

CHESHIRE EAST COUNCIL

Governance and Constitution Committee

Date of meeting: 21 May 2009
Report of: Internal Audit Manager
Title: Anti Money Laundering Policy

1.0 Purpose of Report

- 1.1 The purpose of this report is to present a draft Anti-Money Laundering Policy (Appendix A) for the Committee to consider.

2.0 Background

- 2.1 Money laundering is the term for a number of offences involving the processing of the proceeds of illegal activity through the economy so that the possession of such monies can be legitimised.
- 2.2 The following pieces of legislation require organisations to be vigilant and to have procedures in place for the detection and disclosure of incidents of suspected money laundering and terrorism financing.
- The Proceeds of Crime Act 2002
 - The Terrorism Acts 2000 and 2006
 - The Money Laundering Regulations 2003 and 2007

3.0 Recommendations

- 3.1 That the Committee
- (1) adopt the Anti-Money Laundering Policy set out as an Appendix to this report;
 - (2) nominate the Borough Treasurer and Head of Assets as Money Laundering Reporting Officer;
 - (3) prohibit the receipt of payments in cash for the purchase of land and property;
 - (4) set a maximum amount (suggested £5,000) above which cash will not be accepted for other transactions; and
 - (5) require the Money Laundering Reporting Officer to arrange for appropriate briefing material and training to be provided.

4.0 Financial Implications for Transition Costs

- 4.1 None

5.0 Financial Implications 2009/10 and beyond

- 5.1 There will be some costs associated with the provision of training and briefings for employees on the Anti Money Laundering Policy and the risks of money laundering. The training will be proportionate and will be provided to those employees who are most likely to encounter situations where money laundering is suspected and the costs will be contained within existing budgets.

6.0 Legal Implications

- 6.1 Money laundering offences can attract fines of up to £5000 and/or up to six months in prison if tried in a magistrates Court or unlimited fines and a sentence of two to 14 years if tried in a Crown Court.
- 6.2 Employees who are members of professional accountancy or legal bodies have a responsibility to follow the guidance given by the Consultative Committee of Accountancy Bodies (CCAB) and the Law Society.

7.0 Risk Assessment

- 7.1 The risk of the Council being involved in attempted money laundering is considered to be low. This is because;
- the majority of the Council's income is received from government bodies or other public sector organisations;
 - the Council does not carry out trading activity which would generate significant amounts of cash income;
 - the Council's treasury management arrangements comply with the CIPFA Treasury Management Code.
- 7.2 The risks could be reduced further if the Council prohibited the receipt of payments in cash for the purchase of land and property and if it set a maximum amount of say £5000 for the receipt of other payments in cash.

8.0 Training

- 8.1 The Money Laundering Regulations 2007 require the Money Laundering Reporting Officer to ensure that all relevant employees are made aware of the law in respect of money laundering and understand how to recognise and act upon potential instances of money laundering or terrorist financing.

9.0 Reasons for Recommendations

- 9.1 To ensure that the Council establishes prudent and responsible anti-money laundering controls and reporting arrangements designed to detect and avoid involvement in the offences described in the Regulations..

For further information:

Portfolio Holder: Councillor David Brown or Councillor Frank Keegan

Officer: Vivienne Quayle

Tel No: 01270 529684

Email: Vivienne.Quayle@cheshireeast.gov.uk

Background Documents:

None

CHESHIRE EAST COUNCIL

ANTI-MONEY LAUNDERING POLICY

1 Introduction

- 1.1 The Proceeds of Crime Act 2002, the Terrorism Acts 2000 and 2006 and the Money Laundering Regulations 2007 place obligations upon organisations and individuals with respect to suspected money laundering.
- 1.2 The legislation was intended to apply to those undertaking “relevant business” and carrying out “regulated activities” and therefore was focussed primarily upon financial services in the private sector.
- 1.3 Although local authorities are not obliged to implement the full requirements of the Money Laundering Regulations, because of the size and scope of their activities they and their employees may be subject to the risks around money laundering and therefore it is prudent for local authorities to embrace the underlying principles of the legislation.
- 1.4 Cheshire East Council has therefore adopted this policy and it will through the publication of more detailed guidance and the provision of appropriate training ensure that the Council and its employees comply with the principles of the legislation and avoid the risks around money laundering.

2 Scope of the Policy

- 2.1 This policy applies to all employees of the Council and aims to prevent criminal activity through money laundering. The policy sets out the procedures which must be followed to enable the Council to comply with the legislation and forms part of the Council’s anti fraud and corruption framework.

The Council will:

- appoint a Money Laundering Reporting Officer (“MLRO”) to receive disclosures from employees of money laundering activity;
- implement a procedure to enable the reporting of suspicions of money laundering;
- ensure that appropriate employees are aware of the regulations;
- perform an identity check of a customer/client (Customer Due Diligence) if the relationship is a regulated activity; and
- maintain records for a minimum of 5 years after events are reported.

