

## **TONBRIDGE & MALLING BOROUGH COUNCIL ANTI-MONEY LAUNDERING POLICY**

**Failure by a person to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them in accordance with the Council's Disciplinary Policy and Procedure and criminal prosecution.**

### **1. INTRODUCTION**

- 1.1. Tonbridge and Malling Borough Council has a zero tolerance policy concerning money laundering and is committed to the highest standards of conduct.
- 1.2. The Proceeds of Crime Act (POCA) 2002, the Terrorism Act 2000 and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 place obligations on Tonbridge and Malling Borough Council and its employees to ensure that procedures are in place to prevent the Council's services being used for money laundering.
- 1.3. This policy sets out the process to minimise the risk, as well as provide guidance on the Council's money laundering procedures. Adhering to this policy and guidance will protect employees from the risk of prosecution if an employee becomes aware of money laundering activity while employed by the Council.
- 1.4. The policy is not intended to prevent customers and service users from making payments for Council services, but to minimise the risk of money laundering in high value cash transactions.

### **2. SCOPE OF THE POLICY**

- 2.1 This Policy, applies to all Councillors, employees (permanent or temporary) and contractors of the Council, and aims to maintain the high standards of conduct which currently exist within the Council by preventing criminal activity through money laundering.
- 2.2 The Policy sets out the procedures to enable the Council to comply with its legal obligations.
- 2.3 The Policy sits alongside the Council's Whistleblowing Policy and the Anti-Fraud, Bribery and Corruption Policy.

### **3. WHAT IS MONEY LAUNDERING?**

3.1 Money laundering is defined as meaning:

- concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 of POCA 2002); 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 (section 328); or
- acquiring, using or possessing criminal property (section 329); or
- becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property (section 18 of the Terrorist Act 2000).

These are the primary money laundering offences and thus prohibited acts under the legislation.

3.2 Potentially any Councillor or member of staff could contravene the POCA 2002 provisions if they suspect money laundering and either become involved with it in some way and/or do nothing about it. This Policy sets out how any concerns should be raised.

3.3 Whilst the risk to the Council of contravening this legislation is considered low, Councillors and employees should know of their legal responsibilities as serious criminal sanctions may be imposed for breaches.

#### **4. WHAT ARE THE OBLIGATIONS ON THE COUNCIL?**

4.1 The Council has adopted certain of the procedures required of 'relevant persons' as defined in the Regulations –

- appoint a Money Laundering Reporting Officer ("MLRO") to receive disclosures from employees of money laundering activity (their own or anyone else's);
- implement a procedure to enable the reporting of suspicions of money laundering;
- maintain client identification procedures in certain circumstances; and
- maintain record keeping procedures.

4.2 Compliance with the law is to apply them to all areas of work undertaken by the Council; therefore, all Councillors and staff are required to comply with the reporting procedure set out in section 6 below.

## 5. THE MONEY LAUNDERING REPORTING OFFICER

5.1 The officer nominated to receive disclosures about money laundering activity within the Council is the Financial Services Manager, Paul Worden. He can be contacted as follows:

**Paul Worden**  
**Financial Services Manager**  
**Financial Services**  
**Gibson Building**  
**Gibson Drive**  
**Kings Hill**  
**West Malling**  
**ME19 4LZ**  
**Telephone: 01732 876175 Direct Line or at**  
[paul.worden@tmbc.gov.uk](mailto:paul.worden@tmbc.gov.uk)

5.2 In the absence of the MLRO, the Senior Exchequer Assistant, Dominic Reynolds, is authorised to deputise for him. Dominic can be contacted at the above address or on telephone number 01732 876110 Direct Line or at [dominic.reynolds@tmbc.gov.uk](mailto:dominic.reynolds@tmbc.gov.uk).

## 6. DISCLOSURE PROCEDURE

### Reporting to the Money Laundering Reporting Officer

6.1 Where an individual knows or suspects 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 the legislation, it must be disclosed immediately to the MLRO.

6.2 The disclosure should be made to the MLRO using the statement attached at Appendix 1. The report must include as much detail as possible, for example:

- a) Full details of the individual making the report.
- b) Full details of the people involved.
- c) Full details of the nature of their/your involvement;
- d) The details of the suspected / known activities, including:
  - Whether the transactions have happened, are ongoing or are imminent;
  - The dates of the transactions;
  - Where they took place;
  - How they were undertaken;
  - The (likely) amount of money/assets involved;
  - Why, exactly, you are suspicious;
  - Supporting relevant documentation.

6.3 Once you have reported the matter to the MLRO you must follow any directions they may give you.

6.4 Any reporting should be treated as confidential and should not be discussed or disclosed to anyone, unless directed by the National Crime Agency (NCA) or MLRO. This includes notation on client files.

