



# **THE NEWCASTLE CHARTER**

## **Part 5.3C – ANTI-MONEY LAUNDERING POLICY**

## **NEWCASTLE CITY COUNCIL**

# **ANTI-MONEY LAUNDERING POLICY**

### **1. Introduction**

- 1.1 Historically, legislation to tackle the laundering of the proceeds of crime was aimed at the financial and investment sector. However, it was subsequently recognised that those involved in criminal conduct were able to 'clean' criminal proceeds through a wider range of businesses and professional activities.
- 1.2 The Proceeds of Crime Act 2002 (as amended by the Serious Organised Crime and Police Act 2005), the Money Laundering Regulations 2007 and the Terrorism Act 2000 (as amended by the Anti-Terrorism, Crime and Security Act 2001) broaden the definition of money laundering and increase the range of activities caught by the statutory controls. They also imposed new obligations in respect of money laundering. These impact on certain areas of the local authority business and require the Council to establish internal procedures to prevent the use of their services for money laundering.

### **2. Scope of the policy**

- 2.1 This policy applies to all Council employees and aims to maintain existing high standards of conduct within the Council by preventing criminal activity through money laundering. The Policy sets out the procedures that must be followed to enable the Council to comply with its legal obligations.

#### **2.2 *Key message***

**The key message of this Policy is that if you suspect that money laundering activity may be taking place or proposed in relation to anything you are dealing with you should immediately disclose those suspicions to the Council's Money Laundering Reporting Officer. If the matter involves a proposed transaction (eg the sale of property) you should not proceed with the transaction without approval from the Money Laundering Reporting Officer or the Serious Organised Crime Agency. You should defer the transaction in such a way as not to alert anyone else to your suspicions. If you believe you cannot reasonably do so, you should immediately contact the Money Laundering Reporting Officer or the Council's Monitoring Officer.**

**The Council's Money Laundering Reporting Officer is the Director of Resources.**

### **3. What is money laundering?**

- 3.1 There are two main types of offences which may be committed:
- Money laundering offences.
  - Failure to report money laundering offences.
- 3.2 The main types of money laundering offences are:

- Acquiring, using or possessing criminal property,
- Handling the proceeds of crimes such as theft, fraud and tax evasion,
- Being knowingly involved in any way with criminal or terrorist property,
- Entering into arrangements to facilitate laundering criminal or terrorist property,
- Investing the proceeds of crime in other financial products
- Investing the proceeds of crimes through the acquisition of property/assets,
- Transferring criminal property.

#### **4. The Obligations of the Council**

4.1 The law requires those organisations in the regulated sector and conducting relevant business to:

- Appoint a Money Laundering Reporting Officer (“MLRO”) to receive disclosures from employees of money laundering activity (their own or anyone else’s),
- Implement risk sensitive policies and procedures relating to customer due diligence, reporting, record keeping, internal control, risk assessment and management, the monitoring and management of compliance and the internal communication of such policies and procedures.

4.2 Not all the Council’s business is ‘relevant’ for these purposes. It is mainly the accountancy and audit services carried out by Finance and certain financial, company and property transactions carried out by Legal Services. 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 employees are required to comply with the Council’s Anti Money Laundering Policy in terms of reporting concerns about possible money laundering.

4.3 The Money Laundering Regulations 2007 require appropriate systems of internal control to prevent money laundering and terrorist financing. There must be management controls in place to help identify possible attempts to launder money or fund terrorism, so that appropriate action to prevent or report it can be taken.

4.4 Systems of internal control should help identify unusual or suspicious transactions or customer activity and should include:

- Identification of relevant responsibilities under this Protocol.
- Provision of information to relevant persons on suspected money laundering and terrorist financing risks.
- Training of relevant employees on the legal and regulatory responsibilities for money laundering and terrorist financing controls and measures.
- Measures to ensure that money laundering and terrorist financing risks are taken into account in the day to day operations of the organisation.

