



**Breckland Council**

**Money Laundering Policy**

**February 2019**

## Document Control and History

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# CONTENTS

<b>Introduction .....</b>	<b>5</b>
<b>Scope – Policy Aim.....</b>	<b>6</b>
<b>Legislation or Executive Summary .....</b>	<b>6</b>
<b>Policy Consultation and Consideration.....</b>	<b>7</b>
<b>Policy Statement.....</b>	<b>7</b>
<b>Implementation .....</b>	<b>12</b>
<b>Management Control and Organisation .....</b>	<b>12</b>
<b>Monitoring .....</b>	<b>12</b>
<b>Related Policies and Strategies .....</b>	<b>13</b>
<b>Appendices .....</b>	<b>14</b>

## **Introduction**

### **Context**

This Policy, and the accompanying procedures and reporting forms, represents an important part of the Council's approach to dealing with the risk of fraud and corruption, and thus this Policy seeks to complement the Corporate Counter Fraud and Corruption Strategy and Whistleblowing Policy and contribute to the overall framework of Corporate Governance established to ensure that the Council is well managed and fulfils its statutory and regulatory duties in a proper and responsible manner. Personal data will be used within lawful purposes, as detailed within the Council's Privacy Policy and Finance's Privacy Notice on our website.

### **What is Money Laundering?**

Money laundering is a term designed to cover a number of offences. These offences may relate to the improper handling of funds that are the proceeds of criminal acts, or terrorist acts, so that they appear to come from a legitimate source. There are six main offences that may be committed under money laundering legislation, as established by the Proceeds of Crime Act 2002:

- Concealing, disguising, converting, transferring or removing criminal property from anywhere within Great Britain and Northern Ireland;
- Being 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;
- Acquiring, using or possessing criminal property;
- Doing something that might prejudice an investigation – for example, falsifying a document;
- Failing to disclose information relating to any of the above money laundering offences; and,
- "Tipping off" – informing someone who is, or is suspected of being involved in money laundering activities, in such a way as to reduce the likelihood of their being investigated.

These money laundering offences may be committed by an organisation or by individuals working for an organisation.

'Criminal property' has a relatively broad definition in money laundering legislation and no financial ceiling has been specified, above which organisations are obliged to take action when money laundering activities are suspected. Benefiting from 'criminal property' can work on two levels, an individual benefiting financially from the proceeds of a crime they have committed themselves, or an individual benefiting from the proceeds of a crime/dishonest activities perpetrated by someone else. No matter how large or small the sum of money involved in these dishonest activities, the full weight of the money laundering legislation and regulations will apply regardless of the financial sums identified.

## **What is the purpose of the Money Laundering Policy?**

The risks to the Council of contravening money laundering legislation are relatively low and some aspects of the legal and regulatory requirements do not apply to public authorities. However, it is recognised that the Council is not completely immune from the risks surrounding money laundering. For this reason, the purpose of the Anti-Money Laundering Policy is to clearly demonstrate that the Council embraces the underlying principles of money laundering legislation and is taking reasonable steps to minimise the likelihood of such activities occurring, by developing a suitable framework of arrangements to safeguard itself against action of this nature, whilst making satisfactory provisions to achieve compliance with legal and regulatory requirements, where appropriate.

## **Scope – Policy Aim**

This policy applies to all employees of the Council and aims to prevent criminal activity through money laundering. It is extremely important that all employees are familiar with their legal responsibilities and are vigilant at all times: serious criminal sanctions may be imposed for breaches of the legislation. The key requirement on employees is to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer (MLRO). Failure by any 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 Breckland Council's Disciplinary Policy and Procedure.

