

CORNWALL COUNCIL

GUIDANCE NOTE

ANTI-MONEY LAUNDERING POLICY

1.0 INTRODUCTION

- 1.1 Historically, legislation seeking to prevent the laundering of the proceeds of criminal activity was aimed at professionals in the financial and investment sector, however it was subsequently recognised that those involved in criminal conduct were able to “clean” the proceeds of crime through a wider range of businesses and professional activities.
- 1.2 More wide ranging obligations in respect of money laundering have therefore been imposed by the Proceeds of Crime Act 2002 (as amended) and the Money Laundering Regulations 2007 which broaden the definition of money laundering and increase the range of activities caught by the statutory control framework; in particular, the duty to report suspicions of money laundering is strengthened and criminal sanctions imposed for failure to do so.
- 1.3 As a result, certain areas of the Council's business are now subject to the legislative controls and the Council is required, by law, to establish, maintain and monitor appropriate procedures designed to prevent the use of its services for money laundering. These procedures are set out in the accompanying **Anti-Money Laundering Policy** and all staff should be aware of the content.
- 1.4 This Guidance Note aims to provide further details regarding the legal requirements and practical help in implementing the procedures.

2.0 THE LEGAL REQUIREMENTS

General

- 2.1 Some parts of the anti-money laundering framework apply, potentially, to everybody whereas other parts only apply to particular organisations which are in the regulated sector or carrying out certain regulated activities.
- 2.2 Some of the regulated activities specified in the legislation are relevant to the Council's areas of work, for example:
- the provision to other persons of **accountancy** services by a firm ... who by way of business provides such services to other persons;
 - the provision of advice about the **tax** affairs of other persons by a firm ... who by way of business provides advice about the tax affairs of other persons;
 - the participation in **financial** or real **property** transactions concerning:
 - ➔ the buying and selling of real property ... or business entities;
 - ➔ the managing of client money, securities or other assets;
 - ➔ the opening or management of bank, savings or securities accounts;
 - ➔ the organisation of contributions necessary for the creation, operation or management of companies; or
 - ➔ the creation, operation or management of trusts, companies or similar structures,

by a firm ... who by way of business provides **legal** or notarial services to other persons;

- the provision to other persons by way of business by a firm ... of any of the [following] services....
 - (a) **forming companies** or other legal persons;
 - (b) acting, or arranging for another person to act:
 - (i) as a **director** or secretary of a company;
 - (ii) as a **partner** of a partnership; or
 - (iii) in a similar position in relation to other legal persons;
 - (c) providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;
 - (d) acting, or arranging for another person to act, as:
 - (i) a trustee of an express trust or similar legal arrangement; or
 - (ii) a nominee shareholder for a person other than a company whose securities are listed on a regulated market

2.3 Under the 2002 Act, regulation is defined by reference to activities (as can be seen from the above list), however under the 2007 Regulations, regulation is defined by reference to the profession of relevant persons, e.g.:

- auditors, insolvency practitioners, external accountants and tax advisers;
- independent legal professionals;
- trust or company service providers;

however the practical effect is the same.

2.4 What is the significance of carrying out regulated activities? Under the legislation, certain offences (e.g. failure to report money laundering activity) may only be committed in the course of a business in the regulated sector and there are additional requirements on organisations undertaking such business to:

- implement a procedure to require the reporting of suspicions of money laundering, including the appointment of a Money Laundering Reporting Officer ("MLRO") to receive disclosures from their staff of money laundering activity (their own or anyone else's);
- apply certain customer due diligence procedures where necessary;
- obtain information on the purpose and nature of certain proposed transactions/business relationships;
- conduct ongoing monitoring of certain business relationships (including scrutiny of transactions undertaken);
- maintain record keeping and other specified procedures (e.g. internal control, risk assessment and management) on a risk sensitive basis; and
- regularly train relevant employees.

2.5 Thus it is mainly the accountancy, tax and audit services carried out by the Finance Department, Payroll Services, front-line services/departments across the authority and the financial, company and property transactions undertaken by Legal Services which will be formally subject to the internal procedures, more detail of which is contained later in this Guidance. It is clear that in-house lawyers and accountants are not intended to be caught within the regulated sector: however, although those business units are not external/independent advisers to the Council, they are to the external clients for whom they undertake work under contract (e.g. provision of payroll services for Devon and Cornwall Probation Service and legal services to Devon and Somerset Fire Brigade). Such external work is likely, therefore, to bring the Cornwall Council within the regulated sector.