#### **5. The Money Laundering Reporting Officer**

5.1 The officer nominated to receive disclosures about money laundering activity within the Council is the Director of Resources. They can be contacted as follows:

Director of Resources  
Chief Executive's Directorate  
Newcastle City Council  
Civic Centre  
Newcastle upon Tyne

Telephone: 0191 2328520 Ext. 26503

- 5.2 In the absence of the MLRO, the Head of Finance, Mark Nicholson, is authorised to deputise for him and can be contacted at the same address or on telephone number 0191 2115115, ext. 25115 or by e mail at [mark.nicholson@newcastle.gov.uk](mailto:mark.nicholson@newcastle.gov.uk)

All suspicions should be reported directly to the MLRO or his deputy using the relevant documentation.

## **6. Identification of potential money laundering situations**

- 6.1 It is not possible to give a definitive list of ways in which to identify 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, suggest possible money laundering activity:

- Payment of a substantial sum in cash (over £10,000),
- Payment of lower cash sums where cash is not the normal means of payment,
- A new customer or use of new/shell companies,
- 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 transaction such as 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,
- Overpayments by a customer or payments of deposits subsequently requested back,
- Absence of an obvious legitimate source of funds,
- Movement of funds overseas, particularly to a higher risk country or tax haven,
- Unusual transactions or ways of conducting business, without reasonable explanation,
- 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 customer account details other than in the normal course of business,
- Transactions at substantially above or below fair market values,
- Poor business records or internal accounting controls,
- A previous transaction for the same customer which has been, or should have been, reported to the MLRO,
- Lack of 'traceability' of persons involved,
- Individuals and companies that are insolvent yet have funds.

## **7. Failure to report money laundering offences or suspicions**

In addition to the money laundering offences, there are other offences of failure to report suspicions of money laundering. These are committed where, in the course of conducting relevant business in the regulated sector, you know or suspect, or have reasonable grounds to do so (even if you did not know or suspect), that another person is engaged in money laundering and you do not disclose this as soon as is practicable to the MLRO (see section 330 of the 2002 Act and section 21A of the 2000 Act).

- 7.1 Failure to report money laundering offences means that potentially any employee 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.
- 7.2 Whilst the risk of contravening the legislation is low, it is extremely important that all employees understand their legal responsibilities: serious criminal sanctions may be imposed for breaches of the legislation. Any person found guilty of a money laundering offence is liable for imprisonment (maximum of 14 years), a fine or both. However an offence is not committed if the suspected money laundering activity is reported to the MLRO and, where necessary, official permission obtained to continue with the transaction.
- 7.3 If you report suspected money laundering to the MLRO, you should not discuss it with anyone else: you may commit a further offence of 'tipping off' (section 333 of the 2002 Act) if, knowing a disclosure to the MLRO has been made, you make a disclosure to someone else which is likely to prejudice any investigation which might be conducted.
- 7.4 Even if you have not reported the matter to the MLRO, if you know or suspect that such a disclosure has been made and you mention it to someone else, this could amount to a tipping off offence. Be very careful what you say and to whom, in these circumstances. Any person found guilty of tipping off or prejudicing an investigation is liable to imprisonment (maximum five years), a fine or both.

## 8. Reporting Procedure

- 8.1 If you know or suspect that money laundering activity is taking place, has taken place, or that your involvement in a matter may amount to a prohibited act under the legislation, this must be disclosed immediately to the MLRO. This disclosure should be done within hours of the information coming to your attention, not weeks or months later. **If you do not disclose information immediately, then you may be liable to criminal prosecution.**
- 8.2 Your disclosure should be made using the report form attached at Appendix 1. The disclosure report must contain 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 nature of your and their involvement,
  - The types of money laundering activity suspected,
  - 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.
- 8.3 You should also supply any other available information to help the MLRO to make a sound judgement as to the next steps to be taken and you should enclose copies of any relevant supporting documentation.
- 8.4 If you are a legal adviser and consider that legal professional privilege may apply to the information, you should explain fully in the report form the reasons why you contend the information is privileged. The MLRO, in consultation with the Assistant Director Legal Services, will then decide whether the information is exempt from the requirement to report suspected money laundering to the Serious Organised Crime Agency (SOCA).
- 8.5 Once you have reported the matter to the MLRO you must follow any directions he may give you. You must NOT make any further enquiries into the matter yourself. Any necessary investigation will be undertaken by SOCA. All employees will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.
- 8.6 At no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering or to any other individual without the specific consent of the MLRO. If you do so, you may commit the offence of 'tipping off'.
- 8.7 Do not make any reference on records held to the fact that you have made a report to the MLRO. If a customer exercises their right to see their record, any such note would obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in confidential manner.
- 8.8 In all cases no further action must be taken in relation to the transaction(s) in question until either the MLRO or SOCA (if applicable) has specifically given their written consent to proceed.
- 9. Consideration of disclosure report by the MLRO**
- 9.1 On receipt of a disclosure report, the MLRO will record the date of receipt on the report, acknowledge receipt of it and indicate when he expects to respond.
- 9.2 The MLRO will consider the report and any other available internal information he thinks relevant. This may include
- Reviewing other transactions, 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.
- 9.3 The MLRO will undertake any other inquiries deemed appropriate and will ensure that all available information has been obtained. In doing so, the MLRO will avoid any action which could tip off those involved, or which could

