



DERBY CITY COUNCIL

**AUDIT AND ACCOUNTS  
COMMITTEE  
25 OCTOBER 2006**

Report of the Head of Audit and  
Risk Management

# ITEM 11

## ANTI-MONEY LAUNDERING POLICY

### RECOMMENDATION

- 1.1 To review the policy attached at Appendix 2 and recommend to Cabinet that it be approved.

### SUPPORTING INFORMATION

- 2.1 There have recently been significant changes to the legislation concerning money laundering (the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2003), which have broadened the definition of money laundering and increased the range of activities caught by the statutory framework. As a result, these obligations 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. This policy outlines the Council's approach to the legislation.
- 2.2 Money laundering is the process by which criminals attempt to conceal the true origin and ownership of the proceeds of their criminal activity, allowing them to maintain control over the proceeds and, ultimately, providing a legitimate cover for their sources of income.
- 2.3 This policy applies to all employees 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 to comply with its legal obligations.
- 2.4 Further information for staff is set out in the accompanying guidance notes. Both the policy and the guidance note sit alongside the Council's Confidential Reporting Code and the Anti-Fraud and Corruption Strategy.
- 2.5 Organisations conducting "relevant business" must:
- Appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees 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.

Not all of the Council's business is “relevant” for the purposes of the legislation.

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**Background papers:**

**List of appendices:**

Appendix 1 – Implications

Appendix 2 – Anti-Money Laundering Policy

<b>IMPLICATIONS</b>
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**Financial**

1. None directly arising.

**Legal**

2. None directly arising.

**Personnel**

3. None directly arising.

**Equalities impact**

4. None directly arising.

**Corporate objectives and priorities for change**

5. The functions of the Committee have been established to support delivery of corporate objectives by enhancing scrutiny of various aspects of the Council's controls and governance arrangements.

**DERBY CITY COUNCIL**

**ANTI-MONEY LAUNDERING POLICY**

**September 2006**

## **1. Introduction**

- 1.1 There have recently been significant changes to the legislation concerning money laundering (the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2003), which have broadened the definition of money laundering and increased the range of activities caught by the statutory framework. As a result, the new obligations now impact on certain areas of local authority business (relevant areas) and require local authorities to establish internal procedures to prevent the use of their services for money laundering.

## **2. Scope of the Policy**

- 2.1 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 legal obligations.
- 2.2 Further information is set out in the accompanying Disclosure Procedures Guidance Note. Both the policy and the guidance note sit alongside the Council's Confidential Reporting Code and Anti-Fraud and Corruption Strategy.
- 2.3 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.

## **3. What Is Money Laundering?**

- 3.1 Definition of Money Laundering

**Money laundering is the process whereby the proceeds of crime are:**

- **Concealed**
- **Disguised**
- **Converted**
- **Transferred**
- **Removed from the jurisdiction**

**And anyone else who conspires with or assists someone to commit the offence is also guilty of an offence.**

### 3.2 Money laundering therefore means an act of either:

- Concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 of the 2002 Act).
- 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 (section 328).
- Acquiring, using or possessing criminal property (section 329).
- Becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property (section 18 of the Terrorism Act 2000).

These are the primary (principal) money laundering offences and are prohibited acts under the legislation.

3.3 Potentially any member or employee of the Council could be caught by the money laundering provisions if they suspect money laundering and become either involved with it in some way and/or do nothing about it. The guidance Notes give practical examples and set out how any concerns should be raised.

3.4 Whilst the risk to the Council of contravening the legislation is perceived to be either medium or low, the Council may be used unknowingly in laundering money from criminal activities. It is important that all members and employees are familiar with their legal responsibilities. Serious criminal sanctions may be imposed for breaches of the legislation.

## 4. What are the obligations on the Council?

4.1 Under previous legislation, Local Authorities had not been designated as one of the categories where money laundering applied. However due to the increased areas that the Council now has dealings with to comply with the legislation we must appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from members and employees of money laundering activity (their own or anyone else's).

4.2 The City Council must:

- Maintain robust record keeping procedures.
- Make those members and employees who are likely to be exposed to or suspicious of money laundering activities to be aware of the requirements and obligations placed on Derby City Council, and on themselves as individuals, by the Proceeds of Crime Act.
- Provide targeted training to those considered most likely to encounter money laundering activities e.g. how to recognise and deal with potential money laundering offences.
- Implement formal systems for members and employees to report money laundering suspicions to the MLRO.

- Establish internal procedures appropriate to forestall and prevent money laundering and make relevant individuals aware of the procedures.
- Report any suspicions of money laundering to National Criminal Intelligence Service (NCIS) (this is a personal legal obligation for the MLRO).
- Put in place procedures to monitor developments in the 'grey' areas of the legislation and to keep abreast of further advice and guidance as it is issued by relevant bodies.

- 4.3 The safest way to ensure compliance with the requirements of these legislations is to apply them to **all areas** of work undertaken by the Council; therefore, **all members and employees** are required to comply with this policy and the reporting procedure set out in the guidance notes.

## 5. The Money Laundering Reporting Officer

- 5.1 The officer nominated to receive disclosures about money laundering activity within the Council is Paul Dransfield, Corporate Director - Resources and Housing. Paul can be contacted as follows:

<p>Paul Dransfield Corporate Director - Resources and Housing Derby City Council PO Box 6291 Council House, Corporation Street Derby DE1 2YL Telephone: 01332 256263 Email: paul.dransfield@derby .gov.uk</p>
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- 5.2 Disclosures by staff to the MLRO should where appropriate be made through their Assistant Director or Head of Service.
- 5.3 In the absence of the MLRO, the Head of Audit and Risk Management, the Head of Insurance and External Payments or the Revenues Manager are authorised to deputise for him.
- 5.4 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.
- 5.5 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.

- 5.6 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 NCIS.

## **6. Disclosure Requirements**

### **Reporting to the Money Laundering Reporting Officer**

- 6.1 Where you know or suspect that money laundering activity is taking / has taken place or is about to take place or become concerned that your involvement in a matter may amount to a prohibited act under the legislation, you must disclose this as soon as possible to the MLRO.
- 6.2 The disclosure should ideally be made within “hours” of the information coming to your attention wherever practicable, not weeks or months later.
- 6.3 Your disclosure should be made to the MLRO using the *proforma* attached at Appendix A of this policy. The report should enclose copies of any relevant supporting (evidence) documentation and must contain as much detail as possible which should include the following:
- Full details of the people involved (including yourself, if relevant), i.e. name, date of birth, address, company names, directorships, phone numbers, etc.
  - 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 sections 327 – 329 of the 2002 Act, then your report must include all relevant details, as you will need consent from the NCIS, 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.
  - The types of money laundering activities involved:
    - if possible, cite the section number(s) under which the report is being made e.g. a principal money laundering offence under the 2002 Act (or 2000 Act), or
    - general reporting requirement under section 330 of the 2002 Act (or section 21A of the 2000 Act), or both.
  - The dates of such activities and a note stating whether the activity has happened, on-going or imminent.
  - Location where the activity took place i.e. department, section, depot etc.
  - How the activities were undertaken.
  - The (likely) amount of money/assets involved (if known).



- Why, exactly, you are suspicious of the activity– the NCIS will require full reasons.
  - along with 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.
  - to enable him to prepare his report to the NCIS, where appropriate. You should also enclose copies of any relevant supporting documentation.

## **7. Recognition of Suspicious Transactions**

- 7.1 As the types of transactions which may be used by money launderers are almost unlimited, it is difficult to define a suspicious transaction. Appendices A and B of the guidance note provide possible symptoms.
- 7.2 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.
- 7.3 The Council has set a general transaction limit of £10,000 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.

## **8. Reporting of Suspicious Transactions**

- 8.1 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 MLRO. Once a member or an employee has reported his/her suspicions to the MLRO, he/she has fully satisfied their own statutory obligation.

## **9. Record Keeping Procedures**

- 9.1 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.
- 9.2 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 client and the relevant transaction and recording in what form any funds were received or paid.

- 9.3 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.

## **10. Conclusion**

- 10.1 The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This policy and the guidance notes have been written so as to enable the Council to meet the legal requirements in a way that is proportionate to the Council's risk of contravening the legislation.
- 10.2 Should you have any concerns whatsoever regarding any transactions then you should contact the MLRO or one of his deputies.

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**STRICTLY CONFIDENTIAL****Report to: Money Laundering Reporting Officer (MLRO)  
Re: money laundering activity suspicion****To: ....., DCC (Deputy) Money Laundering Reporting Officer****From: Name.....Post.....**  
*[Insert name of employee or member and post title]***Directorate: ..... Ext/Tel No: .....**  
*[Insert department, business unit and contact details]***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]**[Please continue on a separate sheet if necessary]***Nature, value and timing of activity involved:***[Please include full details e.g. what, when, where, how]**[Please continue on a separate sheet if necessary]***Nature of suspicions regarding such activity:**

*[Please continue on a separate sheet if necessary]*

**Have you discussed your suspicions with anyone else?**

*[Please tick the relevant box]*

☐ Yes

☐ No

**If yes, please specify below, explaining why such discussion was necessary:**

*[Please continue on a separate sheet if necessary]*

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

*[Please tick the relevant box]*

☐ Yes

☐ No

**If yes, please include details below:**

*[Please continue on a separate sheet if necessary]*

**Have you consulted any supervisory body guidance re money laundering (e.g. the Law Society)?**

*[Please tick the relevant box]*

☐ Yes

☐ No

**If yes, please specify below:**

*[Please continue on a separate sheet if necessary]*

**Do you feel you have a reasonable excuse for not disclosing the matter to the NCIS? (e.g. are you a lawyer and wish to claim legal professional privilege?)**

*[Please tick the relevant box]*

☐ Yes

☐ No

**If yes, please set out full details below:**

*[Please continue on a separate sheet if necessary]*

**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 NCIS?**

*[Please tick the relevant box]*

☐ Yes

☐ No

**If yes, please enclose details in the box below:**

*[Please continue on a separate sheet if necessary]*

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

*[Please continue on a separate sheet if necessary]*

**DECLARATION:**

**Signed:.....Dated:.....**

***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.***

**THE FOLLOWING PART OF THIS FORM IS FOR COMPLETION BY THE MLRO**

Date report received: .....

Date receipt of report acknowledged: .....

**CONSIDERATION OF DISCLOSURE:**

Action Plan:

**OUTCOME OF CONSIDERATION OF DISCLOSURE:**

Are there reasonable grounds for suspecting money laundering activity?



**If there are reasonable grounds for suspicion, will a report be made to the NCIS?**

*[Please tick the relevant box]*

☐ Yes ☐ No

**If yes, please confirm date of report to NCIS: .....and  
complete the box below:**

**Details of liaison with the NCIS regarding the report:**

**Notice Period: ..... To .....**

**Moratorium Period: ..... To .....**

**Is consent required from the NCIS to any ongoing or imminent transactions which  
would otherwise be prohibited acts? ☐ Yes ☐ No**

**If yes, please confirm full details in the box below:**

**Date consent received from NCIS: .....**

**Date consent given by you to employee or member: .....**

**If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to the NCIS, please set out below the reason(s) for non-disclosure:**

*[Please set out any reasonable excuse for non-disclosure]*

**Date consent given by you to member or employee for any prohibited act transactions to proceed: .....**

**Other relevant information:**

**Signed:.....Dated:.....**

**THIS REPORT IS TO BE RETAINED FOR AT LEAST FIVE YEARS**