

<b>[REPORT TO:</b>		Annual General Meeting	
<b>DATE:</b>		28th May 2026	
<b>PORTFOLIO:</b>		Leader of the Council	
<b>REPORT AUTHOR:</b>		Executive Director (Legal & Democratic Services)	
<b>TITLE OF REPORT:</b>		Annual Constitution Review	
<b>EXEMPT REPORT:</b>	<b>No</b>		
<b>KEY DECISION:</b>	<b>No</b>	If yes, date of publication:	

### 1. **Purpose of Report**

- 1.1 To propose a number of updates to the Council's written constitution following the annual review of the same.

### 2. **Recommendations**

- 2.1 That Council notes that training will be arranged for all members of the Planning, Licensing and Judicial Committees in respect of their respective code of practice as soon as possible in the new municipal year and requires all members of those Committees to attend training prior to serving on the relevant Committee in the new municipal year;
- 2.2 The Council agrees to review and update the member officer relations protocol and requests that a further report be presented to Council as soon as possible in respect of the same, following consultation with the Leaders Policy Board in respect of the updated protocol;
- 2.3 That Council approves the updated Anti-fraud And Corruption Policy attached at Appendix 1 to this report;
- 2.4 That Council approves the updated Anti-Money Laundering Policy attached as Appendix 2 to this report;

### 3. **Reasons for Recommendations and Background**

3.1 The Council is required by law to have a written constitution. The Council's written constitution is reviewed regularly, and a copy of the constitution is available on the Council's website. The constitution sets out the following:

- the terms of reference and size of each committee and working group;
- the rules that apply to Council meetings (e.g. re quorum, motions, ways of voting, length of speeches etc);
- the rules that apply to Cabinet meetings
- the rules that apply to overview and scrutiny committee's (e.g. call-in of Cabinet decisions, appointment of co-optees, formation of annual work programme, calling officers and members to give account);
- the Council's code of conduct for councillors, plus the code of conduct for members of the Planning Committee and Licensing Committee, and the member / officer relations protocol;
- the rules relating to procurement by the Council (i.e. the purchase of works, goods and services), the Council's financial procedures and the rules relating to access to meetings, reports and background papers.

3.2 A review of the constitution is undertaken annually to:

- (i) ensure the constitution accurately reflects the Council's political management arrangements; and
- (ii) ensure the constitution reflects changes to the law, staffing structures and best practice guidance;

### **Member Training**

3.3 Members will shortly be offered training on the Council's decision-making processes. This will cover constitutional requirements (such as the rules for voting, motions, call-in etc), as well as legal requirements for sound and lawful decision making. This training is especially useful for newly or recently elected councillors.

3.4 Officers will also offer training to any newly appointed committee chairs and vice chairs, to assist them in their new role.

3.5 Local authorities are recommended, as a matter of good practice, to supplement their member code of conduct with specific codes of practice to assist councillors involved in the planning and licensing processes. These are complex areas, involving quasi-judicial decision-making and where there is a real risk of legal challenge, whether on appeal or via judicial review. The Council's Planning and Licensing codes of practice are designed to give members guidance about dealing with the difficult issues that can arise – such as conflicts of interest, dealing with applicants, possible bias and predetermination etc. In accordance with the Council's Member Development Strategy 2020-2027, councillors sitting on the Planning, Licensing and Judicial Committees are required to have

undergone training each year before they serve on their respective Committees and take part in decision making. It is therefore intended that all members serving on the Planning, Licensing and Judicial Committees will receive training in respect of their respective code of practice as soon as possible in the new municipal year. These sessions will be as short and informal as possible and will be delivered by Legal Services staff and their Planning and Licensing colleagues at no additional cost to the Council.

**Updated policies re fraud, corruption and money laundering**

3.6 Minor amendments have been made to the Anti-Fraud, Corruption and Bribery Policy. These principally relate to the appointment of a new external audit partner for the Council. The substance of the policy remains the same.