2.6 However, although the conduct of regulated activity does not apply to the Council as a whole, **all members of staff are required to comply with the Council's Anti-Money Laundering Policy in terms of reporting concerns re money laundering**; this will ensure consistency throughout the organisation and avoid inadvertent offences being committed. The Customer Due Diligence Procedure and other internal procedures referred to later are only required to be followed by those engaging in regulated business as defined above.

3.0 THE OFFENCES

3.1 Under the legislation there are two main types of offences which may be committed: money laundering offences and failure to report money laundering offences.

Money Laundering Offences

3.2 Money laundering now goes beyond the transformation of the proceeds of crime into apparently legitimate money/assets: it now covers a range of activities (which do not necessarily need to involve money or laundering) regarding the proceeds of crime. It is technically defined as any act constituting:

- an offence under sections 327 to 329 of the Proceeds of Crime Act 2002 i.e.:
 - ➔ concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327); or
 - ➔ 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); or
 - ➔ acquiring, using or possessing criminal property (unless there was adequate consideration) (section 329);

and even

- ➔ an attempt, conspiracy or incitement to commit such an offence; or
- ➔ aiding, abetting, counselling or procuring such an offence; and
- an offence under section 18 of the Terrorist Act 2000 namely becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property.

“Criminal property” is widely defined: it is property representing a person’s benefit from criminal conduct where you know or suspect that that is the case. It includes all property

(situated in the UK or abroad) real or personal, including money, and also includes an interest in land or a right in relation to property other than land.

“Terrorist property” means money or other property which is likely to be used for the purposes of terrorism, proceeds of the commission of acts of terrorism, and acts carried out for the purposes of terrorism.

- 3.2 It is likely that the law will treat you as knowing that which you do know or which is obvious, or which an honest and reasonable person would have known given the circumstances and the information you have. Consequently if you deliberately shut your mind to the obvious, this will not absolve you of your responsibilities under the legislation.
- 3.3 Although you do not need to have actual evidence that money laundering is taking place, mere speculation or gossip is unlikely to be sufficient to give rise to knowledge or suspicion that it is.
- 3.4 So the legislation now goes beyond major drug money laundering operations, terrorism and serious crime to cover the proceeds of potentially any crime, no matter how minor and irrespective of the size of the benefit gained. The case of P v P (8 October 2003) confirmed that “an illegally obtained sum of £10 is no less susceptible to the definition of criminal property than a sum of £1million. Parliament clearly intended this to be the case.”
- 3.5 The broad definition of money laundering means that the Act applies to a very wide range of everyday activities within the authority and therefore potentially anybody (and therefore any Council employee, irrespective of what sort of Council business they are undertaking) could contravene the money laundering offences if they become aware of, or suspect the existence of criminal or terrorist property, and continue to be involved in the matter without reporting their concerns. The Council has appointed its Audit Services Manager, as its Money Laundering Reporting Officer (MLRO) to receive reports from employees of suspected money laundering activity. The Senior Auditor (Jason Carne) is the Deputy Money Laundering Reporting Officer and should be contacted re money laundering queries in the event that the MLRO is unavailable.

Examples of money laundering activity:

- 3.6 By way of example, consider the following hypothetical scenario:
A social worker is assessing a service user's finances to calculate how much they should pay towards the cost of care, and then goes on to arrange for services to be provided and charged for, in the course of which they become aware of, or suspect the existence of, criminal property.
- 3.7 In this scenario the social worker may commit an offence under section 328 by “being concerned in an arrangement” which they know/suspect “facilitates the acquisition, retention, use or control of criminal property” if they do not report their concerns. Any lawyer involved could also be guilty of an offence if they assist in the transaction.
- 3.8 Any person found guilty of a money laundering offence is liable to imprisonment (maximum of 14 years), a fine or both; however an offence is not committed if the suspected money laundering activity is reported to the MLRO and, where necessary, official permission obtained to continue in the transaction.
- 3.9 Defences are available if, for example, the person:

- makes an 'authorised disclosure' under section 338 of the 2002 Act to the Serious Organised Crime Agency (SOCA) or the MLRO and SOCA give consent to continue with the transaction; such a disclosure will not be taken to breach any rule which would otherwise restrict that disclosure;
- intended to make such a disclosure but had a reasonable excuse for not doing so;
- was carrying out a function they have relating to the enforcement of the 2002 Act or any other enactment relating to criminal conduct (or benefit from it);
- re section 329, acquired, used or possessed the property for adequate consideration.

