

# Corporate Policy and Strategy Committee

10.00am, Tuesday 13 May 2014

## Operational Governance: Anti Money-Laundering Policy

Item number	7.3
Report number	
Executive/routine	
Wards	

### Executive summary

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This Report asks the Committee to approve the Council's Anti-Money Laundering Policy to prevent money-laundering within all the Council's dealings. The Anti Money-Laundering Policy complements the existing suite of regulatory policies and procedures designed to reduce the Council's risk exposure.

## Operational Governance: Anti Money-Laundering Policy

### Recommendations

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- 1.1 It is recommended that Committee approve the Anti Money-Laundering Policy.

### Background

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- 2.1 Money-laundering is an area of concern highlighted by Internal Audit and it was agreed that the Council should therefore develop its own anti money-laundering policy. The policy has been written with input from both Internal Audit and the trade unions.

### Main report

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- 3.1 The aim of this policy is to uphold the highest standard of conduct and ethics in all areas of the Council's work. As a large, multi-service provider employing many staff, the Council is aware that opportunities exist for money-laundering activities to take place. These activities can take many forms and may be large- or small-scale.
- 3.2 The policy forms a part of a regulatory suite of policies and procedures designed to reduce the Council's exposure to risk. Other complementary policies and procedures include the Council's:
- Anti-Bribery Policy and Procedure;
  - Whistleblowing Policy;
  - Disciplinary Code;
  - Employee Code of Conduct; and
  - Fraud Prevention Policy.
- 3.3 The policy is a local collective agreement between the Council and the recognised Trade Unions. This document will be reviewed regularly and adjusted by agreement to meet changing future needs.
- 3.4 The Council is committed to preventing money-laundering in all its dealings and relationships and to making sure we comply with the relevant legislation. The Council expects staff, suppliers and contractors to lead by example in combating money-laundering. Where money-laundering is suspected, reported or detected, it will be dealt with seriously.

- 3.5 It is the responsibility of managers to ensure that staff are given a copy of this policy and that they understand their responsibilities under it. In supporting these aims, mandatory training on the policy's contents is being developed and will be used, alongside appropriate coverage within staff induction procedures, to ensure that the principles outlined are implemented and embedded across all relevant areas. Further, customised training will be provided in those areas assessed to be at greater risk.
- 3.6 The Council's Director of Corporate Governance has overall responsibility for ensuring adherence to this policy and is the Council's Money-Laundering Reporting Officer ('MLRO'). In addition to the MLRO, those with responsibilities under this policy are:
- Head of Finance, who will assist the MLRO;
  - Principal Treasury and Banking Manager - policy and procedures;
  - Income Manager - implementation of anti money-laundering procedures;
  - Income Manager – compliance; and
  - Principal Treasury and Banking Manager - anti money- laundering treasury management practices.

### **Measures of success**

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- 4.1 Increased awareness of issues relating to money-laundering and having robust measures in place to stop it occurring in the Council.

### **Financial impact**

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- 5.1 The policy aims to reduce financial risk to the Council.

### **Risk, policy, compliance and governance impact**

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- 6.1 This policy aims to reduce risk within the Council.

### **Equalities impact**

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- 7.1 There are no adverse equality impacts arising from this report.

### **Sustainability impact**

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- 8.1 There are no adverse sustainability impacts arising from this report.

## Consultation and engagement

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- 9.1 Trade Unions and Human Resources have been consulted and appropriate revisions incorporated in light of this feedback.

## Background reading / external references

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## Links

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<b>Coalition pledges</b>	P30 - Continue to Maintain a sound financial position including long-term financial planning
<b>Council outcomes</b>	C025 - The Council has efficient and effective services that deliver on objectives
<b>Single Outcome Agreement</b>	SO1 - Edinburgh's Economy Delivers increased investment, jobs and opportunities for all
<b>Appendices</b>	Appendix 1 – Anti Money-Laundering Policy

# ANTI MONEY-LAUNDERING POLICY

(covering all employees)

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## **1 INTRODUCTION**

- 1.1 The aim of this policy is to uphold the highest standard of conduct and ethics in all areas of the Council's work. As a large, multi-service provider employing many staff, the Council is aware that opportunities exist for money-laundering activities to take place. These activities can take many forms and may be large- or small-scale.
- 1.2 The Council is committed to preventing money-laundering in all its dealings and relationships and to making sure we comply with the relevant legislation. The Council expects staff, suppliers and contractors to lead by example in combating money-laundering. Where money-laundering is suspected, reported or detected, it will be dealt with seriously.

## **2 SCOPE**

- 2.1 This policy covers all Council activities and applies to all employees and workers. It also applies to anyone contracted to provide services to the Council, anyone undergoing training or work experience in the Council and to agency workers.
- 2.2 This policy is intended to complement the Council's Policy on Fraud Prevention and other regulatory policies.

