

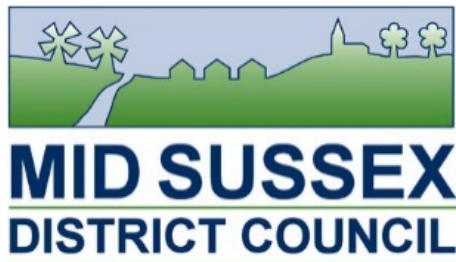


ANTI-MONEY LAUNDERING POLICY

December 2015

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Anti-Money Laundering Policy

**Proceeds of Crime Act 2002
Terrorism Act 2000
Money Laundering Regulations 2007
(as amended by the Money Laundering (Amendment) Regulations 2012)**

1. INTRODUCTION

- 1.1 Mid Sussex District Council is committed to zero tolerance of money laundering.
- 1.2 The Money Laundering Regulations 2007 (as amended by the Money Laundering (Amendment) Regulations 2012) have updated the position in terms of the legal responsibilities concerning money laundering. These regulations, together with the Proceeds of Crime Act 2002 and the Terrorism Act 2000 outline the preventative measures intended to eliminate the funding of terrorism and crime.
- 1.3 Although Local Authorities are not legally obliged to apply the Money Laundering Regulations, the Council is bound by the provisions of both the Proceeds of Crime Act and the Terrorism Act. It is deemed as best practice that Local Authorities comply with the main measures of the regulations to prevent their services from being used for potential money laundering activities.
- 1.4 This Anti-Money Laundering Policy has been developed to ensure Mid Sussex District Council has appropriate procedures in place to effectively prevent, detect and investigate potential money laundering activities and to reflect best practice.

2. AIMS AND SCOPE OF THE POLICY

- 2.1 This policy applies to all employees and members of Mid Sussex District Council. It aims to build upon the high standards of conduct which currently exist within the authority by preventing criminal activity through money laundering. The policy sets out the procedures that must be followed to enable Mid Sussex District Council to fulfil the intention to voluntarily comply with the legal requirements of the regulations.

2.2 Failure by a member of staff to comply with the procedures set out in this policy may lead to disciplinary action being taken against them, which will be dealt with in accordance with the Council's internal disciplinary procedure.

3. WHAT IS MONEY LAUNDERING?

3.1 Money Laundering is the process by which criminally obtained 'dirty' money (or other criminal property) is exchanged for 'clean' money or other assets with no obvious link to their criminal origins.

3.2 The term money laundering is often used to refer to the complex procedures used by organised crime and terrorist groups to conceal the illegal nature of their assets, by the careful and staged introduction of the proceeds of crime into legitimate financial and commercial streams.

3.3 The money laundering legislation is broad and applies to the proceeds of crime, no matter how large or small. Anyone who becomes involved with an activity which they know, or have reasonable grounds to suspect, is related to the proceeds of crime, may be guilty of a money laundering offence.

4. MONEY LAUNDERING: LEGAL AND REGULATORY FRAMEWORK

4.1 Money laundering under the **Terrorism Act 2000** involves entering into 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).

4.2 Money Laundering offences under the **Proceeds of Crime Act 2002** include:

- concealing, disguising, converting, transferring or removing from the UK, any criminal property (section 327);
- entering into or becoming concerned in an arrangement which a person knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person (section 328);
- acquiring, using or possessing criminal property (section 329);
- making a disclosure which is likely to prejudice an investigation, or falsifying, concealing, destroying or otherwise disposing of documents which are relevant to an investigation (section 342);

4.3 The above legislation is applicable to all Council employees.

4.4 In addition, there are further offences under the Proceeds of Crime Act of:

- failing to disclose known or suspected money laundering offences (section 330-332); and
- 'tipping off' by giving information to someone suspected of money laundering in such a way as to reduce the likelihood of their being investigated, or prejudicing an investigation (section 333A).

4.5 The offences of failing to disclose suspicions of money laundering and tipping off only apply to the 'regulated sector'. These offences will not apply to Council employees

unless they are involved with the areas of work ('relevant business') contained in the regulations.

- 4.6 The **Money Laundering Regulations 2007** are not legally binding on public authorities. There is however, a distinct reputational risk for any authority that does not have adequate policies and procedures in place to prevent and detect money laundering. Following the Chartered Institute of Public Finance and Accountancy's guidance, a "prudent and responsible" council will adopt "appropriate and proportionate" policies and procedures designed to "detect and avoid involvement in the crimes described in the legislation and regulations".

