

Audit Committee – 2nd December 2008

ANTI MONEY LAUNDERING POLICY AND PROCEDURES

Report of the Strategic Director (Resources)

Statutory Powers: Accounts and Audit Regulations 2003

Financial Implications: None, within existing budgets.

Purpose

The purpose of this report is to provide members with an overview of the impact on the Council of the Proceeds of Crime Act 2002 and other related legislation, and to seek approval of the Council's Anti Money Laundering Policy.

Links to **Priorities** - CP6: Improve core service performance in a cost-effective way.

RECOMMENDATIONS

That the Audit Committee considers the Anti Money Laundering Policy at Annex A and RECOMMEND to the Council that it be adopted and that the S.151 Officer be appointed as the 'Money Laundering Reporting Officer'.

Background

1. The Council may be covered by two pieces of anti-money laundering legislation, the Proceeds of Crime Act 2002 (the POCA) and the Money Laundering Regulations 2003 (the Regulations) which came into force on 1 March 2004, along with the existing Terrorism Act 2000 (as amended by the Anti-terrorism Crime and Security Act 2001) (the TA).
2. These introduce major changes to responsibilities, and potential criminal liability, for all 'relevant businesses' working in the UK (as defined in the Regulations). The extent of the legislation's application to public sector bodies is unclear, although under paragraph 2(2) of the Regulations a relevant business includes:
 - Providing legal services, involving financial or real property transactions; and
 - Dealing in goods/services that involves accepting payments in cash of 15,000 Euro or more.

Money laundering now includes possessing, or in any way dealing with, or concealing, the proceeds of any crime. It has a very wide definition, details of which are contained in the POCA. For the purposes of this document, it also involves similar activities relating to terrorist funds, which include funds that are likely to be used for terrorism, as well as the proceeds of terrorism.

3. The above, arguably, may apply to the Council, although to what degree has yet to be clarified. It is possible though that the exposure to risk could arise either by direct action of the Council, or as a result of the Council being liable vicariously for the activities of individual members of staff. The policy should therefore cover both (all) eventualities.
4. Draft procedures were put in place in October 2004 and placed on the Council's Intranet pending clarification of the expectations placed on the public sector. The most recent guidance from the Consultative Committee of Accountancy Bodies (CCAB) dated August 2008 still does not specifically relate to local government.
5. The Chartered Institute of Public Finance and Accountancy (CIPFA) view is that 'it is prudent and responsible practice for all public service organisations, including those outside of the scope of the Regulations, to put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements, designed to enable them to detect and avoid involvement in the crimes described in the legislation and regulations'.

As a minimum, CIPFA recommends the Council should:

- Make those **staff most likely to be exposed to or suspicious of money-laundering situations aware** of the requirements and obligations placed on the organisation, and on them as individuals, by the POCA and the TA;
- Give **targeted training** to those considered to be the most likely to encounter money laundering;
- **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 SOCA** (Serious Organised Crime Agency);
- Establish **internal procedures** to help forestall and prevent money laundering.

Both operational staff and their managers should be trained to recognise the risks and guard against creating money-laundering opportunities.

Offences

6. Any person involved in any known or suspected money laundering activity in the UK risks a criminal conviction carrying a jail term of up to fourteen years.
7. It is a defence against a charge of money laundering to make a disclosure to the Serious Organised Crime Agency (SOCA) or in accordance with an employer's anti-money laundering procedures.
8. The key point to note is that the POCA introduces an 'all crime' reporting regime. That is, money laundering offences can relate to the proceeds of any criminal activity.
9. An offence can be committed if an officer suspects that the money might be proceeds of crime.
10. This means that the Money Laundering Reporting Officer (MLRO) will need to report to the Serious Organised Crime Agency (SOCA) when they have suspicion or reasonable grounds to know or suspect that a criminal offence, which gives rise to criminal proceeds, has been committed.

11. Care must also be taken not to tip off a suspected money launderer, as this too will constitute an offence under the POCA.