The Law Society Guidance states that in relation to this particular defence “The Crown Prosecution Service guidance for prosecutors states that the defence applies where professional advisers, such as solicitors or accountants, receive money for or on account of costs whether from the client or from another person on the client’s behalf. Disbursements are also covered. The fees charged must be reasonable and the defence is not available if the value of the work is significantly less than the money received.”

- did not know and had no reasonable cause to suspect the arrangement related to terrorist property.

Possible signs of money laundering

3.10 It is impossible to give a definitive list of ways in which to spot money laundering or how to decide whether to make a report to the MLRO. The following are types of risk factors which may, either alone or cumulatively with other factors, suggest the possibility of money laundering activity:

(a) General

- A new client;
- A secretive client: e.g., refuses to provide requested information without a reasonable explanation;
- A client you have not met;
- Concerns about the honesty, integrity, identity or location of a client e.g. a client who is not present in the area and there is no good reason why they would instruct us, or information reveals that the client is linked with criminality;
- Complex or unusually large transactions/systems;
- Illogical third party transactions: unnecessary routing or receipt of funds from third parties or through third party accounts;
- The source or destination of funds differs from the original details given by the client;
- Involvement of an unconnected third party without logical reason or explanation;
- Payment of a substantial sum in cash (over £10,000);
- Overpayments by a client (or money given on account); care will need to be taken, especially with requests for refunds e.g. a significant overpayment which results in a repayment should be properly investigated and authorised before payment;
- Absence of an obvious legitimate source of the funds;

- Movement of funds overseas, particularly to a higher risk country or tax haven;
- Providing assistance in setting up trusts or company structures, which could be used to obscure ownership of property;
- Where, without reasonable explanation, the size, nature and frequency of transactions or instructions (or the size, location or type of a client) is out of line with normal expectations;
- Unusual patterns of transactions which have no apparent economic, efficient or visible lawful purpose;

In respect of the two bullet points immediately above, a real threat to those authorities involved with the collection of council tax, is for example a landlord who owns several properties, which were acquired through the proceeds of crime, who attempts to pay council tax on those properties in cash by way of several transactions the aggregate of which exceeds the money laundering limit of Euro 15,000 (this is recognised nationally as a method of attempting to avoid detection). However, the new cash receipting system to be introduced from 1 April 2009 will automatically generate reports to the MLRO of any such activity carried out by individuals.

The cancellation or reversal of an earlier transaction (where the client is likely to request the return of previously deposited monies). ***Where a payment is made using a credit or debit card then any refund must be made to the credit or debit card in question and not, under any circumstances, via another form because to do so one could unwittingly facilitate the laundering of money;***

- Requests for release of client account details other than in the normal course of business;
- Companies and trusts: extensive use of corporate structures and trusts in circumstances where the client's needs are inconsistent with the use of such structures;
- Poor business records or internal accounting controls;
- A previous transaction for the same client which has been, or should have been, reported to the MLRO;
- any other activity ... particularly likely by its nature to be related to money laundering or terrorist financing;

(b) Property Matters

- A cash buyer;
- Sudden change of buyer;
- The client's financial profile does not fit;
- Unusual property investment transactions if there is no apparent investment purpose or rationale;
- Instructions to receive and pay out money where there is no linked substantive property transaction involved (surrogate banking);
- Re property transactions, funds received for deposits or prior to completion from an unexpected source or where instructions are given for settlement funds to be paid to an unexpected destination;
- No clear explanation as to the source of funds along with lack of clarity as to how the client would be in a position to finance the purchase;

- Money comes in from an unexpected source
- 3.11 Property transactions are a slightly higher risk for the Council. For example, if the Council agrees to sell a parcel of land to a developer or other third party, at a price that is far in excess of its estimated value, or the buyer offers to pay the full price in cash, then this may be evidence of money laundering activity.
- 3.12 Facts which tend to suggest that something odd is happening may be sufficient for a reasonable suspicion of money laundering to arise. Employees need to be on the look out for anything out of the ordinary. **If something seems unusual, stop and question it.** If you are unsure, seek guidance from the MLRO.
- 3.13 In short, the money laundering offences apply to your own actions and to matters in which you become involved. If you become aware that your involvement in a matter may amount to money laundering under the 2002 Act then you must discuss it with the MLRO and not take any further action until you have received, through the MLRO, the consent of SOCA. The failure to report money laundering obligations, referred to below, relate also to your knowledge or suspicions of others, through your work.

