

ANTI-MONEY LAUNDERING POLICY AND PROCEDURES

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Contents

SADC Anti-Money Laundering Policy

1. Introduction	3
2. Scope	3
3. Definition	3
4. Obligations	4
5. Review	4

Anti-Money Laundering Procedures

1. Background	5
2. What do employees do if they suspect money laundering?	5
3. Council activities that carry a risk of money laundering	5
3.1 Treasury Management	5
3.2 Right to Buy	6
3.3 Miscellaneous Cash Income	6
3.4 Property and land transactions (non Right to Buy)	6
4. Client identity procedure	7
5. Reporting Suspicions of Money Laundering	8
6. Considerations of Disclosure by the MLRO	8
7. Responsibilities of the MLRO	10
8. Penalties	10
9. Review of Procedures	10
10. Help and Advice	10

Internal Reporting Form

Money Laundering Reporting Form	11
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St Albans City & District Council Anti-Money Laundering Policy

1. Introduction

- 1.1 St Albans City & District Council is committed to the highest possible standards of conduct including a zero-tolerance approach to fraud and corruption. The Council is committed to the prevention of money laundering.
- 1.2 This policy confirms the Council's commitment to ensuring that the relevant legislation is complied with encompassing:
- i. The Proceeds of Crime Act 2002 (as amended by the Criminal Courts Act 2013 and the Serious Crime Act 2015)
 - ii. The Terrorism Acts 2000 & 2006;
 - iii. The Counter-Terrorism Act 2008;
 - iv. The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017).
 - v. The Money Laundering and Transfer of Funds (Information) (Amendment) (EU Exit) Regulation 2019 (MLR 2019).
 - vi. The Money Laundering and Terrorist Financing (Amendment) Regulations 2019
 - vii. The Financial Services and Markets Act 2000
 - viii. The Sanctions and Anti-Money Laundering Act 2018
 - ix. The Criminal Finances Act 2017

2. Scope

- 2.1 The policy should be read in conjunction with the Money Laundering Procedures (see later on), which detail the requirements and reporting procedures under the legislation.
- 2.2 The policy sits alongside the Council's Anti-Fraud, Bribery and Corruption Policy and the Council's Whistleblowing Policy. It applies to all Council workers, whether permanent, temporary or casual, including agency staff, consultants and elected members.

3. Definition

- 3.2 Money laundering refers to several offences involving the proceeds of crime or terrorist funds as follows:
- Concealing, disguising, converting, transferring or removing property, representing a person's benefit from criminal conduct
 - Becoming involved in an arrangement facilitating the acquisition, retention, use or control of criminal property by or on behalf of another person
 - Acquiring, using or possessing criminal property
 - Facilitating the concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property
- 3.3 There are two further third party offences relating to money laundering:
- Failure to disclose one of the principal offences listed above 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. Obligations

- 4.1 Whilst Local Authorities are not directly covered by the requirements of the MLR 2017 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 Council has nominated the Council's Section 151 Officer as the Money Laundering Reporting Officer (MRLO) to receive disclosures regarding knowledge or suspicion of money laundering activity from staff. The Council will also ensure that relevant officers are trained in the requirements of the underlying legislation and regulations and to recognise and report transactions which may indicate money laundering activity.
- 4.3 Organisations 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);
 - implement a procedure to enable the reporting of suspicions of money laundering;
 - maintain client identification procedures in certain circumstances; and
 - maintain record keeping procedures.
- 4.4 Not all of the Council's business is "relevant" for the purposes of the legislation. It is mainly accountancy and financial; and company and property transactions undertaken 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 staff are required to comply with the reporting procedure set out in procedures below.

5. Review

- 5.1 This policy and the associated guidance notes will be subject to annual review by the Section 151 Officer in conjunction with the Monitoring Officer.

Anti-Money Laundering Procedures

1. Background

1.1 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. Example of how the Council may become involved in money laundering include:

- Accepting large cash amounts either as a single transaction or a group of related transactions
- The request of a large refund
- Treasury Management (borrowing and investments)
- Property investments or purchases (including Right to Buys)

Indicators which may suggest money laundering activity include:

- Payments to the Council of large cash amounts (typically set at a limit of 10,000 Euros (or the sterling equivalent) for reporting purposes)
- Cash overpayments made by a customer resulting in a large refund request
- Cash transactions made that are significantly outside of normal expectations
- Involvement of third parties when dealing with the Council and cash payments, without logical reason
- Customers, contractor or suppliers who are unwilling to provide, proof of identity, or information on the source of the funds
- Illogical third party transactions: for example, unnecessary routing or receipt of funds from third parties or through third party accounts.