Nominated Officer

12. The 2003 Regulations require businesses to appoint a nominated officer to receive internal reports. This officer is usually called the money laundering reporting officer or MLRO. A deputy MLRO will act for the MLRO in his/her absence.
13. The guidance says that the person appointed as the MLRO should have a suitable level of seniority and experience, such as the S.151 Officer and his/her deputy.
14. The MLRO can delegate tasks to other individuals. However, MLROs cannot relieve themselves of their responsibility. The MLRO can be held to be personally liable if they receive reports of suspected money laundering but fail to make a report to SOCA, where required to do so.
15. Being able to demonstrate a reasonable process, diligently undertaken in good faith and in accordance with relevant guidance, may assist an MLRO in being able to defend him/herself against allegations of failing to disclose.

Training

16. The Council is required to take appropriate steps to ensure that relevant individuals are provided with training on the provisions of the 2003 Regulations, the main money laundering offences (both those in the POCA and those in the TA), and on how to recognise and deal with situations that may involve money laundering. (Example at Annex B)
17. The level of training provided to individuals will be appropriate to their role and seniority within the Council.

Internal procedures

18. The Council will need to review the internal control procedures to ensure that they include measures appropriate to forestall and prevent money laundering.
19. Consideration will also need to be given to the adequacy of the current reporting lines to ensure that they enable the MLRO to adequately fulfil the required role.
20. The Regulations require 'businesses' to be able to establish that new clients are who they claim to be. There are limited circumstances to which this would apply to the Council, but the MLRO and Deputy MLRO will establish those areas to which it would apply and ensure that the relevant procedures and reporting channels are in place.
21. The Internal Audit Manager will assist the MLRO and Deputy MLRO in these tasks and make any appropriate recommendations for improvements needed to satisfy the requirements of the Regulations.

Registration and Reporting

Registration

22. Any business receiving Euro 15,000 (about £10,000) or more in a single transaction or a series of related transactions now has to be registered with Her Majesty's Revenue and Customs as a supplier of high value goods. It is rare for the Council to receive such a quantity of cash in one transaction.
23. The Council should be aware that some businesses within the South Hams might need to be registered. Unregistered high value suppliers could open the Council to Money Laundering offences when paying their business rates or planning fees, etc.
24. However, the potential for prosecution is enormous and for this reason the Council will need to put in place procedures to protect itself.

Reporting

25. The Serious Organised Crime Agency (SOCA) co-ordinates the holding and dissemination of information amongst the law enforcement agencies.
26. To assist in dealing with the volume of reports and inputting to their database, SOCA has designed standard disclosure forms (Suspicious Activity Report) for full and abbreviated disclosure of suspicions by the Council's MLRO. It is recommended that the Council use these standard manual or on-line disclosure forms and the associated guidance when filing reports with SOCA.
27. The following steps may also be employed to enhance confidentiality of the source of the report:
- Showing the name of the Council or individual making the report once only on the front sheet of the reporting form as the source ID and not anywhere else in the report; and
 - Not including the names of the personnel either making reports to the nominated officer or who are involved in the work giving rise to the report.

Risk and Opportunities Assessment

Opportunities	
To comply with the legislation covering anti-money laundering.	Introduction of a Policy and Procedure for identifying and reporting suspicions of money laundering activity in line with the related professional guidance.

Risk and Opportunities Assessment (Continued)

Risk	Mitigation
<p>The key risk for the Council and its employees results from non-compliance with the legislation. There are criminal offences, that in some circumstances may attract prison sentences, for:</p> <ul style="list-style-type: none"> • Concealing criminal property; • Acquiring, using or possessing criminal property; • Failing to report suspicions (internally to the MLRO or by the MLRO to the SOCA); • Tipping off; • Prejudicing of investigations; and • Continuing to act without the consent of the SOCA where a report has been submitted etc. 	<p>The risk is mitigated by the various defences under the legislation, which include a report internally to the MLRO, externally to SOCA, and consent from the SOCA or MLRO. Adoption of a Policy and Procedure for identifying and reporting suspicions of money laundering activity.</p>

Conclusion

28. The Council may be covered by two pieces of anti-money laundering legislation, the Proceeds of Crime Act 2002 (the POCA) and the Money Laundering Regulations 2003 (the Regulations) which came into force on 1 March 2004, along with the existing Terrorism Act 2000 (as amended by the Anti-terrorism Crime and Security Act 2001) (the TA).