## **Legislation**

There are three main laws and regulations which set out the money laundering regulations:

- The Proceeds of Crime Act 2002 (amended by the Serious Organised Crime and Police Act 2005 and the Serious Crime Act 2015)
- The Terrorism Act 2000 (amended by the Anti-Terrorism and Security Act 2001 and Terrorism Act 2006)
- The Money Laundering Regulations 2017 (which supersede the money laundering regulations 2007)

Under the Terrorism Act 2000, all individuals and businesses in the UK have an obligation to report knowledge, reasonable grounds for belief or suspicion about the proceeds from, or finance likely to be used for terrorism or its laundering, where it relates to information that comes to them in the course of their business or employment

The 2017 Money Laundering Regulations establish that as long as businesses are not operating within the "regulated market", then the offences of failing to disclose suspicions of money laundering, and tipping off, do not apply. The list of businesses within the regulated market does not include local authorities, and as such these offences do not apply to the Council. Furthermore, the 2003 Money Laundering Regulations, which preceded the 2007 and 2017 regulations, made organisations responsible for undertaking "relevant business" to have appropriate systems in place for the reporting of money laundering, staff training, and identifying and keeping records of money laundering.

The Chartered Institute of Public Finance and Accountancy (CIPFA) issued guidance on how legal and regulatory provisions impact on public authorities. The latest information produced on the subject has been taken into account when drawing up the Policy.

CIPFA advises that 'it is prudent and responsible practice for public service organisations, including those outside the scope of the regulations, to put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements, designed to enable them to detect and avoid involvement in the crimes described in the legislation and regulations.' CIPFA guidance further emphasises that there could be a "substantial reputational risk for an authority which does not have such procedures in place".

This Policy and the working practices aligned to it have thus been designed to address the risk the Council may face if it does not properly address the potential for money laundering. As a responsible authority, we need to be mindful that a money laundering offence could be committed by an employee, or the Council could be a victim of such an offence.

### **Policy Consultation and Consideration**

The Council's Executive Management Team and Governance and Audit Committee

### **Policy Statement**

#### **The Money Laundering Reporting Officer (MLRO)**

The Council has nominated the Shared Executive Director Commercialisation as the MLRO, in their absence the Shared Executive Director Strategy & Governance acts as the deputy MLRO.

### **Implementation**

#### **Reporting to the Money Laundering Reporting Officer (MLRO)**

The primary duty of any employee, member or third party under this Policy is to ensure that any suspicions or concerns that money laundering has occurred, or is likely to occur, should be reported to the MLRO as soon as the suspicion arises. It is essential that an employee comes forward as soon as practical to the MLRO. The disclosure should be within 'hours' of a suspicious activity coming to an individual officer's attention, rather than several days or weeks later. **Should this not be done, the employee may be liable to prosecution.** To support the above process, **Appendix 1** provides information on the types of activities where the Council may be subject to money laundering offences and guidance to staff on situations where money laundering activities could occur.

Suspicions can be raised through direct contact with the MLRO, however it is preferable to use the reporting form which has been developed at **Appendix 2**, and e-mail the completed form to the MLRO.

The employee, member or third party should not make any further enquiries into the matter themselves, and any further action must be with the approval of the MLRO. Those who have raised a concern should ensure that they do not then voice their suspicions to the suspect and in so doing, tip them off to the concern.

The MLRO is required to promptly evaluate any concerns/disclosures raised and determine whether they require further investigation and hence referral to the National Crime Agency (NCA), using the reporting forms included at **Appendix 2**. The MLRO should not undertake investigation of any concerns themselves. Where legal professional privilege may apply, the MLRO must liaise with the Solicitor of the Council to determine the further action to be taken.

In some cases, it may be necessary to seek approval from NCA before the Council can undertake any further activity in respect of the transaction. Where the MLRO has made such a referral to NCA, they will notify the person raising the concern, and again inform the individual when NCA has provided permission for the transaction to proceed.

If a request for consent has been made to NCA, no action should occur for a period of 7 days or until NCA gives consent. If this results in a transaction having to be deferred or delayed, it should be carefully handled to ensure that the customer is not tipped off as to the money laundering concern.

After 7 days, if NCA does not notify otherwise, they are deemed to have given consent to the transaction. If NCA instead notifies they refuse to give consent, a moratorium period of 31 days starts on the day the Council receives the refusal notice. During this period, the Council cannot proceed with the matter for which the consent was applied. At the expiry of the moratorium period, NCA is deemed to have consented to the request and the Council can proceed.

The MLRO should retain the details of any referrals made, including correspondence with the necessary bodies, using the forms included in **Appendix 2**. All information should be retained for a minimum of 6 years.