give the appearance of tipping them off. Where appropriate Internal Audit will investigate on behalf of the MLRO.

- 9.4 The MLRO may also need to discuss the report with the employee who reported the case.
- 9.5 The MLRO will then consider all aspects of the case and decide whether a report to SOCA is required. He must make a timely determination as to:
- Whether there is actual or suspected money laundering taking place,
  - Whether there are reasonable grounds to know or suspect that money laundering is taking place,
  - Whether he needs to seek consent from the SOCA for a particular transaction to proceed.
- 9.6 Where the MLRO concludes one or more of the above, s/he will record his conclusion and disclose the matter as soon as possible to SOCA online or submit their standard report form which can be downloaded from the internet at [www.soca.gov.uk](http://www.soca.gov.uk).
- 9.7 Once the MLRO has made a disclosure to SOCA, their consent will be needed before you can take any further part in the transaction. Consent will be received in the following way:
- Specific consent,
  - Deemed consent if no notice of refusal is received from SOCA during the notice period (ie 7 working days starting with the first working day after the MLRO makes the disclosure),
  - Deemed consent if refusal of consent is given 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) has elapsed without any further refusal of consent.
- 9.8 The MLRO should make clear in the report to SOCA if such consent is required, and if there are any deadlines for giving such consent, e.g. completion date or court deadline.
- 9.9 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering this will be recorded appropriately and s/he will give consent for any ongoing or imminent transaction(s) to proceed.
- 9.10 All disclosure reports referred to the MLRO and reports made by him/her to SOCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.
- 9.11 The MLRO commits a criminal offence if s/he knows or suspects, or has reasonable grounds to do so, through a disclosure being made to him, that another person is engaged in money laundering and he does not disclose this as soon as possible to the SOCA.
- 10. Additional requirements for Finance and Legal employees.**
- 10.1 In addition to the disclosure procedure referred to in 4.2 above, those employees providing certain financial and legal services (ie “relevant

business”) must also comply with the customer identification procedure, ‘due diligence’ and the record keeping procedures.

10.2 There are various levels of ‘due diligence’. The 2007 Regulations require due diligence to be carried out on a risk sensitive basis, so that:

- ‘Simplified due diligence’ is required where there is a low risk of money laundering. For example if a company is listed on the stock exchange a company search and evidence of the listing would suffice.
- ‘Enhanced due diligence’ for those with a high-risk status, for example remote transactions where the customer is not physically present to be identified would require additional appropriate documents to be requested.
- The ‘beneficial owner’, the individual that ultimately owns or controls the customer or on whose behalf a transaction or activity is being conducted, should be identified.
- The business relationship should be scrutinised throughout its existence and not just at the beginning.

You may rely on due diligence undertaken by those regulated by the FSA or supervised by a listed professional regulator e.g. the Solicitors Regulation Authority. Any information obtained may be used as evidence in any subsequent investigation by the relevant enforcement authorities into money laundering.

