

To: Finance, Resources and Customer Services Policy Board

On: 30 August 2017

Report by: Director of Finance and Resources

Heading: Anti-Money Laundering Policy

1. Summary

1.1 This Report asks the Board to approve the Council's Anti-Money Laundering Policy to prevent money laundering within all the Council's dealings.

1.2 The public is entitled to expect the Council to conduct its affairs with integrity, honesty and openness and to demand the highest standards of conduct from those working for it. This Anti-Money Laundering Policy has been designed to put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements to assist the Council in maintaining an anti-fraud culture and upholding high ethical standards in its administration of public funds.

1.2 The Anti-Money Laundering Policy is also designed to help the Council meet its responsibilities under various legislation including the Terrorism Act 2000, Proceeds of Crime Act 2002, Money Laundering Regulations 2007 and Fraud Act 2006, and subsequent regulations.

2. Recommendations

2.1 It is recommended that the Board approve the Anti-Money Laundering Policy set out in Appendix 1.

Implications of the Report

1. **Financial** – There are no finance or resource implications arising from the adoption of the Anti-Money Laundering Policy, any training to be delivered will be met from existing staff resources.
2. **HR & Organisational Development** - None
3. **Community Planning** – None
4. **Legal** - None
5. **Property/Assets** None
6. **Information Technology** – None
7. **Equality & Human Rights** – The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report because it is for noting only. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
8. **Health & Safety** None
9. **Procurement** – None
10. **Risk** –The risk of not having this policy in place would mean that staff would have no guidance on what do in the event that they suspect money laundering. This in turn may hamper any investigation required to yield a satisfactory conclusion. The existence of this policy will mean that staff are informed and given guidance on what actions they should take if they suspect that a suspicious transaction is taking place.
11. **Privacy Impact** – None
12. **Cosla Policy Position** – n/a

List of Background Papers

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Anti-Money Laundering Policy

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1. INTRODUCTION

- 1.1. Changes to the legislation concerning money laundering in recent years have broadened the definition of money laundering and increased the range of activities caught by the statutory framework. In response to this, Renfrewshire Council has developed this Anti-Money Laundering Policy Statement setting out the internal procedures established by the Council to prevent the use of Council services for money laundering.
- 1.2. Local authorities are not obliged to apply the provisions of the Money Laundering Act 2007. However, the size and scope of the Council activities is such that it is unlikely to be completely immune from the risks surrounding money laundering. As a responsible public body, the Council has therefore embraced the underlying principles of money laundering legislation and put in place appropriate anti-money laundering policies, procedures and reporting arrangements proportionate to its activities
- 1.3. The Council's policy is to 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. Internal procedures will be proportionate and cost effective. However, Money Laundering is a criminal offence and it is the responsibility of the Council and Council officers to take reasonable precautions to prevent its involvement in money laundering, either knowingly or as a result of inaction. The key requirement on employees is to immediately report any suspected money laundering activity to the Money Laundering Reporting Officer (MLRO)

2. WHAT IS MONEY LAUNDERING?

- 2.1. Money laundering is defined as the process by which the proceeds of crime and the true ownership of those proceeds, are changed so that the proceeds appear to come from a legitimate source. The "dirty" money is said to be "laundered."
- 2.2. Money Laundering is interpreted very widely and includes possessing, or in any way dealing with, or concealing, the proceeds of any crime. Therefore when any Council employee or member is accepting or dealing with money or other assets there is a risk that the money or assets could come from a criminal source. In the majority of cases this is unlikely, but everyone should bear in mind that they could contravene the law if they become aware of or suspect criminal activity/property and continue to be involved in the matter without reporting their concerns.
- 2.3. The Primary money laundering offences include:
 - concealing, disguising, converting, transferring of criminal property or removing it from the United Kingdom
 - 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
- doing something that might prejudice an investigation, for example, falsifying a document.

2.4. There are also two secondary offences that are:

- failing to disclose any of the four primary offences; and
- ‘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 their being investigated or prejudicing an investigation.