29. Money laundering is the term used for a number of offences involving the proceeds of crime or terrorist funds. It now includes possessing, or in any way dealing with, or concealing, the proceeds of any crime. It has a very wide definition, details of which are contained in the POCA.

30. The Chartered Institute of Public Finance and Accountancy (CIPFA) view is that 'it is prudent and responsible practice for all public service organisations, including those outside of the scope of the Regulations, to put in place appropriate and proportionate anti-money laundering safeguards.

31. The Council has, therefore, commenced work to develop and maintain the procedures to forestall and prevent money laundering including:

- Appointing a MLRO and Deputy MLRO and implement internal reporting procedures;
- Training individuals to ensure that they are aware of the relevant legislation, know how to recognise and deal with potential money laundering, how to report suspicions to the MLRO or Deputy;
- Where appropriate, verifying the identity of new customers and maintaining evidence of identification, and any transactions undertaken for or with the customer; and
- Reporting suspicions of money laundering to the SOCA.

Allan Goodman
Internal Audit Manager

Audit Committee
2 December 2008

John Foxworthy
Head of Financial Services

Mark Seymour
Strategic Director (Resources)

Background Documents:

Proceeds of Crime Act 2002

Money Laundering Regulations 2003

CCAB Anti-Money Laundering – Interim Guidance

CIPFA – Proceeds of Crime (Anti Money Laundering) Practical Guidance

Acknowledgements:

Our colleagues at West Devon Borough Council; and
Consultative Committee of Accountancy Bodies (CCAB)
Chartered Institute of Public Finance and Accountancy (CIPFA)



ANTI MONEY LAUNDERING POLICY

SOUTH HAMS DISTRICT COUNCIL

ANTI MONEY LAUNDERING POLICY

South Hams District Council (the Council) will do all it can to prevent the Council and its staff being exposed to money laundering, to identify the potential areas where exposure may occur, and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases.

Background

The Council is subject to two pieces of anti-money laundering legislation, the Proceeds of Crime Act 2002 (the POCA) and the Money Laundering Regulations 2003 (the Regulations) which came into force on 1 March 2004, along with the existing Terrorism Act 2000 (as amended by the Anti-terrorism Crime and Security Act 2001) (the TA).

The extent of the legislation's application to public sector bodies including the Council is unclear, although under paragraph 2(2) of the Regulations a relevant business includes:

- Providing legal services, involving financial or real property transactions; and
- Dealing in goods, which involves accepting payments in cash of 15,000 Euro or more.

These, arguably, may apply to the Council, although to what degree still has yet to be clarified.

Money laundering now includes possessing, or in any way dealing with, or concealing, the proceeds of any crime. It has a very wide definition, details of which are contained in the POCA. For the purposes of this document, it also involves similar activities relating to terrorist funds, which include funds that are likely to be used for terrorism, as well as the proceeds of terrorism.

The Chartered Institute of Public Finance and Accountancy (CIPFA) view is that 'it is prudent and responsible practice for all public service organisations, including those outside of the scope of the Regulations, to put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements, designed to enable them to detect and avoid involvement in the crimes described in the legislation and regulations'.

As a minimum, CIPFA recommends the Council should:

- Make those **staff most likely to be exposed to or suspicious of money-laundering situations aware** of the requirements and obligations placed on the organisation, and on them as individuals, by the POCA and the TA;
- Give **targeted training** to those considered to be the most likely to encounter money laundering;
- **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 SOCA** (Serious Organised Crime Agency);

- Establish **internal procedures** to help forestall and prevent money laundering.

Both operational staff and their managers should be trained to recognise the risks and guard against creating money laundering opportunities.

What is Money Laundering?

Money laundering is the term used for removing from money any indication or trace of its being the proceeds of crime or terrorist funds, most often by passing it through various transactions (which may be bona fide) in order to disguise its ill-gotten origin. The following acts constitute the act of money laundering:

- Concealing, disguising, converting, transferring or removing criminal property (including funds) from England and Wales, or from Scotland, or from Northern Ireland;
- Becoming concerned in an arrangement in which someone knowingly or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person;
- Acquiring, using or possessing criminal property.

Although the term ‘money laundering’ is generally used when describing the activities of organised crime – for which the legislation and regulations were first and foremost introduced – to most people who are likely to come across it or be affected by it, it involves a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.

Offences

The POCA introduces an ‘all crime’ reporting regime. That is, money laundering offences can relate to the proceeds of any criminal activity.

Any person involved in any known or suspected money laundering activity in the UK risks a criminal conviction carrying a jail term of up to fourteen years.

In assessing whether an individual had knowledge or suspicion, the Courts are likely to take into account the level of skill and experience held by that individual, including a professional qualification. “Knowledge” in this context is likely to include wilful blindness.

It is a defence against a charge of money laundering to make a disclosure to the Serious Organised Crime Agency (SOCA) or in accordance with an employer’s anti-money laundering procedures.

Care must also be taken not to tip off a suspected money launderer, as this too will constitute an offence under the POCA.

Staff Awareness

It is not considered necessary for all staff to have a detailed knowledge of what constitutes criminal offences under the POCA.

Those most likely to encounter money laundering will be made aware of what procedures are in place to help forestall and prevent money laundering, and of their personal responsibilities and possible liabilities as individuals.

Additional guidance may be needed for staff working, for example, as cashiers. General staff notes will be drawn up based on the CIPFA guidance and issued to the relevant officers.

Targeted Training

The Council will take the appropriate steps to ensure that relevant individuals are provided with training on the provisions of the 2003 Regulations, the main money laundering offences (both those in the POCA and those in the TA), and on how to recognise and deal with situations that may involve money laundering. The level of training provided to individuals will be appropriate to their role and seniority within the Council.

A programme of training will be drawn up by the MLRO and will cover:

- The basic obligations of the Council under the POCA, the TA and the 2003 Regulations;
- What the individual is expected to do to ensure that the Council fulfils those obligations;
- What the individual is expected to do to fulfil their personal obligations;
- Information on how to recognise and deal with activities that may be related to money laundering; and
- The Council's procedures for identification, record keeping and reporting.

Internal Procedures and Reporting Arrangements

Nominated Officer

The guidance suggests that as a 'relevant businesses', the Council will have to appoint a nominated officer (usually known as the 'Money Laundering Reporting Officer' (MLRO) and a Deputy and referred to as such in this guidance) to receive money laundering reports from colleagues, and to make reports to the Serious Organised Crime Agency (SOCA) who co-ordinates the holding and dissemination of information amongst the law enforcement agencies.

The guidance says that the person appointed as the MLRO should have a suitable level of seniority and experience, such as the chief finance officer (S.151 Officer) and his/her deputy.

The MLRO can delegate tasks to other individuals. However, MLROs cannot relieve themselves of their responsibility. The MLRO can be held to be personally liable if they receive reports of suspected money laundering but fail to make a report to SOCA, where required to do so.

Being able to demonstrate a reasonable process, diligently undertaken in good faith and in accordance with relevant guidance, may assist an MLRO in being able to defend him/herself against allegations of failing to disclose.

Internal Procedures

The Council will periodically review the internal control procedures to ensure that they include measures appropriate to forestall and prevent money laundering.

Reporting lines will also be subject to periodical review to ensure that they enable the MLRO to adequately fulfil the required role.

The Regulations require 'businesses' to be able to establish that new clients are who they claim to be. There are limited circumstances to which this would apply to the Council, but the MLRO and Deputy will need to establish those areas to which it would apply and ensure that the relevant procedures and reporting channels are in place.

The Internal Audit Manager will assist the MLRO and Deputy MLRO in these tasks and make any appropriate recommendations for improvements needed to satisfy the requirements of the Regulations.

Registration and Reporting

Registration

Any business receiving Euro 15,000 (about £10,000) or more in a single transaction or a series of related transactions now has to be registered with Her Majesty's Revenue and Customs as a supplier of high value goods.

The Council only rarely receives such a quantity of cash in one transaction. However, the potential for prosecution is enormous and for this reason the Council will need to put in place procedures to protect itself.

The Council should be aware that some businesses within the South Hams might need to be registered. Unregistered high value suppliers could open the Council to Money Laundering offences when paying their business rates or planning fees, etc.

Internal Reporting

The 'Money Laundering Reporting Officer' (MLRO) or a Deputy will receive money laundering reports from colleagues on the pro-forma attached at Appendix A detailing those people involved and the suspicions regarding the activity identified.

The Council will set up a limit for reporting purposes for the acceptance of cash sums received in excess of the equivalent of £10,000 (or its € equivalent), as recommended by the guidance.

Cash is defined as including notes, coins or travellers' cheques in any currency. This limit will be publicised and a report written where an attempt is made to use this level of cash. These procedures will relate to any transaction or group of related transactions amounting to more than the limit applied.

Reporting to SOCA

The Serious Organised Crime Agency (SOCA) co-ordinates the holding and dissemination of information amongst the law enforcement agencies.

To assist in dealing with the volume of reports and inputting to their database, SOCA has designed standard disclosure forms (Suspicious Activity Report) for full and abbreviated disclosure of suspicions by the Council's MLRO.

The Council will use these standard disclosure forms and the associated guidance when filing reports with SOCA. It should be noted that the MLRO or Deputy can commit the offence of 'failure to disclose'.

The following steps will also be employed to enhance confidentiality of the source of the report:

- Showing the name of the Council or individual making the report once only on the front sheet of the reporting form as the source ID and not anywhere else in the report; and
- Not including the names of the personnel either making reports to the nominated MRLO or who are involved in the work giving rise to the report.

The SOCA or the law enforcement authority undertaking an investigation are likely to contact the Council (usually the MLRO) if they have any queries about the disclosure.

SOCA Consent

If the Council or individual considers that any action that they may have planned to take, or may be asked by the customer to take, would be a money laundering offence under Sections 327 – 329 of the POCA, a request for consent must also be made either with or after the related report is made to SOCA.

Until consent is received, no action by the Council that could be considered to constitute an offence under the POCA must take place for a period of seven working days (starting the first working day after the request for consent is made to SOCA), unless SOCA gives consent for it to go ahead. This could mean that a particular service to a customer has to stop until consent is given, although it must be handled in such a way as not to ‘tip off’ the suspect.

If no response is received from SOCA within the seven working days, SOCA are deemed to have provided the consent requested, and the business is entitled to proceed.

Where the SOCA refuses to issue its consent, and provides notice of its refusal, there is a further moratorium period of 31 calendar days starting on the day that the Council receives the refusal notice from SOCA. During the moratorium period the MLRO cannot consent to, and the Council and individuals cannot proceed with, the matter in respect of which consent was requested and refused. At the expiry of the moratorium period SOCA is deemed to have consented to the request and the Council is then entitled to proceed.