Similarly, minor changes have been made to the Anti-Money Laundering Policy and Guidance Notes. The changes principally relate to changes in personnel and job roles with the Council since the policy was last updated. The substance of the policy remains the same.

**Member Officer Relations Protocol**

3.7 This policy has not been reviewed or updated for some years, and has become out of date. An updated version has been prepared, although best practice suggests that members are consulted about the draft before it is presented to Council for approval.

**4. Alternative Options considered and Reasons for Rejection**

4.1 None, although members could chose to reject any of the proposed amendments and retain the current version of these documents whilst the proposed amendments are reconsidered.

**5. Consultations**

5.1 None

**6. Implications**

<b>Financial implications (including mainstreaming)</b>	None.
<b>Legal and human rights implications</b>	None. However, it is part of good governance to keep the constitution under regular review and up to date.
<b>Assessment of risk</b>	None

<b>Equality and diversity implications</b> <i>A <a href="#">Customer First Analysis</a> should be completed in relation to policy decisions and should be attached as an appendix to the report.</i>	None identified.

**7. Local Government (Access to Information) Act 1985:  
List of Background Papers**

None

**8. Freedom of Information**

- 8.1 The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.



# Anti-Fraud & Corruption and Bribery Policy

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Policy and Guidance Document

Policy Version: **12**  
Revised: **March 2026**  
Checked / Reviewed: **March 2026**

Last Policy Approval: Council AGM – May 2026

## **POLICY STATEMENT**

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Hyndburn Borough Council is committed to ensuring that quality services are developed and delivered for the benefit of the Community of Hyndburn.

To assist in this goal, the Council will take all necessary steps to ensure that the public's assets and interests are protected. The public is entitled to expect conduct of the highest standards from members and employees of the Council. The Council therefore recognises the need for the highest standards of probity in dealing with public money and expects its members and employees to demonstrate the highest standards of integrity at all times.

The Council will:-

- promote a fair, equitable and honest approach to service delivery with those providing and receiving those services;
- actively seek out instances of fraudulent and corrupt practices and pursue the perpetrators to the full extent of the Law;
- encourage people with concerns about potential fraud & corruption to inform the Council of their suspicions;
- treat complaints of potential fraud & corruption or bribery fairly and equitably; and
- regularly review its own procedures to ensure they offer effective protection of the Council's interests and reputation.

The Council expects that individuals and organisations (e.g. suppliers, contractors and service providers) that it deals with will act with integrity and without thought or actions involving fraud & corruption or bribery. Where relevant, the Council will include appropriate clauses in its contracts about the consequences of fraud & corruption or bribery and evidence of such acts are most likely to lead to the termination of the particular contract and may lead to prosecution.

## **AIMS OF THE POLICY**

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In order to achieve the aims in the policy it is necessary to develop a robust approach on fraud & corruption or bribery and how the Council will react to it. This will encourage an anti-fraud culture throughout the authority. This policy sets out the various measures that have been put in place to combat fraud & corruption and bribery.

This policy should also be read in conjunction with the Council's Criminal Facilitation of Tax Evasion (CFTE) Policy. Bribery is often something which can be associated with Fraud & Corruption.

Fraud & corruption or bribery cannot be dealt with in isolation and the Council will work with the police and other external agencies in order to investigate and prosecute cases of fraud or corruption and bribery.

Fraud and corruption can be defined as follows: -

- **FRAUD** is the intentional distortion of financial statements or other records by persons internal or external to the organisation which is carried out to conceal the misappropriation of assets or otherwise for gain.
- **CORRUPTION** is the offering, giving, soliciting or acceptance of an inducement or reward that may improperly influence the action of any person.

This Policy applies to elected members, co-opted members of committees and all officers (full time, part time, temporary and casual) who work for the Council. The term 'officer' includes all types of employees of the Council.

## **BRIBERY**

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As part of the culture of Anti-Fraud & Corruption it is necessary to consider the implications of bribery as this is closely linked to the pursuit of a culture which is against both Fraud and Corruption. Bribery falls within the Bribery Act 2010.

