



Agenda Item

**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**AUDIT COMMITTEE**

**19 March 2024**

**Report of the Director of Finance & ICT and the Director of Legal Services**

**Anti-Money Laundering Policy**

**1. Purpose**

1.1 To advise Audit Committee of the latest review and seek approval for updates to the Council's Anti-Money Laundering Policy.

**2. Information and Analysis**

2.1 The legislative requirements concerning anti-money laundering procedures are extensive and complex. The Council's Anti-Money Laundering Policy (the "Policy") has been written so as to enable the Council to comply with anti-money laundering legislation applicable to public authorities.

2.2 Any employee could potentially be caught by the money laundering provisions if they suspect money laundering, and either become involved with it in some way, or do nothing about it. Whilst the risk to the Council of contravening applicable legislation is low, it is extremely important that all employees are familiar with their legal responsibilities.

2.3 The objectives of the Council's Policy are to:

- Ensure that all employees are aware of the legislation and money laundering offences within it, their responsibilities regarding the legislation and the consequences of non-compliance.
- Document the Council's client identification procedures.
- Establish the Council's internal reporting procedures.
- Define the Council's expectations in respect of employee awareness.
- Establish the Council's requirements for the appointment of an officer and deputies responsible for anti-money laundering activities.
- Document certain procedures of internal control and communication for activities which are restricted or regulated.

2.4 The Council's Policy was most recently updated and approved by Audit Committee at its meeting on 21 March 2023, following a review in February 2023.

2.5 Following a further review of the Council's Policy in February 2024, the following changes have been made:

- Update to replace Deputy Money Laundering Reporting Officer ('MLRO') Paul Stone with David Catlow, his replacement as the Council's Assistant Director of Finance.
- Updates to reference the introduction in the last year of further Legislation and Regulations relating to money laundering:
  - The Money Laundering and Terrorist Financing (Amendment) Regulations 2023.

The changes clarify, for the purposes of regulated businesses (not the Council) carrying out enhanced due diligence in respect of money laundering regulations, that domestic politically exposed persons (PEPs) pose a lower risk of money laundering and terrorist financing than non-domestic PEPs, unless other risk factors unrelated to their position as a domestic PEP apply. No further updates to the Policy are required.

- The Money Laundering, Terrorist Financing (High-Risk Countries) (Amendment) Regulations 2024.

The changes introduced are intended to streamline updates in respect of which regulated businesses (not the Council) must carry out enhanced due diligence. No further updates to the Policy are required.

- The Economic Crime (Transparency and Enforcement) Act 2022.
- The Economic Crime and Corporate Transparency Act 2023.

Taken together, these two pieces of legislation bring in stronger powers to tackle money laundering and other illicit activity, whilst introducing reforms to Companies House. The majority of the measures outlined will be implemented through secondary legislation, the timing of which is, as yet, unclear. No further updates to the Policy are required at this time. New measures will include:

- Reforms to prevent the abuse of limited partnerships.
- Additional powers to seize and recover suspected criminal crypto assets.
- Reforms to give businesses more confidence to share information to tackle economic crime.
- The introduction of a Failure to Prevent Fraud offence.
- Introducing identity verification for registered company directors, people with significant control and those who file on behalf of companies.
- Improving the financial information on the register so that it is more accurate.
- Providing Companies House with more effective investigation and enforcement powers and introducing better cross-checking of data with other bodies.
- Enhancing the protection of personal information provided to Companies House.
- Changing the filing requirements for smaller companies.

2.6 The Council's amended Policy, which takes account of the Council's potential exposure to money laundering, along with guidance notes and supporting documentation, is attached in Appendix 2 to this report. It is proposed that Audit Committee approves the amendments to the Policy.

2.7 The Policy was most recently communicated to staff across the organisation in the Council's Our Derbyshire News publication, on 18 January 2024. It was emphasised that:

- The Council aims to maintain high standards of conduct, by preventing criminal activity through money laundering and must take all reasonable steps to minimise the likelihood of money laundering occurring.
- Failure to adhere to the requirements of the legislation may result in criminal prosecutions if the Council, its Officers and Members are not fulfilling their duty under the law.
- While money laundering may most commonly be associated with organised crime, employees of the Council could be exposed to it while carrying out their everyday activities such as cash handling or transactions that appear to make no commercial or economic sense from the perspective of the other party.
- Cash payments over £2,500 must not be accepted and may not be sub-divided to circumvent this limit.
- Guidance on possible exposure to money laundering is set out in the Council's Anti-Money Laundering Policy, with a link to the Policy provided. Staff should take the time to read through the policy, noting in particular the examples, procedures and forms provided within the appendices.
- Any further questions or concerns should be discussed with line managers and the Council's Officer responsible for Anti-Money Laundering: Mark Kenyon, Director of Finance and ICT, should be contacted.

