

Document History

Version	Date	Key changes made	Approved by
1.0	October 2023	Full redraft following comments from SIAP	Michaela Lambart – Fraud Manager
1.1	January 2024	Policy Finalised for Committee	Mark Hak-Sanders Director of Resources (S151 Officer) and Lidia Harrison Head of Legal Services (Monitoring Officer)

Anti-Money Laundering Policy

1. Foreword

1.1 On 10 January 2020 changes to the Government's Money Laundering Regulations (MLRs) came into force. The changes update the UK's Anti Money Laundering regime to incorporate international standards set by the Financial Action Task Force (FATF). The 2019 Regulations amend:

- [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(MLRs\)](#)

1.2 As an overview, the changes incorporate the requirement to:

- keep an up-to-date list of exact functions that qualify as prominent public functions.
- observe enhanced due diligence when working with high-risk countries.
- maintain registers of beneficial owners.
- enforce a reduced limit of pre-paid cards and electronic money.
- undertake enhanced due diligence on virtual currencies, crypto currencies, digital tokens.
- bring letting agency activities within the scope of Anti Money Laundering.

1.3 A key difference is the 5th Money Laundering Directive brings additional businesses into the scope of the anti-money laundering regulatory framework. Described as "obliged entities" in the 4th Money Laundering Directive, these are defined as "relevant persons" in the MLRs and as businesses in the "regulated sector" in the [Terrorism Act 2000](#) and the [Proceeds of Crime Act 2002](#). The requirements of the 5th Money Laundering Directive do not allow for the exemption of small businesses or any exemptions based on size.

- 1.4 In identifying ownership, the 2019 Regulations introduces an explicit Customer Due Diligence (CDD) requirement for relevant persons to take reasonable measures to understand the ownership and control structure of their customers. Relevant persons must also take reasonable measures to verify the identity of senior managing officials when the beneficial owner of a body corporate cannot be identified.
- 1.5 Although anti-money laundering legislation does not specifically cover local authorities as defined by organisations in the regulatory sector, it is implied best practice that we assess the risk and put sufficient controls in place to prevent the Council from being used for money laundering.
- 1.6 We are also required to:
- assess the risk of Tandridge District Council being used by criminals to launder money.
 - check the identity of our customers.
 - check the identity of 'beneficial owners' of corporate bodies and partnerships.
 - monitor our customers' business activities and report anything suspicious to the [National Crime Agency](#) (NCA).
 - make sure we have the necessary management control systems in place; keep all documents that relate to financial transactions, the identity of our customers, risk assessment and management procedures and processes.
 - make sure our employees are aware of the regulations and have had the necessary training.
 - relevant persons must have policies to ensure they undertake risk assessments prior to the launch or use of new products or business practices, as well as new technologies.
- 1.7 The purpose of this policy is to enable the Council to meet its statutory obligations and to assist officers in dealing with money laundering.

2. Introduction

- 2.1 This policy will:
- apply to all employees whether permanent or temporary and Members of the Council.
 - set out what the Council must do to comply with its legal obligations.
 - support the Council's vision of zero tolerance of fraud, corruption, and bribery.
 - form part of the Council's wider financial governance arrangements which include the Financial Regulations and the Anti-Fraud, Bribery and Corruption Policy.

More detailed information and procedures for Officers can be found in the Anti-Money Laundering Guidance Notes which support this policy.

3. What Is Money Laundering?

3.1 Money laundering has been defined by the Law Society as “the process by which the proceeds of crime and the true ownership of these proceeds is changed so that the proceeds appear to come from a legitimate source.”

3.2 The legislation states that money laundering is:

Concealing, disguising, converting, transferring criminal property, or removing it from the UK (section 327 of the Proceeds of Crime Act 2002)

Entering or becoming involved 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 (section 328)
- Acquiring, using, or possessing criminal property (section 329)
- Doing something that might prejudice an investigation e.g., falsifying a document.
- Failure to disclose one of the offences listed above, where there are reasonable grounds for knowledge or suspicion.
- Tipping off a person(s) who is suspected of being involved in money laundering in such a way as to reduce the likelihood of or prejudice an investigation.

3.3 “Criminal property” means anything of value (including cash, any type of financial security, investments, land, benefit under a contract, etc) that results from criminal activity.

3.4 Money laundering activity may range from a single act, for example being in possession of the proceeds of one’s own crime, to complex and sophisticated schemes involving multiple parties and multiple methods of handling and transferring criminal property as well as concealing it and entering into arrangements to assist others to do so. Council employees need to be alert to the risks of clients, their counterparties and others laundering money in any of its many forms.

3.5 Under section 18 of the [Terrorism Act 2000](#) it is an offence for a person to enter into or become concerned in an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property by concealment, removal from the jurisdiction, transfer to nominees or in any other way. Terrorist property is defined as money or other property which is likely to be used for the purposes of terrorism (including any resources of a prescribed organisation), proceeds of the commission of acts of terrorism, and proceeds of acts carried out for the purposes of terrorism.

- 3.6 It is important to note that anyone, Council employee or not, can commit any of the above offences. However, in addition to these offences there are a series of obligations imposed on the Council by the [2007 Money Laundering Regulations](#) that it must fulfil, and of which breach can also amount to an offence by the Council.