3 Money Laundering

- 3.1 Money laundering is the term used for a number of offences involving the proceeds of crime or terrorism funds. These are;
 - concealing, disguising, converting, transferring criminal property or removing it from the UK; or

- entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person; or
- acquiring, using or possessing criminal property; or
- becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property.

3.2 In addition to the above primary offences there are also the two following secondary offences;

- Failure to make a money laundering disclosure;
- “Tipping off” an individual suspected to be involved in money laundering which could reduce the likelihood of them being investigated or prejudicing an investigation.

4 The Money Laundering Reporting Officer (MLRO)

4.1 The officer nominated to receive disclosures about money laundering activity within the Council is the Borough Treasurer and Head of Assets, Lisa Quinn. Her contact details are:

Lisa Quinn
Borough Treasurer and Head of Assets
Cheshire East Council
Westfields
Middlewich Road
Sandbach
Cheshire
CW11 1HZ

Telephone: 01270 529628

Email: lisa.quinn@cheshireeast.gov.uk

4.2 In the absence of the MLRO, Christine Mann, Finance Manager, is an authorised deputy. Christine can be contacted at Cheshire East Council, Room 1, County Hall, Chester, Cheshire, CH1 1SF or on telephone number 01244 972001.

5 Disclosure Procedure

- 5.1 Where an employee suspects money laundering activity or becomes concerned that their involvement in a matter may amount to a prohibited act under the legislation, they must disclose this as soon as practicable to the MLRO or to the deputy MLRO using the Disclosure Report form.
- 5.2 The employee must follow any subsequent directions from the MLRO or deputy MLRO and must not make any further enquiries into the matter. They must not take any further steps in any related transaction without authorisation from the MLRO.

- 5.3 The employee must not disclose or otherwise indicate their suspicions to the person suspected of money laundering activity. They must not discuss the matter with others or note on the file that a report has been made to the MLRO in case the person suspected becomes aware of the situation.
- 5.4 The MLRO or deputy MLRO must promptly evaluate any Disclosure Report and determine whether it should be reported to the Serious Organised Crime Agency (SOCA).
- 5.5 The MLRO or deputy MLRO must, if so determined, promptly report the matter to the SOCA using the Suspicious Activities Report (SAR) in the prescribed manner.
- 5.6 If the MLRO or deputy MLRO chooses not to report the matter to the SOCA, then the reason for this decision should be fully documented in the Disclosure Report.

6 Customer Due Diligence (CDD)

- 6.1 Where the Council carries out certain “regulated activities” then extra care will be taken to check the identity of the customer or client, which is termed as carrying out Customer Due Diligence (CDD).
- 6.2 When it is necessary to carry out CDD, evidence of identity will be obtained, for example;
- checking with the customer’s website to confirm their business address;
 - conducting an on-line search via Companies House to confirm the nature and business of the customer and to confirm the identities of any directors;
 - seeking evidence from the key contact of their personal identity, for example their passport, and position within the organisation.
- 6.3 The requirement for CDD will be applied immediately for new customers and on a risk based approach for existing customers. Ongoing CDD will also be performed on a regular basis during the life of a business relationship based on the officer’s knowledge of the customer and an assessment of the risk of money laundering occurring.
- 6.4 In some circumstances enhanced customer due diligence which involves a more detailed identification and verification process may be necessary. Examples include;
- where the customer has not been present for identification;
 - the customer is a Politically Exposed Person¹ (PEP);
 - There is a beneficial owner who is not the customer - a beneficial owner is
any individual who holds more than 25% of the shares, voting rights or interest in a company, partnership or trust.

¹ An individual (or known associate of) who is or has, at any time in the preceding year, been entrusted with a prominent public function by in a state other than the United Kingdom.

When enhanced CDD is required, advice should be sought from the MLRO.

- 6.5 If there is any suspicion that a customer for whom the Council is currently providing a regulated activity, or is planning to do so, is carrying out money laundering or terrorist financing, or has provided false information for identification then the agreement should be terminated and reported to the MLRO.

7 Record Keeping

- 7.1 Each business area of the Council conducting regulated activities must maintain records of:

- Customer Due Diligence evidence obtained; and
- details of all relevant business transactions carried out for clients.

This should be retained for at least five years after the end of the business relationship.

8 Guidance and Training

- 8.1 The Council will;

- ensure that those employees most likely to be exposed to or become suspicious of money laundering situations will be made aware of any requirements and obligations placed upon the Council, and them as individuals, by the Proceeds of Crime Act 2002 and the Terrorism Acts 2000 and 2006;
- provide targeted training to those considered to be the most likely to encounter money laundering;
- make arrangements to receive and manage the concerns of employees about money laundering and their suspicions of it, to make internal enquiries, and to make reports, where necessary;
- establish internal procedures to help forestall and prevent money laundering.