2. What do employees do if they suspect money laundering?

Where an employee suspects Money Laundering activity, they are required to:

- immediately notify the MLRO
- not take any money or process the transaction until guidance has been sought from the MLRO
- not to make any further enquiries into the matter themselves
- not to disclose or otherwise indicate their suspicions to the suspect as this may constitute a criminal offence of tipping off
- not discuss the matter with others and note on the file or system a report has been made to the MLRO. In doing so the employee has fulfilled their obligations under the legislation and the Council's internal policy.

3. Council activities that carry a risk of money laundering

Process transactions only if you are satisfied with the explanation and evidence provided and immediately inform the Money Laundering Reporting Officer (MLRO) of any knowledge or suspicion. Failure to do this may leave you as an individual liable to prosecution.

3.1 Treasury Management

3.1.1 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 under the Banking Act 1987. All borrowings

will be through money brokers who are regulated by the Financial Services Authority to ensure that money laundering is prevented.

3.2 Right to Buy

- 3.2.1 The Council has an anti-money laundering checklist for use in conjunction with Right to Buy sales to obtain its own assurance that it is not a victim of money laundering.

3.3 Miscellaneous Cash Income

- 3.3.1 The legislation determines that a single cash transaction or a series of linked transactions totalling over €10,000 (approximately £8,400) should be treated as suspicious. Vigilance is also required for smaller payments aggregating to more than £8,400 within a 12-month period. Regular payments of £1,000 and over should be scrutinised.

Procedures for miscellaneous cash income (e.g. payment for Business Rates, Council Tax, Housing Rents, Debtors) include:

- Investigating and recording why the payment is made in cash
- Requiring individuals to produce evidence of identity and current address
- Verifying the name and address through robust sources
- Obtaining information on companies involved in transactions

Particular care should be exercised in cases where a significant cash amount is involved or there are a series of smaller cash transactions where:

- Cash paid exceeds the amount necessary to settle a transaction and a non-cash return of the excess is requested;
- 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;
- A party is evasive as to the source or destination of funds.

All evidence obtained should be annotated "Evidence re Money Laundering" and forwarded with the report of the transaction to the Money Laundering Reporting Officer (MLRO).

3.4 Property and land transactions (non Right to Buy)

- 3.4.1 Any land or property sale (aside from RTB and Social Housing transactions) the Legal team will check identity of the buyers/sellers and include a bankruptcy search against the individual or a Companies House search for a company.
- 3.4.2 Funds are not accepted directly from the buyer unless it's a low value sale i.e. below £5,000, although normally they will use a solicitor. It is noted that solicitors are obligated to do an Anti-Money Laundering check on their client before taking them on. If the Lawyer is then instructed there is an assumption that there are no issues. However, the Legal Team will ensure a reputable solicitor is being used by the client or make enquires to establish this.
- 3.4.3 All evidence obtained should be annotated "Evidence re Money Laundering" and forwarded with the report of the transaction to the Money Laundering Reporting Officer (MLRO).

4. Client identity procedure

- 4.1 In the case of an individual the person should be required to produce evidence of their identity in the form of two of the following original documents where possible (copy documents are not acceptable):

- A current passport;
- A current full driving licence;
- A birth certificate;
- A marriage certificate.

If only one document is available (e.g. birth certificate) then additional proof should be obtained or enquiry made (see paragraphs 4.2). Where foreign documents are offered a translation should be obtained from a reputable source to confirm their validity.

- 4.2 The person should also be requested to provide proof of their current address in the form of at least two items from the following list (as well as the documents in 4.1 above):

- 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, heating oil, landline telephone but not a mobile phone bill) less than 12 months old.

- 4.3 Check the name and address to a robust source (e.g. Council Tax records, Electoral Register, Credit Reference Agency e.g. Experian).

- 4.5 In this case and also where instructions are received from a new or less well known client, consideration should be given to obtaining additional evidence, such as the identity of key individuals in the organisation, from whom proof should be obtained as above, or about the organisation itself.

- 4.6 All evidence obtained should be annotated "Evidence re Money Laundering" and forwarded with the report of the transaction to the MLRO who will retain it in a

confidential client investigation file. A reporting form is available for staff use and is available on StaffNet and detailed at the end of this document.

5. Reporting Suspicions of Money Laundering

- 5.1 Staff must immediately report to the MLRO if they believe the Council may be the subject of an attempt to involve it in a transaction involving the laundering of money or immediately seek advice if they are not sure.