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

6.5 Upon receipt of a disclosure report, the MLRO must note the date of receipt and acknowledge receipt of it to the individual making the report along with an estimated timescale for a response.

6.6 The MLRO will consider the report and request any other available internal information they think relevant to substantiate the claims.

6.7 Once the MLRO has evaluated the disclosure report and any other relevant information, they must make a timely determination as to whether money laundering is suspected or actually taken place and if NCA consent is required for the transaction to proceed.

6.8 If suspicion is confirmed the MLRO must disclose the matter immediately to the NCA on their standard report form.

6.9 Where the MLRO suspects money laundering but has a reasonable excuse for nondisclosure, then he must note the report accordingly and give consent for any ongoing or imminent transactions to proceed.

6.10 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.

6.11 If consent is required from the NCA for a transaction to proceed, then the transaction(s) in question cannot take place until consent is specifically given, or there it is deemed consent has been given due to expiration of the relevant time limits without objection from the NCA.

6.12 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then the report will be marked accordingly and give consent for any ongoing or imminent transaction(s) to proceed.

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

**IT IS A CRIMINAL OFFENCE FOR THE MLRO TO FAIL TO DISCLOSE MONEY LAUNDERING CONCERNS TO THE NCA AS SOON AS PRACTICAL.**

## **7. CLIENT IDENTIFICATION PROCEDURE**

7.1 The Client Identification Procedure should enable us to have confidence in accepting instructions from a known client. For a new client, then you may also wish to seek additional evidence, for example:

- checking the organisation's website to confirm the identity of personnel, its business address and any other details;
- attending the client at their business address;
- a search of the internet;
- asking the key contact officer to provide evidence of their personal identity and position within the organisation, for example: passport or driving licence;
- signed, written confirmation from their Head of Service or Chair of the relevant organisation that such person works for the organisation.

7.2 In all cases, the evidence should be retained for at least five years from the end of the business relationship or transaction(s).

7.3 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.

## **8. RECORD KEEPING PROCEDURES**

8.1 Each section of the Council 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.

8.2 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. If in doubt please discuss with the MLRO.

## **9. CONCLUSION**

9.1 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.

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

## **REVIEW AND APPROVAL OF THIS POLICY**

This Policy is owned by the Director of Finance and Transformation and reviewed by the Financial Services Manager on her behalf.

The Anti Money Laundering Policy will be reviewed and endorsed at least annually by the Audit Committee at their January meeting. The most recent review was undertaken in January 2021 with the next review due January 2022.

January 2021

**Anti-Money Laundering Reporting Form****Your Contact Details**

Please provide your contacts details in the box below so we can confirm that we have received the report and get into contact with you if required.

Name :	
Service / Post Title	
Email:	
Contact Telephone:	

**Details of suspected offence**

Please enter details of your suspicions. Please provide as much information as possible.

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**Name(s) and Address(es) of Person(s) involved**

If a company or public body please include the nature of business.

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**Transaction(s)**

Please enter the details of the transactions you think are suspicious, please continue on a separate sheet if necessary.

Date:			
Amount:		Currency:	
Credit/Debit			
Nature of transaction:			

**Nature of suspicion regarding such activity:**

Please continue on a separate sheet if necessary.

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**Are you aware of any investigations undertaken to date:**

If yes please give details otherwise please write NO.

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

If yes please give details otherwise please write NO.

**Please give any other information that you feel is relevant.**

Signed

\_\_\_\_\_

Dated

\_\_\_\_\_

**THE REPORTER SHOULD NOT WRITE ANYTHING BELOW THIS LINE**

**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 sufficient grounds for suspicion, will a report be made to the NCA? If yes please complete details below.**

Date report sent \_\_\_\_\_

Date receipt of report acknowledged \_\_\_\_\_

Notice Period From \_\_\_\_\_ to \_\_\_\_\_

Moratorium Period From \_\_\_\_\_ to \_\_\_\_\_

**Is consent required from the NCA to any ongoing or imminent transactions which would otherwise be a prohibited act? If yes please complete details below.**

Date consent received from NCA \_\_\_\_\_

Date consent given by MLRO to employee \_\_\_\_\_

**If there are reasonable grounds for suspicion of money laundering, but you do not intend to report the matter to the NCA, please give the reasons for non-disclosure.**

**Date of consent given by MLRO to proceed with transaction**

\_\_\_\_\_

**Any other relevant information:**

**Signed**

\_\_\_\_\_

**Dated**

\_\_\_\_\_

**THIS REPORT IS TO BE RETAINED FOR AT LEAST 5 YEARS**