5. OBLIGATIONS

- 5.1 The Council will voluntarily comply with the law which requires those organisations in the regulated sector and conducting relevant business to:

- Appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees of money laundering activity; and
- Implement risk sensitive policies and procedures relating to customer due diligence, reporting, record keeping, internal control, risk assessment and management, the monitoring and management of compliance and the internal communication of such policies and procedures in order to prevent activities related to money laundering and terrorist financing.

- 5.2 Not all the Council's business is 'relevant' for the purposes of the legislation and regulations. It is mainly the accountancy and audit services carried out by Finance and certain financial, company and property transactions carried out 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 employees are required to comply with the Council's Anti-Money Laundering Policy in terms of reporting concerns about possible money laundering.

- 5.3 The Chartered Institute of Public Finance and Accountancy advises that Councils should:

- maintain robust record keeping procedures;
- make those members and employees who are likely to be exposed to or suspicious of money laundering activities aware of the requirements and obligations placed on Mid Sussex District Council, and on themselves as individuals, by the Proceeds of Crime Act and related legislation;
- provide targeted training to those considered most likely to encounter money laundering activities;
- implement formal systems for members and employees to report money laundering suspicions to the MLRO;
- establish internal procedures appropriate to anticipate and prevent money laundering and make relevant individuals aware of the procedures;
- report any suspicions of money laundering to the National Crime Agency (NCA) (this is a personal legal obligation for the MLRO);

- put in place procedures to monitor developments in the 'grey' areas of the legislation and to keep abreast of further advice and guidance as it is issued by relevant bodies.

5.4 The Council will take appropriate measures to ensure compliance with the above guidance.

6. RECOGNISING MONEY LAUNDERING

6.1 Guidance on identifying the potential signs of money laundering can be found at APPENDIX 1.

7. THE MONEY LAUNDERING REPORTING OFFICER (MLRO)

7.1 The officer nominated to receive disclosures about money laundering and terrorist financing activity within Mid Sussex District Council is the Head of Finance who can be contacted as follows:

Peter Stuart (Head of Finance and HR)
Mid Sussex District Council
Oaklands Road
Haywards Heath
West Sussex
RH16 1SS
Telephone: 01444 477315

7.2 Disclosures by staff to the MLRO should, where appropriate, be made through their Business Unit Leader. In the absence of the MLRO, the Solicitor to the Council is authorised to deputise for them.

8. REPORTING PROCEDURE: REPORTING TO THE MLRO

8.1 If an officer knows or suspects that money laundering is taking place or has taken place, or becomes concerned that their involvement in a matter may amount to a prohibited act under the money laundering legislation, they must disclose this as soon as practicable to the MLRO.

8.2 This disclosure should be made within hours, as opposed to days.

8.3 Officers that fail to disclose their suspicions may be liable to prosecution and/or disciplinary action.

8.4 The disclosure should be made to the MLRO using the Money Laundering Report Form attached at APPENDIX 2. The report should enclose copies of any relevant supporting evidence and must contain as much detail as possible.

8.5 At no time and under no circumstances should an officer voice any suspicions to the person(s) suspected of money laundering or to any other individual without the specific consent of the MLRO. To do so may result in the commission of an offence.

8.6 There should be no reference on any client records that an officer has made a disclosure to the MLRO. If a client exercises their right to see their record, any such note would obviously tip them off to the report having been made. The MLRO will keep the appropriate records in a confidential manner.

9. CONSIDERATION OF THE DISCLOSURE BY THE MLRO

- 9.1 The MLRO is required to promptly evaluate any concerns and determine whether the information contained in the Money Laundering Report gives rise to a knowledge or suspicion that a person or business is engaged in money laundering.
- 9.2 In making this judgement, the MLRO will consider all other relevant information available to the Council concerning the person or business to which the report relates. This may include reviewing other transaction patterns and volumes, the length of the business relationship and any identification information held.
- 9.3 Once the MLRO has evaluated the report and any other relevant information, he must complete the Money Laundering Disclosure Form at APPENDIX 3 and make a timely determination as to whether:
- There is actual or suspected money laundering taking place;
 - There are reasonable grounds to know or suspect that money laundering is taking place;
 - The NCA's consent is needed before a particular transaction can proceed.
- 9.4 Where the MLRO does so conclude, then he must disclose the matter as soon as practicable to the NCA on their standard report form and in the prescribed manner, unless he has a reasonable excuse for non-disclosure.
- 9.5 Where there may be a reasonable excuse for non-disclosure (e.g. legal professional privilege may apply) the MLRO must liaise with the Solicitor to the Council to determine the further action to be taken.
- 9.6 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then he shall mark the report accordingly and give his consent for any ongoing or imminent transaction(s) to proceed.
- 9.7 Where consent is required from the NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from NCA (7 working days). If this results in a transaction being delayed it should be carefully handled to ensure that the customer is not tipped-off as to the money laundering concern.
- 9.8 The MLRO commits a criminal offence if he knows or suspects, or has reasonable grounds to do so, through a disclosure being made to him, that another person is engaged in money laundering and he does not disclose this as soon as practicable to the NCA.

10. CLIENT IDENTIFICATION PROCEDURE

- 10.1 In addition to the disclosure procedures referred to above, those employees providing certain financial and legal services ('relevant business') must also comply with the client identification procedure.
- 10.2 'Relevant business' includes investment, accountancy and audit services, and the financial, company and property transactions undertaken by Property and Legal Services.

10.3 This procedure must be followed before the establishment of a relationship or carrying out of a transaction where the Council is carrying out relevant business and:

- Forming a business relationship; or
- Considering undertaking a one off transaction involving payment to or by the client of €15,000 or more; or
- Undertaking a series of linked one-off transactions involving total payment by or to the client(s) of €15,000 or more; or
- Suspects a transaction involves money laundering.

10.4 The Council must obtain satisfactory evidence of the identity of a prospective client as soon as practicable after instructions are received (unless evidence has already been obtained).

10.5 For further details, see APPENDIX 4.

11. RECORD KEEPING PROCEDURES

11.1 Each section of the Council conducting relevant business (Accountancy, Audit and certain Legal Services) must maintain appropriate records of:

- Client identification evidence obtained; and
- Details of all relevant business transactions carried out for clients.

11.2 These records must be kept for at least five years (after the end of the transaction or relationship) so they may be used as evidence in any subsequent investigation into money laundering.

11.3 The precise nature of the records to be held is not prescribed by law, however they must be capable of providing an audit trail during any subsequent investigation, for example distinguishing the person or organisation giving rise to concerns, the relevant transaction and describing in what form any funds were received or paid.

11.4 In practice, the business units of the Council will routinely make records of work carried out for various parties, customers and clients in the course of normal business and these should be sufficient for this requirement.

12. CONCLUSION

12.1 All employees and members of Mid Sussex District Council need to be vigilant for signs of money laundering and aware of the offences that constitute money laundering.

12.2 The legal requirements concerning anti-money laundering procedures are lengthy and complex. This document has been written to enable the Council to meet the requirements and regulations in a proportionate way.

12.3 The Council has procedures for identification checks, a mechanism for reporting suspicions of money laundering and will provide appropriate training.

12.4 Should an employee or member have any concerns whatsoever regarding any transaction they should contact the MLRO.

12.5 This policy will be reviewed as and when required.

IDENTIFICATION OF POTENTIAL MONEY LAUNDERING ACTIVITIES

It is not possible to give a definitive list of ways in which to identify money laundering or how to decide whether to make a report to the MLRO. The following are types of risk factors that may, either alone or cumulatively, suggest the possibility of money laundering activities:

Risk Factors (“red flags”):	The types of activity that may be affected:
<p><u>General:</u></p> <ul style="list-style-type: none"> • New customers with high value transactions • Payment of a substantial sum in cash • Payment of lower cash sums where cash is not the normal means of payment 	<ul style="list-style-type: none"> • Selling property to individuals or businesses • Renting out property to individuals or businesses • Entering into other lease agreements • Undertaking services for other organisations
<p><u>Client / customer:</u></p> <ul style="list-style-type: none"> • Secretive clients • A client who refuses to provide requested information without a reasonable explanation • Concerns about the honesty, integrity, identity or location of a client • Extensive and over-complicated client business structures / arrangements 	<ul style="list-style-type: none"> • People buying or renting property from the Council who may not want to say what it is for • People receiving grant funding who refuse to demonstrate what funding was used for • People paying for Council services who do not provide details about themselves • Benefit claimants who have sums of money entering into / out of their bank account (even if we do not award them benefit, we should still consider money laundering implications)
<p><u>Transactions:</u></p> <ul style="list-style-type: none"> • Illogical transactions • Where, without reasonable explanation, the size, nature and frequency of transactions or instructions is out of line with normal expectations • A transaction without obvious legitimate purpose, or which appears uneconomic, inefficient or irrational • Significant overpayments by a client • Refunds following the cancellation or reversal of an earlier transaction 	<ul style="list-style-type: none"> • People making odd or unusual requests for payment arrangements • People paying in cash then requesting refunds in the event of sizeable overpayments made • Large debt arrears paid in cash or deposits / payments for property • Movement of funds overseas or requests for the Council to pay in foreign currencies for no apparent reason • No payment demanded even though goods or a service have been provided

<p><u>Third Parties:</u></p> <ul style="list-style-type: none"> • Involvement of an unconnected third party without logical reason or explanation • Unnecessary routing or receipt of funds from third parties or through third party accounts • Overcomplicated legal arrangements / multiple solicitors 	<ul style="list-style-type: none"> • Requests for the Council to pay seemingly unconnected third parties in respect of goods / services provided to the Council • Receipt of business payments in settlement from seemingly unconnected third parties • Third party “refunds” grant payment as no longer needed / used • Property transactions where the Council is dealing with several different parties • Property transactions where funds are received for deposits or prior completion from an unexpected source or where instructions for settlement of funds to be paid to unexpected destination
<p><u>Records:</u></p> <ul style="list-style-type: none"> • Poor business records or internal accounting controls • Lack of ‘traceability’ of persons involved • Requests for release of client account details other than in the normal course of business 	<ul style="list-style-type: none"> • Companies tendering for contracts unable to provide proper financial information / information provided raises concerns • Queries from other companies regarding legitimacy of customers

CONFIDENTIAL

MONEY LAUNDERING REPORT FORM

To: Peter Stuart – Money Laundering Reporting Officer (MLRO)

From:

Name: _____

Business Unit: _____

Contact Details: _____

Date Reported: _____

Details of Suspected Offence:

Name(s) and address(es) of person(s) involved:
(If a company / public body please include business details)

Nature, whereabouts, value and timing of the activity involved:
(Please include full details of what has happened, is on-going or imminently due to happen, where and how it has arisen and the amount of money or assets involved.)

Why exactly are you suspicious?

Has any investigation already occurred, as far as you are aware? If so, please detail:

Have you discussed your suspicions with anyone (including any advisory bodies)? If so, please identify who you have contacted and why such discussions were necessary:

Is there any reason why you believe this matter should not be disclosed to the National Crime Agency (NCA)?

Are you involved in a transaction which might be a prohibited act under s.327-329 POCA 2002 or s.18 TA 2000 and which requires appropriate consent from NCA?

If so, please provide details:

Further Information:

(If there is any further information you believe to be relevant, please include it here.)

Signed: _____

Name: _____

Date: _____

Please do not discuss the content of this report with anyone you believe to be involved in the suspected money laundering activity described.

This form, upon completion, should be forwarded to the MLRO.

THIS REPORT IS TO BE RETAINED FOR AT LEAST 5 YEARS

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MONEY LAUNDERING DISCLOSURE FORM

TO BE COMPLETED BY THE MONEY LAUNDERING REPORTING OFFICER

Date Money Laundering Report Form received: _____

Date Money Laundering Report Form acknowledged: _____

Money Laundering Report Form completed by: _____

Officer Contact Details: _____

Action taken to review Money Laundering Report Form:

Findings of review:

(Do you know the identity of the alleged money laundered and the whereabouts of the property concerned?)

Are there reasonable grounds for suspecting money laundering activity?

If yes, please give details:

If there are reasonable grounds for suspicion, will a report be made to NCA?

If no, please explain reasons for non-disclosure:

If yes, please complete the following details:

Date of report to NCA:

Notice period:

Moratorium period:

Is consent required from NCA for any ongoing or imminent transactions which would otherwise be prohibited acts?

