

<b>Document Control</b>	
<b>Policy Title</b>	<b>ANTI-MONEY LAUNDERING POLICY</b>
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<b>Approving Body</b>	Management Team
<b>Version</b>	3
<b>Next Review Date</b>	Two years/update in legislation
<b>Policy Owner</b>	Internal Audit
<b>Policy Available</b>	Staff Hub and EBC Website
<b>Related Policies</b>	Authorised Officer Policy Anti-Fraud and Corruption Policy Whistleblowing Policy

## 1.0 Introduction

- 1.1. Eastleigh Borough Council is committed to the highest possible standards of conduct including a zero-tolerance approach to fraud and corruption. This Policy aims to maintain the high standards of conduct by preventing criminal activity through money laundering.
- 1.2. This Policy confirms the Council’s commitment to ensuring that the relevant legislation is complied with encompassing:
- The Proceeds of Crime Act 2002
  - The Terrorism Acts 2000 & 2006
  - The Money Laundering Regulations 2007 and 2017 and (Amendment) 2019
  - The Counter Terrorism Act 2008

## 2.0 Scope

- 2.1 This Policy should be read with in conjunction with the Money Laundering Guidance Notes (below), which detail the requirements and reporting procedures under the legislation.
- 2.2 This Policy applies to all employees of the Council.
- 2.3 The Policy sits alongside the Council’s Whistleblowing Policy and Anti-Fraud and Corruption Policy.
- 2.4 Failure by a member of staff to comply with the procedures set out in this Policy may lead to disciplinary action in accordance with the Council’s Disciplinary Policy.

## 3.0 What is Money Laundering?

- 3.1 Money laundering is the term used for a number of offences involving the proceeds of crime or terrorism funds. The following constitute the act of money laundering:
- concealing, disguising, converting, transferring criminal property or removing it from the UK;  
or

- entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person.

3.2 These are the primary money laundering offences, and are therefore prohibited acts under the legislation. There are also two secondary offences:

- failure to disclose any of the primary offences where there are reasonable grounds for knowledge or suspicion
- Tipping off a person who is or is suspected of being involved in money laundering either directly or indirectly in such a way as to reduce the likelihood of or prejudice an investigation.

#### **4.0 What are the obligations on the Council?**

4.1 The Legislation is clear that organisations in the regulated sector conducting “relevant business” must:

- appoint a Money Laundering Reporting Officer (“MLRO”) to receive disclosures from employees of money laundering activity (their own or anyone else’s);
- train relevant employees most likely to be exposed to or become suspicious of money laundering in the requirements and legal obligations placed on the organisation and on them as individuals
- train relevant employees in the procedures for recognising and reporting knowledge or suspicions of money laundering
- implement a procedure to enable the reporting of suspicions of money laundering;
- maintain client identification procedures in certain circumstances; and
- maintain record keeping procedures for suspicions

4.2 Local Authorities are not part of the regulated sector and not all of the Council’s business is “relevant” for the purposes of the legislation. However, the Chartered Institute of Public Finance and Accounting (CIPFA) suggests that Local Authorities should comply with the spirit of the legislation and regulations and put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.

4.3 Whilst the risk to the Council of contravening the legislation is low, it is extremely important that **all employees** are familiar with their legal responsibilities: serious criminal sanctions may be imposed for breaches of the legislation. **The key requirement on employees is to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer.**

4.4 The Service Director – Governance and Support (Monitoring Officer) has been appointed as the Council’s Money Laundering Reporting Officer.

#### **5.0 Review**

5.1 This policy will be reviewed every 2 years or whenever Corporate Governance or legislation changes affect any part of it.

### **MONEY LAUNDERING GUIDANCE NOTES**

1.1 The Money Laundering Guidance Notes should be read in conjunction with the Anti-Money Laundering Policy.

## THE MONEY LAUNDERING REPORTING OFFICER

- 2.1 The officer nominated (MLRO) to receive disclosures about money laundering activity within the Council is the Service Director – Governance and Support (Monitoring Officer), Joanne Cassar. She can be contacted as follows:

Joanne Cassar  
Service Director – Governance and Support (Monitoring Officer)  
Eastleigh Borough Council  
Eastleigh House  
Upper Market Street  
Eastleigh  
Hampshire  
SO50 9YN

e-mail: joanne.cassar@eastleigh.gov.uk

Telephone: 02380 688015

- 2.2 In the absence of the MLRO, the Corporate Director (Chief Financial Officer), Sarah King, can be contacted at the above address or on telephone number 02380 688011 (direct line).