Failure to report money laundering offences:

- 3.14 In addition to the money laundering offences, the legislation sets out further offences of failure to report suspicions of money laundering activities. Such offences are committed where, in the course of conducting business in the regulated sector:
- you know or suspect, or have reasonable grounds to do so (even if you did not actually know or suspect), that another person is engaged in money laundering;
 - you can identify the money launderer or the whereabouts of the laundered property (or you believe, or it is reasonable to expect you to believe, that the information you have will assist you to identify the person/property); and
 - you do not disclose this as soon as is practicable to the MLRO (section 330 of the 2002 Act and section 21A of the 2000 Act).
- 3.15 The Council's Anti-Money Laundering Policy makes it clear that all members of staff should report any concerns they may have of money laundering activity, irrespective of their area of work and whether it is regulated business for purposes of the legislation.
- 3.16 If you know or suspect, through the course of your work, that anyone is involved in any sort of criminal conduct then it is highly likely, given the wide definition of money laundering, that the client is also engaged in money laundering and a report to the MLRO will be required. As explained earlier, the value involved in the offence is irrelevant.
- 3.17 There are various defences, for example where you have a reasonable excuse for non-disclosure (e.g. a lawyer may be able to claim legal professional privilege for not disclosing the information) or you did not know or suspect that money was being laundered and had not been provided by the Council with appropriate training. Given the very low risk to the Council of money laundering, this Guidance Note will provide sufficient training for most members of staff, although further guidance may be issued from time to time and targeted training provided to those staff more directly affected by the legislation.
- 3.18 You must still report your concerns, even if you believe someone else has already reported their suspicions of the same money laundering activity.
- 3.19 Such disclosures to the MLRO will be protected in that they will not be taken to breach any restriction on the disclosure of information.

- 3.20 If you are in any doubt as to whether or not to file a report with the MLRO then you should err on the side of caution and do so – remember, failure to report may render you liable to prosecution (for which the maximum penalty is an unlimited fine, five years' imprisonment, or both). The MLRO will not refer the matter on to SOCA if there is no need.

Tipping off offences

- 3.21 Where you suspect money laundering and report it to the MLRO, be very careful what you say to others afterwards: you may commit a further offence of “tipping off” (section 333 of the 2002 Act) if, knowing a disclosure has been made, you make a disclosure which is likely to prejudice any investigation which might be conducted. For example, a lawyer who reports their suspicions of a money laundering offence by a client to the MLRO, may commit a tipping off offence if they then report their disclosure to that client. However, preliminary enquiries of a client to obtain more information (e.g. confirm their identity, clarify the source of funds) will not amount to tipping off unless you know or suspect that a report has been made.
- 3.22 Even if you have not reported the matter to the MLRO, if you know or suspect that such a disclosure has been made and you mention it to someone else, this could amount to a tipping off offence. Be very careful what you say and to whom in these circumstances.

Prejudicing an Investigation offence

- 3.23 If you know or suspect that an appropriate officer is, or is about to be, conducting a money laundering investigation and you make a disclosure to a third party that is likely to prejudice the investigation, then you commit an offence (section 342 of the 2002 Act).
- 3.24 Any person found guilty of a tipping off or prejudicing an investigation offence is liable to imprisonment (maximum 5 years), a fine or both.
- 3.25 However, defences are available for both such offences, for example:

- you did not know or suspect that the disclosure was likely to be prejudicial; or
- you are a professional legal adviser and the disclosure was:
 - ➔ to a client (or their representative) in connection with the giving of legal advice;
 - ➔ to any person in connection with legal proceedings (existing or contemplated);

but NOT where the information was given with the intention of furthering a criminal purpose.

Consideration of disclosure report by MLRO

- 3.26 Where the MLRO receives a disclosure from a member of staff and concludes that there is actual/suspected money laundering taking place, or there are reasonable grounds to suspect so, and they can identify the money launderer or the whereabouts of the laundered property (or they believe, or it is reasonable to expect them to believe, that the information they have will assist in identifying the person/property), then they must make a report as soon as practicable to SOCA on their standard report form and in the prescribed manner, unless they have a reasonable excuse for non-disclosure. Where relevant, the MLRO will also need to request appropriate consent from SOCA for any acts/transactions, which would otherwise amount to prohibited acts under section 327 – 329 of the 2002 Act, to proceed.