2.8 A link to the Policy will be included in future Finance training course content.

### **3. Consultation**

3.1 No consultation is required.

### **4. Alternative Options Considered**

4.1 N/A – not reviewing and updating the Council's Anti-Money Laundering Policy would be contra to the Council's Financial Regulations which require that appropriate anti-money laundering arrangements are in place.

## **5. Implications**

5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **6. Background Papers**

6.1 No background papers held.

## **7. Appendices**

7.1 Appendix 1 – Relevant implications considered in the preparation of the report.

7.2 Appendix 2 – Derbyshire County Council Anti-Money Laundering Policy, which has the following Policy Appendices:

- Appendix A – Anti-Money Laundering – Warning Signs
- Appendix B – Anti-Money Laundering – Notes for Employees
- Appendix C – Internal Suspicion of Money Laundering Activity Form

## **8. Recommendation**

That Audit Committee:

8.1 Notes that a review of the Anti-Money Laundering Policy has taken place and approves the amended Policy at Appendix 2 to the report.

## **9. Reasons for Recommendations**

9.1 The consequence of any public authority or its employees becoming involved in money laundering, without policies and procedures in place to help prevent it, may be very serious. It may result in criminal prosecutions, if organisations and individuals are not fulfilling their duty under the law. It would reflect poorly not only on the Council but potentially on the public sector as a whole.

9.2 It is, therefore, prudent and responsible practice for the Council to put in place and to keep up to date a policy, which includes appropriate and proportionate anti-money laundering safeguards and reporting arrangements. Such arrangements are designed to detect and avoid involvement in the crimes described in the legislation and regulations.

- 9.3 The requirement to ensure that appropriate anti-money laundering arrangements are in place is contained within the Council's Financial Regulations.

**Report Author:**  
Eleanor Scriven

**Contact details:**  
[Eleanor.Scriven@derbyshire.gov.uk](mailto:Eleanor.Scriven@derbyshire.gov.uk)

## Implications

### Financial

- 1.1 The requirement to ensure that appropriate anti-money laundering arrangements are in place is contained within the Council's Financial Regulations. The consequence of any public authority or its employees becoming involved in money laundering, without policies and procedures in place to help prevent it, may be very serious.

### Legal

2.1 Legislation and Regulations relating to money laundering:

- The Proceeds of Crime Act 2002 (as amended by the Serious Organised Crime and Police Act 2005, the Crime and Courts Act 2013 and the Serious Crime Act 2015).
- The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (as amended by The Money Laundering and Terrorist Financing (Miscellaneous Amendments) Regulations 2018, The Money Laundering and Terrorist Financing (Amendment) Regulations 2019, The Money Laundering and Terrorist Financing (Amendment) (EU Exit) Regulations 2020, The Money Laundering and Terrorist Financing (Amendment) (No.2) Regulations 2022, The Money Laundering and Terrorist Financing (Amendment) Regulations 2023 and The Money Laundering, Terrorist Financing (High-Risk Countries) (Amendment) Regulations 2024).
- Explanatory Memorandums to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 and 2022.
- The Terrorism Act 2000 (as amended by the Anti-Terrorism, Crime and Security Act 2001, the Terrorism Act 2006 and the Terrorism Act 2000 and Proceeds of Crime Act 2002 (Amendment) Regulations 2007).
- The Economic Crime (Transparency and Enforcement) Act 2022.
- The Economic Crime and Corporate Transparency Act 2023.

2.2 Not complying with the above legislation, in so far as it is applicable to the Council, may result in criminal prosecutions, if the Council and/or individuals are not fulfilling their duty under the law.

