APPENDIX 3

ANTI - MONEY LAUNDERING POLICY

Date Policy in Force	Department	Review Date
April 2018	Revenue & Benefits	**July 2021**

ANTI MONEY LAUNDERING POLICY

1. INTRODUCTION

1.1 Legislation concerning money laundering, namely the Money Laundering, Terrorist Financing & Transfer of Funds Regulations 2017, the Proceeds of Crime Act 2002 and the Terrorism Act 2000 broadened the definition of money laundering and increased the range of activities caught by the statutory framework. As a result, the obligations impact on areas of local authority business and they require local authorities to establish internal procedures to prevent the use of their services for money laundering or terrorist financing.

2. SCOPE OF THE POLICY

2.1 This Policy applies to all employees, contractors, suppliers and agency staff of the Council and aims to maintain the high standards of conduct which currently exist within the Council by preventing the Council from being exposed to criminal activity through money laundering. The Policy sets out the procedures which must be followed.

2.2 Further information is set out in the accompanying **Procedure Note**. Both the Policy and the Procedure Note sit alongside the Council's Whistle blowing Policy.

2.3 Failure by a member of staff to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary Policy and Procedures.

3.0 WHAT IS MONEY LAUNDERING?

3.1 The Council defines money laundering as "the process by which the proceeds of crime and the true ownership of these proceeds are changed so that the proceeds appear to come from a legitimate source."

3.2 The main money laundering offences are:

- Concealing, disguising, converting, transferring or removing criminal property from the UK (section 327 of the Proceeds of Crime Act 2002)
- Entering into or becoming involved in an arrangement which you know or suspect facilities the acquisition, retention, use or control of criminal property by, or on behalf of, another person (section 328)
- Acquiring, using or possessing criminal property (section 329)

- failure to disclose one of the offences listed to the designated Money Laundering Reporting Officer (MLRO) as soon as is practicable, where there are reasonable grounds for knowledge or suspicion
- an MLRO fails to disclose to the National Crime Agency as soon as practicable that they know or suspect, or have reasonable grounds to know or suspect, as a result of information disclosed to them, that a person may be engaging in money laundering activities.
- Tipping Off: If a person knows or suspects that another person's suspected involvement with money laundering is under investigation or in contemplation of investigation and discloses that an investigation into a money laundering offence is being contemplated and that disclosure is likely to prejudice any investigation which might be conducted.

- Prejudicing the investigation: A person knows or suspects that a money laundering investigation has or is about to be commenced in respect of another and he makes a material disclosure to any other person which is likely to prejudice the investigation, or interferes with relevant material.

4. WHAT ARE THE OBLIGATIONS ON THE COUNCIL?

4.1 Organisations conducting "relevant business" must:

- appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees of suspected money laundering activity (their own or anyone else's) and where appropriate, make reports to the National Crime Agency (NCA);
- Implement a procedure to enable the reporting of suspicions of money laundering;
- apply customer due diligence measures in certain circumstances
- maintain a record of incidents that have been reported to the MLRO
- To provide training for relevant staff on how to identify the signs of potential money laundering transactions

4.2 Not all of the Council's business is "relevant" for the purposes of the legislation. It is mainly, the carrying on of statutory audit work, the provision to other persons of accountancy services by way of business, the provision of advice about the tax affairs of other persons by way of business or the participation in financial or real property transactions. However, the safest way to ensure compliance with the law is to apply it to all areas of work undertaken by the Council; therefore, all staff are required to comply with the reporting procedure set out in Section 8.

5. WHAT IS THE IMPACT ON THE COUNCIL?

5.1 Potentially any member of staff could be caught by the money laundering provisions if they suspect money laundering and either become involved with it in some way and/or do nothing about it. The **Procedure Note** gives practical advice and this Policy sets out how any concerns should be raised.

5.2 Whilst the risk of the Council contravening the legislation is very low, the consequences are extremely serious; therefore ***it is extremely important that all employees are familiar with their legal responsibilities: serious criminal sanctions may be imposed for breaches of the legislation.***

6. MONEY LAUNDERING REPORTING OFFICER

6.1 The officer nominated to receive disclosures about potential money laundering activity within the Council is the Council's Finance & Audit Service Manager and Section 151 Officer, who can be contacted as follows:

Alan Bethune
Executive Head Finance & Section 151 Officer
New Forest District Council
Appletree Court
Beaulieu Road
Lyndhurst

SO43 7PA
Telephone: 02380 285000
Alan.bethune@nfdc.gov.uk

In the absence of the MLRO, please contact the Executive Head for Governance and Regulation, Grainne O'Rourke on 02380 285000, grainne.orourke@nfdc.gov.uk.