- 2.3 The MLRO is responsible for:

- Assessment of whole Business Risk (alongside Mgmt Team)
- Publication of AML Policy
- Monitoring and evaluation of Organisational Performance
- Annual Report
- Reporting to Audit & Resources Committee
- Appointment of personnel to specific compliance
- Training of staff in AML
- Screening of Staff in sensitive roles
- Undertaking enquiries/record keeping
- Filing suspicious activity reports

## PROCEDURES

- 3.1 The Council is alert to the possibility that it may become the subject of an attempt to involve it in a transaction(s) involving the laundering of money. This will potentially cover two principal areas, although not exclusive:

- Treasury Management (investments and borrowing)
- Cash income

- 3.2 The Council does not encourage payment by cash for services and through promoting alternative methods of payment is seeking as far as possible to be a “cash free” authority. The amount of cash taken by the Council has substantially reduced and is minimal. However, cash will not be eliminated completely, and volumes processed remain sufficient to warrant continued vigilance.

- 3.3 The Council will maintain procedures for verifying and recording the identities of counterparties making payment by cash, reporting knowledge and/or suspicions by staff to the MLRO.

## Treasury Management

- 3.4 Borrowing and repayment of investments (Treasury Management) shall not be taken in cash. All loans will be obtained through the Public Works Loan Board (PWLB) or from authorised institutions as per the Treasury Management Policy. All borrowings will be through money brokers who are regulated by the Financial Services Authority to ensure that money laundering is prevented.

## Cash Payments

- 3.5 The Legislation determines that a single cash transaction or a series of linked transactions totalling over of €15,000 (approximately £10,000 at the time of the legislation) should be treated as suspicious. However, vigilance also needs to be maintained in respect of all other possibilities such as a series of smaller payments in cash.
- 3.6 Where cash income (e.g. payment for business rates, council tax, planning fees, debtors) is concerned, the following procedures apply where payment in cash (including notes, coins or travellers' cheques in any currency) exceeds **£5,000**.
- In the case of an individual the identity of the person making the payment should be checked. The individual is required to confirm their identity by providing two of the following original documents (copy documents are not acceptable):
    - A current passport
    - A current full driving licence
    - A birth certificate
    - A marriage certificate
  - Proof of their current address by providing two items from the following list:
    - A bank or building society statement less than 3 months old
    - A credit card statement less than 3 months old
    - Current mortgage (statement) or insurance (policy document) details
    - A utility bill (Council tax, electricity, gas, water, landline telephone but not a mobile phone bill) less than 12 months old
  - Individuals name and address must be checked to a robust source (eg Council Tax records, Electoral Register, Credit Reference Agency)
  - In the case of a company the following information must be obtained:
    - The company's full name and registration number
    - Details of the registered office address
    - Any separate trading address relevant to the transaction concerned
  - A company search should be carried out to verify the details given and check the location of any relevant trading address
  - A record of the checks that have been carried out must be retained (see paragraph 3.9)
- 3.7 Where instructions are received from a new or less well known client, consideration should be given to obtaining additional evidence, such as the identity documents of key individual in the organisation for whom proof should be obtained as above for individuals.
- 3.8 Particular care should be exercised in cases where a significant cash amount is involved or there are a series of smaller cash transactions where:
- payment exceeds the amount necessary to settle a transaction and a non-cash return of the excess is required
  - a trust or offshore fund is used to handle the proceeds or settlement of a transaction
  - a third party intermediary becomes involved in a transaction

- the identity of a party is difficult to establish or is undisclosed
- a vehicle company is used by a third party and the ultimate ownership is concealed or difficult to establish
- a transaction is made without an obvious legitimate purpose or which appears uneconomic, inefficient or irrational
- a request is made to cancel or reverse or repay an earlier transaction and/or refund is to be made to an alternative account from which the original payment was received
- a party is evasive as to the source or destination of fund

3.9 A report of the transactions and details of the evidence obtained should be forwarded to the MLRO. The MLRO will retain it in a confidential file for no more than 5 years from the date of the transaction. A reporting form is available in Appendix One.

3.10 Officers should only process the transaction once they are satisfied with the explanation and evidence provided. If in doubt, refer the matter to the MLRO (see Guidance Notes in appendix one).

### **CUSTOMER DUE DILIGENCE**

4.1 Where the Council is carrying out certain 'regulated activities' 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.

4.2 Customer due diligence means:

- a. identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source;
- b. identifying, where there is a beneficial owner who is not the customer, the beneficial owner and taking adequate measures, on a risk-sensitive basis, to verify his identity so that the relevant person is satisfied that he knows 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
- c. obtaining information on the purpose and intended nature of the business relationship.

4.3 The Regulations regarding customer due diligence are detailed and complex, but there are some simple questions that will help decide if it is necessary:

- Is the service a regulated activity (see 7.3)?
- 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?

4.4 If the answer to any of these questions is no, then there is no need to carry out customer due diligence.

4.5 If the answer to all these questions is yes, then customer due diligence must be carried out before any business is undertaken for that client. If there is uncertainty whether customer due diligence is required, then the MLRO should be contacted for advice.

4.6 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; estate agency; services involving the formation, operation or arrangement of a company or trust or; dealing in goods wherever a transaction involves a cash payment of €15,000 or more.”

4.7 Where customer due diligence is required then evidence of identity must be sought, 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.

4.8 The requirement for customer due diligence applies immediately for new customers and should be applied on a risk sensitive basis for existing customers. Ongoing customer due diligence must also be carried out during the life of a business relationship but should be proportionate to the risk of money laundering and terrorist funding, based on the officer’s knowledge of the customer and a regular scrutiny of the transactions involved.

4.9 If, at any time, it is suspected that a client or customer for whom the Council is currently, or is planning to carry out, a regulated activity is carrying out money laundering or terrorist financing; or has lied about their identity then this must be reported to the MLRO.

4.10 In certain circumstances enhanced customer due diligence must be carried out for example where:

- The customer has not been physically present for identification
- The customer is a politically exposed person
- There is a beneficial owner who is not the customer – a beneficial owner is any individual who: holds more than 25% of the shares, voting rights or interest in a company, partnership or trust.

4.11 Enhanced customer due diligence could include any additional documentation, data or information that will confirm the customer’s identity and / or the source of the funds to be used in the business relationship / transaction. If it is believed that enhanced customer due diligence is required then the MLRO should be consulted prior to carrying it out.

## APPENDIX ONE: MONEY LAUNDERING GUIDANCE NOTES

### Reporting to the Money Laundering Reporting Officer

- 1.1 Where it is suspected that money laundering activity is taking/has taken place, or an employee becomes concerned that their involvement in a matter may amount to a prohibited act under the legislation, **this must be disclosed as soon as practicable to the MLRO**. The disclosure should be within “hours” of the information coming to the employee’s attention, not weeks or months later. **SHOULD THIS NOT BE DONE, THEN THE EMPLOYEE MAY BE LIABLE TO PROSECUTION.**
- 1.2 Disclosure should be made to the MLRO using the pro forma report attached at Appendix 2. The report must include as much detail as possible, for example:
- Full details of the people involved (including the employee, if relevant), e.g. name, date of birth, address, company names, directorships, phone numbers, etc;
  - Full details of the nature of involvement;
    - If the employee is concerned that their involvement in the transaction would amount to a prohibited act under sections 327 – 329 of the 2002 Act, then the report must include all relevant details, as the employee will need consent from the National Crime Agency (), via the MLRO, to take any further part in the transaction - this is the case even if the client gives instructions for the matter to proceed before such consent is given.
    - The employee 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 the 2002 Act (or 2000 Act), or general reporting requirement under section 330 of the 2002 Act (or section 21A of the 2000 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 – will require full reasons;
  - Along with any other available information to enable the MLRO to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable them to prepare their report to NCA, where appropriate. Copies of any relevant supporting documentation should be enclosed.

- 1.3 Once the matter is reported to the MLRO, employees must follow any directions given. The employee **must NOT make any further enquiries into the matter themselves**: any necessary investigation will be undertaken by NCA. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.
- 1.4 Similarly, **at no time and under no circumstances should the employee voice any suspicions** to the person(s) suspected of money laundering, even if NCA has given consent to a particular transaction proceeding, without the specific consent of the MLRO; otherwise a criminal offence of “tipping off” may be committed.
- 1.5 No reference should be made on a client file to a report having been made to the MLRO – should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render an employee liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

#### **Consideration of the disclosure by the Money Laundering Reporting Officer**

- 1.6 Upon receipt of a disclosure report, the MLRO must note the date of receipt on his section of the report and acknowledge receipt of it. He should also advise the employee of the timescale within which he expects to respond.
- 1.7 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 other reasonable inquiries considered appropriate in order to ensure that all available information is taken into account in deciding whether a report to NCA is required (such enquiries being 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 employee.

- 1.8 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; and
  - whether he needs to seek consent from NCA for a particular transaction to proceed.
- 1.9 Where the MLRO does so conclude, then they must disclose the matter as soon as practicable to NCA on their standard report form and in the prescribed manner, unless they have a reasonable excuse for non-disclosure to NCA (for example, a lawyer can claim legal professional privilege for not disclosing the information).
- 1.10 Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then they must note the report accordingly; they can then immediately give consent for any ongoing or imminent transactions to proceed.
- 1.11 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 NCA.
- 1.12 Where consent is required from NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from NCA.
- 1.13 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then he shall mark the report accordingly and give their consent for any ongoing or imminent transaction(s) to proceed.
- 1.14 All disclosure reports referred to the MLRO and reports made by them to NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.
- 1.15 ***The MLRO commits a criminal offence if they know or suspects, or has reasonable grounds to do so, through a disclosure being made to them that another person is engaged in money laundering and they do not disclose this as soon as practicable to NCA.***

### **Record Keeping Procedures**

- 2.1 Each team of the Council conducting relevant business must maintain records of:
- client identification evidence obtained; and
  - details of all relevant business transactions carried out for clients
- for at least five years. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.
- 2.2 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 client and the relevant transaction and recording in what form any funds were received or paid. In practice, the business units of the Council will be routinely making records of work carried out for clients in the course of normal business and these should suffice in this regard.

- 2.3 An electronic copy of every customer due diligence record must be sent to the MLRO to meet the requirements of the Regulations and in case of inspection by the relevant supervising body.

### **Conclusion**

- 3.1 The legislative requirements concerning anti-money laundering procedures are lengthy 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 to the Council of contravening the legislation.

APPENDIX TWO

**CONFIDENTIAL**

**Report to Money Laundering Reporting Officer**

**Re: Money Laundering Activity**

**To: Joanne Cassar, Service Director – Governance and Support (Monitoring Officer), Money Laundering Reporting Officer**

From:

*[insert name of employee]*

Directorate:

*[insert post title]*

Ext/Tel No:

**DETAILS OF SUSPECTED OFFENCE:**

**Name(s) and address(es) of person(s) involved:**

*[if a company/public body please include details of nature of business]*

**Nature, value and timing of activity involved:**

*[Please include full details eg what, when, where, how.*

*Continue on a separate sheet if necessary]*

**Has any investigation been undertaken (as far as you are aware)?**

*[Please tick the relevant box]*

Yes  No

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

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

*[Please tick the relevant box]*

Yes  No

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

**Have you consulted any supervisory body guidance re money laundering? (e.g. the Law Society)**

*[Please tick the relevant box]*

Yes  No

**If yes, please specify below:**



**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 NCA?**

*[Please tick the relevant box]*

Yes  No

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

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

**Notice Period:** \_\_\_\_\_ **to**

**Moratorium Period:** \_\_\_\_\_ **to**

**Is consent required from NCA to any ongoing or imminent transactions which would otherwise be prohibited acts?**  Yes  No

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

**Date consent received from 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 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**