If yes, please give full details:

Date consent received from NCA:

Date consent given by MLRO to employee to proceed with the transaction:

Other relevant information:

Signed: _____

Name: _____

Date: _____

THIS FORM IS TO BE RETAINED FOR AT LEAST 5 YEARS

**IDENTIFICATION PROCEDURE
FOR FINANCIAL, AUDIT AND LEGAL SERVICES**

The Council does undertake activities that may be considered, under the Money Laundering Regulations, to be regulated, however it does not undertake these activities by way of business, and therefore would not normally be expected to undertake identification procedures (known as due diligence) in respect of any clients to whom it provides these services.

'Relevant business' under the regulations includes:

- Advice about the tax affairs of another person or body corporate;
- Accountancy services by a body corporate;
- Audit services;
- Legal services by a body corporate which involves participation in a financial or real property transaction (whether by assisting in the planning or execution of any such transaction or otherwise acting for, or on behalf of, a client in any such transaction);
- Services in relation to the formation, operation or management of a company or a trust.

To determine whether due diligence is necessary, consider:

- (i) Is the service a regulated activity as described within the Money Laundering Regulations 2007 / CIFPA Guidance 2009?
- (ii) Is the Council charging for the service i.e. is it 'by way of business'?
- (iii) Is the service being provided to a customer other than a UK public authority?

If the answer to any of the questions above is no then there is no obligation to carry out customer due diligence. If the answer to all the questions above is yes then customer due diligence must be carried out before any business is undertaken for that client.

Undertaking customer due diligence checks can take a number of forms including:

- Confirming the identity of the client via documentation, data or information obtained from a reliable and independent source, e.g. passport, and/or position within an organisation, where appropriate.
- Obtaining confirmation from Companies House as to the registration details of the Company and details of the Company business.
- Seeking electronic verification, e.g. performing credit checks.
- Requesting copies of financial statements.
- Requesting details of interests and beneficial ownerships – with reference to the latter this is any individual who holds more than 25% of the shares, voting rights or interest in a company, partnership or trust.
- Obtaining information on the purpose and intended nature of the business relationship.

Any checks undertaken should remain proportionate to the risks of the individual business and the relationship. Additional checking may need to be performed if the person is not physically present to be identified, or they are politically exposed, by virtue of holding a prominent public function.

The requirement for customer due diligence applies immediately for new customers and should be applied on a risk sensitive basis for existing customers. Ongoing customer due diligence must also be carried out during the life of a business relationship but should be proportionate to the risk of money laundering and terrorist funding, based on the officer's knowledge of the customer and regular scrutiny of the transactions involved.

Details of such checks should be recorded on the reporting forms at APPENDIX 5 (for an individual) or APPENDIX 6 (for a business) and retained for a minimum of five years, with an electronic copy of every customer due diligence record being retained by the MLRO to meet the requirements of the regulations and in case of inspection by the relevant supervising body.

**CUSTOMER IDENTIFICATION FORM – PRIVATE INDIVIDUAL
(TO BE COMPLETED BY MONEY LAUNDERING REPORTING OFFICER)**

Officer referring customer: _____

Contact details for officer: _____

Name of individual: _____

Address: _____

Date of Birth: _____

Telephone number: _____

E-mail address: _____

Summary of Transactions and role of the individual

Evidence of Identity obtained: (photocopies of all evidence should be attached to this form)

Face to Face Contact? Yes / No

Is the Client Politically Exposed? Yes / No

Is the transaction by nature high risk? Yes / No

Is further enhanced verification required?
(If yes to any of the above three questions, enhanced verification is required) Yes / No

If enhanced verification required, please detail all checks performed:

Signed: _____

Date: _____

THIS FORM IS TO BE RETAINED FOR AT LEAST 5 YEARS

CUSTOMER IDENTIFICATION FORM – BUSINESS
(TO BE COMPLETED BY MONEY LAUNDERING REPORTING OFFICER)

Officer referring customer: _____

Contact details for officer: _____

Name of business: _____

Purpose of business: _____

Companies House Registration Number: _____

Type of Organisation (PLC, LLC, Sole Trader etc.): _____

Registered business address: _____

Telephone number: _____

E-mail address: _____

Who are the Companies Directors?

Are there any beneficial owners? (*Person / company who owns more than 25% of the business*)

Date of first contact with Company: _____

Nature of transaction with company: _____

Please attach details of all checks undertaken to verify the evidence of this company.

Signed: _____

Date: _____

THIS FORM IS TO BE RETAINED FOR AT LEAST 5 YEARS