## **3 DEFINITIONS**

- 3.1 Money-laundering is defined as the process of taking the proceeds of criminal activity or terrorist funds and making them appear legal. The relevant legislation is contained in the Proceeds of Crime Act 2002, the Terrorism Act 2000 and the Money-Laundering Regulations 2007.
- 3.2 The following are acts of money-laundering:
- concealing, disguising, converting, transferring or removing criminal property from the UK;
  - becoming involved in an arrangement in which you know, suspect or help to obtain, keep, use or control criminal property by or on behalf of another person; and
  - obtaining, using or possessing criminal property.
- 3.3 Although the term 'money-laundering' is generally used when describing the activities of organised crime, for most people who come across it or are affected by it, it will involve a suspicion that someone you know, or know of, is benefiting financially from dishonest activities. Money-laundering may therefore be occurring in situations such as:
- dealing with customers you would not normally expect to deal with in the part of the Council you work;
  - where a contract, payment or activity is just below a legal or regulatory threshold that would make it subject to more scrutiny;
  - where a contract, payment or activity is not part of the usual range of services normally requested from you and your colleagues; and

- the size or pattern of the contract, payment or activity is not what you would normally experience in your work area.

3.4 Any of the activities could:

- be illegal;
- be in breach of the Council's policies or procedures;
- fall below established standards or practices; and/or
- amount to misconduct or gross misconduct.

This is not an exhaustive list.

3.5 The Council's Director of Corporate Governance has overall responsibility for this Policy and is the Council's Money-Laundering Reporting Officer ('MLRO'). This role includes carrying out regular reviews of the Council's operational experience under this policy to make sure that all Council activities and any organisational changes still comply with best practice or changes in legal requirements.

3.6 The Council's Head of Finance will also have a role to assist the MLRO as required and make sure that the integrity of any proceedings under this policy, including deciding on the procedure to be followed in cases of doubt, is maintained.

## 4 PREVENTING MONEY-LAUNDERING

4.1 The Council is committed to working and co-operating with other organisations to prevent money-laundering. Wherever possible, subject to data protection obligations, the Council will help, and exchange information with, other councils and public bodies to deal with money-laundering. Where the Council suspects that money-laundering has occurred, it will consult directly with those external agencies as appropriate.

4.2 The Council will do all it can to prevent, wherever possible, the Council and its staff being exposed to money-laundering, to identify 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.

4.3 The Council will target more resources and training to the areas where there is perceived to be a greater risk of money-laundering by:

- establishing internal procedures to help forestall and prevent money-laundering;
- making sure that staff who are most likely to encounter money-laundering are aware of the legal requirements and obligations placed on the Council, and on them as individuals;
- giving training to those staff most likely to encounter money-laundering;
- making arrangements which support and encourage staff to raise any concerns or suspicions they have about money-laundering; and
- making internal enquiries and, where necessary, making reports to the National Crime Agency (NCA).

## **5 RESPONSIBILITIES**

### **Employees and Workers**

- 5.1 The prevention, detection and reporting of money-laundering and other forms of corruption are the responsibility of all employees working for the Council. You are expected to be aware of the possibility that money-laundering may exist in the workplace and to share any concerns with your manager.
- 5.2 You should make sure that you are aware of your personal responsibilities in relation to Money-laundering by reading and understanding this policy. In addition, you must adhere to the standards of personal conduct and behaviour outlined in both the Council's Code of Conduct for Employees and the Disciplinary Code.

You must:

- comply with this policy;
  - avoid any activity that breaches this policy or could be seen as a breach of this policy;
  - raise any concerns as soon as possible if you believe or suspect that a breach of this policy has occurred or may occur in the future; and
  - not accept any payment to the Council in cash if it exceeds £10,000, without obtaining approval from the MLRO. Cash is defined as including notes, coins or travellers' cheques in any currency.
- 5.3 If you know or suspect that money-laundering is, or has been, going on you must tell your manager, another senior manager or the MLRO as soon as practicable. If you have any doubt or suspicion about an activity you should speak to your line manager to get advice.
- 5.4 Failure to comply with this policy may lead to disciplinary action being taken out against you. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary Policy and Procedure.

### **Managers**

- 5.5 As a manager within the Council you are responsible for making sure that your staff are given a copy of this policy and that they understand their responsibilities under it. You should make the policy available to your staff to refer to as and when appropriate.
- 5.6 If you manage staff who work in any of the areas identified as being at greater risk of money-laundering activity taking place (see paragraph 4.3), you must make sure that awareness training is given to those staff who are most likely to be exposed to money-laundering.
- 5.7 If you receive a report or suspicion of money-laundering you must report the matter to the MLRO without delay.