10.3 In all cases, evidence of the customer identification and record of the relationship/transaction should be retained for at least five years from the end of the business relationship of transaction(s). The records that must be kept are:

- A copy of, or references to, the evidence of the identity obtained under the customer due diligence requirements in the Regulations,
- The supporting evidence and records in respect of the business relationships and occasional transactions which are the subject of customer due diligence measures or ongoing monitoring,
- A copy of the identification documents accepted and verification evidence obtained,
- References to the evidence of identity,
- Transaction and business relationship records should be maintained in a form from which a satisfactory audit trail may be compiled, and which may establish a financial profile of any suspect account or customer.

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

10.5 The customer identification procedure must be carried out when the Council is carrying out ‘relevant business’ and:

- Forms a business partnership with a customer,
- Undertakes a one-off transaction (including a property transaction or payment of a debt) involving payment by or to a customer of 15,000 Euro (approximately £12,000) or more,
- Undertakes a series of linked one-off transactions involving total payment by or to the customer(s) of 15,000 Euro (approximately £12,000) or more,

- It is known or suspected that a one-off transaction, or a series of them, involves money laundering.

This must be completed before any business is undertaken for that customer in relation to accountancy, procurement, audit and legal services with a financial or real estate transaction.

10.6 In the above circumstances, employees must:

- Identify the person seeking to form the business relationship or conduct the transaction (an individual or company),
- Verify their identity using reliable, independent sources of information,
- Identify who benefits from the transaction,
- Monitor transactions to make sure they are consistent with what you understand about that person or country,
- Understand the source of their funds,
- Ensure there is a logical reason why they would want to do business with the Council.

10.7 This applies to existing customers, as well as new ones, but identification evidence is not required for matters entered into prior to 1 March 2004.

10.8 In relation to internal Council customers appropriate evidence would be signed written instructions on Council headed note paper or an e-mail at the outset of a particular matter. Such correspondence should then be placed on file along with a prominent note explaining which correspondence constitutes the evidence and where it is located.

10.9 In relation to external bodies the MLRO will maintain a central file of general client identification evidence regarding the external organisations to which Finance and Legal Services provide professional services (e.g. the ITA, Tyne and Wear Archives and Museums, YHN).

10.10 You should check with the MLRO that the organisation in respect of which you require identification is included in the MLRO's central file and check the precise details contained in relation to that organisation. If the organisation is not included in the central file, you should discuss this with the MLRO.

10.11 The law does not prescribe the precise nature of the records to be retained. 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 Council will be routinely making records of work carried out in the course of normal business and these should suffice in this regard.

## **11. Training**

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.

## **12. Conclusion**

- 12.1 The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This document has been written to enable the Council to meet the legal requirements in a way that is proportionate to the low risk to the Council of contravening the legislation. Should you have any concerns whatsoever regarding any transactions then you should contact the MLRO.
- 12.2 The policy will be reviewed as and when required.

APPENDIX 1

CONFIDENTIAL

Report to Money Laundering Reporting Officer

**re money laundering activity**

**To: NCC 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, whereabouts, value and timing of activity/property involved:**  
*[Please include full details eg what, when, where, how. Please also include details of current whereabouts of the laundered property, so far as you are aware. Continue on a separate sheet if necessary]*

**Nature of suspicions regarding such activity:**

*[Please continue on a separate sheet if necessary]*

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

*[Please tick the relevant box]*

Yes

No

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

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

*[Please tick the relevant box]*

Yes

No

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

**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:**

**Do you feel you have a reasonable excuse for not disclosing the matter to SOCA? (e.g. are you a lawyer and wish to claim legal professional privilege?)** *[Please tick the relevant box]*

Yes

No

**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 2002 Act or section 18 of the 2000 Act) and which requires appropriate consent from SOCA?**

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 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?**

Do you know the identity of the alleged money launderer or the whereabouts of the property concerned?

**If there are reasonable grounds for suspicion, will a report be made to SOCA?** *[Please tick the relevant box]*

Yes

No

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

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

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

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

**Is consent required from SOCA to any ongoing or imminent transactions which would otherwise be prohibited acts?**

Yes

No

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

**Date consent received from SOCA:** .....

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

**If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to SOCA, please set out below the reason(s) for non-disclosure:**

*[Please set out any reasonable excuse for non-disclosure]*

**Date consent given by you to employee for any prohibited act transactions to proceed:** .....

**Other relevant information:**

**Signed:** ..... **Dated:** .....

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