To ensure the Council minimises the risk of tipping off, and to minimise any reputational damage should the suspicion be unfounded, the confidentiality of the matter will be respected at all times; the MLRO will only inform anyone of the suspicion where there is a genuine business need.

### **Customer Due Diligence**

The Council does undertake activities that may be considered, under the Money Laundering Regulations, to be regulated, however it does not undertake these activities by way of business, and therefore would not normally be expected to

undertake due diligence in respect of any clients to whom it provides these services. The types of activities that are regulated are, for example, tax services, treasury services, financial and accounting services, audit services, estate functions, assisting the formation, operation or arrangement of a company or trust, and dealing in goods with a cash payment of more than €15,000.

However, it is good practice that wherever the Council does enter into such activities with a third party then due diligence checks should be actioned before the establishment of a relationship/transaction with the third party. Anyone entering into such transactions should refer these to the MLRO to undertake due diligence checks. Additionally it may sometimes be necessary to complete a Data Privacy Impact Assessment as part of the due diligence, please refer to the Council's GDPR officer for further guidance.

Undertaking customer due diligence checks can take a number of forms. The Office of Fair Trading has issued "core guidance" in this area. Consideration should be given to taking one or more of the following, where applicable.

- Confirming the identity of the client via documentation, data or information obtained from a reliable and independent source, e.g. passport, and/or position within an organisation, where appropriate.
- Obtaining confirmation from Companies House as to the registration details of the Company and details of the Company business.
- Seeking electronic verification, e.g. performing credit checks.
- Obtaining confirmation to regulated industries bodies (e.g. in the case of accountants, checking to CCAB certified bodies).
- Requesting copies of financial statements.
- Requesting details of interests and beneficial ownerships – with reference to the latter this is any individual who holds more than 25% of the shares, voting rights or interest in a company, partnership or trust.
- Obtaining information on the purpose and intended nature of the business relationship.

Any checks undertaken should remain proportionate to the risks of the individual business and the relationship. Additional checking may need to be performed if the person is not physically present to be identified, or they are politically exposed, by virtue of holding a prominent public function. Details of such checks should be recorded on the reporting forms in **Appendix 2** and retained for a minimum of 6 years, with an electronic copy of every customer due diligence record being retained by the MLRO to meet the requirements of the regulations and in case of inspection by the relevant supervising body.

There is also now an ongoing legal obligation to check the identity of existing clients and the nature and purpose of the business relationship with them at appropriate times. One option to review these matters might be to do so as part of the ongoing monitoring of the business arrangements, as is usually provided for in the Terms of Business Letter, Service Level Agreement or other written record, as well as scrutinising transactions as they occur, paying particular attention to complex or unusually large transactions, unusual patterns of transactions and/or unexpected transactions, etc.

## **Training**

The Council will take appropriate measures to ensure that all relevant employees are made aware of the law relating to money laundering and will arrange targeted, ongoing training to key individuals most likely to be affected by the legislation.

## **Further Information**

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

- [www.nationalcrimeagency.gov.uk](http://www.nationalcrimeagency.gov.uk) – website of the National Crime Agency;
- Combating Financial Crime – Further Guidance on Anti-Money Laundering for Public Service Organisations, published by CIPFA;
- Anti Money Laundering (Proceeds of Crime and Terrorism) – Guidance for Accountants, published by CCAB ([www.ccab.org.uk](http://www.ccab.org.uk))
- Money Laundering Guidance at [www.lawsociety.org.uk](http://www.lawsociety.org.uk)
- Money Laundering Regulations <https://www.gov.uk/guidance/money-laundering-regulations-introduction>

## **Management Control and Organisation**

See Implementation section

## **Monitoring**

The policy will be reviewed at least every 3 years (or more frequently if required by changes to statutory legislation). Subsequent to any approval, the following parties shall be consulted:

- The Council's Executive Management Team
- The Governance and Audit Committee

On an annual basis the sections of this report which provides details of the key parties responsible for money laundering activities shall be reviewed by the MLRO and the Internal Audit Consortium Manager to ensure that details remain relevant and up to date. This review will not require re-endorsement of the policy.