- 5.8 Where a member of staff raises a concern about money-laundering, you are required to take appropriate action to make sure that they are protected from any form of victimisation, bullying or harassment.
- 5.9 Victimisation, bullying or harassment of anyone raising a concern under this policy must be treated as a serious disciplinary offence. It will also be regarded as a serious disciplinary offence to attempt to deter someone from making a disclosure regarding money-laundering.

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## **6 REPORTING MONEY-LAUNDERING**

- 6.1 All staff have an important and valuable role to play in preventing and tackling money-laundering in the workplace. You are responsible for making sure that you follow the instructions given to you by managers, particularly in relation to the safekeeping of the assets of the Council.
- 6.2 You should raise any concerns that you may have, without fear of blame. Such concerns will be treated confidentially and will be properly investigated. If you feel unable to speak to your manager, you must refer the matter to another senior manager or the MLRO.
- 6.3 You are encouraged to identify yourself when you raise a concern under this Policy as anonymous reports are very difficult for the Council to deal with the effectively. If you do not wish your name to be made public, the Council will do its best to keep your identity confidential when you raise a concern. However, it may be necessary during the investigation process to make the source of complaint public and you may need to provide a statement to those investigating the issue.
- 6.4 If you suspect a case of money-laundering it is important that you:
- do not tell the customer about your suspicions; and
  - report your suspicions immediately to your manager, another senior manager or the MLRO and keep all records relating to the transaction(s).
- 6.5 You should report your suspicion within “hours” of the information coming to your attention, not weeks or months later. Any delay may result in prosecution and penalties for offences under money-laundering legislation include unlimited fines and up to 14 years in prison.
- 6.6 Disclosure should be made to your manager, another senior manager or the MLRO face to face, by phone or in writing providing as much information as you can, for example:
- why you are suspicious;
  - whether the activity you are concerned about has already happened, is in progress or is about to happen;
  - where it took place;
  - how it was carried out; and
  - the (likely) amount of money/assets involved.

- 6.7 The action taken by the Council will depend on the nature of the concern. The matters raised will be investigated internally and then, if necessary,
- referred to an internal auditor, or
  - reported to the National Crime Agency (NCA) or other relevant police service.
- 6.8 Once you have reported your concern you must follow any directions the MLRO or your manager gives you. You must not make any further enquiries into the matter yourself. The MLRO will refer the matter on to the NCA who will investigate if appropriate.
- 6.9 Anonymous reports regarding money-laundering will be considered under this policy if it is possible to do so taking into account the seriousness and credibility of the issues raised and the likelihood of confirming the allegations from reliable sources.

## **7. CUSTOMER DUE DILIGENCE AND RECORD-KEEPING**

- 7.1 If you doubt the reliability or adequacy of information you have about a client or customer to confirm their identity, customer due diligence measures must be applied. The Customer Due Diligence Procedure is set out in Appendix 2 to this policy and must be followed before any contract, payment or activity is carried out with the client or customer.
- 7.2 Customer Due Diligence means:
- knowing who the client or customer is and confirming their identity is valid by obtaining documents or other information about them from sources which are independent and reliable;
  - identifying the individual(s) who is/are the ultimate owner or controller of an external party so that you understand the structure of the organisation and confirming their identities as above; and
  - obtaining information on the purpose and intended nature of the business relationship.
- 7.3 The customer due diligence procedure must be carried out immediately for new customers before you enter a business relationship with them on behalf of the Council. It should be applied on a risk-sensitive basis to existing clients or customers.
- 7.4 Ongoing monitoring of the business relationship is required in accordance with the Customer Due Diligence procedure in Appendix 2.
- 7.5 Records of a client's identity, the evidence used to confirm their identity, the Council's business relationship with them and details of any transactions must be maintained for at least five years from the end of the transaction/relationship. The records must be capable of providing an audit trail during any subsequent investigation.

## **8. REPORTING**

- 8.1 The Council accepts that staff who report money-laundering need to be assured that the matter has been properly addressed and, subject to legal and legislative constraints, will endeavour to provide them with information about the outcomes of any investigation.
- 8.2 An annual report on the numbers and types of cases and external referrals will be provided by the MLRO to the Governance, Risk and Best Value Committee.

## **9 MALICIOUS OR VEXATIOUS COMPLAINTS**

- 9.1 If you raise a concern about money-laundering in good faith which is not confirmed by an investigation, no action will be taken against you if you raised it in good faith because you believed it to be true.
- 9.2 The Council will also protect those who are the subject of a vexatious or malicious complaint which is unfounded to make sure that any negative impact on them is reduced as far as possible.
- 9.3 The Council will make sure that this policy is not misused. In the unlikely event that a concern or suspicion is reported which is later found to be deliberately vexatious or malicious, this will be dealt with as a disciplinary matter.

