



Anti-Money Laundering Policy and Procedures

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1. Introduction

- 1.1 Middlesbrough Council is committed to the highest standards of openness, probity and accountability. In line with this commitment, the Council has put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.
- 1.2 This policy sits along-side and has links to the Council's Anti-Fraud Bribery and Corruption Policy.
- 1.3 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.
- 1.4 Under the previous legislative regime, it was unclear as to whether or not the framework applied to local authorities (although guidance from organisations such as CIPFA advised an approach that complies with the principles of the legislation) but the 2017 Regulations impact on certain areas of local authority business and require local authorities to establish internal procedures to prevent the use of their services for money laundering. For that reason, Middlesbrough Council has implemented this Anti Money laundering Policy.
- 1.5 The Council will introduce proportionate procedures aimed at complying with the principal requirements of the Money Laundering Regulations 2007 and will work to:
 - Prevent, as far as possible, any exposure to money laundering;
 - Identify the potential areas where money laundering could occur;
 - Comply with all legal and regulatory requirements in relation to money laundering including the reporting of actual or suspected cases.

2. Purpose

- 2.1 The Anti-Money Laundering Policy is intended to outline how the Council will apply its anti-money laundering approach and directly contributes to the successful delivery of the Mayor's Vision 2025. This policy document sits alongside the Council's Anti-Fraud, Bribery & Corruption Strategy, Whistleblowing Policy and other governance arrangements.
- 2.2 The aim of the policy is to reduce the risk to the Council of money being laundered through its systems by raising awareness and providing guidance for preventing, detecting, reporting and dealing with cases of suspected money laundering. It sets out the procedural framework and governance arrangements necessary to enable the Council to comply with its legal obligations in respect of money laundering.
- 2.3 All employees and Members must be familiar with their responsibilities in respect of reporting any suspicions around money laundering activity, as serious criminal sanctions may be imposed for breaches of the legislation. This Policy sets out how any concerns should be raised.

3. Scope

- 3.1 This policy and its associated internal procedures apply to all elected Members, employees and agency workers of the Council in the course of their dealings for the Council. This includes our dealings with the public, partners, contractors and commissioned service providers. The Policy is intended to maintain the high standards of conduct which currently exist within the Council by preventing criminal activity through money laundering.
- 3.2 Directors and service managers should ensure that all employees are aware of this policy document and relevant internal procedures. Failure by an employee 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.

4. What is Money Laundering

- 4.1 Money laundering is any process by which criminally obtained money or other assets (criminal property) are exchanged for clean money or assets with no obvious link to their criminal origins. Money laundering sets out to disguise the original ownership and control of the proceeds of criminal conduct by making such proceeds appear to have derived from a legitimate source. It also covers money, however come by, which is used to fund terrorism.
- 4.2 Whilst the risk to the Council of contravening the legislation is low, it is important that all Members and employees are familiar with their legal responsibilities as serious criminal sanctions may be imposed for breaches of the legislation. Potentially any member of staff could be caught by the money laundering provisions if they suspect money laundering and either become involved in it in some way and/or do nothing about it. Failure to report money laundering is an offence.

5. Legal Framework

- 5.1 The main UK legislation covering anti-money laundering and terrorist financing is:
 - 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);
 - Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017).

Although the term 'money laundering' is generally used to describe activities of organised crime, for most people it will involve a suspicion that someone they know, or know of, is benefiting financially from dishonest activities. Money laundering can take a number of forms:

- Concealing, disguising, converting or transferring criminal property or removing it from the UK.
- 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.
- Acquiring, using or possessing criminal property.
- Investing the proceeds of crime into other financial products or the acquisition of property/assets;
- Tipping off a person(s) who is or is suspected of being involved in money laundering in such a way as to reduce the likelihood of or prejudice an investigation.

6. The Council's Obligations

6.1 To ensure compliance with money laundering legislation, the Council will:

- appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees and Members 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;
- maintain record keeping procedures.

6.2 Providing the Council does not undertake activities regulated under the Financial Services and Markets Act 2000, the offences of failure to disclose and tipping off do not apply. However, the Council and its employees and Members remain subject to the remainder of the offences and the full provisions of the Terrorism Act 2000.

6.3 The Terrorism Act 2000 made it an offence of money laundering to become concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of terrorism, or resulting from acts of terrorism.

6.4 Potentially heavy penalties (unlimited fines and imprisonment of up to fourteen years) can be handed down to those who are convicted of one of the offences above.

7. The Money Laundering Reporting Officer (MLRO)

7.1 The regulations require the Council to appoint a Nominated Officer (MLRO), who is responsible for:

- Receiving internal suspicious transaction reports (also known as disclosures) from within the Council;
- Assessing whether the disclosure made shows sufficient evidence that there is or has been actual or suspected money laundering activity taking place;
- Deciding whether these should be reported to the National Crime Agency;
- If appropriate, making such reports to the National Crime Agency.

7.2 The MLRO will be responsible for assessing whether the disclosure made shows sufficient evidence that there is or has been actual or suspected money laundering

activity taking place and for ensuring that relevant disclosures are reported to the National Crime Agency.

- 7.3 The officer nominated to receive disclosures about money laundering activity within the Council is the Head of Financial Governance & Revenues, who can be contacted at:

John Shiel (MLRO)
Head of Financial Governance & Revenues
Middlesbrough Council
PO Box 506
2nd Floor
Civic Centre
Middlesbrough
TS1 9GA
Telephone: 01642 729548
Email: john_shiel@middlesbrough.gov.uk

- 7.4 In the absence of the MLRO, the Chief Accountant and/or the Audit and Assurance Manager are authorised to deputise and can be contacted at the above address or on 01642 729582 or 01642 771165.

8. What the Council will do

- 8.1 The Council will put in place procedures to identify customers when Council land or property is being sold. The procedures will require the Council to:

- Identify customers and verify their identity on the basis of documents from a reliable and approved source;
- Identify where applicable the beneficial owner (individuals who ultimately own or control or have a legal interest in the customer asset or the person on whose behalf a transaction or activity is being conducted) and take adequate measures on a risk sensitive basis to verify their identity;
- Maintain records of all checks.

If satisfactory evidence of a customer's identity at the outset cannot be obtained, then the business transaction will **not** proceed any further.

All personal data collected must be kept in accordance with the Data Protection Act.

- 8.2 The Council will develop and maintain procedures to be followed by all staff and elected Members for the reporting of suspected money laundering and will include templates for forms that would need to be completed for formal reporting purposes. These procedures will include clearly defined instructions on client identification and in what circumstances such steps should be taken to verify the identity of a client.

8.3 The MLRO will maintain, for a minimum of 7 years, a central record of all:

- Disclosure forms received;
- Client identification evidence associated with disclosures;
- Reports issued to the National Crime Agency.
- Apply customer due diligence measures in certain circumstances;
- Obtain information on the purpose and nature of certain proposed
- Transactions/business relationships;
- Conduct ongoing monitoring of certain business relationships;
- Maintain record keeping and other specified procedures on a risk sensitive basis;
- Train relevant staff.

9. Policy Compliance

9.1 In accordance with this Policy, failure by a member of staff to comply with the internal procedures may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Council's disciplinary policy and procedures. Failure by an elected Member to comply with the associated procedures will be dealt with under the Member Code of Conduct.

9.2 All staff working in areas considered to be of higher risk in terms of exposure to potential money laundering will receive appropriate training on the subject. General awareness of money laundering will be promoted to all employees and elected Members.

10. Monitoring and Review

10.1 This Policy will be reviewed at least every 3 years or as and when required, to address changes in legislation, government policies, organisation and contact details.

APPENDIX 1: Guidance and Disclosure Procedures

1.0 Possible Signs of Money Laundering

- 1.1 Facts which tend to suggest that something odd is happening may be sufficient for a reasonable suspicion of money laundering to arise. Employees need to be on the look out for anything out of the ordinary. **If something seems unusual, stop and question it.** If you are unsure, seek guidance from the MLRO.
- 1.2 Whilst 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 are types of risk factors which may, either alone or cumulatively with other factors; suggest the possibility of money laundering activity. This list is not exhaustive.

1.3 General Signs

- A new client or a client you have never met;
- A secretive client: e.g. reluctant or refuses to provide requested information without a reasonable explanation; Difficulties in establishing the identity of a client;
- Concerns about the honesty, integrity, identity or location of a client e.g. a client who is not present in the area and there is no good reason why they would contact the Council or information reveals that the client is linked with criminality;
- Complex or unusually large transactions/systems;
- Illogical third party transactions: unnecessary routing or receipt of funds from third parties or through third party accounts;
- The source or destination of funds differs from the original details given by the client;
- Involvement of an unconnected third party without logical reason or explanation;
- Payment of a substantial sum in cash (over £10,000) but please note that money laundering offences can also involve much smaller sums;
- Overpayments by a client (or money given on account); care will need to be taken, especially with requests for refunds e.g. a significant overpayment which results in a repayment should be properly investigated and authorised before payment;
- Absence of an obvious legitimate source of the funds;
- Movement of funds overseas, particularly to a higher risk country or tax haven;
- Providing assistance in setting up trusts or company structures, which could be used to obscure ownership of property;
- Where, without reasonable explanation, the size, nature and frequency of transactions or instructions (or the size, location or type of a client) is out of line with normal expectations;
- Unusual patterns of transactions which have no apparent economic, efficient or visible lawful purpose;
- The cancellation or reversal of an earlier transaction (where the client is likely to request the return of previously deposited monies);

- 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;
- Any other activity which by its nature is likely to be related to money laundering or terrorist financing;

1.4 **Property Matters**

Property transactions are a slightly higher risk for the Council e.g. 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. Potential warning signs include:

- A cash buyer;
- Sudden change of buyer;
- The client's financial profile does not fit;
- Unusual property investment transactions if there is no apparent investment purpose or rationale;
- Instructions to receive and pay out money where there is no linked substantive property transaction involved (surrogate banking);
- No clear explanation as to the source of funds along with lack of clarity as to how the client would be in a position to finance the purchase;
- Money comes in from an unexpected source.

2.0 **Reporting Suspected Incidents**

2.1 The MLRO is required to make reports to the National Crime Agency where he knows or suspects or has reasonable grounds for knowing or suspecting that a person is engaged in money laundering or terrorist financing.

2.2 Where you know or suspect that money laundering activity is taking/has taken place, or you become concerned that your involvement in a matter may amount to a prohibited act under the legislation (please refer to section 5 of this Policy), you **must** disclose this as soon as possible to the MLRO. The report to the MLRO should be within "hours" of the information/suspicion coming to your attention, not weeks or months later. Failure to do could make you liable to prosecution.

- 2.3 Suspicion is where a member of staff/the MLRO thinks that there is a possibility, which is more than fanciful, that a person is or has been engaged in money laundering or terrorist financing.
- 2.4 On receipt of a report, it is for the MLRO to decide whether a suspicious activity report needs to be made to the National Crime Agency (NCA).
- 2.5 The officer nominated to receive disclosures about money laundering/terrorist financing activity within the Council is the Head of Financial Governance & Revenues, who can be contacted as follows:

John Shiel (MLRO)
Head of Financial Governance & Revenues
Middlesbrough Council
PO Box 506
2nd Floor
Civic Centre
Middlesbrough
TS1 9GA
Telephone: 01642 729548
Email: john_shiel@middlesbrough.gov.uk

- 2.6 In the absence or unavailability of the MLRO, the Chief Accountant or Audit and Assurance Manager are authorised to deputise for him. The Chief Accountant, Justin Weston can be contacted at Civic Centre (see above address) or on telephone number 01642 729582 and Audit and Assurance Manager, Helen Fowler can be contacted on 01642 771165.
- 2.7 Your disclosure should be made to the MLRO using the proforma report attached at **Appendix 1**. The report must include as much detail as possible, for example:
- full details of the people involved (including yourself, if relevant), e.g. name, date of birth, address, company names, directorships, phone numbers, etc.;
 - full details of the property/land involved and its whereabouts (if known);
 - full details of the nature of their/your involvement:
(If you are concerned that your involvement in the transaction would amount to a prohibited act under the legislation, then your report must include all relevant details, as you will need consent from the National Crime Agency (NCA), via the MLRO, to take any further part in the transaction - this is the case even if the client gives instructions for the matter to proceed before such consent is given. 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. a completion date or court deadline;)
 - your suspicions of the types of money laundering activity involved (if you are aware of possible particular offences, please cite the relevant section number(s) if known);
 - 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 – the NCA will require full reasons.

2.8 The report should include any other available information to enable the MLRO to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering. This will help to enable the MLRO to prepare a report to the NCA, where appropriate. You should also enclose copies of any relevant supporting documentation.

2.9 Once you have reported the matter to the MLRO you must follow any directions s/he may give you. **You must NOT make any further enquiries into the matter yourself:** any necessary investigation will be undertaken by the NCA. Simply report your suspicions to the MLRO who will refer the matter on to NCA if appropriate. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

2.10 Similarly, **at no time and under no circumstances should you voice any suspicions** to the person(s) whom you suspect of money laundering, even if NCA has given consent to a particular transaction proceeding, without the specific consent of the MLRO; otherwise, you may commit a criminal offence of “tipping off”.

2.11 Do not, therefore, make any reference on a client file to a report having been made to the MLRO – should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

3.0 MLRO Consideration and Response

3.1 Upon receipt of a disclosure report, the MLRO must note the date of receipt on his section of the report and acknowledge receipt of it. He should also advise you of the timescale within which s/he expects to respond to you.

3.2 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 transactions and linked one-off transactions;
- any identification evidence held;

3.3 The MLRO will undertake such other reasonable inquiries s/he thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA is required (such enquiries being 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.

3.4 Once the MLRO has evaluated the disclosure report and any other relevant information, he must make a timely determination as to whether:

- there is actual or suspected money laundering taking place, or

- if there are reasonable grounds to know or suspect that is the case.
- whether the identity of the money launderer or the whereabouts of the property involved are known or could be identified or if the information may assist in such identification, and
- whether he needs to seek consent from the NCA for a particular transaction to proceed.

3.5 Where the MLRO does so conclude, then he must disclose the matter as soon as practicable to the NCA in the prescribed manner, **unless** he has a reasonable excuse for non-disclosure to the NCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).

3.6 In cases where legal professional privilege may apply, the MLRO must liaise with the legal adviser to decide whether there is a reasonable excuse for not reporting the matter to the NCA.

3.7 Where consent is required from the NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the NCA.

3.8 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then he shall mark the report accordingly and give his consent for any ongoing or imminent transaction(s) to proceed.

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

3.10 **The MLRO commits 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.**

4.0 Client Identification

4.1 Please note that unlike the reporting procedure, the client identification procedure is only obligatory to those operating within the “regulated sector”. Where the Council is acting in any capacity which may fall within the “regulated sector” defined as those firms which are part of the financial services community regulated by the financial services authority (the FSA), including banks, insurance companies, investment firms and brokers, and

- a) forms an ongoing business relationship with a client; or
- b) undertakes a one-off transaction involving payment by or to the client of €15,000 or more by any payment method; or
- c) undertakes a series of linked one-off transactions involving total payment by or to the client(s) of €15,000 or more by any payment method; or
- d) it is known or suspected that a one-off transaction (or a series of them) involves money laundering or terrorist financing;

then this Client Identification Procedure must be followed before any business is undertaken for that client.

- 4.2 In the above circumstances, staff in the relevant unit of the Council must obtain satisfactory evidence of the identity of the prospective client, as soon as practicable after instructions are received (unless evidence of the client has already been obtained). This applies to existing clients, as well as new ones.
- 4.3 Once instructions to provide relevant business have been received, and it has been established that any of paragraphs 7.1 (a) to (d) apply, evidence of identity should be obtained as follows.

Internal Clients:

- 4.4 Client identification procedures are not required for internal clients.

External Clients:

- 4.5 For external clients of the Council, appropriate evidence of identity, particularly from new clients or in relation to further instructions from clients not well known to you will be obtained. Such correspondence should then be placed on the Council's client file along with a prominent note explaining which correspondence constitutes the evidence and where it is located.
- 4.6 In all cases, the evidence should be retained for at least five years from the end of the business relationship or one-off transaction(s).
- 4.7 ***If satisfactory evidence of identity is not obtained at the outset of the matter then the business relationship or one off transaction(s) cannot proceed any further.***

5.0 Record Keeping Procedures

- 5.1 Each unit of the Council conducting relevant business must maintain records of:

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

for at least six years. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.

- 5.2 The precise nature of the records is not prescribed by law; however they must be capable of providing an audit trail during any subsequent investigation, for example distinguishing the client and the relevant transaction and recording in what form any funds were received or paid. In practice, the business units of the Council will be routinely making records of work carried out for clients in the course of normal business and these should suffice in this regard.

6.0 Conclusion

- 6.1 This Policy has been written so as to enable the Council to meet the legal requirements concerning anti-money laundering procedures in a way that is proportionate to the level of risk of contravening the legislation.
- 6.2 Should you have any concerns whatsoever regarding any transactions then you should contact the MLRO.

CONFIDENTIAL

APPENDIX 2 - REPORT TO MONEY LAUNDERING REPORTING OFFICER RE: SUSPECTED MONEY LAUNDERING ACTIVITY

To: Head of Financial Governance & Revenues (MLRO)

From: *[Name of employee]*

Department: *[Post title and Service Area]*

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 e.g. what, where, how. Continue on a separate sheet if necessary]

Has any investigation been undertaken (as far as you are aware?)

Yes/No *[Please delete as appropriate]*

If yes, please include details below:

Have you discussed your suspicions with anyone else? Yes/No

[Please delete as appropriate]

If yes, please provide details of who the discussions took place with and explain why such discussion was necessary:

Have you consulted any supervisory body guidance re: money laundering (e.g. the Law Society) Yes/No *[Please delete as relevant]*

If yes, please specify below:

Do you feel you have a reasonable justification for not disclosing the matter to the NCA? (e.g. are you a lawyer and wish to claim legal privilege?) *[Please delete as relevant]*

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 delete as relevant]

If yes, please include details below:

Please set out below any other information you feel is relevant:

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.

Signed:

Dated: