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ANTI-MONEY LAUNDERING POLICY AND GUIDANCE NOTES

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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.
- 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; and
 - iv. The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017).

2. Scope

- 2.1 The policy should be read in conjunction with the Money Laundering Guidance Notes developed by the Council, which detail the requirements and reporting procedures under the legislation.
- 2.2 The policy sits alongside the Councils' Anti-Fraud, Bribery and Corruption Policy and the Council's Whistleblowing Policy and applies to all Council workers either on or off Council premises, whether permanent, temporary or casual including agency staff and consultants and elected members.

3. Definition

- 3.2 The legal definition of money laundering is the term used for a number of offences involving the proceeds of crime or terrorist funds as follows:
 - Concealing, disguising, converting, transferring or removing property, which is or represents a person's benefit from criminal conduct, out of the United Kingdom
 - Becoming concerned in an arrangement which facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person
- 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 Internal Audit Manager 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.

5. Review

- 5.1 This policy and the associated guidance notes will be subject to annual review in accordance with Council procedures.

MONEY LAUNDERING – GUIDANCE NOTES

1. Background

- 1.1 Money laundering has the objective of concealing the origin of money generated through criminal activity. Legislation has given a higher profile of the need to report suspicions of money laundering. The substantive criminal law (the Criminal Justice Act 1993, the Drug Trafficking Act 1994, the Terrorism Acts 2000 & 2006, the Counter-Terrorism Act 2008, the Proceeds of Crime Act 2002 (as amended by the Criminal Courts Act 2013 and the Serious Crime Act 2015), the MLR 2017 applies to all individuals.
- 1.2 It is an offence to assist anyone suspected of laundering money generated by any serious crime. It is a defence for an individual if they have reported knowing or suspecting at the first available opportunity. If a person knows or forms a suspicion in the course of their professional activity that a transaction is related to drugs or terrorism, it is an offence not to report it as soon as reasonably practical. Anyone reporting a suspicion of money laundering is protected against being sued by clients for breach of confidentiality. Disclosure to clients or to anyone else that they are the subject of a report or that they are under investigation is an offence. All of these are personal obligations.
- 1.3 The MLR 2017 introduces a new criminal offence in that any individual who recklessly makes a statement in the context of money laundering which is false or misleading commits an offence punishable by a fine and or up to two years imprisonment.
- 1.4 In addition, organisations that undertake business under the Financial Services Act, or engage in certain specified activities, are required to set up procedures to prevent, detect and report suspicious activity and in general comply with the Money Laundering Regulations. These regulations require organisations:
- to produce an Anti-Money Laundering risk report which includes risk mitigation policies to prevent money laundering
 - to set up procedures for verifying the identity of clients in certain circumstances
 - to set up record-keeping procedures for suspicions
 - to have a system of internal control that is proportionate to the risks faced
 - to appoint a member of the Senior Management Team to be responsible for MLR 2017
 - to appoint a Money Laundering Reporting Officer (MLRO). St Albans City and District Council (SADC) has appointed the Internal Audit Manager to this role.
 - to train relevant employees most likely to be exposed to or become suspicious of money laundering in the requirements and legal obligations placed on the organisation and on them as individuals
 - to train relevant employees in the procedures for recognising and reporting knowledge or suspicions of money laundering
 - to create a black list of high risk jurisdictions where there will be enhanced due diligence and risk assessment for transactions.

1.4 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. This will potentially cover two principal, although not exclusive, areas:

- Treasury Management (borrowing and investments)
- Miscellaneous Cash Income

The Council does not encourage payment by cash for services and through seeking as far as possible to be a "cash-free" authority the amount of cash taken by the Council has been substantially reduced and is minimal. However cash will not be eliminated completely and volumes processed remain sufficient to warrant continued vigilance.

1.5 The Council will maintain procedures for verifying and recording the identities of counterparties making payment by cash, reporting knowledge and/or suspicions by staff to the MLRO.

2. **Treasury Management**

2.1 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. **Miscellaneous Cash Income**

3.1 The legislation determines that a single cash transaction or a series of linked transactions totalling over €15,000 (approximately £13,000) 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.

3.2 Where miscellaneous cash income (e.g. payment for Business Rates, Council Tax, Housing Rents, Debtors) is concerned, the following procedures should apply where a single cash payment is offered exceeding £10,000 or where an individual or organisation seeks to make more than one cash payment within a 12 month period and the total of these payments aggregate to more than £10,000. Where regular smaller cash payments are identified directly from or on behalf of the same individual or organisation this should also warrant further enquiry. To that extent regular payments of £1,000 and over should be subject to scrutiny.

3.3 Investigate and record why the payment(s) is being made in cash.

3.4 Do not accept payments in excess of maximum legal tender levels. Denominations are as follows:

- Notes - No limit
- £2 and £1 coins - No limit
- 50p and 20p coins - £10
- 10p and 5p coins - £5
- 2p and 1p coins - 20p

3.5 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 3.6 and 3.7 below). Where foreign documents are offered a translation should be obtained from a reputable source to confirm their validity.

3.6 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 (also see 3.5 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.

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

3.8 Where a case of money laundering is suspected involving a Company the procedure is similar to a suspicion involving a person. The following information should be obtained:

- The Company's full name and registration number;
- Details of the registered office address;
- Any separate trading address relevant to the transaction concerned

A company search should be carried out to verify the details given and check the location of any relevant trading address.

3.9 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 at 3.5 & 3.6 above, or about the organisation itself.

3.10 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.

3.11 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 the Intranet.

3.12 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).

3.13 Process the transaction only if you are satisfied with the explanation and evidence provided and immediately inform the MLRO of any knowledge or suspicion. Failure to do this may leave you as an individual liable to prosecution.

4. Reporting Suspicions of Money Laundering

4.1 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.

4.2 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.

4.3 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.

4.4 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.

5. Considerations of Disclosure by the MLRO

5.1 The MLRO must evaluate the disclosure report and determine if there are reasonable grounds that a report is made to the NCA. The Consultative Committee of Accountancy Bodies (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?

- 5.2 The MLRO will consider the disclosure report and any other internal information available to him/her and undertake such other reasonable enquiries he/she thinks appropriate in order to ensure that all available information is taken into account before deciding if a report to the NCA is required.
- 5.3 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 standard Suspicious Activity Report Form (SAR) available for download on the NCA website. A Source Registration Form should additionally be completed at the time of the first report and subsequently if any of the details on the original registration change.
- 5.4 If the MLRO suspects money laundering but has reasonable grounds for non-disclosure to the NCA following liaison with the Head of Legal, Democratic & Regulatory Services, or concludes there are no reasonable grounds to suspect or confirm money laundering, the disclosure report must be annotated accordingly with the reasons for his/her decision. Consent can be given for any on-going or imminent transactions to proceed.
- 5.5 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.
- 5.6 The MLRO may consider it necessary to seek consent from the NCA for a transaction(s) to proceed in which case the transaction(s) may not be undertaken until the NCA has specifically given consent or there is deemed consent through the expiration of the relevant time limits laid down for the notice or moratorium periods without NCA objection.
- 5.7 The NCA has 7 working days ('the notice period') starting the first working day after consent is requested to refuse. If consent is refused a further 31 days ('the moratorium period') starting the day of refusal must elapse before activity may continue unless prior action has been taken to restrain the activity by law enforcement. The NCA Consent Team will ordinarily contact the MLRO direct by telephone with the decision and post an appropriate letter as confirmation.
- 5.8 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.

6. Responsibilities of the MLRO

- 6.1 Whilst the risk to the Authority 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.
- 6.2 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.

7. Penalties

- 7.1 Money laundering offences may be tried at a magistrate's 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 and/or up to 6 months in prison. In a Crown Court, fines are unlimited and sentences from 2-14 years may be handed out.

8. Review of Procedures

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



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

CONFIDENTIAL

REPORT OF SUSPECTED MONEY LAUNDERING ACTIVITY

To: **The Money Laundering Reporting Officer (MLRO)** – The Internal Audit Manager

From: _____
(Insert employee name)

Service: _____

Dept & Ext/Tel No: _____
(Insert department, 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):

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Nature, value and timing of activity involved

(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).

Date(s):

Description of activity:

Amount(s):

Where activity took place:

Evidence:

(Please list and attach if possible)

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?

(Please read the notes at the foot of the page)

If yes please explain who with and why such discussion was necessary:

Please detail below any other information you feel is relevant:

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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? If yes please state date report submitted: _____	Yes / No
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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>
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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: _____

Any Other relevant information:

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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.