7. DISCLOSURE PROCEDURE - Reporting to the Money Laundering Reporting Officer

7.1 All payments to the Council accepted in cash that exceed £4,000 should be reported to the MLRO using the Money Laundering Report Form. Evidence of the customer's identity should also be taken.

7.2 Where you know or suspect that money laundering activity is taking or has taken place, or you become concerned that your involvement in a matter may amount to a prohibited act under the legislation, you must disclose this as soon as practicable to the MLRO by using the Money Laundering Report Form. **The disclosure should be within "hours" i.e. at the earliest opportunity of the information coming to your attention, not weeks or months later. Should you not do so, then you may be liable to prosecution or subject to internal disciplinary procedures.**

7.3 Your disclosure should be made to the MLRO using the instructions in the attached **Procedure Note and Money Laundering Reporting Form**. The report must include as much detail as possible, for example:

- full details of the people involved (including yourself, if relevant), e.g. name, date of birth, address, company names, directorships, phone numbers, etc
- full details of the property involved and its whereabouts (if known)
- full details of the nature of their/your involvement
- if any suspicions have been discussed with anyone else
- the types of money laundering activity involved:
- 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 MLRO will require full reasons along with any other available information to enable them to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering. This will enable them to prepare their report to National Crime Agency, where appropriate and you should also enclose copies of any relevant supporting documentation

7.4 Once you have reported the matter to the MLRO you must follow any directions they may give you. **You must NOT make any further enquiries into the matter yourself,** any necessary investigation will be undertaken by National Crime Agency. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

7.5 Similarly, **at no time and under no circumstances should you voice any suspicions** to the person(s) whom you suspect of money laundering, even if National Crime Agency has given consent to a particular transaction proceeding,

without the specific consent of the NCA or MLRO; otherwise you may commit a criminal offence of “tipping off”.

7.6 Do not, therefore, make any reference on a customer’s file to a report having been made to the MLRO – should the customer exercise their right to see the file, then such a note may tip them off to the report having been made and may render you liable to prosecution or disciplinary action. The MLRO will keep the appropriate records in a confidential manner.

CONSIDERATION OF THE DISCLOSURE BY THE MONEY LAUNDERING REPORTING OFFICER

7.7 The MLRO will send a report to the National Crime Agency (NCA) if there are sufficient grounds of suspicion or knowledge of money laundering.

7.8 The MLRO will evaluate the report and any other available internal information they think relevant. They must consider the following when determining reasonable grounds:

- does the reported conduct fall within that which is potentially criminal?
- Is the reported individual suspected of having gained proceeds of money laundering?
- what factors and information led to the suspicion or knowledge of money laundering?
- review 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 due diligence information held and undertake such other reasonable inquiries they think appropriate in order to ensure that all available information is taken into account in deciding whether a report to NCA is required.

7.9 Once the MLRO has evaluated the disclosure report and any other relevant information, they must make a timely determination as to whether, there is actual or suspected money laundering taking place, or there are reasonable grounds to know or suspect that is the case.

7.10 Where the MLRO does so conclude, then they must disclose the matter as soon as practicable to the NCA in the prescribed manner.

7.11 In cases where legal professional privilege may apply, the MLRO must liaise with the legal adviser to decide whether there is a reasonable excuse for not reporting the matter to the NCA.

7.12 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then they shall mark their report accordingly and give their consent for any ongoing or imminent transaction(s) to proceed.

8. CUSTOMER DUE DILIGENCE PROCEDURE

8.1 Where the Council is carrying out certain ‘regulated activities’, (regulated activity is defined as the provision ‘by way of business’ of: advice about tax affairs; accounting services; treasury management, investment or other financial services; audit services; legal services or estate) then extra care needs to be taken to check the identity of the customer or client – this is known as carrying out ‘Customer Due

Diligence'. The situations where Customer Due Diligence is required are outlined below. Customer Due Diligence consists of:

- identifying the client and verifying the client's identity on the basis of documents, data or information obtained from a reliable and independent source
- identifying the beneficial owner (where they are not the client) so that we are satisfied that we know who the beneficial owner is, including, in the case of a legal person, trust or similar legal arrangement, measures to understand the ownership and control structure of the person, trust or arrangement, and
- obtaining information on the purpose and intended nature of the business relationship.