**Human Resources**

3.1 None.

**Information Technology**

4.1 None.

**Equalities Impact**

5.1 None.

**Corporate objectives and priorities for change**

6.1 The Council is committed to ensuring good financial management and compliance with applicable laws and regulations.

**Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

7.1 None.



# **Derbyshire County Council**

## **Anti-Money Laundering Policy**

**Derbyshire County Council  
Anti-Money Laundering Policy**

**PUBLIC**

<b>Version History</b>			
<b>Version</b>	<b>Date</b>	<b>Detail</b>	<b>Author</b>
1.0	31 03 2010	Council's first Anti-Money Laundering Policy noted and approved by Members of Audit Committee on 31 Mar 2010.	E Scriven
2.0	17 10 2011	Members of Audit Committee noted and approved update at meeting 17 Oct 2011.	E Scriven
3.0	29 01 2013	Members of Audit Committee advised of latest review at meeting 29 Jan 2013.	E Scriven
4.0	07 10 2014	Reviewed by Members of Audit Committee at meeting 7 Oct 2014.	E Scriven
5.0	06 10 2015	Members of Audit Committee advised of latest review at meeting 6 Oct 2015.	E Scriven
6.0	04 08 2016	Policy reviewed for presentation to Audit Committee Members at meeting 4 Oct 2016 - updated for changes to UK legislation and regulations amendments on money laundering; to include references to the National Crime Agency (NCA), which replaced the Serious Crime Agency (SOCA) and took over its responsibilities for investigating money laundering; update job titles of deputy MLROs; version control and information classification added.	E Scriven
7.0	05 07 2017	Policy reviewed for presentation to Audit Committee Members at meeting 22 Nov 2017 – updated for new legislation Money Laundering Regulations 2017, effective 26 June 2017 and other changes to the post of one deputy MLRO after retirement and removal of the post of the previous holder; change of job title of MLRO to include ICT; old DCC logo removed.	E Scriven
8.0	01 06 2018- 14 11 2018	Policy reviewed. Change to nominated deputy MLRO following departure of previous holder.	S Holmes
9.0	22 11 2018	Tracked changes from Legal	Simon Macdonald- Preston
10.0	18 11 2019	Policy reviewed. Changes to posts of nominated deputy MLROs. Update to refer to updated Legislation ( <i>no change required to Policy except to reference new legislation</i> ). New requirement for Money Laundering Reporting Officers to log instances where they have been consulted and they have concluded that acceptance of the cash is appropriate.	E Scriven
11.0	08 10 2020	Policy Review. Update to refer to updated Legislation ( <i>no change required to Policy except to reference new legislation</i> ) and to include update to reduce cash limit from £10,000 by exception to £2,500 in all cases (decision previously made and included on invoices).	E Scriven

**Derbyshire County Council  
Anti-Money Laundering Policy**

**PUBLIC**

12.0	03 11 2021	Policy Review. No changes required to the Policy.	E Scriven
13.0	09 02 2023	Policy Review. Update for new MLRO, reference to the new Money Laundering and Terrorist Financing (Amendment) (No.2) Regulations 2022.	E Scriven
14.0	21 02 2024	Policy Review. Update for new Deputy MLRO and reference to new legislation: The Money Laundering and Terrorist Financing (Amendment) Regulations 2023, The Money Laundering, Terrorist Financing (High-Risk Countries) (Amendment) Regulations 2024, The Economic Crime (Transparency and Enforcement) Act 2022 and The Economic Crime and Corporate Transparency Act 2023.	E Scriven

<b>This document has been prepared using the following ISO27001:2013 standard controls as reference:</b>	
<b>ISO Control</b>	<b>Description</b>
A.8.2	Information classification
A.7.2.2	Information security awareness, education and training
A.18.1.1	Identification of applicable legislation and contractual requirements
A.18.1.3	Protection of records
A.18.1.4	Privacy and protection of personally identifiable information

## **Introduction**

This policy establishes a framework within which the requirements of the:

- Terrorism Act 2000 (as amended by the Anti-Terrorism, Crime and Security Act 2001, the Terrorism Act 2006 and the Terrorism Act 2000 and Proceeds of Crime Act 2002 (Amendment) Regulations 2007);
- Proceeds of Crime Act 2002 (as amended by the Serious Organised Crime and Police Act 2005, the Crime and Courts Act 2013 and the Serious Crime Act 2015);
- Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (as amended by The Money Laundering and Terrorist Financing (Miscellaneous Amendments) Regulations 2018, The Money Laundering and Terrorist Financing (Amendment) Regulations 2019, The Money Laundering and Terrorist Financing (Amendment) (EU Exit) Regulations 2020, The Money Laundering and Terrorist Financing (Amendment) (No.2) Regulations 2022, The Money Laundering and Terrorist Financing (Amendment) Regulations 2023 and The Money Laundering, Terrorist Financing (High-Risk Countries) (Amendment) Regulations 2024);
- The Economic Crime (Transparency and Enforcement) Act 2022; and
- The Economic Crime and Corporate Transparency Act 2023;

as applicable to public authorities, will be adhered to by the Council (the “Legislation”).

It sets out appropriate and proportionate anti-money laundering safeguards and reporting arrangements, designed to detect and avoid involvement in the crimes described in the Legislation. It is the Council’s responsibility to take all reasonable steps to minimise the likelihood of money laundering occurring.

Failure to adhere to the requirements of the Legislation may result in criminal prosecutions, if the Council and its officers and members are not fulfilling their duty under the law.

## **Scope**

This policy applies to all officers and members (the “employees”) and their interaction with third parties such as suppliers, contractors, through partnership arrangements and Teckal companies, and aims to maintain the high standards of conduct which currently exist within the Council, by preventing criminal activity through money laundering. The policy sets out the procedures which must be followed to enable the Council to meet its legal obligations under the Legislation.

It is designed to help employees familiarise themselves with the legal and regulatory requirements relating to money laundering, as they affect both the Council and employees personally.

Whilst the policy particularly applies to employees involved with monetary transactions, it is everyone's responsibility to be vigilant.

### **Purpose**

The legislative requirements concerning anti-money laundering procedures are extensive and complex. This policy has been written so as to enable the Council to meet the Legislation in a way which is proportionate to the low risk to the Council of contravening the law.

Any employee could potentially be caught by the money laundering provisions if they suspect money laundering and either become involved with it in some way or do nothing about it. Whilst the risk to the Council of contravening the Legislation is low, it is extremely important that all employees are familiar with their legal responsibilities.

The objectives of this policy are to:

- ensure that all employees are aware of the Legislation and money laundering offences within it, their responsibilities regarding the Legislation and the consequences of non-compliance;
- document the Council's client identification procedures;
- establish the Council's internal reporting procedures;
- define the Council's expectations in respect of employee awareness and targeted training;
- establish the Council's requirements for the appointment of an officer responsible for anti-money laundering; and
- document certain procedures of internal control and communication for activities which are restricted or regulated.

### **Legislation and Offences**

The Legislation, as applicable to public authorities, will be adhered to by the Council.

Under the Legislation, money laundering is interpreted very widely and includes possessing, or in any way dealing with, or concealing, the proceeds of any crime. In summary, the main money laundering offences are:

- concealing, disguising, converting, transferring or removing criminal property from the UK;

- being concerned in an arrangement which a person knows or suspects or facilitates the acquisition, retention, use or control of criminal property;
- acquiring, using or possessing criminal property; and
- doing something that might prejudice an investigation, for example, falsifying a document.

It is an offence of money laundering to become concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of criminal activity or resulting from acts of criminal activity. All individuals and businesses in the UK, including employees and the Council, have an obligation to report knowledge, reasonable grounds for belief or suspicion about the proceeds from, or finance likely to be used for, criminal activity or its laundering, where it relates to information that comes to them in the course of their business or employment.

### **Employee Responsibilities**

Whilst money laundering may most commonly be associated with organised crime, employees of the Council could be exposed to it in the ongoing pursuit of their everyday activities. Guidance for employees on their possible exposure to money laundering, along with examples of warning signs of money laundering, is attached at Appendix A (“Money Laundering - Warning Signs”) to this policy.

Employees should follow this policy in respect of all crimes, however small. The regime under which money laundering is monitored operates on an “all crimes” basis and sets no lower limit below which suspected crimes should not be internally reported.

It is essential that employees rigorously apply the internal procedures set out in this policy to prevent money laundering.

### **Non-Compliance**

Failure by an employee to comply with the procedures set out in this policy may lead to disciplinary action being taken against them, in accordance with the Council’s Disciplinary and Dismissal Procedure Policy.

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, up to six months in prison, or both. In a Crown Court, fines are unlimited and sentences up to fourteen years in prison may be handed out.

## **Client Identification Procedures**

Although it may not be a legal requirement to put in place formal procedures for evidencing the identity of those the Council does business with, in practice, prudence dictates that employees are alert to potentially suspicious circumstances.

Examples include situations where funds flow through the Council from a source with which it is unfamiliar. There is a greater risk if the parties concerned are not physically present or may be acting for absent third parties.

In particular, if the Council is forming a new business relationship and/or is considering undertaking a significant one-off transaction, it is required that identification procedures are set up and maintained in respect of the parties involved. If the client acts, or appears to act, for another person, reasonable measures must be taken for the purposes of identifying that person. These may already be part of the Council's procedures in some areas.

In this situation, the client should provide satisfactory evidence of their identity either personally, through passport/photo driving license plus one other document with their name and address, for instance a utility bill (not a mobile bill), mortgage/building society/bank documents, credit card documents, a pension/benefit book; or their corporate identity, which can be through company formation or business rates documents. This evidence should then be retained. If satisfactory evidence is not obtained, the relationship or the transaction must not proceed.

## **Internal Reporting Procedures**

Staff concerns should be reported to the Council's nominated anti-money laundering officer ("the Officer"), or in his or her absence, their deputies. All suspicious transactions, irrespective of their values, should be reported to the Officer.

Employees should first have an initial discussion with the Officer, which should be recorded on an internal form if the Officer decides that the matter is serious enough to warrant this. The Officer will then decide whether an external report is needed. The forms are attached at Appendix C to this policy.

If it is concluded that the matter is not suspicious, then the Officer should complete a log which records instances where they have been consulted and they have concluded that acceptance of the cash is appropriate.

All forms and logs will be retained for five years from the date on which the matter is satisfactorily concluded.

Once an employee has reported their suspicions to the Officer, they have fully satisfied their own statutory obligation.

The Council will monitor the types of transactions and circumstances that give rise to suspicious transaction reports, with a view to updating internal instructions and guidelines from time to time.

At no time and under no circumstances should an employee voice any suspicions to the persons suspected of money laundering. This is known as “tipping off”. Whilst this is not an offence for a public authority which does not operate in the regulated sector (which is avoided by ensuring that undertaking investment activities for a third party and structuring agreements for certain activities, if undertaken for third parties, are restricted), it is best practice. No reference should be made on a client file to the Officer having been contacted, or a report having been made to the Officer. Should the client exercise their right to see the file, then such a note would obviously tip them off as to the report having been made. The Officer should keep the appropriate records in a confidential manner.

### **Employee Awareness and Training**

It is not necessary for all staff to have a detailed knowledge of what constitutes criminal offences under the Legislation. Those who are most likely to encounter money laundering should read this policy, as it documents what procedures are in place to help prevent money laundering and informs them of their personal responsibilities and possible liabilities as individuals. Suggested notes for managers to distribute to these and other employees are attached at Appendix B (“Anti-Money Laundering – Notes for Employees”).

The Council does not have any areas of activity that are considered to be especially vulnerable to money laundering. This is supported by the fact that local authorities are not included as a “relevant person” in the Legislation and are therefore not covered by those regulations.

Any managers who believe they have identified any especially vulnerable areas should first consult with the Officer. If it is then agreed that this is the case, then the manager of the employees involved should request the Officer to arrange to deliver more targeted training to the employees.

### **Appointment of an Officer Responsible for Anti-Money Laundering**

Whilst the Council is not obliged to have a formally appointed Money Laundering Reporting Officer (“MLRO”) under the Proceeds of Crime Act, it is good practice for an officer to be nominated as being responsible for the Council’s anti-money laundering activities. The Council should therefore always have a nominated anti-money laundering officer (“the Officer”), along with two nominated deputies, who are authorised to act in their absence.



**Derbyshire County Council  
Anti-Money Laundering Policy**

**PUBLIC**

These anti-money laundering appointees should already hold a senior position at the Council so that they can access relevant information (even if it is sensitive) and have the authority to make the decision not to externally report, without having to refer to anyone else in the Council. This policy, therefore, requires that the Officer and deputies should occupy the following senior positions at the Council:

<b>Role</b>	<b>Name</b>	<b>Position</b>
Officer	Mark Kenyon	Director of Finance & ICT
Deputies	David Catlow	Assistant Director of Finance
	Dawn Kinley	Head of Pension Fund

The Council's appointed Officer and deputies should:

- maintain the Council's policies and procedures in respect of money laundering;
- receive and manage the concerns of employees about money laundering and their suspicion of it;
- document internal money laundering reports in conjunction with the employee concerned, where warranted;
- make internal enquiries to follow up concerns; and
- make external reports to NCA (see below), where necessary.

The Officer and deputies must follow the current requirements of the National Crime Agency ("NCA"), which has taken over the responsibilities of the Serious Organised Crime Agency ("SOCA") for investigating money laundering and terrorist financing, in enforcing the legislation. However, the Officer and deputies should not allow the role to consume a disproportionately large amount of time and resources, relative to the risks.

**Restricted Activities**

This policy requires certain activities to be regulated or restricted as follows:

**a) Undertaking Investment Activities for a Third Party**

In making investment arrangements, the Council should not act as a principal or agent in, or an arranger of, investment activities for a third party, without prior authority from the Officer, as such activities might be interpreted as being a regulated activity and expose the Council to additional money laundering regulations.

This excludes the investments of trust and charitable funds and the placing of cash deposits for other local authorities, as such activities, in the Chartered Institute of Public Finance and Accountancy's (CIPFA) view, would not be interpreted as being "by way of business".

#### **b) Receiving High Value Cash Receipts**

For the purpose of preventing money laundering:

- The Council, in the normal operation of its services, accepts payments from individuals and organisations, for example in relation to property rental and sundry debtors. For all transactions under £2,500, no action is required, unless the employee has reasonable grounds to suspect money laundering activities, proceeds of crime or is simply suspicious, at which stage the matter should be reported to the Officer.
- Cash receipts of £2,500 or more should not be accepted. "Cash" includes notes, coins or travellers' cheques in any currency. It is not appropriate for payment of a balance owed to the Council to be sub-divided into smaller cash receipts to circumvent this limit, whatever the purpose of the payment. Any attempts to do this should be reported to the Officer as suspicious activity.

#### **c) Refunds**

A significant overpayment of an amount owed, which results in a repayment, should be properly investigated and authorised as not suspicious, before repayment is made.

#### **d) Structuring of Agreements**

Advice from the Officer should be sought in structuring agreements relating to the following activities, if undertaken on behalf of third parties, as such activities might be interpreted as being a regulated activity and expose the Council to additional money laundering regulations:

- advice about tax affairs;
- accountancy services;
- audit services;
- legal services which involve participation in a financial or real property transaction; and

- services which involve the formation, operation or management of a company.

### **CIPFA's Treasury Management Code**

Treasury management activities and the legal and best practice requirements relating to them (including money laundering), are subject to the provisions of CIPFA's Treasury Management: Code of Practice ("the TM Code"). The TM Code is legally enforceable in local authorities.

### **Conclusion**

The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This policy and the guidance notes and supporting documentation in the Appendices have been written to enable the Council to meet the legal requirements in a way that is proportionate to the Council's risk of contravening the legislation.

## Anti-Money Laundering

### Money Laundering - Warning Signs

Those involved in the handling of criminal property look for ways to secure and safeguard the proceeds of their criminal activities. Although other ways exist, cash is the mainstay of criminal transactions, being the most reliable and flexible, and having little or no audit trail.

In the UK, the most popular method of laundering money is thought to be the purchase of property, followed by investment in front companies or high cash turnover businesses (frequently legitimate businesses), or funding a lifestyle.

The following examples, which employees could encounter at the Council, may indicate that money laundering is taking place:

- Transactions or trade that appear to make no commercial or economic sense from the perspective of the other party. A money launderer's objective is to disguise the origin of criminal funds and not necessarily to make a profit. A launderer may therefore enter into transactions at a financial loss if it will assist in disguising the source of the funds and allow the funds to enter the financial system.
- Large volume/large cash transactions. All large cash payments should be subject to extra care and should cause questions to be asked about the source. This will particularly be the case where the cash paid exceeds the amount necessary to settle a transaction and the persons concerned request a non-cash refund of the excess. This will include double payments. The Council's Anti-Money Laundering Policy includes procedures which must be followed when encountering high value cash receipts. The cash receipts limit is £2,500; cash payments may not be sub-divided to circumvent this limit. Cash payments over £2,500 must not be accepted.
- Payments received from third parties. Money launderers will often look to legitimate business activity in order to assist in "cleaning" criminal funds and making payments on behalf of a legitimate company can be attractive to both parties. For the legitimate company it can be a useful source of funding and for the launderer the funds can be repaid through a banking system.

Examples of warning signs which could point to money laundering are:

- use of cash where other means of payment are normal;
- unusual transactions or ways of conducting business, including where third-party intermediaries become involved in a transaction;
- unwillingness to answer questions / secretiveness generally;
- difficulties in establishing the identity of a party, or where the identity is not disclosed;
- use of overseas companies;
- evasiveness as to the source or destiny of funds; and
- overpayment of property rental income where refunds are needed.

The money laundering regime adopts an “all crimes” approach. It should be noted that the money laundering offences described in the Council’s policy may apply to a very wide range of more everyday activities. Examples include:

- being complicit in crimes involving the falsification of claims;
- benefiting from non-compliance with the conditions attaching to a grant;
- retaining customer overpayments on a ledger; and
- facilitating employment on which tax is not paid.

## **Anti-Money Laundering**

### **Notes for Employees**

#### **Derbyshire County Council's and Your Own 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 several offences involving the proceeds of crime or terrorist funds. The following constitute the act of money laundering:

- concealing, disguising, converting, transferring, or removing criminal property from the United Kingdom;
- becoming concerned in an arrangement in which someone, knowingly or suspecting, facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person;
- acquiring, using or possessing criminal property; and
- doing something that might prejudice an investigation, for example, falsifying a document.

Whilst the risk to the Council of contravening the legislation is perceived to be low, you may be used unknowingly in laundering money from criminal activities.

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 or be affected by it, it involves a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.

The money laundering regime adopts an “all crimes” approach. The offences may apply to a very wide range of more everyday activities within the Council. This could include, for example, being complicit in crimes involving the falsification of claims, benefiting from non-compliance with the conditions attaching to a grant, retaining customer overpayments on a ledger, or facilitating employment on which tax is not paid.

## What Laws Exist to Control Money Laundering?

In recent years, new laws have been passed which significantly shift the burden of 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. A list of the laws and relevant papers appears at the end of these notes.

## What is the Council's Policy on Money Laundering?

The Council aims to maintain its high standards of conduct, by preventing criminal activity through money laundering.

The Council's policy is to do all that it can to prevent, wherever possible, the Council and its officers and members 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 everyone's responsibility to be vigilant.

Mark Kenyon, whose contact details appear in the box later in this note, has been nominated as being the Council's Officer Responsible for Anti-Money Laundering ("the Officer").

## 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 themselves in an arrangement to assist in money laundering. **Acquisition/use/possession** are 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. Provided the Council does not involve itself in certain regulated activities, then these two offences do not apply to it. However, the Council's policy is still to apply best practice and therefore all suspicions should be reported to the Officer and no tipping off should occur.

All the main money laundering offences may be committed by the Council or its staff and members (the “employees”).

### **What are the Implications for the Council and its Employees?**

The Council has accepted the responsibility to ensure that those of its employees who are the 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 National Crime Agency.

The consequences for employees of committing an offence are potentially very serious. Whilst it is considered most unlikely that an employee 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 limited grounds in law for not reporting a suspicion.

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 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, up to six months in prison, or both. In a Crown Court, fines are unlimited and sentences up to fourteen years in prison may be handed out.

Failure by an employee to comply with the procedures set out in this policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Council’s Disciplinary and Dismissal Procedure Policy.

### **What are the Warning Signs?**

Examples of warning signs which you could encounter and may point to money laundering are attached at Appendix A (“Warning Signs”) to these notes. You should ensure that you familiarise yourself with these examples.



**What Should I do if I Suspect a Case of Money Laundering?**

You should report the case **immediately** to Mark Kenyon (the Council’s Officer Responsible for Anti-Money Laundering, “the Officer”), in a discussion, by phone or e-mail, and a form may be determined to be required following this discussion.

Mark can be contacted as follows:

<p>Mark Kenyon Director of Finance &amp; ICT Derbyshire County Council County Hall MATLOCK Derbyshire DE4 3AH</p> <p>Telephone: 01629 538 700 E-mail: <a href="mailto:mark.kenyon@derbyshire.gov.uk">mark.kenyon@derbyshire.gov.uk</a></p>
--

In the absence of the Officer, David Catlow and Dawn Kinley (or the officers in these posts, as set out in the Policy, at the relevant time) are authorised to deputise for him.

He will decide whether the information or transaction is suspicious and whether to make an external report based on all other relevant evidence (information) available to the Council concerning the person or business to which the initial report relates.

If the Officer concludes that the matter is not suspicious, then a log will be completed, which records instances where consultation has taken place and it has been concluded that acceptance of the cash is appropriate.

There is no clear definition of what constitutes suspicion – common sense will be needed. If you are considered likely to be exposed to particularly suspicious situations, which are especially vulnerable to money laundering, you will be made aware of these by your senior officer and, where appropriate, training will be provided.

Should you have any concerns whatsoever regarding any transactions then you should contact the Officer or one of his deputies.

**Summary**

Robust money laundering procedures are essential if the Council and its employees are to comply with our responsibilities and legal obligations. It falls to you as an employee, as well as to the Council itself, to follow these procedures rigorously.

**Legislation, Regulations and Guidance Relating to Money Laundering**

The Proceeds of Crime Act 2002 (as amended by the Serious Organised Crime and Police Act, the Crime and Courts Act 2013 and the Serious Crime Act 2015)

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (as amended by The Money Laundering and Terrorist Financing (Miscellaneous Amendments) Regulations 2018, The Money Laundering and Terrorist Financing (Amendment) Regulations 2019, The Money Laundering and Terrorist Financing (Amendment) (EU Exit) Regulations 2020, The Money Laundering and Terrorist Financing (Amendment) (No.2) Regulations 2022, The Money Laundering and Terrorist Financing (Amendment) Regulations 2023 and The Money Laundering, Terrorist Financing (High-Risk Countries) (Amendment) Regulations 2024)

Explanatory Memorandums to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 and 2022.

The Terrorism Act 2000 (as amended by the Anti-Terrorism, Crime and Security Act 2001, the Terrorism Act 2006 and the Terrorism Act 2000 and Proceeds of Crime Act 2002 (Amendment) Regulations 2007)

The Economic Crime (Transparency and Enforcement) Act 2022

The Economic Crime and Corporate Transparency Act 2023

Combating Financial Crime – CIPFA 2009

Proceeds of Crime (Anti-Money Laundering) – Practical Guidance for Public Service Organisations – CIPFA 2005

**Reviewed and updated February 2024**

**This page is intentionally left blank.**

Internal Suspicion of Money Laundering Activity Form

**STRICTLY CONFIDENTIAL**

**Report to: Officer Responsible for Anti-Money Laundering  
("the Officer")  
Regarding: Suspicion of Money Laundering Activity**

To: .....  
(Derbyshire County Council (Deputy) Officer Responsible for Anti-Money  
Laundering)

From: .....

Department: .....

Job title: .....

**Details of Suspected Offence**

**Name(s) and address(es) of persons involved:**

*[If a company/public body please include details of nature of business]*

*[Please continue on to a separate sheet if necessary]*

**Nature, value and timing of activity involved:**

*[Please include full details eg what, when, where, how]*

*[Please continue on to a separate sheet if necessary]*

**Nature of suspicions regarding such activity:**

**Derbyshire County Council  
Internal Suspicion of Money Laundering Activity Form**

**PUBLIC**

*[Please continue on to a separate sheet if necessary]*

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

Yes/No *(please select the relevant option)*

**If yes, please specify below, explaining why such discussion was necessary:**

*[Please continue on to a separate sheet if necessary]*

**Has any investigation been undertaken (as far as you are aware)?**

Yes/No *(please select the relevant option)*

**If yes, please include details below:**

*[Please continue on to a separate sheet if necessary]*

**Derbyshire County Council  
Internal Suspicion of Money Laundering Activity Form**

**PUBLIC**

**Have you consulted any supervisory body guidance on money laundering (eg the Law Society)?**

Yes/No *(please select the relevant option)*

**If yes, please specify below:**

*[Please continue on to a separate sheet if necessary]*

**Do you feel you have a reasonable excuse for not disclosing the matter to the NCA (eg are you a lawyer and wish to claim legal professional privilege)?**

Yes/No *(please select the relevant option)*

**If yes, please set out full details below:**

*[Please continue on to a separate sheet if necessary]*

**Are you involved in a transaction which might be a prohibited act under sections 327-329 of the Act which requires appropriate consent?**

Yes/No *(please select the relevant option)*

**Derbyshire County Council  
Internal Suspicion of Money Laundering Activity Form**

**PUBLIC**

**If yes, please enclose details in the box below:**

*[Please continue on to a separate sheet if necessary]*

**Please set out below any other information you believe is relevant:**

*[Please continue on to a separate sheet if necessary]*

**DECLARATION:**

**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 IS FOR COMPLETION BY THE OFFICER**

Date report received: .....

Date receipt of report acknowledged: .....

**CONSIDERATION OF DISCLOSURE:**

<p><b>Action Plan:</b></p>
----------------------------

**OUTCOME OF CONSIDERATION OF DISCLOSURE:**

<p><b>Are there reasonable grounds for suspecting money laundering activity:</b></p>
--

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

Yes/No (*please select the relevant option*)

**If yes, please confirm date of report to NCA: .....  
and complete the box below:**



**Derbyshire County Council  
Internal Suspicion of Money Laundering Activity Form**

**PUBLIC**

**Details of liaison with NCA regarding the report:**

**Notice Period:** ..... **To** .....

**Moratorium Period:** ..... **To** .....

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

*Yes/No (please select the relevant option)*

**If yes, please enter full details in the box below:**

**Date consent received from NCA:** .....

**Date consent given by you to employee:** .....

**Derbyshire County Council  
Internal Suspicion of Money Laundering Activity Form**

**PUBLIC**

**If there are reasonable grounds to suspect money laundering but you do not intend to report the matter to NCA, please set out below the reason(s) for non-disclosure:**

*[Please set out reasons for non-disclosure.]*

**Date consent given by you to employee for any prohibited act transactions to proceed:**

.....

**Other relevant information:**

**Signed:** .....

**Dated:** .....

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