Bribery applies to all employees, whether permanent, temporary, agency, fixed term contracts, paid or unpaid. It also applies to all elected Members and to all contractors, organisations who do business with the Council and partner agencies/organisations. The general public can also be included especially where they attempt to bribe a Council employee or Elected Member.

It is necessary to be aware of how, when and what constitutes bribery. The 2 sections of the Bribery Act 2010 shown below detail some key points and potential offences that could arise:-

### **SECTION 1 – OFFENCES OF BRIBING ANOTHER PERSON**

Someone who offers, promises or gives financial or another advantage to another and intends the advantage to:

- i.) induce a person to perform improperly a relevant function or activity or
- ii.) rewards a person for such improper performance of such function or activity

## SECTION 2 – OFFENCES RELATING TO BEING BRIBED

Someone who agrees to or accepts a financial or other advantage intending that as a consequence, a relevant function or activity should be performed improperly.

In both sections 1 and 2 the offence still occurs even if the person who performs the improper function or activity is not the person who received the bribe. This could occur if a senior officer was the person who was bribed and then they instructed a more junior member of staff to carry out a function or activity in a specific way which was in connection with the bribe. The junior member of staff could also commit an offence if it can be proven they knew what they were doing was wrong.

Allegations of bribery are treated very seriously by the Council and will be investigated and dealt with in accordance with Council policies and where evidence exists in accordance with the relevant legislation applicable at that time.

### **What to do if you suspect bribery**

If you believe that bribery is or has taken place **DO NOT** try investigating the issue yourself as your actions could result in the collapse of a case and could also result in you getting into trouble.

#### **Employees:-**

If you work for the council then you should immediately inform any of the people listed in the “Raising Concerns” section of this Policy on page 11.

#### **Elected Members:-**

If you are an Elected Member you should immediately inform the Monitoring Officer, who is also the Executive Director (Legal & Democratic Services) on 01254 380146. If the Monitoring Officer is not available then you should contact one of the other people listed in the “Raising Concerns” section of this Policy on page 11.

#### **Contractors / Partners / Members of the Public:-**

If you are a contractor, partner organisation with the Council or a Member of the Public **DO NOT** try and investigate the issue yourself. Please contact one of the people listed in the “Raising Concerns” section of this Policy on page 11.

## CORPORATE FRAMEWORK

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The Corporate Framework supports Anti-Fraud & Corruption through a whole range of high level component parts, some of the key ones include: -

- Anti-Fraud & Corruption and Bribery Policy that emphasises the importance of probity to all concerned
- Criminal Facilitation of Tax Evasion (CFTE) Policy
- Codes of conduct for Members and Officers
- Whistleblowing Policy
- Anti-Money Laundering & Proceeds of Crime Policy
- Complaints Procedure
- Council Constitution & associated rules and regulations
- Sound internal control systems, procedures and reliable records
- Effective internal audit
- Effective recruitment procedures
- Council's Disciplinary Procedure
- Induction and training
- IT Security Policy
- Gifts & Hospitality Registers for Officers and Members
- Members Register of Interests

## PREVENTION & DETERRENCE

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Within the overall Corporate Framework there are a number of key people and measures which can help in the prevention of fraud and corruption:-

- Officers of the Council
- Members
- Internal Control Systems
- Combining with others to prevent and fight fraud

### Officers of the Council

A key preventative measure in the fight against fraud and corruption is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential officers, in terms of their propriety and integrity. In this regard, temporary staff should be treated in the same manner as permanent officers.

Written references should be obtained with specific assurances regarding the known honesty and integrity of potential officers before formal employment offers are made.

All officers must abide by the Council's Code of Conduct for Employees, which sets out the Council's requirement on personal conduct. This Code is issued with the Employee Handbook and is referred to in all Contracts of Employment. Officers of the Council are

expected to follow any code of conduct related to their personal Professional Institute or other governing body, where the employee is a member of such an Institute.

Breaches of the Code of Conduct are likely to be subject to the Council's Disciplinary Procedures and may result in dismissal.

The Executive Director (Legal & Democratic Services) is the appointed Monitoring Officer and in that capacity has overall responsibility for the maintenance and operation of the Authority's Whistleblowing policy.

## **Members**

Members are required to operate within:-

- The Council's Code of Conduct for Members
- The Council's Member / Officer Relations Protocol (also applies to Officers)
- The Council's codes of conduct for the Planning Committee and Judicial Committee
- Sections 94-96 of the Local Government Act 1972
- The Council's Constitution (also applies to Officers)

These matters together with other guidance are brought to the attention of members as part of their induction programme. Specific training is given at the annual induction day and at annual code of conduct training sessions.

The Council has in place a Standards Committee, which promotes and maintains high standards of member conduct and assists members to observe the code of conduct.

## **Internal Control Systems**

The Council has a Constitution, which includes various rules and codes of conduct, which require officers to act in accordance with best practice when dealing with the Council's affairs, including:-

- Employee Code of Conduct
- Member / Officer Relations Protocol
- Anti-Money Laundering & Proceeds of Crime Policy

The Deputy Chief Executive has a statutory responsibility under Section 151 of Local Government Act 1972 to ensure that proper arrangements are made for the Council's financial affairs. This includes: -

- Measures to enable the prevention and detection of inaccuracies and fraud;
- Identification of the duties of officers dealing with financial transactions and the separation of duties of those officers in relation to significant transactions

The latter requirement is a key control in the prevention of impropriety.

The Council's aim is to have sound financial systems and procedures, which incorporate efficient and effective internal controls. As part of this, the 'separation of duties' should be considered as a fundamental control in systems especially where significant transactions are involved.

The Council has an obligation to ensure adequate controls are in place in order to comply with the S.151 responsibilities attributed to the Deputy Chief Executive in accordance with the Local Government Finance Act 1972. The existence, appropriateness, and effectiveness of these internal controls is independently monitored and reported upon by the Council's Internal Audit Section. The Council also has an Audit Committee, which plays a key role in the monitoring of the Council's controls and risks with particular emphasis on the effectiveness of these controls.

### **Combining with Others to Prevent and Fight Fraud**

The Council is committed to exchanging information with other local and national agencies in order to identify and prevent fraud using data matching techniques. Such activity is carried out in full compliance of the Data Protection Act 2018, General Data Protection Regulation (GDPR), Code of Data Matching Practice for National Fraud Initiative Data Matching Exercises as directed by the Local Audit & Accountability Act 2014 and any other such data matching exercises as necessary in accordance with the law / relevant legislation. Any employee found to be perpetrating a fraud on another local or national agency is likely to face disciplinary action where this has implications for the Council's trust and confidence in the employee. In certain cases disciplinary action could lead to dismissal.

With the rapid increase in recent years of frauds perpetrated against a variety of local authorities and benefits agencies, which usually involve fraudsters having multiple identities and addresses or using malicious software / hacked and stolen data to perpetrate a fraud, the necessity for liaison with other organisations has become paramount and some of these include: -

- Police
- External Auditors
- National Fraud Initiative
- National Anti-Fraud Network (NAFN)
- Action Fraud UK (Part of the National Fraud Investigation Bureau operated by City of London Police)
- Department for Work & Pensions
- Other Government agencies and public bodies

There are a number of ways to deter potential fraudsters from committing or attempting fraudulent, bribery or corrupt acts, whether they are inside or outside the Council. These include:-

- Publicising the fact that the Council is firmly set against fraud and corruption and states this at every opportunity e.g. clauses in contracts, statements on benefit claim forms, statements on forms that request personal data, publications etc.;
- Acting robustly and decisively when fraud, bribery and corruption are suspected and proven e.g. termination of contracts, dismissal, prosecution etc.;
- Taking action to effect the maximum recoveries for the Council e.g. through agreement, court action, penalties, insurance etc.;
- Having sound internal control systems that still allow for innovation but at the same time does not provide the opportunity for fraud, bribery and corruption.

## DETECTION & INVESTIGATION

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It is the responsibility of all the Council's Management to prevent and detect fraud, corruption and bribery.

In addition, Internal Audit and External Audit will liaise closely and implement an annual programme of audits that will test for fraud and corruption. However, despite the best efforts of managers and auditors, many frauds are discovered by chance or "tip off". It is often the alertness of employees and the public that enables detection to occur.

The Council's Anti-Fraud & Corruption and Bribery Policy provides officers and members with a clear path for raising concerns and facilitating "tip offs", and the fraud response arrangements outlined in this Policy, enable such information or allegations to be properly dealt with. The Council's Whistleblowing Policy also gives advice on how to raise a concern and the safeguards and support that are available to those who raise concerns.

Where an officer, Member, contractor or a member of the public has belief that a fraud is or has been committed, or that corruption is or has taken, or that bribery has place then they **MUST NEVER** attempt to investigate the situation no matter how easy it may seem. Such 'unofficial' investigations are likely to render the evidence unusable within the Council's disciplinary procedures or inadmissible in court due to it being gathered outside the procedures laid down by the Police & Criminal Evidence Act 1984 and Regulation of Investigatory Powers Act 2000 if unauthorised directed surveillance has taken place. It could also leave the Council open to criticism and in some cases potential legal proceedings could be made against the Council and / or the person who carried out the 'unofficial' investigation.

Council employees who are authorised to carry out investigations are bound by various Council policies, acts of law and are trained to carry out such investigations.

Senior management are responsible for following up any allegation of fraud, corruption or bribery that they receive and are required to inform the Internal Audit Section of **all** suspected irregularities, irrespective of whether they are ultimately proven. Internal Audit **must** be informed to ensure that procedures and controls can be re-assessed to ensure further similar irregularities should not arise.

The investigating officer will: -

- Deal promptly with the matter
- Record all evidence that has been received
- Ensure that evidence is sound and adequately supported
- Make secure all of the evidence that has been collected
- Carry out internal investigations of the allegation(s) to determine whether there is prime facie evidence of fraud and if so whether this requires the involvement of external agencies as part of that investigation
- Where appropriate, contact other agencies e.g. Police
- When appropriate, arrange for the notification of the Council's insurers
- Report to senior management, and where appropriate, present management with a report to allow consideration of whether to take disciplinary action in accordance with the Council's Disciplinary Policy and procedures
- Seek advice and assistance from Internal Audit and Legal & Democratic Services, also Human Resources if employees are potentially involved

Reporting suspected irregularities is essential to the Anti-Fraud & Corruption and Bribery Policy and ensures:-

- Consistent treatment of information regarding fraud, corruption and bribery
- Proper investigation by an independent and experienced Internal Audit Team or other person(s) authorised to carry out such investigations
- The optimum protection of the Council's interests

Depending on the nature and anticipated extent of the allegations, Internal Audit will normally work closely with management, the Human Resources Section, and Legal Services etc. and if or when necessary other agencies, such as the Police or External Audit. This is to ensure that all allegations and evidence are properly investigated and reported upon, and where appropriate, maximum recoveries are made for the Council.

The Council's disciplinary procedures will be used where the outcome of the Audit Investigation indicates improper behaviour; "reasonable belief" of gross misconduct is sufficient grounds for dismissal, rather than the higher standard of proof as is required in a court of law.

Where financial impropriety is discovered or suspected and the prime facie evidence corroborates such allegations, the Council's policy is that the Police will be called in. The Crown Prosecution Service determines whether or not a prosecution will be pursued.

Referral to the Police is a matter for the Head of Audit & Investigations and the relevant Director / Chief Officer.

Various officers will be consulted during investigations and the Chief Executive will be kept informed of referrals to the Police. Referral to the Police may inhibit action under the Council's disciplinary procedure and managers must take advice from Human Resources before taking action under the disciplinary procedure.

The Council's External Auditor also has powers to independently investigate fraud and corruption, and the Council can use these services for this purpose too.

## **RAISING CONCERNS**

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Although the Policy specifically refers to fraud, corruption and bribery, it equally applies to all financial malpractice. Fraud and corruption includes a wide range of irregularities and criminal acts that are financial or finance related. It includes for example: -

- Theft of property, including assets and cash
- False accounting
- Obtaining property by deception
- Pecuniary advantage by deception
- Computer abuse and computer crime
- Bribery and corruption

Officers and Members can be exposed to a number of pressures from contractors, landlords, the public etc. to act in a particular way in a particular case. This may involve pressure to show "favouritism" regarding access to all kinds of services and benefits (e.g. grants, benefits, gaining contracts, planning permission etc.)

Members and Officers are an important element in the Council's stance on fraud, corruption and bribery, and they are positively encouraged and expected to raise any concerns that they may have on these issues where they are associated with the Council's activity.

Officers should normally raise concerns through their immediate manager, however it is recognised that they might feel inhibited in certain circumstances. In this case, officers should contact: -

<b>David Welsby</b>	Chief Executive	01254 380110 Internal Ext. 2110
<b>Jane Ellis</b>	Executive Director (Legal & Democratic Services) & Monitoring Officer	01254 380146 Internal Ext. 2146
<b>Martin Dyson</b>	Executive Director (Resources) & s151 Officer	01254 380973 Internal Ext. 2973
<b>Mark Beard</b>	Head of Audit & Investigations	01254 380634 Internal Ext. 2634
<b>Karen Murray</b>	Appointed External Auditor (Forvis Mazars LLP)	0161 238 9200 07721 234043

### **Officers**

If Officers have a concern regarding a Member, then this **must** be brought to the attention of the Executive Director (Legal & Democratic Services) in her role as Monitoring Officer.

### **Elected Members**

Members should address their concerns to the Chief Executive or Executive Director (Legal & Democratic Services) in the first instance.

### **Members of the Public & Other Non-Council Organisations**

A member of the public, contractor, representative from any other partnership arrangement, or any other non-Council organisation must bring their concern to one of the 5 nominated officers described in the 'Raising Concerns' section of this policy.

All concerns raised will be treated in confidence, properly investigated and dealt with fairly. However, there is a need to ensure that any investigation process is not misused. For example, any internal abuse such as raising malicious or vexatious allegations is likely to be subject to the Council's disciplinary procedures.

The Council's Whistleblowing policy also gives further guidance on how to raise concerns and it gives details about the support and safeguards that are available to those that do raise concerns.

### **Internal Audit Awareness of any Concerns Raised**

Following a concern being raised the manager or nominated officer / external auditor named above, you **must** make Internal Audit aware of the issue.

If the concern that has been raised is ultimately proven, this may highlight a serious system weakness in a given area or highlight risks that have arisen which have been exploited to allow the Fraud, Corruption or Bribery to occur. By informing Internal Audit, this ensures that the system controls can be checked or the risks can be analysed and steps can be put in place to rectify these issues to ensure that this does not arise again.

## TRAINING

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The Council recognises that the continuing success of its Anti-Fraud & Corruption and Bribery Policy and its general credibility will depend largely on the effectiveness of programmed training, communication and responsiveness of officers throughout the organisation.

To facilitate this, the Council supports the concept of full induction, training and follow-up training. This applies particularly to officers involved in internal control systems and financial and finance related systems, to ensure that their responsibilities and duties in this respect are regularly highlighted and reinforced. This also applies to casual, temporary and agency staff, who may not be aware of the standards of probity that are required in the public sector. Elected Members are supported through induction, training and follow-on training and are made aware of their roles and responsibilities in particular the need for honesty and probity in all areas that they are involved in.

Officers who work in areas where higher levels of fraud may occur will receive fraud awareness sessions in order to ensure that officers are made aware of any important issues and be given advice on what to look for in order to spot a potential fraud. In addition to this, briefings will also be held with employees who advise the public as to what advice to give to the public who may want to report a potential fraud.

The review of the Council's internal control systems and the investigation of fraud, corruption and bribery is the responsibility of the Internal Audit Team, apart from the investigation of Members, which is the responsibility of the Monitoring Officer. In addition, the investigation of fraudulent Housing Benefit claims now rests with the Department for Work & Pensions (DWP) with effect from 1<sup>st</sup> April 2015 and suspected housing benefit fraud must be reported direct to the DWP.