8.2 Where customer due diligence is required, staff in the relevant Service/Unit of the Council must obtain satisfactory evidence of the identity of the prospective client, and full details of the purpose and intended nature of the relationship/transaction, as soon as practicable after instructions are received. The Regulations regarding customer due diligence are detailed and complex, but there are some simple questions that will help you decide if it is necessary:

- Is the service a regulated activity (see above)
- Is the Council charging for the service i.e. is it 'by way of business'?
- Is the service being provided to a customer other than a UK public authority?

If the answer to any of these questions is **'no'** then you do not need to carry out customer due diligence.

Please note that unlike the reporting procedure, the Customer Due Diligence Procedure is restricted to those employees undertaking regulated activities (e.g. Finance and Legal Services).

8.3 If the answer to all these questions is **'yes'** then you must carry out customer due diligence before any business is undertaken for that client. If you are unsure whether you need to carry out customer due diligence then you should contact the MLRO. Where you need to carry out customer due diligence then you must seek evidence of identity, for example:

- Checking with the customer's website to confirm their business address;
- Conducting an on-line search via Companies House to confirm the nature and business of the customer and confirm the identities of any directors;
- Seeking evidence from the key contact of their personal identity, for example their passport, and position within the organisation.

The requirement for customer due diligence applies immediately for new customers and should be applied on a risk sensitive basis for existing customers.
In the Council, details of proposed transactions are usually, as a matter of good case management practice, recorded in writing in any event and proposed ongoing business relationships are usually the subject of Agreements (legally binding agreements entered into between the Council and third parties) or other written record which will record the necessary details.

8.4 There is also an ongoing legal obligation to check the identity of existing clients and the nature and purpose of the business relationship with them at appropriate times. Opportunities to do this will differ, however one option is to review these matters as part of the ongoing monitoring of the business arrangements, as is usually provided

for in the Agreement or other written record. The opportunity should also be taken at these times to scrutinise the transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure they are consistent with your knowledge of the client, its business and risk profile. Particular scrutiny should be given to the following:

- complex or unusually large transactions;
- unusual patterns of transactions which have no apparent economic or visible lawful purpose; and
- any other activity particularly likely by its nature to be related to money laundering or terrorist financing.

8.5 ***If satisfactory evidence of identity is not obtained at the outset of the matter then generally the business relationship or one off transaction(s) cannot proceed any further and any existing business relationship with that client must be terminated.***

9. ONGOING MONITORING AND RECORD KEEPING PROCEDURES

9.1 Each Service Unit of the Council conducting regulated business must monitor, on an ongoing basis, their business relationships in terms of scrutinising transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure that the transactions are consistent with their knowledge of the customer, its business and risk profile.

9.2 We must also maintain records of:

- customer identification/verification evidence obtained (or references to it), and
- details of all regulated business transactions carried out for customers for at least five years from the end of the transaction/relationship. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.

9.3 The precise nature of the records is not prescribed by law however they must be capable of providing an audit trail during any subsequent investigation, for example distinguishing the customer and the relevant transaction and recording the source of, and in what form, any funds were received or paid. In practice, the Service Units of the Council will be routinely making records of work carried out for customers in the course of normal business and these should suffice in this regard.

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

10. TRAINING

10.1 The Council will take appropriate measures to ensure that all employees are made aware of the law relating to money laundering and will arrange targeted, ongoing, training to key individuals most likely to be affected by the legislation.

11. RISK MANAGEMENT AND INTERNAL CONTROL

11.1 The risk to the Council of contravening the anti-money laundering legislation will be assessed on a periodic basis and the adequacy and effectiveness of the Anti-Money

Laundering Policy, Guidance and procedures will be reviewed in light of such assessments.

11.2 The adequacy and effectiveness of, promotion of, and compliance by employees with, the documentation and procedures will also be monitored through the Head of Legal Services.

12. CONCLUSION

12.1 The legislative requirements concerning anti-money laundering procedures are lengthy, technical and complex. This Policy has been written so as to enable the Council to meet the legal requirements in a way which is proportionate to the very low risk of the Council contravening the legislation.

12.2 Should you have any concerns whatsoever regarding any transactions then you should contact the MLRO.

13. REVIEW OF THE POLICY

13.1 The Policy will be subject to review every three years.