



HYNDBURN

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Anti-Money Laundering Policy Guidance & Procedure Notes

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HYNDBURN BOROUGH COUNCIL
ANTI MONEY LAUNDERING POLICY

SUMMARY

1 Policy Objectives

Hyndburn Borough Council is committed to complying with the law relating to money laundering and to helping its members and staff to do the same. It is also committed to maintaining standards of financial management that reflect a high level of accountability and transparency. In pursuance of these objectives it has adopted an anti money laundering policy.

2 Training

The Council will provide appropriate training for both members and staff. Training will relate to the law on money laundering and the procedures contained in the anti money laundering policy. When major changes in the law impose new obligations on the Council, refresher training will be arranged.

3 Guidance

The Council's Money Laundering Reporting Officer (MLRO) will be available on an ongoing basis to give guidance to both members and staff. Where necessary the MLRO will seek legal advice. Staff should consult the MLRO whenever they have any doubts about anti money laundering law and/or procedures and must go straight to the MLRO and NOT discuss the matter with anybody else.

4 Updating

The Council will continue to maintain, update and publicise to staff and members its anti money laundering policy and procedures.

5 Enforcement

The Council will carry out regular checks to ensure that the anti money laundering policy and procedures are being adhered to and will take such disciplinary action as may be necessary in cases where breaches of the law and /or procedure occur.

6 Preventative Measures/Best Practice

The Council will observe all relevant codes of conduct relating to money laundering. It will not act in any circumstances where there may be concern that it will not comply with its anti-money laundering obligations. At all times the Council will take all possible steps to maintain its reputation and financial integrity.

HYNDBURN BOROUGH COUNCIL

ANTI MONEY LAUNDERING POLICY – GUIDANCE NOTE

1. INTRODUCTION

1.1 Some of the legal obligations relating to money laundering are to be found in: -

- **The Terrorism Act 2000 and**
- **The Proceeds of Crime Act 2002**

This legislation contains detailed definitions of the money laundering activities that are caught by the statutory control framework.

1.2 **The Money Laundering, Terrorist Financing, Transfer of Funds Regulations 2017** (The MLR 2017) encapsulate the obligations that were introduced by **The Money Laundering Regulations 2007** but these do not apply to the Council. The MLR 2017 sets out the additional obligations of private sector firms working in areas of higher money laundering risk. The MLR 2017 aims to stop criminals using professional services to launder money by requiring professionals to take a risk-based approach.

1.3 The Council has used these regulations as a guide to the establishment of procedures that have been designed to prevent the use of the Council's services for money laundering. These procedures are set out in the accompanying **Anti-Money Laundering Procedures** and all members and staff should be aware of the content.

1.3 Failure to comply with this Policy and these Procedures may constitute a disciplinary offence.

1.4 This Guidance Note aims to provide further detail regarding the legal requirements and practical help in implementing the procedures.

2 THE LAW

2.1 The Terrorism Act 2000

This makes it an offence for any person to enter into or be concerned in arrangements that facilitate the retention or control of property that has been or is likely to be used for the purposes of terrorism.

It is a defence if a person charged with this offence could prove that they did not know and had no reasonable cause to suspect that the arrangement related to terrorist property.

The Act also imposes obligations on everyone who acquires information in the course of a trade profession business or employment to inform the police of any suspicions that an offence has been committed under the Act. It is a defence for a person charged with this offence to prove that he had reasonable excuse for not making the disclosure.

This defence would be established if the person charged was able to demonstrate that they had made a disclosure in accordance with their employers established policy.

2.2 **The Proceeds of Crime Act 2002**

Sections 327 – 329 create several criminal offences in relation to the laundering of criminal property that can be committed by anyone

- **“Criminal Property”** is defined in the Act as being property that “constitutes a persons benefit from criminal conduct...”(s 340)
- **“Property”** is defined as “all property wherever situated and includes
 - a) money
 - b) All forms of property, real or personal, heritable or moveable
 - c) Things in action and other intangible or incorporeal property”

Section 327 provides that a person commits an offence if they

Conceal, disguise, convert or transfer criminal property or remove criminal property from the UK and they know or suspect that it is criminal property

- Conceal - hides it or conceals its nature, source, location disposition, movement or ownership
- Disguises - alters its appearance e.g. by removing serial numbers or other identifying marks or disguises its nature source etc
- Converts – changes it from one thing to another
- Transfers – uses it to buy things or simply gives it to someone else
- Removes – moves it physically or by electronic transfer from one jurisdiction to another

Section 328 provides that a person commits an offence if they

Enter into or become concerned in an arrangement which they know or suspect facilitates (by whatever means) the acquisition, retention, use or control of criminal property by or on behalf of another person.

This offence is committed when someone becomes actively involved in some arrangement, which helps someone else to get, keep, use or control the proceeds of crime.

An offence will not be committed under either section 327 or 328 if:-

- the alleged money laundering activity is reported to the MLRO before one of the acts mentioned in the two sections is done and the appropriate consent is obtained
- a person intended to make a disclosure but had a reasonable excuse for not doing so
- the person is carrying out a function relating to the enforcement of the Act or other criminal conduct

Section 329 provides that a person commits an offence if they, acquire, use or have possession criminal property providing they know or suspect that it represents the proceeds of crime

In addition to the defences provided for offences under sections 327 and 328 there is a further defence that the person used or had possession of the property for adequate consideration

The offences created by section 327 –329 are punishable by a maximum term of 14 years and/ or an unlimited fine if convicted in the Crown Court, or 6 months imprisonment and/ or a maximum fine of £5,000 if convicted in the Magistrates Court.

Knowledge and suspicion

Knowledge means actual knowledge or shutting ones mind to the obvious or wilfully shutting ones eyes to the truth

Suspicion is not specifically defined but can be said to be more than speculation but less than actual proof or certainty. It should not however be based on stereotypes

It is a subjective test i.e. that the defendant actually knew or had suspicions (not that a reasonable man would have been suspicious)

2.3 The Council’s Policy and Procedures

As part of its commitment to prevent the use of its services for the purpose of money laundering the Council will:

- Implement a procedure to require the reporting of suspicions of money laundering,
- Appoint a Money Laundering Reporting Officer to receive disclosures from their staff of money laundering activity (their own or anyone else’s);
- Maintain certain client identification procedures; and
- Maintain record keeping procedures.
- Train its staff in money laundering recognition and reporting procedures

2.4 MONEY LAUNDERING – HOW IT WORKS AND HOW TO REGONISE IT

How it works

In simple terms the process can be described as being broken down into three stages;

- Placement
- Layering

- Integration

In reality it may be difficult to make such clear-cut distinctions

Placement occurs when the property generated by crime is placed in the economic or financial system.

Layering is where the criminal property is distanced from its source by layers of transactions designed to disguise the audit trail and end up with the appearance of legitimacy

Integration is where the criminal property is successfully disguised and is integrated into the legitimate economy.

It is impossible to give a definitive list of ways in which to spot 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: (the list below is not exhaustive)

- A new customer with no previous 'history' with the Authority;
- 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 transactions: 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;
- Payment of sums up to £1000 in cash (approximately 1,200 €) or above this amount if in other payment forms e.g. cheque;
- Overpayments by a customer;
- Payment of deposits, which are, requested back (if a transaction is aborted or delayed).
- Absence of an obvious legitimate source of the funds;
- Movement of funds to and from overseas, particularly to and from a higher risk country or tax haven;
- Where, without reasonable explanation, the size, nature and frequency of transactions or requests (or the size, location or type of a client) is out of line with normal expectations;
- 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 account details other than in the normal course of business;
- Companies and trusts: extensive use of corporate structures and trusts in circumstances where the customer's needs are inconsistent with the use of such structures;
- Poor business records or internal accounting controls;
- A previous transaction for the same client which has been, or should have been, reported to the MLRO;
- Unusual property investment transactions if there is no apparent investment purpose or rationale;
- Instructions to receive and pay out money where there is no linked substantive property transaction involved (surrogate banking);
- Re property transactions, funds received for deposits or prior to completion from an unexpected source or where instructions are given for settlement funds to be paid to an unexpected destination;

Facts, which tend to suggest that something odd is happening, may be sufficient for a reasonable suspicion of money laundering to arise.

In short, the money laundering offences apply to your own actions and to matters in which you become involved. If you become aware that your involvement in a matter may amount to money laundering then you must discuss it with the MLRO and not take any further action until you have received, through the MLRO, the consent of the National Crime Agency ("NCA"). The failure to report money-laundering obligations referred to below, relate also to your knowledge or suspicions of others, through your work.

2.5 Reporting Money Laundering Offences:

The Council's Anti-Money Laundering Policy makes it clear that all members of staff should report any concerns they may have of money laundering activity, irrespective of their area of work

If you know or suspect, through the course of your work, that anyone is involved in any sort of criminal conduct then it is highly likely, given the wide definition of money laundering, that the person is also engaged in money laundering and a report to the MLRO will be required. The value involved in the offence is irrelevant. If, for example, you reasonably suspect that someone has falsified his or her expenses claim, even if just by £1, then you would need to report that to the MLRO.

There are various defences, for example where you have a reasonable excuse for non-disclosure or you did not know or suspect that money was being laundered and you had not been provided by the Council with appropriate training.

You must still report your concerns, even if you believe someone else has already reported their suspicions of the same money laundering activity.

Such disclosures to the MLRO will be protected in that they will not be taken to breach any restriction on the disclosure of information.

If you are in any doubt as to whether or not to file a report with the MLRO then you should err on the side of caution and do so – remember, failure to report may render you liable to prosecution. The MLRO will not refer the matter on to the relevant authority if there is no need.

2.6 “Tipping Off” Offences

Proceeds of Crime Act 2002 section 333

A person commits an offence if they know or suspect that a disclosure (of suspected money laundering) has been made and they then make reveal information that is likely to prejudice any investigation in to the suspected money laundering.

The maximum penalty for “tipping off” money laundering suspects is 6 months imprisonment and/ or a fine of up to £5,000 in the Magistrates Court or 5 years imprisonment and / or an unlimited fine if convicted in the Crown Court

So if suspect a member or member of staff suspects money laundering and reports it to the MLRO, be very careful what you say to others afterwards: you may commit an offence

You CANNOT warn or infer to a suspect that they are under suspicion or they have been reported. In effect, the file or matter has to be discretely frozen until clearance is given. If the matter is reported to the police they may note the position and, if alerted, watch what goes on to catch the linked criminals. So, IF you don't report and somebody else elsewhere in a chain of transactions HAS, suspicion could fall on YOU.

Remember - absolute secrecy and discretion is required. No notes on active files are to be made and all reporting kept in confidential MLRO files.

2.7 Consideration of Disclosure Report by MLRO

Where the MLRO receives a disclosure from a member of staff and concludes that there is actual/suspected money laundering taking place, or there are reasonable grounds to suspect so, then he must make a report as soon as practicable to NCA on their standard report form and in the prescribed manner, unless he has a reasonable excuse for non-disclosure. Where relevant, the MLRO will also need to request appropriate consent from the NCA for any acts/transactions, which would otherwise amount to prohibited acts under section 327 – 329 of the 2002 Act, to proceed.

The MLRO may receive appropriate consent from the NCA in the following ways:

- specific consent;

- no refusal of consent during the notice period (seven working days starting with the first working day after the MLRO makes the disclosure); or
- refusal of consent during the notice period but the moratorium period has expired (31 days starting with the day on which the MLRO receives notice of refusal of consent).

The MLRO commits a criminal offence under section 331 of the Act 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 this is not disclosed as soon as practicable to the NCA.

Relevant Guidance

When considering any offence under the legislation, the Court will consider whether you followed any relevant guidance approved by the Treasury, a supervisory authority, or any other appropriate body which includes, for example, the Law Society, the Financial Services Authority, the Institute of Chartered Accountants in England and Wales and other such bodies. Such guidance is available for lawyers, surveyors and accountants by their respective professional bodies.

HYNDBURN BOROUGH COUNCIL

ANTI MONEY LAUNDERING POLICY – PROCEDURE NOTES

These procedure notes give guidance on: -

- 1 Cash Handling & Receipting of Cash
- 2 Reporting Suspicions of Money Laundering to the MLRO
- 3 Consideration of Disclosure to NCA by the MLRO
- 4 Acceptable Customer/Client Identification
- 5 Record Keeping
- 6 Appointed Money Laundering Reporting Officer (MLRO) and Deputies

It is recognised that the procedure notes cannot cover every eventuality and should be used in conjunction with the Guidance Notes detailing the law and statutory obligations.

The provisions of the Act require that records are retained for at least 5 years, however, in some cases information must be kept for longer due to statutory requirements e.g. Income Receipting records – 6 years in accordance with HM Customs & Excise & HM Inland Revenue. Such differences are highlighted within the Procedure Notes as far as possible, but in the event that you are unsure please check before disposing of records.

In the event of a situation arising that you do not believe is explained by this policy, then you must discuss this in confidence with the MLRO and/or Hyndburn Borough Council's Legal Services.

At the end of these procedure notes you will find:-

- Checklist Flowchart to aid in decision process
- Verification of Customer ID Guidance & Form
- Appendix 1 – Report Template for Report to the MLRO
- Appendix 2 – List of Authorised Cash Handlers
- Guidance Note for Elected Members

Section 1

Cash Handling & Receipting of Cash

- 1.1 These cash handling and receipting of cash procedures are aimed at minimising the risk of potential money laundering activity.
- 1.2 Authorised cash handlers of the Council can accept an individual cash payment up to a maximum of **£1000 (approximately 1200 €)**. This is providing you are satisfied as to the validity of the transaction and you do not suspect potential money laundering activity. In the event you do suspect a potential money laundering offence you must report the facts to the MLRO prior to taking and receipting the cash. Details of the reporting procedure are contained in Section 2 of these guidance notes.
- 1.3 Amounts greater than **£1000 (approximately 1200 €)** will not be accepted in cash and will only be acceptable by cheque, debit or credit card or direct UK bank transfer.

- 1.4 If customers offer payment by a cheque drawn from an overseas bank, the best practice is to ask for payment electronically or by a cheque through a UK Clearing Bank.
- 1.5 All payments will be receipted using one of the Council's official methods for cash receipting e.g. electronic cash receipting system or official Hyndburn Borough Council written receipts on official Hyndburn Stationery. Such records must be maintained for a period of at least 6 years to provide an audit trail and adequate history of the transaction. The 6 year period is a statutory requirement in line with the requirements of HM Customs & Excise and the HM Inland Revenue.
- 1.6 Income will also be banked in the normal way according to the location where the income is received and recorded. For example, income will either be banked using the Security Firm contracted by the Council at that time for that purpose. Alternatively in some cases employees of the Council will pay in this income directly at the Council's bank following receipting.
- 1.7 Only Officers of the Council nominated as Official Cash Handlers under this policy, may process cash and other forms of income e.g. cheques. Due to the need for the list of nominated Official Cash Handlers to be updated as and when people change jobs or leave the Council, this list has been attached as Appendix 2 to this policy and guidance notes to enable easy updating.

Section 2

Reporting Suspicions of Money Laundering to the MLRO

- 2.1 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 sections 327 – 329 of the Act, you must disclose this as soon as practical to the MLRO. The disclosure should be within "hours" of the information coming to your attention, **NOT** weeks or months later. It is recognised that there may be circumstances where you can not report the suspicion immediately e.g. there is a long queue of customers. However, reporting your suspicion/concerns should be your first priority as soon as, in this example, the queue is cleared. **SHOULD YOU NOT DO SO, THEN YOU MAY BE LIABLE TO PROSECUTION.** You **MUST** report in confidence and in private. You must **NOT** 'tip off' anybody else or allow anybody else to see or hear what is happening. It is a secret between you and the MLRO. In the event that the MLRO is not available e.g. due to holiday, then you **MUST** report in confidence and in private to a Deputy Money Laundering Reporting Officer (DMLRO). The DMLRO is empowered to act in the absence of the MLRO and will liaise direct with the MLRO when it is appropriate.
- 2.2 Remember, if the matter is passed to NCA then they will want to be able to follow the trail of money laundering, so they need the chain of reports to be able to trace it from the beginning to the end.
- 2.3 Your disclosure should be made to the MLRO or a DMLRO in the MLRO's absence, using the pro-forma reporting form attached at Appendix 1. The report must include as much detail as possible. You should check **PRIOR** to sending the written report that the MLRO (or DMLRO) is NOT absent to prevent the report being left unattended for a period of time. If possible, you could telephone the MLRO (or

DMLRO) to inform them that a report is coming. The following list is given as examples of the type of information expected, but is not intended to cover all possible eventualities:-

- Full details of the people involved (including yourself, if relevant);
- 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 Act. Then your report must include all relevant details, as you will need consent from the NCA, via the MLRO, to take and further part in the transaction 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 activity involved:
 - If possible, cite the section number(s) under which the report is being made e.g. a principal money laundering offence under section 327 – 329 of the Act, or general reporting requirement under section 330 of the Act, or both;
- 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 – the NCA will require full reasons;
- Any other relevant available information to enable the MLRO to make a sound judgement as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable the MLRO to prepare a report to the NCA, where appropriate.

- 2.4 Once you have reported the matter to the MLRO you must follow any directions that may be given to you. **You must NOT make any further enquiries into the matter yourself.** Any investigation will be undertaken by the NCA. Your obligation is to report your suspicions to the MLRO who will refer it to NCA if it is appropriate.
- 2.5 All members of staff will co-operate with the MLRO and the authorities during any subsequent money laundering investigation.
- 2.6 You must not discuss the matter with your work colleagues or other people known to you as to whether you should report an issue to the MLRO, you must make up your own mind and then **ONLY** share this with the MLRO or DMLRO in the MLRO's absence.
- 2.7 Under no circumstances and at no time should you voice your concerns or suspicions to the person(s) you suspect of money laundering, even if the NCA has given consent for a particular transaction to proceed without the specific consent of the MLRO. Otherwise you may commit a criminal offence of "tipping off".
- 2.8 In the event that a customer demands to know what is going on or becomes irate, you must not even hint what the problem might be. When the MLRO and/or NCA give clearance, proceed with the matter as though nothing had happened.
- 2.9 You must **NOT** start trying to investigate the matter yourself as you may compromise any potential investigation and you could inadvertently 'tip off' the

person(s) you are suspicious about. This in turn could lead to you being prosecuted.

- 2.10 Doing nothing or ignoring the problem is **NOT** an option. You are duty bound to report any suspected potential money laundering issue to the MLRO or DMLRO in the MLRO's absence.

Section 3

Consideration of Disclosure to NCA by the MLRO

- 3.1 Upon receipt of a disclosure report, the MLRO must note the date of the receipt on the appropriate section of the report and acknowledge receipt of it. The MLRO should also advise you of the timescale within which it is expected to respond to you.
- 3.2 The MLRO will consider the report and any other available internal information considered relevant e.g.:
- reviewing other 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;
 - and undertake such reasonable inquiries it is thought appropriate in order to ensure that all available information is taken into account in deciding whether to report to NCA is required.
- 3.3 Such enquiries must be made in such a way as to avoid any appearance of tipping off those involved. The MLRO may also need to discuss the report with the person who made it.
- 3.4 Once the MLRO has evaluated the disclosure report and any other relevant information, a timely determination must be made as to 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 consent needs to be sought from NCA for a particular transaction to proceed.
- 3.5 If the MLRO concludes the matter must be disclosed to the NCA, then it must be done as soon as practicable i.e. within hours rather than weeks or months. The disclosure must be on NCA's standard report form and in the prescribed manner, unless there is a reasonable excuse for non-disclosure to NCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).
- 3.6 If the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then the MLRO must note the report accordingly. The MLRO can then immediately give consent for any imminent transactions to proceed.
- 3.7 In cases where legal professional privilege may apply, the MLRO must liaise with the Head of Legal Services to decide whether there is a reasonable excuse for not reporting the matter to NCA.

- 3.8 Where consent is required from NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed or proceed until the NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the NCA.
- 3.9 If the NCA gives express consent to the MLRO (or DMLRO) within 7 clear working days (not counting the day the disclosure is made) then the MLRO will instruct that you proceed normally with business. If consent is refused within 7 clear working days the MLRO will advise you that you must refuse to continue with the transaction. NCA can notify the MLRO within 7 clear working days that they are extending the time for a decision by 31 days, during that extension the MLRO will advise that you must do nothing with that transaction. If the NCA does this, they will be happy to discuss ways and means of explaining the delay to your business partner or customer with the MLRO. In the event that the MLRO hears nothing (consent, refusal or request for extension) within 7 clear working days the NCA are deemed to have consented to the transaction being completed and the MLRO will advise you of this.
- 3.10 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then the report will be marked accordingly and consent given by the MLRO for any ongoing or imminent transaction(s) to proceed.
- 3.11 All disclosure reports referred to the MLRO and reports made by the MLRO to NCA must be retained by the MLRO in a separate, confidential file kept for that purpose, for a minimum of five years.
- 3.12 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 it is not disclosed as soon as practicable to the NCA, i.e. within hours rather than weeks or months.
- 3.13 Doing nothing or ignoring the problem is **NOT** an option. The MLRO is duty bound to investigate an obvious potential money laundering issue that is reported.

Section 4 **Non-Council Organisation Identification**

- 4.1 Where the Council is carrying out “relevant business” e.g. Accountancy, Audit, Estates Work and some Legal Services and;
- a.) forms an ongoing business relationship with an organisation or individual; or
 - b.) undertakes a one-off transaction involving payment by the organisation/individual of a maximum of **£1,000 in cash (approximately 1,200 €)**; or
 - c.) undertakes a one-off transaction involving payment by or to the organisation/individual of 15,000 € (approximately £12,500) or more; or
 - d.) undertakes a series of linked one-off transactions involving total payment by or the organisation/individual of 15,000 € (approximately £12,500) or more; or

- e.) it is known or suspected that a one-off transaction (or series of them) involves money laundering;

Then this Non-Council Organisation Identification Procedure must be followed **BEFORE** any business is undertaken for that customer/client. **Please note that unlike the reporting procedure, the identification procedure IS restricted to those operating relevant business, i.e. Financial Services, Legal Services, Auctioneers and Valuers.**

- 4.2 In the above circumstances, staff in the relevant unit of the Council must obtain satisfactory evidence of the identity of the prospective client, as soon as practicable after instructions are received (unless evidence of the client has already been obtained). This applies to existing organisations/individuals as well as new ones, but identification evidence is not required for matters entered into/commenced prior to 1st March 2004.
- 4.3 Generally, we know most organisations/individuals conducting relevant business for the Council. We are not in private practice and are therefore subject to public sector controls. We are not large, city firms of lawyers and accountants, with international client bases.
- 4.4 A clear trail of events is key. Cheques whether large or small are easily traceable through the banking system providing they come in from UK clearing banks. Therefore a cheque for £100,000 from a known company on a UK clearing bank cheque is traceable as where a customer paying **£1,000 in cash** for a debt is not necessarily traceable.

Known Organisations/Individuals

- 4.5 Written instructions on headed paper should enable to us to have confidence in accepting instructions from a known client.

New Organisations/Individuals

- 4.6 If you are undertaking work on behalf of a new organisation/individual, then you may also wish to seek additional evidence, e.g.:
- checking the organisation's website to confirm the business address;
 - asking the key contact to provide evidence of their personal identity and position within the organisation; for example signed, written confirmation from their Head of Service or Chair of the relevant organisation.
 - If you are dealing with an individual you may ask for sight of their passport and one recent utility bill and keep photocopies on the file.
 - For limited companies you could request a copy of the last accounts and Certificate of Incorporation and for a new company, the passport details of two directors for example.
- 4.7 In all cases the evidence should be retained for 5 years from the end of the business relationship or one-off transaction(s).
- 4.8 If you are not satisfied with the evidence of identity at the outset of the matter, then the business relationship or one off transaction(s) can not proceed any further.

Section 5

Record Keeping

- 5.1 Record Keeping is split into 2 sections:-
- a.) General Record Keeping
 - b.) Suspected Money Laundering Issues - Record Keeping

General Record Keeping

- 5.2 Each Service of the Council that conducts 'relevant business' **MUST** maintain records of:-
- identification evidence obtained relating to organisations/individuals; and
 - details of all relevant business transaction carried out for the organisation/individual
- 5.3 These records must be kept for at least 5 years. However, you should refer to the Council's Retention & Disposal of Documents Schedule to ensure that you are not statutorily bound to keep the information for longer than the 5 years stipulated by the Act. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.
- 5.4 Law does not prescribe the precise nature of the records. However, they must be capable of providing an audit trail during any subsequent investigation, for example distinguishing the customer/client and the relevant transaction and recording in what form any funds were received or paid. In practice, Council services should be routinely making such records of work carried out customers/clients in the course of normal business.

Suspected Money-Laundering Issues - Record Keeping

- 5.5 All disclosure reports referred to the MLRO and reports made by the MLRO to NCA **MUST** be retained by the MLRO in a separate confidential file kept purely for that purpose. These reports **MUST** be kept for a minimum of 5 years.
- 5.6 In the event that a referral is dealt with by a deputy MLRO (DMLRO) due to the unavoidable absence of the MLRO e.g. through holiday or sickness, then the DMLRO must act in accordance with policy in terms of notification. The DMLRO must also keep the reports safe until the return of the MLRO.
- 5.7 Upon the return to work of the MLRO, the DMLRO should arrange to meet with the MLRO at the earliest opportunity to brief the MLRO of what has happened and also pass the reports to the MLRO to be retained with all other such reports as described above.

Section 6

Appointed MLRO & Deputy MLROs

6.1 Hyndburn Borough Council's Appointed MLRO is:-

Mark Beard
Head of Audit & Investigations
Town Hall
Broadway Offices
Accrington
Lancashire
BB5 1LA

Telephone: 01254 380634
Internal Extension: 2634
E-Mail: mark.beard@hyndburnbc.gov.uk

6.2 In addition there are 2 appointed Deputy MLROs:-

Jane Ellis
Executive Director
Scaitcliffe House
Ormerod Street
Accrington
Lancashire
BB5 0PF

Telephone: 01254 380146
Internal Extension: 2146
E-Mail: jane.ellis@hyndburnbc.gov.uk

Kirsten Burnett
Head of Organisational Development and Policy
Scaitcliffe House
Ormerod Street
Accrington
Lancashire
BB5 0PF

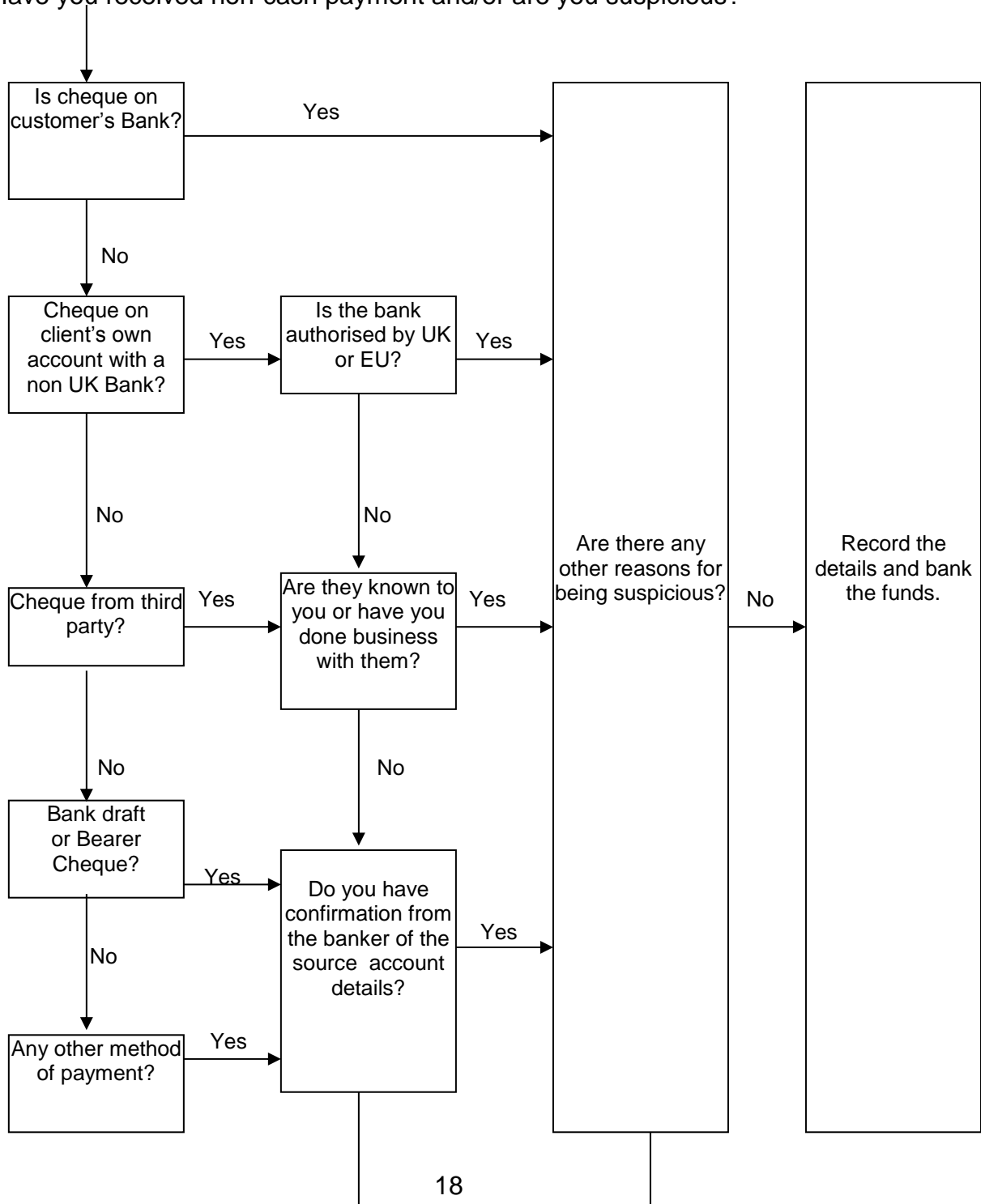
Telephone: 01254 380694
Internal Extension: 2694
E-Mail: kirsten.burnett@hyndburnbc.gov.uk

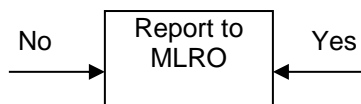
MONEY LAUNDERING CHECKLIST flowchart

- 1 Cash Payment - are you suspicious of a cash payment up to a maximum cash of **£1,000**? Do money laundering checks and verification procedures.

Where the payment exceeds €15,000 (approx. £12,500) whether by cheque or any other method of payment, checks etc are MANDATORY.

- 2 Have you received non-cash payment and/or are you suspicious?





VERIFICATION OF ORGANISATION/INDIVIDUAL IDENTITY

Verification of Organisation/Individual Identity Checklist for client:

Name: _____

NB: If you are receiving funds from a new Organisation/Individual in any transaction up to **£1,000** cash or above £12,500 (15,000 €) if another payment method, the identity of the customer must be checked. Otherwise, any suspicions will require you to go through this verification process for whatever level of transaction in any event. If there is still a problem, report to MLRO.

A. Evidence not obtained – reasons:

1. Customer previous identified in: Month _____ Year _____
(but not required if a consistent and regular 'customer' since prior to 1992)
2. Other – state reason fully _____

B. Evidence obtained to verify name and address:

(a) OK on their own

- Full national passport ▶
- Full national driving licence with photo ▶
- Pension book ▶
- Armed Forces ID Card ▶
- Signed ID Card of employer known to you ▶

(b) OK with two of next group below

- Young person NI card (under 18 only) ▶
- Pensioner's travel pass ▶
- Building Society passbook ▶
- Credit Reference agency search ▶
- National ID Card ▶
- Copy Company Certificate of Incorporation if a limited company and 2 Directors personal identify as above ▶

(c) NB NOT suitable on their own

- Gas, electricity, telephone bill ▶
- Mortgage statement ▶
- Council tax demand ▶

- Bank/Building Society/credit card statement ▶
- Young persons medical card (under 18 only) ▶
- Home visit to applicants address* ▶
- Check of telephone directory* ▶
- Check voters roll* ▶
- *Suitable for proof of address only ▶

NB BEST PRACTICE is to have one of Group (a) plus two of Group (c)

C. Evidence obtained for unquoted company or partnership:

- Certificate of Incorporation or equivalentent ▶
- Certificate of Trade or equivalent ▶
- Latest report and audited accounts ▶
- Principal shareholder/partner) *NB Personal* ▶
- Principal director) *ID* ▶

D. Disadvantaged Customers:

eg Written Confirmation of identity from Social Worker or Bail Officer, Police, School, Courts etc ▶

E. If evidence not obtained for the reasons in A, do you have any suspicions regarding identity? _____

I confirm that I have seen the originals of the documents indicated above and have identified the above Customer(s)

Signed _____ **Date** _____

NB Wherever possible TAKE PHOTOCOPIES of the identification evidence and PUT ON FILE.

CONFIDENTIAL

**REPORT TO MONEY LAUNDERING REPORTING OFFICER
re Money Laundering Activity**

To: Money Laundering Reporting Officer

From:
[insert name of employee]

Directorate:
[insert post title and Business Unit]

Ext/Tel No:.....

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]

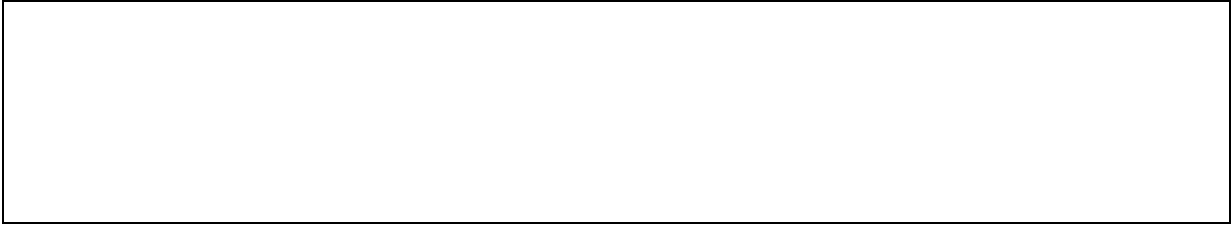
Nature, value and timing of activity involved:
[Please include full details eg what, when, where, how. Continue on a separate sheet if necessary]

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)? Yes No
[Please tick the relevant box]

If yes, please include details below:



Have you discussed your suspicions with anyone else?)? Yes No
[Please tick the relevant box]

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

Have you consulted any supervisory body guidance re money laundering? (e.g. the Law Society) Yes No
[Please tick the relevant box]

If yes, please specify below:

Do you feel you have a reasonable excuse for not disclosing the matter to the NCA? (E.g. are you a lawyer and wish to claim legal professional privilege?) Yes No
[Please tick the relevant box]

If yes, please set out full details below:

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 NCA?
[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 else and especially 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 NCA?

Yes No

[Please tick the relevant box]

If yes, please confirm date of report to NCA:
and complete the box below:

Details of liaison with the NCA regarding the report:

Notice Period: to

Moratorium Period: to

Is consent required from the NCA to any on-going or imminent transactions which would otherwise be prohibited acts?

Yes No

[Please tick relevant box]

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

Date consent received from NCA:

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 the NCA, 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

ANTI-MONEY LAUNDERING POLICY AND PROCEDURES**AUTHORISED OFFICERS FOR CASH HANDLING / COLLECTION & RECEIPTING**

Only the following Officers of the Council are authorised to accept cash (and other forms of income e.g. cheque and credit/debit transactions) at the various locations around Hyndburn Borough Council, in accordance with the provisions of the Anti-Money Laundering Policy & Procedures.

Surname	Forename	Department / Location
Ashworth	Lorraine	Planning
Bilham	Karina	Legal Support Officer
Bullock	Peter	Legal & Democratic Services
Dean	Trevor	Parks & Open Spaces Income
Duckett	Eileen	Secretariat
Earnshaw	Jayne	Administration
Ellis	Jane	Legal & Democratic Services
Foote	Lyndsay	Customer Services
Gregory	Karen	Administration
Harker	Suzanne	ICT
Haworth	Janine	Planning
Hollister	Laura	Licensing
Jack	Tom	Community Services
Jassat	Farook	Customer Services
Lambert	Gillian	Parks & Open Spaces Income
Marsden	Stephen	Parks & Open Spaces Income
Martin	Amanda	Accountancy
Mason	Gordon	Parks & Open Spaces Income
McCann	Lisa	Administration
Middlehurst	Lee	Benefits, Revenues & Customer Contact
Nichols	Anthony	Parks & Open Spaces Income
Palmer	Julie	Administration
Preston	Nichola	Community Services
Robinson	Stuart	Community Services
Russell	Jennifer	Legal & Democratic Services
Trickett	Carol	Strategic Housing
Westwell	Karen	Licensing Administration
Yates	Chris	Customer Services
Yates	Louise	Building Control

#

HBC/MEMB-1

ANTI MONEY LAUNDERING POLICY AND PROCEDURES

GUIDANCE NOTE FOR COUNCILLORS

Myth

The Anti Money Laundering provisions only apply to multi-million pound drug dealers and the Mafia.

Reality

The Proceeds of Crime Act 2002 (POCA)) have the gravest implications for all of us. There is NO upper or lower limit to the amounts relevant to POCA .

This legislation stems from EU Directives requiring member states to prohibit money laundering and to oblige institutions to identify their customers, keep appropriate records, train staff and report suspicious activities to the authorities. The purpose is clear - to stop major criminals profiting from the proceeds of crime, not only in terrorist and drug dealing areas of activity.

Part 7 POCA 2002 Sections 327-329 make it a criminal offence to conceal, disguise, convert or transfer criminal property derived from the benefit of a crime. Criminal conduct is defined in a very wide manner. POCA and MLR applies therefore not only to terrorist and drug dealing offences, but also, for example, to benefit frauds, tax evasion or even fiddling expenses claims or the knowledge thereof by a third and innocent party.

POCA applies to all UK citizens and legal entities, and therefore to local authorities as a body, its employees and Members. It is not only 'those who assist in the disposal of criminal property', but also by those who 'become concerned in an arrangement' including the gaining of knowledge thereof. A wide interpretation has to be given to the legislation.

Example

If two Councillors are driving together to a meeting, and the driver exceeds the speed limit. The passenger has no liability for that.

If, however, the driver deliberately fiddles the expenses claim for the journey and the passenger either knows of it and fails to report it, or connives in it, then that is a money laundering offence by both of them.

Scenario

A child abuse case conference decides to assist in a placement of the child with an aunt. The aunt however needs assistance to look after the child two days a week because she has 'a little job to bring a little extra in for the family'. The care professionals arrange nursery facilities for these two days. Whilst there may be perfectly legitimate reasons, it is also possible in the example for this to be a job not declared for either benefit or tax purposes. If such is the case, the aunt would be committing a criminal offence or offences. The care professionals and their employing bodies might also be regarded as committing the facilitation offence under POCA S328.

“Tipping Off”

POCA provides for a defence where disclosures are made to the appropriate authority. Importantly, however, it also makes it a crime to “tip off” the ‘criminal’ that a disclosure is to be made. The purpose is to enable the authorities to take action to secure the proceeds or to investigate before the criminal moves the funds and to ‘watch where the money goes’ so that they can pounce on the chain of criminal activity (end to end) when the time is right. Therefore careless talk could cost an imprisonment. The idea is to report the suspect activity to a Money Laundering Reporting Officer, but otherwise keep as silent as the grave and treat the information given to the MLRO as though given in a confessional. The problem is then passed on to MLRO, who decides whether to report to the National Crime Agency (NCA) or not.

Scenario Extended

One of the care professionals or a Councillor has a good relationship with the aunt and suggests that it would be best to stop working as there may need to be a disclosure report to the NCA and/or the Inland Revenue. That care professional/Councillor is then liable to an unlimited fine and up to five years imprisonment for ‘tipping off’. The employing body, at the very least, is at grave reputational risk!

Members will appreciate the possibility, say, of information coming to them at a Councillor’s Surgery or as a result of involvement in Planning, Housing Benefit or in many other scenarios to do with Housing or other matters, so must be aware of the potential risks of the anti money laundering processes.

The Money Laundering Regulations 2003 have now been replaced by the Money Laundering Regulations 2007 which do not apply to the Council. However the requirements of the regulations have been used as a guide in the preparation of the Council’s internal anti money laundering policy. This policy includes procedures:

- To install internal systems of control and reporting
- To keep records for at least five years
- To train the staff in those sectors in how to recognise and deal with transactions which may be related to money laundering
- To appoint a nominated officer(s) to whom staff and Members may make confidential disclosures

What to do

It would seem that most local authority staff and Councillors will only need a low level of awareness training, whilst staff in the particular areas of activity mentioned need to be constantly ‘on their guard’. We are all obliged to act on a ‘reasonable suspicion’. Turning a blind eye and doing nothing is not an option and is liable to end up with you being prosecuted under the act with the possibility of a prison sentence in addition to a fine.

Policy and Procedures

Please refer to the Council approved Policy and Procedures for more detailed information as may be necessary or consult the Money Laundering Reporting Officer (the Head of Audit & Investigations Ext 2634), or the Deputy Money Laundering Officer (ext 2299)

Effect on Local Authority Members

The POCA provisions apply to elected Members as well as others. Advice in Ward Surgeries may be the subject of investigation (how often are Councillors the focus of complaints from a disappointed constituent, e.g. "I told Councillor X about the (what turns out to be a benefit fiddle or whatever) and he/she said I should ..."). This possibility also links through to the Standards Board for England regarding complaints.

Conclusion

Local Government needs to be aware of these Statutory Obligations. At worst senior Members and officers may be committing offences through inaction, albeit unwittingly. At best a Council caught up in a money laundering investigation will suffer severe reputational damage.

Training will be given to Members as necessary in this subject on an ongoing basis.