- 3.27 The MLRO may receive appropriate consent from SOCA in the following ways:
- specific consent;
 - no refusal of consent during the notice period (seven working days starting with the first working day after the MLRO makes the disclosure); or
 - refusal of consent during the notice period but the moratorium period has expired (31 days starting with the day on which the MLRO receives notice of refusal of consent).
- 3.28 The MLRO commits a criminal offence under section 331 of the 2002 Act if they know or suspect (or have reasonable grounds to do so) through a disclosure being made to them, that another person is engaged in money laundering, they can identify the money launderer or the whereabouts of the laundered property (or they believe, or it is reasonable to expect them to believe, that the information they have will assist in identifying the person/property) and they do not disclose this as soon as practicable to SOCA.

Relevant Guidance

- 3.29 When considering any offence under the legislation, the Court will consider whether you followed any relevant guidance approved by the Treasury, a supervisory authority, or any other appropriate body which includes, for example, the Law Society, the Financial Services Authority, the Institute of Chartered Accountants in England and Wales and other such bodies. Such guidance is available for lawyers and accountants by their respective professional bodies.

4.0 INTERNAL PROCEDURES

- 4.1 As mentioned earlier, the Money Laundering Regulations 2007 impose specific obligations on those carrying out regulated business, requiring them to:
- obtain sufficient knowledge to ascertain the true identity of clients in certain circumstances, by applying **customer due diligence measures**;
 - know the intended nature of business relationships and undertake ongoing monitoring of them (e.g. scrutiny of transactions for anything unusual);
 - maintain **record keeping procedures** (e.g. for evidence of identity obtained, details of transactions undertaken, for at least 5 years afterwards); and
 - establish and maintain other appropriate and risk-sensitive **policies and procedures** re reporting of concerns, internal control, risk assessment and management, the monitoring and management of compliance with, and the internal communication of, such policies and procedures, in order to prevent activities related to money laundering and terrorist financing.
- 4.2 These procedures are contained in the Anti-Money Laundering Policy and further explanation of them is given below. Failure to comply with the above requirements is a criminal offence for which you may be liable to imprisonment for up to 2 years, a fine or both. The Court will take in to account whether any relevant guidance was followed.
- 4.3 **Only those staff dealing with regulated business need comply with these procedures.**

Customer Due Diligence Procedure

- 4.4 Where the Council is carrying out regulated business (accountancy, tax, audit and certain legal services – see before) and:
- (a) forms an ongoing business relationship (a business, professional or commercial relationship which is expected to have an element of duration) with a client; or
 - (b) undertakes an occasional transaction (a transaction other than as part of a business relationship) amounting to 15,000 euro (£11,000 approx) or more, whether carried out in a single operation or several linked operations ; or
 - (c) suspects money laundering or terrorist financing (cannot apply simplified due diligence in this scenario); or
 - (d) doubts the veracity or adequacy of documents, data or information previously obtained for the purposes of identification or verification;

then the Customer Due Diligence Procedure must be followed before any business is undertaken for that client. Verification may be carried out during the establishment of the business relationship where this is necessary not to interrupt the normal conduct of business and there is little risk of money laundering/terrorist financing occurring, provided that the verification is completed as soon as practicable after contact is first established.

- 4.5 Due diligence measures should also be considered and applied as necessary at other appropriate times to existing clients.
- 4.6 Due diligence essentially means identifying the client and verifying their identity on the basis of documents, data or information obtained from a reliable and independent source and obtaining information on the purpose and intended nature of the business relationship.
- 4.7 Where the client is acting or appears to be acting for someone else, reasonable steps must also be taken to establish the identity of that other person (although this is unlikely to be relevant to the Council).
- 4.8 Where there is a beneficial owner who is not the client, adequate measures should be taken, on a risk-sensitive basis, to verify the beneficial owner's identity, so that you are satisfied that you know who they are, including, in the case of a legal person, trust or similar legal arrangement, measures to understand the ownership and control structure of the person, trust or arrangement. In terms of clients for whom Finance, Payroll Services and Legal Services provide services, "beneficial owner" would include, re bodies corporate (e.g. our public authority clients), any individual who exercises control over the management of the body (e.g. Chief Executive Officer).
- 4.9 **However**, the legislation does allow organisations to vary customer due diligence and monitoring according to the risk of money laundering or terrorist financing which depends on the type of customer, business relationship, product or transaction. This recognises that not all clients present the same risk. The law states that particular care must be taken, and enhanced due diligence carried out, (e.g. obtaining additional evidence of identity or source of funds to be used in the relationship/transaction) where:
- the client is not physically present when being identified as it presents a higher risk situation. This is always likely to be the case for the Council, given that its regulated business can only be undertaken for other local authorities and designated public bodies (not individuals) and therefore instructions will usually be given in writing;