4. The Council's Obligations

- 4.1 Whilst local authorities are not directly covered by the requirements of the [Money Laundering Regulations 2019](#), guidance from finance and legal professions, including the [Chartered Institute of Public Finance and Accounting](#) (CIPFA), indicates that public service organisations should comply with the underlying spirit of the legislation and regulations and put in place appropriate and proportionate anti money laundering safeguards and reporting arrangements.
- 4.2 The regulations apply to "relevant persons" acting in the course of business carried out by them in the UK. Relevant persons must check beneficial ownership registers of legal entities in scope of the People with Significant Control (PSC) requirements before establishing a business relationship. Where there is a discrepancy between the beneficial ownership information on the registers and the information that is made available to them in the course of carrying out CDD, there is a requirement to report these discrepancies to [Companies House](#). Companies House will investigate and, if necessary, resolve the discrepancy in a timely manner. These reports are excluded from public inspection. Not all of the Council's business is relevant for the purposes of the Regulations; it could include accountancy and audit services carried out by Financial Services and the financial, company and property transactions undertaken by Legal Services.
- 4.3 It is reasonable to conclude that the money laundering regime is not primarily aimed at local authorities and that local authorities' work is to some extent tangential to the regime. However, the safest way to ensure compliance with the regime is nonetheless to apply its requirements to all of the Council's areas of work and to ensure that all employees comply with the reporting procedure set out in the policy.
- 4.4 The key requirements are listed below:
- To appoint a Money Laundering Responsible Officer (MLRO) to receive any disclosures from staff relating to money laundering.
 - To make arrangements to receive and manage the concerns of staff about money laundering and their suspicion of it, to make internal enquiries and to make reports where necessary to the National Crime Agency (NCA).
 - To maintain a record of incidents that have been reported to the MLRO.

- To establish internal procedures to help forestall and prevent money laundering.
- To provide training for appropriate staff on how to identify the signs of potential money laundering transactions.
- To report any single cash transaction or a series of linked transactions totalling over €15,000 (approximately £10,000 at the time of the legislation), these should be treated as suspicious.

4.2 The role of the MLRO is outlined in sections 5 and 6 of this policy.

4.3 The Council's Financial Regulations are detailed in the Council's Constitution.

4.4 Given the low risk to the Council of money laundering, the Anti-Money Laundering Guidance Notes will provide sufficient training for most staff, although further guidance may be issued from time to time and targeted training provided to those more directly affected by the legislation.

5. The Money Laundering Responsible Officer

5.1 The officer nominated to receive reports of suspected money laundering activity within the Council is:

Mark Hak-Sanders – Director of Resources (S151). Contact details are mhaksanders@tandridge.gov.uk

5.2 In the absence of the MLRO, Michaela Lambart, Fraud Manager is authorised to deputise. Contact details are Michaela.Lambart@Reigate-Banstead.gov.uk.

6. Reporting

6.1 Where Officers or Members know or suspect that money laundering is taking place or has taken place, they must report this as soon as possible to the MLRO with the completion of the Council's Money Laundering disclosure form. The disclosure should be made within hours rather than days or weeks of the information coming to Officers or Members attention. The legislation determines that a single cash transaction or a series of linked transactions totalling over €15,000 (approximately £13,000 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.

6.2 The report must include as much detail as possible, for example:

- full details of the people involved for example name, date of birth, address, company names, directorships, phone numbers etc.
- if an Officer is concerned that their involvement in the transaction would amount to a prohibited act under sections 327-329 of the [2002 Proceeds of Crime Act](#) then the report must include all relevant details.

- the Officer will need consent from the [National Crime Agency](#) (NCA) or relevant successor body, through 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 Officer should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent for example 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.
 - the date 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 or assets involved.
 - why, exactly, the Officer is suspicious.
 - in addition, any other information to enable the MLRO to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering.
 - to prepare a report to the NCA, where appropriate. The Officer should also enclose any copies of relevant supporting documentation.
- 6.3 As soon as the Officer has reported the matter to the MLRO the Officer must follow any directions they give. **The Officer must not make any further enquiries into the matter.** Any necessary investigation will be undertaken by the NCA or relevant successor body as appropriate. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation. Similarly, at no time and under no circumstances should the Officer voice any suspicions to the person or organisation that the Officer suspects of money laundering, otherwise the Officer may commit the criminal offence of “tipping off”.
- 6.4 The Officer must not make any reference on a client file to a report having been made to the MLRO. Should the client exercise his or her right to see the file then such a note would obviously tip them off to the report having been made. Again the Officer would be at risk of prosecution for tipping off. The MLRO will keep the appropriate records in a confidential manner.
- 7. Conclusion**
- 7.1 This policy is in place to enable the Council to meet its statutory obligations and to assist Officers in dealing with money laundering.
- 7.2 In the case of concerns about any financial transactions, Officers or Members should contact the MLRO as soon as possible.
- 7.3 Further details are set out in the Guidance Notes which support this policy.

- 7.4 This policy will be reviewed every three years. Minor technical, procedural, or legislative amendments will be agreed by the Head of Legal Services (Monitoring Officer) and Director of Resources (S151 Officer)

8. Additional Information

- 8.1 Additional information can be obtained from:
- Anti money laundering supervision: detailed information
 - National Crime Agency