

# Anti-money laundering policy

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## Introduction

1. This is a joint policy adopted by South Oxfordshire District Council and Vale of White Horse District Council. The policy aims to provide guidance on how to report a suspicion of money laundering.
2. In carrying out their functions and responsibilities, the councils wish to promote a culture of openness and fairness and expect all those who work for and with the councils to adopt the highest standards of propriety and accountability.
3. New obligations were imposed by the Proceeds of Crime Act (POCA) 2002 and the money laundering regulations 2003 and 2007 which broaden the definition of money laundering and increase the range of activities caught by the statutory control framework; in particular, the duty to report suspicions of money laundering is strengthened and criminal sanctions imposed for failure to do so.
4. The councils wish to establish internal procedures to prevent the use of their services for money laundering. These procedures will involve:
  - the appointment of a money laundering reporting officer (MLRO) to receive disclosures from employees of money laundering activity;
  - a documented process to require the reporting of suspicions of money laundering;
  - the establishment and maintenance of client identification requirements in certain circumstances;
  - the establishment and maintenance of record keeping requirements; and
  - the training of relevant staff in how to recognise and deal with transactions which may be related to money laundering.
5. Details of how these requirements have been implemented by the councils are set out within this policy.
6. The broad definition of money laundering means that potentially anybody (and therefore any council employee, irrespective of what sort of council business they are undertaking) could commit a money laundering offence if they become aware at any time of, or suspect the existence of criminal or terrorist property, and continue to be involved in the matter without reporting their concerns.
7. Our policy is to do all we can to prevent, wherever possible, the organisation and its staff being exposed to money laundering, to 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.

8. All staff dealing with the receipt of funds or having contact with the public must therefore be aware of the councils' anti-money laundering policy.
9. It is every member of staff's responsibility to be vigilant.

### **Scope of the policy**

10. This policy applies to all employees of both councils and aims to maintain the high standards of conduct, which currently exist within the councils by preventing criminal activity through money laundering. Employees should refer to the councils' joint whistleblowing policy when making a report under the anti money laundering policy.
11. The procedures which must be followed (for example the reporting of suspicions of money laundering activity) to enable the councils to comply with its legal obligations, are set out below.

### **Money laundering – definition and offences**

12. With POCA 2002, money laundering is now interpreted very widely and includes possessing, or in any way dealing with, or concealing, the proceeds of any crime.
13. The main offences are:
  - concealing, disguising, converting, transferring or removing criminal property;
  - 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; and
  - acquiring, using or possessing criminal property.
14. Other third party offences under POCA 2002 are:
  - Failure to disclose money laundering offences;
  - Tipping off a suspect, either directly or indirectly (this is where someone informs a person or people who are, or are suspected of being, involved in money laundering, in such a way as to reduce the likelihood of their being investigated); and
  - Prejudicing an investigation – for example falsifying a document.
15. Criminal property is defined very widely. It includes, for example, the retention of monies from non-payment of income tax.
16. All the money laundering offences may be committed by an organisation or by the individuals working for it. It is possible that the proceeds of crime may be

received from individuals or organisations that do not realise that they are committing an offence. It is no defence for the payer or the recipient to claim that they did not know that they were committing an offence if they should have been aware of the origin of the funds.

17. The principal money laundering offences carry a maximum penalty of 14 years imprisonment and/or unlimited fines. The offence of failing to report a suspicion of money laundering by another person carries a maximum penalty of 5 years.

## **Responsibilities**

### **MONEY LAUNDERING REPORTING OFFICER (MLRO)**

18. The organisation has nominated the Section 151 Officer to be the MLRO, and to be responsible for anti-money laundering measures within the organisation. This includes responsibility for:

- compliance with legislation and regulatory guidance;
- ensuring compliance with the councils anti-money laundering policy;
- ensuring relevant staff receive training;
- deciding whether a suspicious transaction report requires disclosure to the Serious Organised Crime Agency (SOCA) and ensuring that all necessary disclosures to SOCA are made as quickly as possible.

19. It is the MLRO's sole responsibility to ensure that the councils are compliant with the relevant legislation and regulatory guidance. No responsibility for this will at any time be delegated to any other officer.

### **MONEY LAUNDERING COMPLIANCE OFFICER (MLCO)**

20. The organisation has nominated the Internal Audit Manager to be the MLCO, and to be responsible for the administration of the anti-money laundering measures within the organisation. This includes responsibility for:

- receiving all suspicious transactions reports and preparing them for review by the MLRO;
- preparing all disclosure forms for forwarding to SOCA and liaising with SOCA regarding the outcome of disclosures;
- maintaining adequate records of all disclosures which have and haven't been reported to SOCA;
- notifying the MLRO of any breaches of the anti-money laundering policy; and

- training for relevant staff.

## EMPLOYEE RESPONSIBILITIES

21. Your responsibility in relation to preventing money laundering is as follows:

- To be alert to where the councils may be targeted by individuals or businesses trying to launder the proceeds of crime.
- To avoid alerting anyone dealing with the councils that you have a suspicion they may be attempting to launder, or have laundered, the proceeds of crime.
- To report any suspicions of money laundering to the councils' MLRO using the specified forms.

22. It is not your responsibility to decide whether a suspicious transaction actually constitutes money laundering.

## **Know your customer and know your business**

### CUSTOMER/BUSINESS/IDENTIFICATION PROCEDURE

23. It would be impossible for the councils to identify all of the people with whom it has business dealings with. However, it is important for the councils to identify individuals and organisations where there may be a higher risk of receiving the proceeds of crime. For example, where the councils:

- form an ongoing business relationship with an individual/business; or
- undertakes a one-off transaction involving payment by or to the individual/business of approximately £10,000 or more; or
- undertakes a series of linked one-off transactions involving total payment by or to the individual/business of approximately £10,000 or more.

24. In the above circumstances, staff must obtain satisfactory evidence of the identity of the prospective customer/business prior to any relationship being entered into.

25. Best practice guidance suggests that for individuals, appropriate identification documents would be copies from an original passport or driving licence with a photograph together with correspondence showing the individual's name and postal address. For businesses, it is suggested that personal identification should be obtained for the representatives of the company together with proof of their authority to act on behalf of the company. In addition to checking the organisation's website to confirm the identity of personnel, its business address and any other details and attending the business address.

26. If satisfactory evidence of identity is not obtained at the outset of the matter then the business relationship or one off transaction cannot proceed any further.

#### RECORD KEEPING PROCEDURE

27. Each service area must maintain records of:

- client identification evidence obtained, and
- details of all relevant business transactions carried out by or to the individual/business for at least five years. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.

28. The precise nature of the records is not prescribed by law however they must be capable of providing an audit trail, for example distinguishing the individual/business and the relevant transaction and recording in what form any funds were received or paid. In practice, service areas will routinely make records in the course of normal business and these should suffice.

### **Procedure for reporting suspicions of money laundering**

#### SUSPICION

29. The concept of a 'suspicion' of money laundering features a number of times in the legislation and regulatory guidance but is not defined. The courts have defined it as being beyond mere speculation, being based on some foundation. For a transaction to be suspicious, the exact nature of the criminal offence need not be certain.

#### PROCEDURE FOR REPORTING SUSPICIONS OF MONEY LAUNDERING

30. Where you know or suspect that money laundering activity is taking/has taken 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 practicable to the MLRO. The disclosure should be within hours of the information coming to your attention, not weeks or months later. Should you not do so, then you may be liable to prosecution. Your disclosure should be made to the MLCO, receiving it on behalf of the MLRO, using the proforma report (Appendix 1) and should include as much detail as possible. If you need assistance in completing the report, please contact the MLCO.

31. Once you have reported the matter to the MLCO you must follow any directions given to you by either the MLCO or the MLRO. You must not make any further enquiries into the matter yourself, and you must not process any transactions to which you have a suspicion of money laundering.

32. Do not voice any suspicion to the person(s) whom you suspect of money laundering, otherwise you may commit a 'tipping off' offence. Similarly do not make any reference on a client file to a report having been made to the MLRO. The MLCO will keep appropriate records in a confidential manner.

#### CONSIDERATION OF THE DISCLOSURE BY THE MLRO

33. Once the MLRO has evaluated the disclosure report and any other relevant information, the MLRO must make a timely determination as to whether:
- There is actual or suspected money laundering taking place; or
  - There are reasonable grounds to know or suspect that this is the case; and
  - Whether the MLRO needs to seek consent from SOCA for a particular transaction to proceed.
34. All disclosure reports referred to the MLRO and reports made by the MLRO to SOCA must be retained by the MLCO in a confidential file kept for that purpose, for a minimum of five years.
35. The MLRO commits a criminal offence if the MLRO knows or suspects, or has reasonable grounds to do so, through a disclosure being made to the MLRO, that another person is engaged in money laundering and the MLRO does not disclose this as soon as practicable to SOCA.

#### **Examples of situations most likely to give rise to money laundering or suspicion of it**

36. A transaction involving an unusually large amount of cash. This will be particularly suspicious if the cash paid exceeds the amount necessary to settle a transaction and would result in a refund. This would include double payments.
37. Transactions or trades that appear to make no commercial or economic sense from the perspective of the other party. A money launderer's objective is to disguise the origin of the criminal funds, and not necessarily to make a profit. A launderer may therefore undertake transactions at a financial loss if it will assist in disguising the source of the funds and allow the funds to enter the financial system.
38. Payments received from third parties. Money launderers will often look to legitimate business activity to 'clean' criminal funds by making payments on behalf of a legitimate company.
39. Transactions where the identity of the party is difficult to establish or is undisclosed.
40. Transaction where the party is evasive as to the source or destiny of funds.

41. Transactions with companies in offshore jurisdictions. Some jurisdictions can provide money launderers with the facility to hide their true identity. Extra care should be taken when undertaking business with such companies.
42. Changes to payment instructions to the use of offshore funds. Payments are normally made to or from a UK bank to establish a business relationship and then changed to a bank in an off shore jurisdiction.
43. The cancellation or reversal of an earlier transaction.

This policy was approved by South Oxfordshire District Council's Cabinet on 8 April 2010.

Vale of White Horse District Council's Executive Portfolio Holder with delegated authority for Finance agreed this policy on 30 March 2010.

Policy updated: November 2011

Policy review date: 2012

### **Additional sources of information**

The following are associated policies and procedures that are referred to in this policy or can be used as additional sources of information:

<b>Joint policies: South and Vale</b>	<b>South policies</b>	<b>Vale policies</b>
Anti-fraud, bribery and corruption policy and response plan		
	Budget and policy framework procedure rules	Budget and policy framework procedure rules
	Code of conduct for councillors and its associated complaints procedure	Code of conduct for councillors and its associated complaints procedure
	Code of conduct for employees	Staff code of conduct
	Complaints policy and procedure	How to make a comment, complaints and suggestion
	Contracts procedure rules	Contracts standing orders
	Councillors' allowances scheme	Members' allowances scheme



<b>Joint policies: South and Vale</b>	<b>South policies</b>	<b>Vale policies</b>
Dignity at work policy		
Disciplinary procedure (for employees)		
	Financial procedure rules	Financial regulations
	Gifts and hospitality guidance for officers	Gifts and hospitality code
Grievance procedures (for employees)		
	Local code of governance	
	Protocol on councillor/employee relations	Member/officer relations
	Scheme of delegation	Scheme of delegation
	Service specific procedure manuals	Service specific procedure manuals
Whistleblowing policy		

**Alternative formats of this publication are available on request. These include large print, Braille, audio cassette or CD, email and alternative languages.**

此文檔備有中文版本以供選擇。如需索取，請通過以下的電話聯繫地區議會。如果您不會講英語，您可以請講英語的親屬或朋友為您代勞。

**Please contact democratic services at South Oxfordshire District Council on ☎ 01491 823649**

**Please contact democratic services at Vale of White Horse District Council on ☎ 01235 540307**

APPENDIX 1

CONFIDENTIAL

Report to Money Laundering Reporting Officer

Re: Suspicion of money laundering activity

To: Money Laundering Reporting Officer

From: .....  
*[name of employee]*

Post title: .....

Service Area: .....

Ext/Tel: .....

**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]*

**Nature, value and timing of activity involved:**  
*[Please include full details eg what, when, where, how. Continue on a separate sheet if necessary]*

**Nature of suspicions regarding such activity:**  
*[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:**

**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:**

**Is any aspect of the transaction(s) outstanding and requiring consent to proceed?** *[Please tick the relevant box]*

Yes

No

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

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

**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 SOCA? *[Please tick the relevant box]***  Yes  No

**If yes, please confirm date of report to SOCA:**

.....

**SOCA unique reference number for the report:**

.....

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

**Notice Period:** ..... to .....

**Moratorium Period:** ..... to .....

**Is consent required from SOCA 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 SOCA:**

.....

**Date consent given by you to employee:**

.....

**If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to SOCA, 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 employee for any prohibited act transactions to proceed: .....**

**Other relevant information:**

**Signed:.....**

**Dated:.....**

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