3. TERRORIST FINANCING

3.1. The Terrorism Act 2000 also creates a money laundering offence under Section 18 which says:

‘...A person commits an offence if he or she enters into or becomes concerned in an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property;

- by concealment
- by removal from the jurisdiction
- by transfer to nominees, or
- in any other way...’

4. RECOGNISING MONEY LAUNDERING

4.1 All staff should be alert to the possibility of someone trying to launder money through the Council, some possible indicators of money laundering may involve:

- any unusually large cash payments made by a person in a single transaction or over a short period of time (e.g. paying business rates in cash)
- any large overpayment or duplicate payment in cash where a refund is requested by cheque
- if a third party is involved in any transaction e.g. someone paying cash to settle someone else's bill or requests to forward balances on to third parties;
- cash is used to purchase land, buildings or other assets (e.g. right to buy properties)
- A person who is reluctant to supply evidence of identity or address;
- Cancelled transactions without good reason, requiring a repayment;
- Information received about an individual which may reveal criminality or association with criminality;
- The use of over complicated financial systems or funds received from third parties;
- Generally a buyer's or seller's financial profile not “fitting” the transaction they are undertaking;

This list is not exhaustive but simply gives examples of when employees (or members) should consider whether their suspicions should be aroused and that they should be asking themselves questions such as e.g. *Would I expect this individual to have this amount of cash; why do they wish to pay in cash; why is this person offering to pay more than the going rate for this item/service, etc.*

- 4.2 All of the above money laundering offences may be committed by an organisation or by the individuals working for it. Under the terms of the legislation it is also an offence if employees or members suspect money laundering and do nothing about it.
- 4.3 Whilst the risk to the Council of contravening the legislation is low, it is extremely important that Elected Members and employees are familiar with their legal responsibilities. Serious criminal sanctions can 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.

5. CONTROLS and REPORTING

- 5.1 The threshold for the reporting of a suspicious transaction to the National Crime Agency (NCA) is £10,000. The Council shall not accept payments **in cash** over £5,000 (unless the payment relates to settlement of a Sequestration Petition, which will be confirmed by Legal Services). Payment over £5,000 must be made by bank transfer.
- 5.2 Signs shall be placed at the counter in all locations at which cash is accepted advising of the policy of the Council.
- 5.3 If an employee has any suspicion over refunds of any amount these should be referred to the Chief Auditor prior to being passed for payment.
- 5.4 If an employee/member suspects money laundering then they must report their suspicions to the Chief Auditor who is the Council's nominated Money Laundering Reporting Officer (MLRO). The Chief Auditor can be contacted as follows:

Andrea McMahon
Chief Auditor
Finance and Resources Department
Renfrewshire House, Cotton Street, Paisley. PA1 1JB

Tel: 0141 618 7017

E-Mail: andrea.mcmahon@renfrewshire.gov.uk

- 5.5 The disclosure should be within hours of the information coming to their attention, not days or weeks later. Employees/members will need to supply as much information as possible to the MLRO about the individual or company etc. concerned, i.e. names, addresses, and previous addresses if relevant, any bank account details if known, evidence of identification, reasons for suspicions. If any other employees/members have

been involved with the transaction the names of these persons should also be passed to the MLRO.

- 5.6 The employee must not disclose or otherwise indicate their suspicions to the person(s) suspected of the money laundering. They must not discuss the matter with others or note on a file that a report has been made to the MLRO in case this results in the suspect becoming aware of the suspicion.
- 5.7 In the event that the MLRO is not available then any disclosure must be made to the Head of Finance.
- 5.8 Failure to report a suspected case of money laundering or concealing the same is a criminal offence with, on summary conviction, a penalty of 6 months imprisonment and/or a fine, on indictment a maximum penalty of up to 14 years imprisonment or a fine or both
- 5.9 Employees/members making a disclosure report to the Chief Auditor as the Money Laundering Reporting Officer of the Council, must complete a "Report to Money Laundering Officer" form (see attached Appendix 1). They will be informed if a report is then made to the National Crime Agency (NCA). They must not make any further enquiries into the matter themselves and must also not disclose or otherwise indicate their suspicions to the person suspected of money laundering. They should not discuss the matter with others inside or outside of work or note on any file that a report has been made to the MLRO in case this results in the suspect becoming aware of the situation.
- 5.10 NCA is the body responsible for handling investigations and generally dealing with money laundering, as set out in the legislation.
- 5.11 No transactions should be completed where it is believed that money laundering is involved until clearance has been received from NCA, or seven days have elapsed since the disclosure was made to them and no instructions have been received. Employees must always check the position with the Chief Auditor before taking any action.

6. CONSIDERATION OF DISCLOSURES BY THE MLRO

- 6.1 Upon being made aware of the disclosure, the MLRO will formally record details of the disclosure and acknowledge the details of the incident with the person making the disclosure. The MLRO will then begin work to evaluate the content of the report form, considering any other available internal information that may be relevant, for example:
 - relevant 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.
- 6.2 The MLRO may also undertake other reasonable enquiries as considered appropriate in order to ensure that all available information is taken into account in deciding whether a

report to the National Crime Agency (NCA). As part of these enquiries, the MLRO may need to discuss the form with the person making the disclosure.

- 6.3 Once the MLRO has evaluated the disclosure and any other relevant information, they will determine whether:
- there is actual or suspected money laundering taking place; or
 - there are reasonable grounds to know or suspect that is the case; and
 - whether the matter should be reported to the NCA.
- 6.4 Where it is concluded that the matter should be reported, the MLRO must promptly report the matter to NCA by completing a Suspicious Activity Report in the prescribed manner. The transactions in question must not be undertaken or completed until consent for this has specifically been given by the NCA, or there is deemed consent through the expiration of relevant time limits without objection from the NCA.
- 6.5 Where the MLRO suspects money laundering but has reasonable grounds for non-disclosure to NCA, then the reasons for this should be recorded on the disclosure form. Consent can then be given immediately for any ongoing or imminent transactions to proceed.
- 6.6 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering, the disclosure form will be updated accordingly and consent given for any ongoing or imminent transactions to proceed.
- 6.7 All disclosure forms received by the MLRO and reports made by the MLRO to the NCA will be securely and confidentially retained by the MLRO for a minimum of five years.
- 6.8 The MLRO will commit 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.

7. Training

- 7.1 Targeted training of relevant staff in the subject of money laundering will be carried out.
- 7.2 General awareness of money laundering will be promoted to all employees and Elected Members.
- 7.3 Cipfa members whose employment activities bring them into contact with the regulated sector (notably those employed in the field of treasury management) will be encouraged to familiarise themselves with the obligations and responsibilities placed on them by the relevant legislation.

8. Review and Approval of this Policy

- 8.1 The Anti-Money Laundering Policy will be regularly reviewed and any material amendment will be subject to approval by the Finance, Resources and Customer Services Policy Board.

Appendix 1

REPORT TO MONEY LAUNDERING OFFICER	
Staff member's name	
Title/Department	
Phone	
Email	
Details of Suspected Offence	
Names and addresses of persons/company involved (if a company the nature of their business)	
Transaction details including, location, value, timing of activity	
Nature of suspicions	
Has any investigation been undertaken?	
Have you discussed your suspicions with someone else – please provide details.	
For Completion by the MLRO	
Date received	
Date acknowledged	
Unique reference number	
Are there reasonable grounds for suspecting money laundering ?	
If yes, confirm date of report to National Crime Agency.	
Date consent given to employee for transaction to proceed	
Categories	1. Overpayment 2. Refund 3. Debt/charge 4. Cashier error 5. House or Asset resale within 3 months 6. Other
Signed and dated	
THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS	

Completed Form should be passed to the MLRO : Andrea McMahon, Chief Auditor, Finance & Resources Department, 2nd Floor, Renfrewshire House, Cotton Street, Paisley PA1 1JB
 Email – andrea.mcmahon@renfrewshire.gov.uk
 Telephone – 0141 618 7017