## **10. CONFIDENTIALITY**

This Policy will enable you to raise any concerns you have that money-laundering is, or has already, taken place. However, such matters should not be made public through the media and/or social media, either during or after an investigation, regardless of whether it is carried out internally or externally. Disclosure to the media in these circumstances may lead to disciplinary action against you.

## **11 LOCAL AGREEMENT**

This document is a local collective agreement between the Council and the recognised Trade Unions. Every effort will be made by both parties to make sure that this document will be reviewed regularly and adjusted by agreement to meet changing future needs. In the event of failure to reach agreement, both parties reserve the right to end this local agreement by giving four months' notice in writing. In such circumstances, the terms of the local agreement will cease to apply to existing and future employees.

## **DUTIES AND RESPONSIBILITIES**

### **MONEY-LAUNDERING REPORTING OFFICER (MLRO)**

1. The MLRO is responsible for the Council's compliance with the Financial Services Authority's rules on systems and controls against money-laundering.
2. Upon receipt of a disclosure, the MLRO must note the date of receipt and advise the employee of the timescale within which he/she expects to respond.
3. The MLRO will consider all available relevant information and undertake other reasonable inquiries in order to make sure that all available information is taken into account in deciding whether a report to the National Crime Agency (NCA) is required. S/he must make a decision as soon as possible whether:
  - there is actual or suspected money-laundering taking place; and/or
  - there are reasonable grounds to know or suspect that this is the case.
4. Where the MLRO concludes that there are **no** reasonable grounds to suspect money-laundering then he/she shall give his/her consent, in writing, for any ongoing or imminent transaction(s) to proceed.
5. The MLRO must make an external report to NCA as soon as it is practicable after his/her evaluation. Suspicious Activity Reports (SARs) are submitted electronically to NCA who will then carry out the necessary internal inquiries and contact the appropriate law enforcement agency.
6. All disclosures reported to the MLRO and reports made by him/her to NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.

### **SENIOR OFFICERS**

7. In addition to the MLRO, those with responsibilities under this Policy are:
  - Head of Finance who will assist the MLRO;
  - Principal Treasury and Banking Manager – policy and procedures;
  - Income Manager - implementation of anti money-laundering procedures;
  - Income Manager - Compliance; and
  - Principal Treasury and Banking Manager - anti money-laundering treasury management practices.

All senior officers will be responsible for acting on any concerns that are raised with them and reporting these to the MLRO.

## **AUDIT**

8. The Council's financial and non-financial systems are independently monitored by Internal Audit. Senior managers are responsible for continuously improving the systems both through their own self-assessments and by positive and prompt responses to audit recommendations, where weaknesses have been identified.

## **CORPORATE MANAGEMENT TEAM**

9. The Corporate Management Team will take an overview of the anti money-laundering policy and will make sure that it is well publicised and its implementation monitored.

## **GOVERNANCE, RISK AND BEST VALUE COMMITTEE**

10. The Governance, Risk and Vest Value Committee has a responsibility to scrutinise the application of this policy within the Council.

**CUSTOMER DUE DILIGENCE AND RECORD-KEEPING**

1. Customer Due Diligence means:
  - knowing who the client or customer is and confirming their identity is valid by obtaining documents or other information about them from sources which are independent and reliable;
  - identifying the individual(s) who is/are the ultimate owner or controller of an external party so that you understand the structure of the organisation and confirming their identities as above; and
  - obtaining information on the purpose and intended nature of the business relationship.
2. The requirement for customer due diligence applies immediately for new customers before entering a business relationship and should be applied on a risk-sensitive basis for existing customers.
3. Ongoing monitoring of the business relationship is required. This includes looking at activity during the period of the business relationship, including enquiring into the source of any funds to make sure that the activity is as you would expect it to be.
4. Updating customer information should be considered at appropriate times according to the Council's knowledge of the client/customer and any changes that might occur in the customer's circumstances or the nature of services provided. Customer information could also be updated whenever there is a change of control or ownership of the client/customer, when there is a material change in the level, type or conduct of business or where any concern or suspicion has arisen.
5. Records must be maintained for at least five years from the end of the transaction/relationship. This is so that they may be used as evidence in any subsequent investigation by the authorities into money-laundering.
6. The precise nature of the records is not prescribed by law. However they must be capable of providing an audit trail during any subsequent investigation. Guidelines suggest that records of the client's identity, the evidence obtained to confirm the client's identity, the Council's business relationship with them and details of any transactions should all be recorded and kept.