

Anti-Money Laundering Policy

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December 2013	3		Updated to reflect the new format for Council policies and to update role titles
November 2017	4		Review and update



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Introduction

Members and staff of Derby City Council need to be vigilant for signs of money laundering. The Council has a mechanism for reporting suspicious activity, will provide appropriate training and has procedures for identification checks

Purpose and aim of the policy

Although Local Authorities are not legally obliged to apply the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, the Council is bound by the provisions of both the Proceeds of Crime Act and the Terrorism Act. It is good practice to comply with the main measures of the Regulations as part of the governance process. As such, Derby City Council has established this policy to ensure compliance.

Scope

This policy applies to all employees and members of the Council and aims to maintain the high standards of conduct, which currently exist within the Council by preventing criminal activity through money laundering. The Policy sets out the procedures that must be followed (for example the reporting of suspicions of money laundering activity) to enable the Council, its members and employees to comply with its intention to voluntarily comply with the legal requirements of the Regulations.

Related Council strategies, policies, and procedures

This policy sits alongside the Council's Whistleblowing Policy and the Anti-Fraud and Corruption Policy.

Legislation, guidance and standards

The legal and regulatory framework for this Policy is based on the following:-

The Terrorism Act 2000

This Act applies in full, as it does to all individuals and businesses in the UK. If, in the course of business or employment, you become aware of information which provides knowledge or gives reasonable grounds for belief or suspicion that proceeds have come from or are likely to be used for terrorism, it must be reported. This will prevent commission of the money laundering offence relating to being implicated in illegal activity.

The Proceeds of Crime Act 2002

This Act defines six principal money laundering offences, only the first four of which are likely to apply to the Council:

- a) concealing, disguising, converting, transferring, or removing from the UK, any criminal property (S327)
- b) becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use, or control of criminal property (S328)
- c) acquiring, using, or possessing criminal property (S329)



d)doing something that might prejudice an investigation (for example, falsifying a document) (S342)

e)failing to disclose known or suspected money laundering offences (S330-332)

f)“tipping off”, by giving information to someone suspected of money laundering in such a way as to reduce the likelihood of their being investigated or prejudicing an investigation (S333A).

The offences of failing to disclose and tipping off will not apply so long as the Council does not undertake activities which might be interpreted, under POCA, as falling within the regulated sector. The regulated sector refers to activities which should be regulated under the Financial Services and Markets Act 2000.

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

The Regulations are not legally binding on public authorities because they are neither ‘relevant persons’ (as defined in the MLR) nor part of the ‘regulated sector’ (as defined in POCA 2002). There is, however, a distinct reputational risk for any authority that does not have adequate policies and procedures in place. Following CIPFA’s guidance, a “prudent and responsible” council will adopt “appropriate and proportionate” policies and procedures designed to “detect and avoid involvement in the crimes described in the legislation and regulations”.

Policy statement

Money laundering is any attempt to use the proceeds of crime for legitimate purposes. Anyone who becomes involved with an activity which they know, or have reasonable grounds to suspect, is related to the proceeds of crime may be guilty of money laundering.

The term money laundering is often used to refer to the complex and large scale procedures used by organised crime and terrorist groups to conceal the illegal nature of their assets by the careful and staged introduction of the proceeds of crime into legitimate financial and commercial streams. The legislation, however, is very broad, and applies to the proceeds of any crime no matter how large or small.

Any Member or employee who, in the course of Council business, becomes aware that criminal property or funds could be involved should report their suspicions promptly, in accordance with this Policy. Failure to do this may inadvertently result in an offence, for example relating to concealing, or assisting an arrangement connected with, criminal property.

Derby City 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
- comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases of money laundering.

The Council has a clear obligation to ensure that members and employees know to which person(s) they should report suspicions and that there is a clear reporting chain under which



those suspicions will be passed without delay to the Council's Money Laundering Reporting Officer (MLRO). Once a member or an employee has reported his/her suspicions to the MLRO, he/she has fully satisfied their own statutory obligation

Policy details

The aim of the Policy is to:

- assist the staff and Members of Derby City Council to understand money laundering and their personal legal obligations and responsibilities arising from the requirements of the legal and regulatory provisions
- prevent Council services being used for money laundering purposes, and
- set out the procedures which must be followed to enable the Council and its staff to comply with their legal obligations.
- All employees are required to:
- report promptly all suspicions of money laundering activity to the MLRO or Deputy MLRO. Disclosures by staff to the MLRO should, where appropriate, be made through their Strategic Director, Service Director or Head of Service. The Strategic Director, Service Director or Head of Service may then contact the MLRO initially by way of a direct discussion, or by using the form provided at appendix A.
- follow any subsequent directions of the MLRO or Deputy MLRO.

The nominated officers for reporting issues are:

- MLRO: Section 151 Officer who can be contacted as follows:

Derby City Council
The Council House
Corporation Street,
Derby
DE1 2FS
Telephone: 01332 643377

- In the absence of the MLRO, the Head of Audit Partnership, or the Deputy s151 Officer are authorised to deputise for him.

The MLRO or Deputy must promptly:

- evaluate all concerns raised by staff to determine whether it is appropriate to make a report to the National Crime Agency (NCA)
- if appropriate, ensure that an internal report is completed, using the form provided.
- if appropriate, submit a Suspicious Activity Report to NCA using NCA's standard form (available at www.nationalcrimeagency.gov.uk).

Those receiving, or arranging to receive, cash on behalf of the Council must ensure they are familiar with the Council's Anti-Money Laundering Policy. As the types of transactions which



may be used by money launderers are almost unlimited, it is difficult to define a suspicious transaction.

Sufficient guidance will be given to staff to enable them to recognise suspicious transactions. The Council will also consider monitoring the types of transactions and circumstances that have given rise to suspicious transaction reports, with a view to updating internal instructions and guidelines from time to time.

The Council has set a general transaction limit of £13,000 (which was in line with the 2007 Money Laundering Regulations and remains in the 2017 Regulations) over which any transaction or group of transactions from the same source should automatically be classified or deemed as suspicious. This does not however mean to say that any transactions under these limits on which you have suspicions should not be reported. All suspicious transactions irrespective of their values should be reported.

In practice, the business units of the Council will be routinely making records of work carried out for various parties, customers and clients in the course of normal business and these should suffice in this regard

Although there is no legal requirement for the Council to have formal procedures for evidencing the identity of those they do business with, staff should be alert to potentially suspicious circumstances. Where there may be doubt and in particular, when forming a new business relationship or considering a significant one-off transaction, identification of the party to the transaction(s) should be sought.

Each section of the Council conducting relevant business (Accountancy, Audit and certain Legal Services) must maintain appropriate records of:

- Client identification evidence obtained; and
- Details of all relevant business transactions carried out for clients for at least five years. This is so that they may be used as evidence in any subsequent investigation into money laundering.

The precise nature of the records to be held is not prescribed by law however they must be capable of providing an audit trail during any subsequent investigation, for example distinguishing the party giving rise to concern and the relevant transaction and recording in what form any funds were received or paid.

The MLRO will determine whether the information or other matters contained in the report he has received give rise to a knowledge or suspicion that a person is engaged in money laundering. In making this judgement, he will consider all other relevant evidence (information) available to the Council concerning the person or business to who the initial report relates. This may include reviewing other transaction patterns and volumes, the length of the business relationship, and referral to identification records held.

If after completing this review, he is satisfied with the suspicions that the suspect is engaged in money laundering, then the MLRO must ensure that the information is disclosed to the NCA.



Performance and risk management

The number of reports made to the NCA will be reported to the Audit and Accounts Committee each year.

Communicating the policy

This policy is posted on the Governance pages of iDerby. An additional officers' guide accompanies this policy giving further guidance.

Breaches and non-compliance

Failure by a member of staff 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 and Dismissal Procedure Policy. Failure by a Member to comply with the procedures set out in this policy may be referred to the Standards Committee.

Information and training

The Council will:

- make all staff aware of the obligations placed on the Council, and on themselves as individuals, by the anti-money laundering legislation
- give targeted training to those most likely to encounter money laundering activity.

Evaluation and review

The policy itself will be subject to review every 3 years or earlier if warranted by regulatory, statutory or policy change.

Contact information

Should you have any concerns whatsoever regarding any transactions then you should contact the MLRO or his deputy.

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