## **Related Policies and Strategies**

Counter Fraud, Corruption and Bribery Policy

Whistleblowing Policy

## **Appendices**

Appendix 1 – Guidelines to staff and Members

Appendix 2 Money Laundering Report Form

## How the council May Be Exposed to Money Laundering

### Guidelines to staff and Members on concerns or suspicions

#### 1 Guidelines to staff and members on concerns or suspicions

- 1.1 If you do have any suspicions or concerns about an individual or transaction then it is always better to raise those concerns appropriately. If necessary, you may wish to use the Council's Whistleblowing Policy for further support and guidance on how to raise a concern. Conversely, if in doubt, seek advice from the MLRO.
- 1.2 Although some offences and suspicions may be fairly apparent, some can be more difficult to identify. The simple guidance is to be vigilant, and not be afraid to question something if you don't think it looks right. If you think something looks suspicious, then the probability is someone else may also think the same. It is better for the Council to be safe when handling public money – it would not reflect well on the Council's reputation if it was found we had taken monies that were obtained through theft, drug trafficking, terrorism, etc.
- 1.3 It is recognised that a lot of the Council's activities are sensitive in nature, and in cases what, to some people, may be suspicious or concerning behaviour, from a money laundering perspective may not necessarily be in line with the activity occurring. However, people should always be mindful of genuine concern and suspicion.

#### 2 The types of activities that may be affected

- 2.1 The following table sets out the types of activities that might be suspicious, and how the Council may come across those activities. It is not intended to be exhaustive, and just because something you are suspicious about is not on the list, it doesn't mean you shouldn't report it.

Activity	The types of activity that may be affected
New customers with high value transactions	<ul style="list-style-type: none"> <li>• Selling property to individuals or businesses</li> <li>• Renting out property to individuals or businesses</li> <li>• Entering into other lease agreements</li> <li>• Undertaking services for other organisations</li> </ul>
Secretive clients	<ul style="list-style-type: none"> <li>• Housing benefit claimants who have sums of money entering into / out of their bank account (even if we do not award them benefit, we should still consider money laundering implications)</li> <li>• People buying or renting property from the Council who may not want to say what it is for</li> <li>• People receiving grant funding who refuse to demonstrate what funding was used for</li> </ul>
Customers who we think are acting dishonestly or illegally	<ul style="list-style-type: none"> <li>• People paying for Council services who do not provide details about themselves</li> <li>• People making odd or unusual requests for payment arrangements</li> </ul>

Illogical transactions	<ul style="list-style-type: none"> <li>• People paying in cash then requesting refunds</li> <li>• Requests for the Council to pay seemingly unconnected third parties in respect of goods / services provided to the Council</li> <li>• Requests for the Council to pay in foreign currencies for no apparent reasons</li> </ul>
Payments of substantial sums by cash	<ul style="list-style-type: none"> <li>• Large debt arrears paid in cash</li> <li>• Refunding overpayments</li> <li>• Deposits / payments for property</li> </ul>
Movement of funds overseas	<ul style="list-style-type: none"> <li>• Requests to pay monies overseas, potentially for “tax purposes”</li> </ul>
Cancellation of earlier transactions	<ul style="list-style-type: none"> <li>• Third party “refunds” grant payment as no longer needed / used</li> <li>• No payment demanded even though good / service has been provided</li> <li>• Sudden and unexpected termination of lease agreements</li> </ul>
Requests for client account details outside normal course of business	<ul style="list-style-type: none"> <li>• Queries from other companies regarding legitimacy of customers</li> <li>• Council receiving correspondence / information on behalf of other companies</li> </ul>
Extensive and over-complicated client business structures / arrangements	<ul style="list-style-type: none"> <li>• Requests to pay third parties in respect of goods / services</li> <li>• Receipt of business payments (rent, business rates) in settlement from seemingly unconnected third parties</li> </ul>
Poor accounting records and internal financial control	<ul style="list-style-type: none"> <li>• Requests for grant funding / business support indicates third party not supported by financial information</li> <li>• Companies tendering for contracts unable to provide proper financial information / information provided raises concerns</li> </ul>
Unusual property investments or transactions	<ul style="list-style-type: none"> <li>• Requests to purchase Council assets / land with no apparent purpose</li> <li>• Requests to rent Council property with no apparent business motive</li> </ul>
Overcomplicated legal arrangements / multiple solicitors	<ul style="list-style-type: none"> <li>• Property transactions where the Council is dealing with several different parties</li> </ul>