Forward a report of each such transaction to the MLRO including:

- Date;
 - Name of person &/or organisation (if appropriate) making payment;
 - Type of payment (e.g. Business Rates, Council Tax, Housing Rent);
 - Amount of payment (indicate if single or identified as one of a series);
 - Officer dealing with payment;
 - The exact reason for your suspicion;
 - Any other information that may help the MLRO to decide whether to report the case to the National Crime Agency (NCA) incorporating the former Serious Organised Crime Agency (SOCA) and the National Criminal Intelligence Service (NCIS).
- 5.2 Once the matter has been reported to the MLRO the individual reporting it must follow the directions of the MLRO and under no circumstances should make further enquiry into the matter. The individual may be required to co-operate with any enquiry undertaken by the NCA.
- 5.3 Under no circumstances should the individual who is suspected of money laundering be informed of the suspicion. Disclosure of information relating to an investigation may constitute the criminal offence of “tipping off” and may result in a criminal case being brought against the individual who made the disclosure.
- 5.4 No reference should be made on a general client file or in records that a client may be entitled to see, for example under the Data Protection or Freedom of Information Acts, to indicate that they are under suspicion of money laundering. They may otherwise be alerted to an investigation.

6. Considerations of Disclosure by the MLRO

- 6.1 The MLRO must evaluate the disclosure report and determine if there are reasonable grounds that a report is made to the National Crime Agency. The Consultative Committee of Accountancy Bodies (NCA)(CCAB) gives the following guidance to determining reasonable grounds:

- Does the conduct under scrutiny fall within that which is potentially criminal?
- If so, is the person/organisation under scrutiny suspected of having engaged in this conduct such that proceeds resulted?
- What factors and information have led to the formation of knowledge or suspicion, i.e. how will the grounds for the report be described to the NCA?

- 6.2 The MLRO will consider the disclosure report and any other internal information available to them and undertake such other reasonable enquiries they think appropriate in order to ensure that all available information is taken into account before deciding if a report to the NCA is required.
- 6.3 If the MLRO concludes that actual or suspected money laundering is taking place then, unless there are reasonable grounds for non-disclosure, the matter must be disclosed to the NCA as soon as practically possible in the prescribed manner using their Suspicious Activity Reports (SAR) portal <https://sarsreporting.nationalcrimeagency.gov.uk/>
- 6.4 If the MLRO suspects money laundering but has reasonable grounds for non-disclosure to the NCA following liaison with the Monitoring Officer or concludes there are no reasonable grounds to suspect or confirm money laundering, the disclosure report must be annotated accordingly with the reasons for their decision. Consent can be given for any on-going or imminent transactions to proceed.
- 6.5 In cases where legal privilege may apply the MLRO must liaise with Legal Services to decide whether there are reasonable grounds for non-disclosure to the NCA.
- 6.6 The MLRO must consider whether a defence against a money laundering charge is required from the NCA before they can proceed with a suspicious transaction or activity. The MLRO will find out if the NCA have granted a defence when they reply to the SAR.
- 6.7 If a reply is not received from the NCA within seven working days and believe it has been correctly reported the MLRO can choose to assume a defence is granted.
- 6.8 If a reply is received that says there is no permission to proceed, the NCA have a further 31 calendar days to take action. If the MRLO has not heard from the NCA after the 31 days, the MRLO can proceed if they want to. They will not be committing an offence.
- 6.9 All records relating to an investigation and reports made to the NCA will be maintained by the MLRO in a confidential file for that purpose and kept in compliance with the requirements of both the Data Protection and the Freedom of Information Acts. Such records must be kept for at least 5 years from the conclusion of the investigation. There is no prescribed format for such records, but they must be capable of providing an audit trail during a subsequent investigation.

7. Responsibilities of the MLRO

- 7.1 Whilst the risk to the Council of contravening the legislation is low, it is extremely important that the MLRO ensures all employees are familiar with their legal responsibilities and obligations under the regulations.

7.2 The MLRO is responsible for:

- Establishing and maintaining awareness and training for staff to ensure that they are aware of the Council's policies and procedures to prevent money laundering;
- Receiving internal money laundering reports from staff who have a suspicion;
- Investigating suspicious reports using information the Council holds;
- Making external reports to the NCA if he/she considers that the suspicion is justified;
- Obtaining and applying, where relevant, Government and Financial Action Task Force (FATF) findings.