Further Information is available from the following:

Proceeds of Crime Act 2002
Money Laundering Regulations 2003
Terrorism Act 2000
CCAB Anti-Money Laundering – Guidance
CIPFA – Proceeds of Crime (Anti Money Laundering) Practical Guidance
National Crime Intelligence Service

Acknowledgements:

Our colleagues at West Devon Borough Council;
Consultative Committee of Accountancy Bodies (CCAB); and
Chartered Institute of Public Finance and Accountancy

REPORT TO THE MONEY LAUNDERING REPORTING OFFICER

Report of Suspected Money Laundering Activity

To: **Money Laundering Reporting Officer (MLRO)**
Deputy Money Laundering Reporting Officer

From: _____
[Name of employee]

Service: _____
[Post Title and Service]

Ext/Tel No: _____

URGENT: YES / NO

CONSENT - Required and By When: YES / NO Date:

Details of suspected offence:

Name(S) And Address(Es) Of Person(S) Involved: <i>[if a company/public body please include details of nature of business]</i>

Nature, Value And Timing Of Activity Involved: <i>[Please include full details e.g. what, when, where, how. Continue on a separate sheet if necessary]</i>
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Nature Of Suspicions Regarding Such Activity: <i>[Please continue on a separate sheet if necessary]</i>

Has any investigation been undertaken (as far as you are aware)? <i>[Delete as appropriate]</i>	Yes / No
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If yes, please include details below:

Have you discussed your suspicions with anyone?	Yes / No
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If yes, please specify below, explaining why such discussion was necessary:

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 TO BE COMPLETED BY THE MLRO

Date report received: _____

Date receipt of form 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 the SOCA? <i>[Delete as appropriate]</i>	Yes / No
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**If yes, please confirm date and type of report to SOCA:
And complete the box below:**

Details of liaison with the SOCA regarding the report:	
Notice Period: from:	to:
Moratorium Period: from:	to:

Is consent required from the SOCA to any ongoing or imminent transactions which would otherwise be prohibited acts? <i>[Delete as appropriate]</i>	Yes / No
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If consent is required, 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 the SOCA, please set out below the reason(s) for non-disclosure:

[Please set out any reason 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

SOUTH HAMS DISTRICT COUNCIL **Annex B**
PROCEEDS OF CRIME (ANTI MONEY LAUNDERING)
– THE COUNCIL’S AND YOUR PERSONAL RESPONSIBILITIES

PURPOSE

These notes are important. They are designed to help you familiarise yourself with the legal and regulatory requirements relating to money laundering, as they affect both the Council and you personally.

WHAT IS MONEY LAUNDERING?

Money laundering is the term used for removing from criminal property (including funds) any indication or trace of its being the proceeds of crime or terrorist funds, most often by passing it through various transactions (which may be bona fide) in order to disguise its ill-gotten origin.

The following acts constitute money laundering:

- Concealing, disguising, converting, transferring or removing criminal property from England and Wales, or from Scotland, or from Northern Ireland;
- Becoming concerned in an arrangement in which someone knowingly or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person; and
- Acquiring, using or possessing criminal property.

Although the term ‘money laundering’ is generally used when describing the activities of organised crime – for which the legislation and regulations were first and foremost introduced – to most people who are likely to come across it or be affected by it, it involves a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.

‘Criminal property’ is defined very widely in the law relating to money laundering. It includes not only the proceeds of crime committed by somebody else, but also possession of the proceeds of an individual’s own crime – for example, the retention of monies from non-payment of income tax. It does not matter how small the amount of money involved is. It also includes the proceeds of crimes that take place abroad.

WHAT LAWS EXIST TO CONTROL MONEY LAUNDERING?

In recent years, new laws have been passed which shift significantly the burden for identifying acts of money laundering away from government agencies and more towards organisations and their employees. They prescribe potentially very heavy penalties, including imprisonment, for those who are convicted of breaking the law. These laws are important and, for those who wish to refer to them, and we hope you will, a list of them appears at the end of these notes, together with a list of useful websites.

SOUTH HAMS DISTRICT COUNCIL **Annex B**
PROCEEDS OF CRIME (ANTI MONEY LAUNDERING)
– THE COUNCIL’S AND YOUR PERSONAL RESPONSIBILITIES

WHAT IS THIS COUNCIL’S POLICY ON MONEY LAUNDERING?