The officers involved in the review of internal control systems and investigative work should be properly and regularly trained.

## CONCLUSIONS & FUTURE UPDATING OF THIS POLICY

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The Council has in place a clear network of systems and procedures to assist it in the fight against fraud, corruption and bribery. It is determined that these arrangements will keep pace with any future developments, in both prevention and detection techniques, regarding fraudulent or corrupt activity that may affect its operation or related responsibilities.

To this end the Council maintains a continuous overview of such arrangements and, in particular, through the roles of the Monitoring Officer, Deputy Chief Executive, Internal Audit and the various codes and procedure rules.

The Anti-Fraud & Corruption and Bribery Policy is part of the Corporate Governance Policies Work Programme and will be reviewed annually by the Head of Audit & Investigations and updates or changes will be made as necessary. Where updates or changes are significant, the revised Policy will be re-approved by Standards Committee. The Head of Audit & Investigations will update the title page of the policy with the reviewed date, policy version and when it was last approved by Standards Committee or at the Council AGM.



**HYNDBURN**  
The place to be  
an excellent council

# Anti-Money Laundering Policy Guidance & Procedure Notes

Policy Version: **16**  
Revised: **March 2026**  
Checked / Reviewed: **March 2026**  
Last Policy Approval: **Council AGM – May 2026**

**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 person’s 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 one's mind to the obvious or wilfully shutting one's 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 £3,000 in cash (approximately 3,570 €) 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 £3,000 (approximately 3,570 €). 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 £3,000 (approximately 3,570 €) 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 £3,000 in cash (approximately 3,570 €); 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 1<sup>st</sup> 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 £3,000 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) cannot 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:-
- o identification evidence obtained relating to organisations/individuals; and
  - o 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](mailto: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](mailto:jane.ellis@hyndburnbc.gov.uk)

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

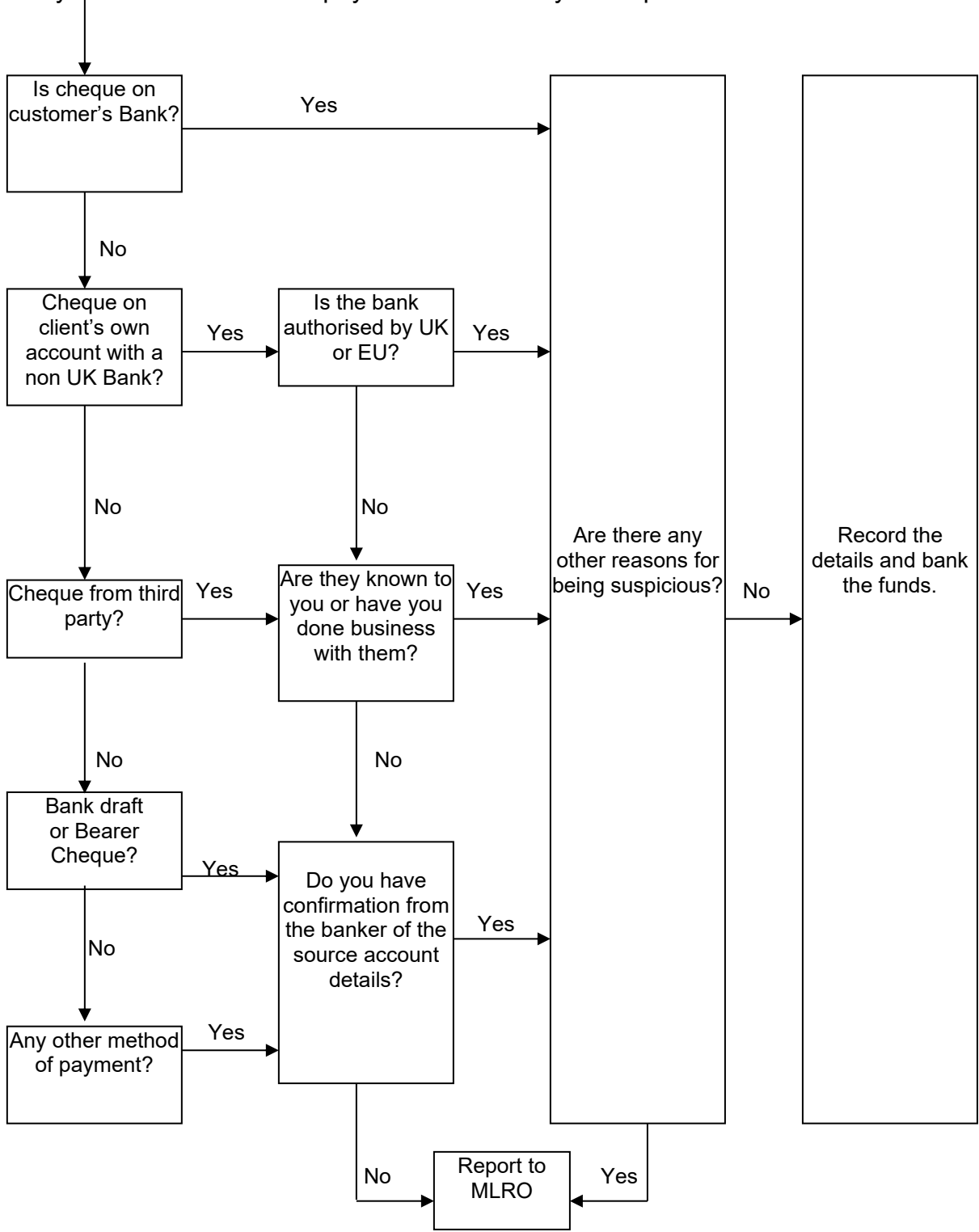
Telephone: 01254 380694  
Internal Extension: 2694  
E-Mail: [kirsten.burnett@hyndburnbc.gov.uk](mailto:kirsten.burnett@hyndburnbc.gov.uk)

## MONEY LAUNDERING CHECKLIST flowchart

- 1 Cash Payment - are you suspicious of a cash payment up to a maximum cash of £3,000? 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 £3,000 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 person's 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 equivalent ▶
- Certificate of Trade or equivalent ▶
- Latest report and audited accounts ▶
- Principal shareholder/partner ) *NB Personal* ▶
- Principal director ) *ID* ▶

**D. Disadvantaged Customers:**

e.g. 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: ..... Ext/Tel No:.....  
*[insert post title and Business Unit]*

**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 e.g. 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?**

Yes     No

*[Please tick the relevant box]*

**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.

<b>Surname</b>	<b>Forename</b>	<b>Department / Location</b>
Berry	Gillian	Art Gallery & Museum
Bilham	Karina	Elections
Bullock	Peter	Legal & Democratic Services
DeSimone	Samantha	Art Gallery & Museum
Doran	Shaun	Pest Control
Earnshaw	Jayne	Elections
Ellis	Jane	Legal & Democratic Services
Harrison	Lisa	Cemetery Service
Harker	Suzanne	ICT
Hodgetts	Mimi	Art Gallery & Museum
Iddon	Alison	Art Gallery & Museum
Jassat	Farook	Customer Services
Lambert	Gillian	Parks & Open Spaces Income
Ma	Sarah	Directors PA
Martin	Amanda	Accountancy
McCann	Lisa	Administration
Middlehurst	Lee	Benefits, Revenues & Customer Contact
Paliga	Judith	Cemetery Service
Palmer	Julie	Administration
Proctor	Michael	Markets
Randall	Philip	Pest Control
Russell	Jennifer	Legal & Democratic Services
Studholme	Amelia	Art Gallery & Museum
Taylor	Lee	Pest Control
Trickett	Carol	Strategic Housing
Westwell	Karen	Licensing Administration
Williams	Emma	Regeneration
Yates	Chris	Customer Services
Yates	Louise	Building Control

## **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.