- the client is a “politically exposed person” (an individual who at any time in the preceding year has held a prominent public function outside of the UK, and EU or international institution/body, their immediate family members or close associates). This is unlikely to ever be relevant to the Council but the provision must be included in local procedures;

4.10 Conversely, where there is a low risk of money laundering or terrorist financing, simplified due diligence measures may be applied: under the legislation, there is **no need** to apply customer due diligence measures where the client is a **UK public authority**. Given that the Council is limited in who it can act for/provide services to, and most of these are public authorities or designated public bodies under the Local Authorities Goods and Services Act 1970, most of Legal Services’ and Finance and Central Services’ clients will be covered by the exemption. You will note, however, that the Council’s Anti-Money Laundering Policy advocates that low level identity checks should continue to be made as specified in the Policy.

Satisfactory evidence of identity

4.11 Satisfactory evidence is that which:

- is capable of establishing, to the satisfaction of the person receiving it, that the client is who they claim to be; and
- does in fact do so.

4.12 General guidance on the money laundering legislation suggests that fairly rigorous identification checks should be made: for example, in relation to an organisation, that evidence should be obtained as to the identity of key individuals within the organisation along with evidence of the identity of the business entity and its activity.

4.13 You will see, however, that the Council’s Customer Due Diligence Procedure provides for only the most basic of identity checks:

- for internal clients, signed, written instructions or an email at the outset of a particular matter; and
- for external clients:
 - ➔ a check of the MLRO’s central client identification file (which will contain extracts from the Municipal Year Book relating to such external clients and their chief officers and other miscellaneous evidence of such clients); and
 - ➔ signed, written instructions on the organisation in question’s headed paper at the outset of a particular matter.

4.14 The reason for this low level Procedure is not because client identification and due diligence is not important, but because of the need to introduce a procedure which is workable, appropriate to the nature of the Council as an organisation and proportionate to the risk to the Council of money laundering/terrorist financing activity, which has been assessed as extremely low.

4.15 The following factors suggest a minimum level client identification and due diligence procedure for the Council (in practice, Finance, Payroll Services and Legal Services) is appropriate:

- for internal clients:

- we all work for the same organisation and therefore have detailed awareness of individuals and their location through previous dealings;
- for external clients:
 - the Council, as a matter of law can only provide services to local authorities and designated public bodies:
 - they are therefore heavily regulated by their very nature;
 - most are repeat clients, well known to us in terms of people and the business address;→

The Council therefore has a stable client base.

- generally:
 - we know most of our clients and those through whom they are acting - there is no, or very little, doubt as to their identity;
 - regulated business activities undertaken are provided for the Council or for clients who are UK public authorities/ designated public bodies;
 - we are not in private practice and are therefore subject to tight and prescriptive public sector controls e.g.:
 - the Council's Treasury Management arrangements are carried out in accordance with CIPFA codes of practice;
 - the majority of the Council's income is received from other public service organisations or government bodies;
 - the Council does not carry out significant trading activity which would generate a large cash income;
 - through its Financial Regulations the Council has placed a maximum limit of £5,000 on the amount of cash income it will accept – anything above that threshold should be viewed as potentially suspicious;
 - we are not large, city firms of lawyers and accountants, with international client bases.

4.16 The Customer Due Diligence Procedure should enable us to have confidence in accepting instructions from a known client. If, however, you are undertaking work for a new client, then you may also wish to seek additional evidence, for example:

- checking the organisation's website to confirm the identity of key personnel, its business address and any other details;
- conducting an on-line search via Companies House/Equifax (or equivalent) to confirm the nature and business of the client and to confirm the identities of any directors;
- attending the client at their business address;
- a search of the telephone directory;

- asking the key contact officer and/ or any individual who exercises control over the management of the body (e.g. the Chief Executive Officer) to provide evidence of their personal identity and position within the organisation. The following are acceptable forms of identity and proof of an address for an individual:

Identity

- valid passport;
- valid photocard driving licence full or provisional
- a current UK full driving licence old version (not provisional)
- national identity card (non-UK nationals issued by EEA member states and Switzerland)
- evidence of entitlement to a state or local authority funded benefit i.e. housing benefit, council tax benefit, tax credit, pension, educational or other grant
- documents issued by HMRC, such as PAYE coding notice (Not employers documents e.g. P60)
- firearms certificate or shotgun licence

Evidence of address

- current council tax demand letter or statement
- current (within the last 3 months) bank statements or credit card statements issued by a regulated financial sector firm in the UK, EU or JMSLG equivalent jurisdiction (but **not** those printed off the internet)
- a recent (last available) utility bill i.e. gas, water, electricity or telephone (**not** mobile 'phone)
- valid photocard driving licence (full or provisional)
- a current UK full driving licence old version (**not** provisional)
- evidence of entitlement to a state or local authority funded benefit i.e. housing benefit, council tax benefit, tax credit, pension, educational or other grant
- documents issued by HMRC, such as PAYE coding notice (Not employers documents e.g. P60)
- firearms certificate or shotgun licence

4.17 If such additional evidence is obtained, then copies should be sent to the MLRO for their central client identification file.

5.0 CONCLUSION

5.1 Given the nature of what the Council does and who it can provide services for, instances of suspected money laundering are unlikely to arise very often, if at all; however we must be mindful of the legislative requirements, as failure to comply with them may render individuals personally liable to prosecution.

5.2 For all transactions of land or property, or all large financial transactions (more than Euro 15,000 (fifteen thousand Euros) currently approximately £11,000 (eleven thousand GB pounds) the identity of the client must be checked).

5.3 **Please take prompt and proper action if you have any suspicions** and feel free to consult the MLRO at any time should you be concerned regarding a matter.

November 2008

CONFIDENTIAL

Report to Money Laundering Reporting Officer
re money laundering activity

To: Audit Services Manager, Cornwall Council Money Laundering Reporting Officer

From:
[insert name of employee]

Directorate:
[insert post title and Business Unit]

Ext/Tel No:.....

DETAILS OF SUSPECTED OFFENCE:

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

Nature, whereabouts, value and timing of activity/property involved:
[Please include full details eg what, when, where, how. Please also include details of current whereabouts of the laundered property, so far as you are aware. Continue on a separate sheet if necessary]

Nature of suspicions regarding such activity:

[Please continue on a separate sheet if necessary]

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

[Please tick the relevant box]

Yes

No

If yes, please include details below:

Have you discussed your suspicions with anyone else?

[Please tick the relevant box]

 Yes No

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

Have you consulted any supervisory body guidance re money laundering? (e.g. the Law Society) *[Please tick the relevant box]*

 Yes No

If yes, please specify below:

Do you feel you have a reasonable excuse for not disclosing the matter to SOCA? (e.g. are you a lawyer and wish to claim legal professional privilege?) *[Please tick the relevant box]*

 Yes No

If yes, please set out full details below:

Are you involved in a transaction which might be a prohibited act (under sections 327- 329 of the 2002 Act or section 18 of the 2000 Act) and which requires appropriate consent from SOCA?

Yes

No

[Please tick the relevant box]

If yes, please enclose details in the box below:

Please set out below any other information you feel is relevant:

Signed:.....

Dated:.....

Please do not discuss the content of this report with anyone you believe to be involved in the suspected money laundering activity described. To do so may constitute a tipping off offence, which carries a maximum penalty of 5 years' imprisonment.

THE FOLLOWING PART OF THIS FORM IS FOR COMPLETION BY THE MLRO

Date report received:

Date receipt of report acknowledged:

CONSIDERATION OF DISCLOSURE:

Action plan:

OUTCOME OF CONSIDERATION OF DISCLOSURE:

**Are there reasonable grounds for suspecting money laundering activity?
Do you know the identity of the alleged money launderer or the whereabouts of the property concerned?**

If there are reasonable grounds for suspicion, will a report be made to SOCA? *[Please tick the relevant box]*

Yes

No

If yes, please confirm date of report to SOCA:
and complete the box below:

Details of liaison with SOCA regarding the report:

Notice Period: to

Moratorium Period: to

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

Yes

No

If yes, please confirm full details in the box below:

Date consent received from SOCA:

Date consent given by you to employee:

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

[Please set out any reasonable excuse for non-disclosure]

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

Other relevant information:

Signed:..... Dated:.....

THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS