



**HART DISTRICT COUNCIL  
ANTI MONEY LAUNDERING POLICY**

<b>Date</b>	<b>January 2018</b>
<b>Policy Owner</b>	<b>Audit Manager</b>
<b>Review Date</b>	<b>January 2020</b>

## **1. INTRODUCTION**

- 1.1 Historically, legislation seeking to prevent the laundering of the proceeds of criminal activity was aimed at professionals in the financial and investment sector, however it was subsequently recognised that those involved in criminal conduct were able to 'clean' the proceeds of crime through a wider range of businesses and professional activities. It is therefore appropriate that the Council has an Anti-Money Laundering Policy and Procedure in place. This Policy/procedure takes into account the requirements of the Money Laundering Regulations 2017.

## **2. SCOPE OF POLICY**

This policy applies to all employees and contractors 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 to enable the Council to comply with legal obligations.

## **3. WHAT IS MONEY LAUNDERING**

- 3.1 Money Laundering is the process of turning funds or assets that have been obtained illegally into funds that appear clean.
- 3.2 Money laundering activities include:
- Acquiring, using or possessing criminal property,
  - Handling the proceeds of crimes such as theft, fraud and tax evasion,
  - Being knowingly involved in any way with criminal or terrorist property,
  - Entering into arrangements to facilitate laundering criminal or terrorist property,
  - Investing the proceeds of crime in other financial products
- 3.3 Money laundering regulations apply to cash transactions in excess of 15,000 Euros (approximately £13,000). However, Proceeds of Crime Act (POCA) applies to all transactions and can include dealings with agents, third parties, property or equipment, cheques, cash or bank transfers.
- 3.4 Although instances of suspected money laundering are likely to be rare, given the nature of services provided by the Council, failure to comply with legal requirements could have significant implications for both the Council and the individuals concerned.

## **4.0 OBLIGATIONS OF THE COUNCIL**

- 4.1 The law requires those organisations in the regulated sector and conducting relevant business to:
- Appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees of money laundering activity (their own or anyone else's), The Internal Audit Manager is the nominated MLRO.
  - Implement risk sensitive policies and procedures relating to customer due diligence, reporting, record keeping, internal control, risk assessment and management, the monitoring and management of compliance and the internal communication of such policies and procedures
- 4.2 Not all of the Council's business is 'relevant' for the purposes of the legislation. It is mainly the accountancy and audit services together with certain financial, company and property transactions carried out by Legal Services. However, the safest way to ensure compliance with the law is to apply it to all areas of work undertaken by the Council, therefore all employees are required to comply with the Council's Anti Money Laundering Policy in terms of reporting concerns regarding money laundering.
- 4.3 It is a requirement of the Money Laundering Regulations 2017 that appropriate systems of internal control are in place to prevent activities relating to money laundering and terrorist financing. There must be management controls in place to identify the possibility that criminals may be attempting to launder money or fund terrorism, so as to enable appropriate action to prevent or report it to be taken.
- 4.4 It is management's responsibility to implement systems of internal control capable of identifying unusual or suspicious transactions or customer activity and quickly report the details to the MLRO.

## **5.0 IDENTIFYING MONEY LAUNDERING TRANSACTIONS**

- 5.1 Criminals have various ways of concealing, moving and legitimising the proceeds of crime. Examples of signs of money laundering where suspicions should arise include:
- Use of cash where other means of payment are normal,
  - Unusual transactions or ways of conducting business,
  - Unwillingness to answer questions/general secretiveness,
  - Use of new/shell companies,
  - Payment of deposits which are subsequently requested back,
  - Lack of 'traceability' of persons involved,
  - Individuals and companies that are insolvent yet have funds.

5.2 It is not possible to give a definitive list of ways in which to identify 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:

- Payment of a substantial sum in cash (over £5,000),
- A new customer,
- A secretive customer, e.g. refuses to provide requested information without a reasonable explanation,
- Concerns about the honesty, integrity, identity or location of a customer,
- Illogical third party transaction such as unnecessary routing or receipt of funds from third parties or through third party accounts,
- Involvement of an unconnected third party without logical reason or explanation,
- Overpayments by a customer,
- Absence of an obvious legitimate source of funds,
- Movement of funds overseas, particularly to a higher risk country or tax haven,
- Transactions which are out of the line of normal expectations, without reasonable explanation,
- A transaction without obvious legitimate purpose or which appears uneconomic, inefficient or irrational,
- The cancellation or reversal of an earlier transaction,
- Requests for release of customer account details other than in the normal course of business,
- Transactions at substantially above or below fair market values,
- Poor business records or internal accounting controls,
- A previous transaction for the same customer which has been, or should have been, reported to the MLRO.

5.3 In addition to the money laundering offences, the legislation sets out further offences of failure to report suspicions of money laundering activities. Such offences are committed where, in the course of conducting relevant business, you know or suspect, or have reasonable grounds to do so (even if you did not know or suspect), that another person is engaged in money laundering and you do not disclose this as soon as is practicable to the MLRO.

## **6.0 FAILURE TO REPORT MONEY LAUNDERING OR SUSPICIONS**

6.1 Failure to report money laundering offences means that potentially any employee could be caught by the money laundering provisions if they suspect money laundering and either become involved with it in some way and/or do nothing about it.

- 6.2 Whilst the risk to the Council of contravening the legislation is low, it is extremely important that all employees are familiar with their legal responsibilities: serious criminal sanctions may be imposed for breaches of the legislation. Any person found guilty of a money laundering offence is liable for imprisonment (maximum of 14 years), a fine, or both however, an offence is not committed if the suspected money laundering activity is reported to the MLRO and, where necessary, official permission obtained to continue in the transaction.
- 6.3 If you report a suspicion of money laundering to the MLRO you should not discuss it with anyone else: you may commit a further offence of 'tipping off' if, knowing a disclosure has been made, you make a disclosure which is likely to prejudice any investigation which might be conducted.
- 6.4 Even if you have not reported the matter to the MLRO, if you know or suspect that such a disclosure has been made and you mention it to someone else, this could amount to a tipping off offence. Be very careful what you say and to whom, in these circumstances. Any person found guilty of tipping off or prejudicing an investigation offence is liable to imprisonment (maximum five years), a fine or both.
- 6.5 A new criminal offence was created in 2017: any individual who recklessly makes a statement in the context of money laundering which is false or misleading commits an offence punishable by a fine and/or up to 2 years' imprisonment.

## **7.0 REPORTING PROCEDURE**

- 7.1 If you know or suspect that money laundering activity is taking place, has taken place, or that your involvement in a matter may amount to a prohibited act under the legislation, this must be disclosed immediately to the MLRO.
- 7.2 Your disclosure should be made using the Money Laundering Suspicion Report Form, which is attached at Appendix A. The disclosure report must contain 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 nature of your and their involvement,
  - The types of money laundering activity suspected,
  - 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.

- 7.3 Once you have reported the matter to the MLRO you must follow any directions they may give you. You must NOT make any further enquiries into the matter yourself.
- 7.4 At no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering or to any other individual without the specific consent of the MLRO. If you do so you may commit the offence of 'tipping off'.
- 7.5 Do not make any reference on records held to the fact that you have made a report to the MLRO. If a customer exercises their right to see their record, any such note would 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 confidential manner.

## **8.0 INVESTIGATION PROCESS**

- 8.1 Upon receipt of a disclosure report, the MLRO will record the date of receipt on the report. The MLRO will acknowledge receipt of the report and will give an indication of the timescale within which they expect to respond.
- 8.2 The MLRO will consider the report and any other available internal information they think relevant. This may include
- Reviewing other transactions, patterns and volumes
  - The length of any business relationship involved
  - Review of any evidence
  - Reporting to the Police if required
- 9.3 The MLRO will undertake any other inquiries deemed appropriate and will ensure that all available information has been obtained. In undertaking any such enquiries the MLRO will avoid any actions which could tip off those involved, or which could give the appearance of tipping them off.
- 9.4 The MLRO will then consider all aspects of the case and will decide whether a report to NCA is required. The MLRO must make a timely determination as to:
- Whether there is actual or suspected money laundering taking place
  - Whether there is a need to refer the matter to the Police
- 9.5 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering this will be recorded appropriately and he will give his consent for any ongoing or imminent transaction(s) to proceed.

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



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

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

Yes / No

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**If yes, please provide details below, explaining why such a discussion was necessary:**

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**Please provide any other information you feel is relevant below:**

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Signed \_\_\_\_\_

Date \_\_\_\_\_

**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.**

**TO BE COMPLETED BY THE MONEY LAUNDERING REPORTING OFFICER**

<b>Name of Money Laundering Reporting Officer</b>	
<b>Date Report Received</b>	

**Consideration of Disclosure:**

<b>Action Plan</b>
(Provide details of actions that have been taken to make a decision as to whether money laundering has or has not taken place).

<b>Are there reasonable grounds for a suspicion of money laundering, which will result in a report to the Police?</b>	Yes / No
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<b>If yes what date was the matter referred to the Police</b>	
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<b>If money laundering is suspected are there any reasonable grounds for not reporting the matter to the Police?</b>
<b>If yes please provide details</b>

**Signed** \_\_\_\_\_ **Date** \_\_\_\_\_

**THIS REPORT IS TO BE RETAINED FOR 5 YEARS**