Our policy is to do all we can to prevent, wherever possible, the Council and its staff being exposed to money laundering, to identify the potential areas where it may occur, and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases. We cannot stress too strongly, however, that it is every member of staff’s responsibility to be vigilant. The Council has nominated Mark Seymour (John Foxworthy in his absence) to be responsible for anti money laundering measures within the Council.

WHAT ARE THE MAIN MONEY LAUNDERING OFFENCES?

There are three principal offences – concealing, arranging, and acquisition/use/possession.

Concealing is where someone knows or suspects a case of money laundering, but conceals or disguises its existence. **Arranging** is where someone involves himself or herself in an arrangement to assist in money laundering. **Acquisition** (etc) is where someone seeks to benefit from money laundering by acquiring, using or possessing the property concerned.

There are also two ‘third party’ offences – failure to disclose one of the three principal offences, and ‘tipping off’. **Tipping off** is where someone informs a person or people who are, or are suspected of being, involved in money laundering, in such a way as to reduce the likelihood of their being investigated, or prejudicing an investigation.

All the money-laundering offences may be committed by a Council or by the individuals working for it.

WHAT ARE THE IMPLICATIONS FOR THE COUNCIL AND ITS STAFF?

The Council has accepted the responsibility to ensure that those of its staff who are most likely to be exposed to money laundering can make themselves fully aware of the law and, where necessary, are suitably trained. The Council has also implemented procedures for reporting suspicious transactions and, if necessary, making an appropriate report to the Serious Organised Crime Agency (SOCA).

The consequences for staff of committing an offence are potentially very serious. Whilst it is considered most unlikely that a member of staff would commit one of the three principal offences, the failure to disclose a suspicion of a case of money laundering is a serious offence in itself, and there are only very limited grounds in law for not reporting a suspicion.

SOUTH HAMS DISTRICT COUNCIL
PROCEEDS OF CRIME (ANTI MONEY LAUNDERING)
– THE COUNCIL’S AND YOUR PERSONAL RESPONSIBILITIES

Annex B

Whilst stressing the importance of reporting your suspicions, however, you should understand that failure to do so is only an offence if your suspicion relates, in the event, to an actual crime.

WHAT ARE THE PENALTIES?

Money laundering offences may be tried at a magistrates’ court or in the Crown Court, depending on the severity of the suspected offence. Trials at the former can attract fines of up to £5,000, up to six months in prison, or both. In a Crown Court, fines are unlimited, and sentences from 2 to 14 years may be handed out.

WHAT SHOULD I DO IF I SUSPECT A CASE OF MONEY LAUNDERING?

You should report the case immediately to the MLRO, the Strategic Director (Resources), or the Deputy MLRO in his absence (Head of Financial Services) either using a form that he/she will give to you or, if you prefer, in a discussion. He/she will decide whether the transaction is suspicious and whether to make a report to the SOCA. There is no clear definition of what constitutes suspicion – common sense will be needed. If you are considered likely to be exposed to suspicious situations, you will be made aware of these by your senior officer and, where appropriate, training will be provided.

SUMMARY

Robust money-laundering procedures are essential if this Council and its staff are to comply with our responsibilities and legal obligations. It falls to you as a member of the Council’s staff, as well as to the Council itself, to follow these procedures rigorously.

LEGISLATION AND REGULATIONS RELATING TO MONEY LAUNDERING

The Proceeds of Crime Act 2002
The Terrorism Act 2000
The Money Laundering Regulations 2003

OTHER SOURCES OF REFERENCE

CIPFA - (www.cipfa.org.uk)
Consultative Committee of Accountancy Bodies - (www.ccab.org.uk)
Joint Money Laundering Steering Group – (www.jmlsg.org.uk)
The Law Society – (www.lawsociety.org.uk)
Serious Organised Crime Agency – (www.soca.gov.uk)

Source: CIPFA - Practical Guidance 2005