8. Penalties

8.1 The primary money laundering offence carries a maximum penalty of 14 years imprisonment and an unlimited fine. Offences under the Regulations are punishable with a maximum penalty of two year's imprisonment (for individuals) and an unlimited fine. For a legal entity, the maximum penalty is an unlimited fine.

9. Review of Procedures

9.1 These procedures have been developed in association with the Council's Anti-Money Laundering Policy, which is available on the Council website and StaffNet and are subject to annual review as stated in the policy.

10. Help and Advice

10.1 Should you have any concerns whatsoever regarding any transaction or procedures then you should contact the MLRO, Linda Parker linda.parker@stalbans.gov.uk.

Other contacts for advice include:

The Monitoring Officer: Judith Adamson Judith.Adamson@stalbans.gov.uk

Head of Internal Audit Sarah Marsh sarah.marsh@stalbans.gov.uk



Before completing this report, please ensure that you have read the SADC Anti-Money Laundering Policy and the associated Money Laundering Procedures. Please use additional sheets if necessary.

CONFIDENTIAL

REPORT OF SUSPECTED MONEY LAUNDERING ACTIVITY

To: The Money Laundering Reporting Officer (MLRO) – The Section 151 Officer,
Linda Parker linda.parker@stalbans.gov.uk

From: _____
(Insert employee name)

Service: _____

Directorate & Ext/Tel No: _____
(Insert directorate, job title & ext.)

DETAILS OF SUSPECTED OFFENCE:

Name(s) and address(es) of person(s) involved <i>(If a company/public body please include details of their nature of business if known).</i>
Name(s):
Address(es):

Nature, value and timing of activity involved <i>(Please include full details e.g. date(s); what the payment was for and if this is a single transaction or has been identified as one of a series of transactions. Include all available evidence of the activity).</i>
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Date(s): Description of activity: Amount(s): Where activity took place: Evidence: <i>(Please list and attach if possible)</i>	
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Reasons for suspicion of activity:

Has any investigation been undertaken to the best of your knowledge? If yes please include full details:

Have you discussed your suspicions with anyone else? <i>(Please read the notes at the foot of the page)</i> If yes please explain who with and why such discussion was necessary:

Please detail below any other information you feel is relevant:

Signed: _____ **Dated:** _____

IMPORTANT: Please do not discuss the content of this report with anyone you believe to be involved in the suspected money laundering activity either directly or indirectly with anyone else who could alert the suspect(s) that they are under investigation .

If you do, this may be considered as a ‘tipping off’ offence under the legislation, which carries a maximum penalty of 5 years’ imprisonment.

THIS SECTION FOR MLRO USE ONLY

Date Report Received: _____

Date Acknowledged: _____

Reference Number Allocated: _____
(SADC Reference)

CONSIDERATION OF DISCLOSURE TO THE NATIONAL CRIME AGENCY (NCA):

Action Plan:

OUTCOME OF CONSIDERATION OF DISCLOSURE:

Are there reasonable grounds for suspecting money laundering activity?
Yes / No – State reasons

If there are reasonable grounds for suspicion, will a Suspicious Activity Report (SAR) be made to the NCA?	Yes / No
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If yes please state date report submitted: _____	
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If no, please state below the reasons for non-disclosure to the NCA: <i>(Please include details of any discussions with other Officers e.g. Legal Services, together with name(s) and advice given).</i>

Is consent required from the NCA to any on-going or imminent transactions which would otherwise be prohibited acts? If Yes please confirm full details	Yes / No
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Details of liaison with the NCA Consent Not Required: Date SAR Report Acknowledged: _____ Consent Requested: Notice Period: From: _____ To: _____ <i>(The NCA has 7 working days starting the first working day after the consent request is made to refuse continuation of the activity. If no refusal has been received consent is deemed to have been given and the activity may continue).</i> Moratorium Period: From: _____ To: _____ <i>(If consent is refused during the notice period, a further 31 days starting with the day on which the consent is refused must elapse before the activity may continue. In the absence of any action to restrain the activity by law enforcement during the moratorium period the activity may continue).</i> Date and time consent given by the NCA: _____ <i>(Telephone consent will often be given, which can be relied upon, and followed up in writing several days later).</i> SOCA Consent Reference: _____ Name and Contact Number of NCA Officer: _____ Date consent given by you to the employee: _____
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Any Other relevant information:

Signed: _____ Dated: _____

Print Name: _____

IMPORTANT: This report and all other records relating to an investigation of suspected Money Laundering activity whether or not reported to the NCA must be kept in a confidential file for that purpose and retained for at least 5 years from the conclusion of the investigation.