instrument 2001 no. 1177	Identifies and distinguishes regulated activities from unregulated activities	HIGH	This Order makes provision as to circumstances in which persons are, or are not, to be regarded as carrying on regulated activities by way of business for the purposes of the Financial Services and Markets Act 2000.
Statutory Instrument 2001 no. 1201	Exempts local authorities in respect of accepting deposits.	HIGH	Exempts local authorities in respect of accepting deposits, therefore in that respect they are not required to carry out regulated activities.
Money Laundering Regulations 2007	Apply to relevant /regulated business as defined in paragraph 3 of the ML Regulations	MEDIUM	This updates the Money Laundering Regulations 2003 with updated provisions on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

Statutory Instrument 2003 no. 3075	The provisions updated in S1 3075 do not significantly change the Council's existing money laundering responsibilities.	LOW	These Regulations replace the Money Laundering Regulations 1993 and 2001 with updated provisions which reflect Directive 2001/97/EC of the European Parliament and of the Council amending Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering.
Terrorism Act 2000, the Anti-terrorism , Crime and Security Act 2001 & the Proceeds of Crime Act 2002	Initiated direct council employee responsibilities, which will require their wider practices, which in part clarify Council Money Laundering procedures	HIGH	Councils may not directly fall under the Money Laundering Regulations, (other than TMP requirements) but individual officers will need in practice to develop and implement the Money laundering regulatory requirements. Crime areas, e.g. housing benefit require consideration within the control system.

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