**MONEY LAUNDERING REPORT FORM**

**Employee Details**

Name \_\_\_\_\_

Directorate and Team \_\_\_\_\_

Date Reported \_\_\_\_\_

Contact details \_\_\_\_\_

**Offence Details**

Identities of the person(s) / company (s) subject to the enquiry

\_\_\_\_\_  
Address and contact details of the subject

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Nature and details of the activity** – please include whether this has already occurred or is likely to occur, where / when this occurred and how it arose – please continue on another sheet if necessary. Please include details of all transactions.

**Investigations** – has any investigation already occurred? If so, please detail below

**Discussions** – have you discussed your suspicions with anyone – including any advisory bodies

**Disclosure** – is there any reason why you believe this should not be disclosed to NCA?

**Further Information** – if there is any further information you believe to be relevant, please include here:

Signed \_\_\_\_\_

Date \_\_\_\_\_

**This form should now be passed directly to the Money Laundering Officer**

**MONEY LAUNDERING DISCLOSURE FORM – TO BE COMPLETED BY THE  
MONEY LAUNDERING REPORTING OFFICER**

Date of Report being made \_\_\_\_\_

Subject of investigation  
\_\_\_\_\_

Will this matter be reported to NCA? \_\_\_\_\_

Date of report to NCA \_\_\_\_\_

If this is not being reported, why not?

Officer referring customer \_\_\_\_\_

Contact details for officer \_\_\_\_\_

Is consent required from NCA for transaction to occur? Yes / No

If so:

Contact details of NCA liaison  
\_\_\_\_\_  
\_\_\_\_\_

Has consent been received within 7 days? Yes / No

After 7 days, has notification been given to employee? Yes / No

Has consent been denied by NCA? Yes / No

After moratorium, has notification been given to employee? Yes / No

Can the Council Proceed with the Transaction? Yes / No

Signed \_\_\_\_\_

Name \_\_\_\_\_

Date \_\_\_\_\_

**CUSTOMER DUE DILIGENCE FORM – PRIVATE INDIVIDUAL  
TO BE COMPLETED BY THE MONEY LAUNDERING REPORTING OFFICER**

Officer referring customer \_\_\_\_\_

Contact details for officer \_\_\_\_\_

Name of individual \_\_\_\_\_

Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date of Birth \_\_\_\_\_

Telephone number \_\_\_\_\_

E-mail address \_\_\_\_\_

Summary of Transactions and role of the individual

Evidence of Identity obtained: (photocopies of all evidence should be attached to this form)

Face to Face Contact? Yes / No

Is the Client Politically Exposed? Yes / No

Is the transaction by nature high risk? Yes / No

Is further enhanced verification required (if yes to any of the above three questions, enhanced verification is required): Yes / No

If enhanced verification required, please detail all checks performed:

Can the Council proceed with the transaction? Yes / No

Signed \_\_\_\_\_

Date \_\_\_\_\_

**CUSTOMER DUE DILIGENCE FORM – BUSINESS**  
**TO BE COMPLETED BY THE MONEY LAUNDERING REPORTING OFFICER**

Officer referring customer \_\_\_\_\_

Contact details for officer \_\_\_\_\_

Name of business \_\_\_\_\_

Purpose of business \_\_\_\_\_

Companies House Registration Number \_\_\_\_\_

Registered business address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone number \_\_\_\_\_

E-mail address \_\_\_\_\_

Type of organisation (PLC, LLC, Sole trader etc) \_\_\_\_\_

Who are the Companies Directors – are there any beneficial owners (i.e. any person / company who owns more than 25% of the company in question)

Date of first contact with Company \_\_\_\_\_

Nature of transaction with company

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Please attach details of all checks undertaken to verify the evidence of this company.

Can the Council proceed with the transaction? Yes / No

Signed \_\_\_\_\_

Date \_\_\_\_\_