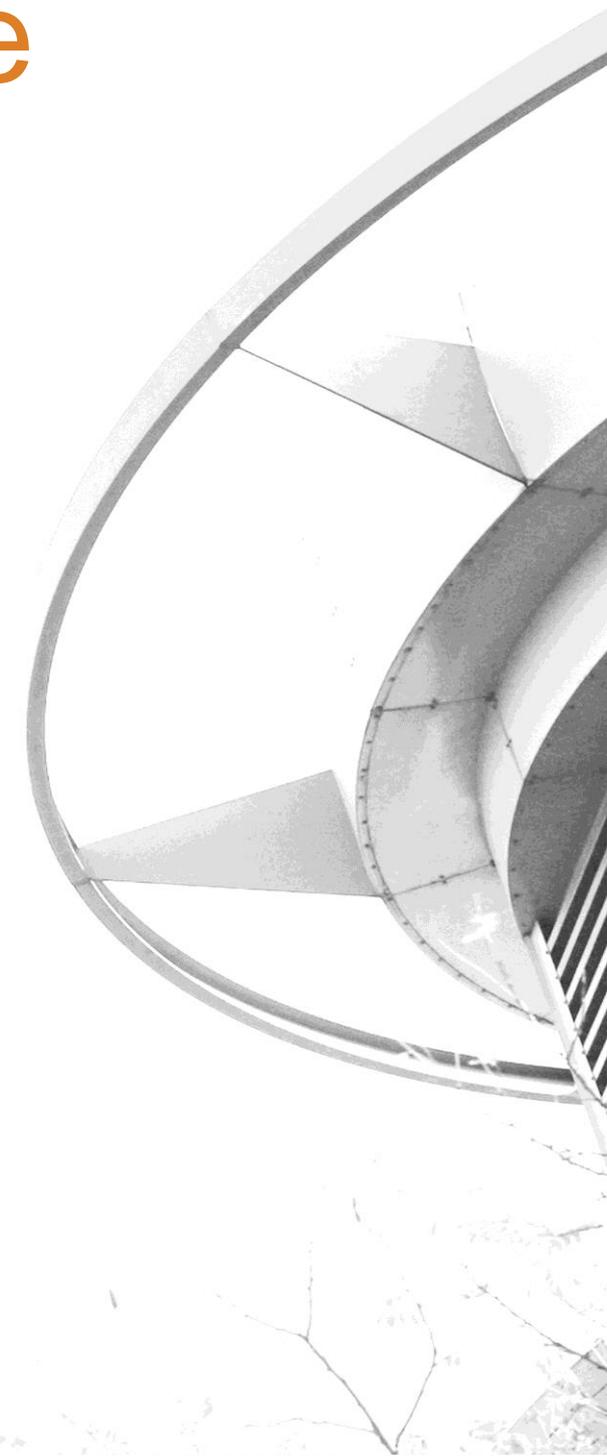
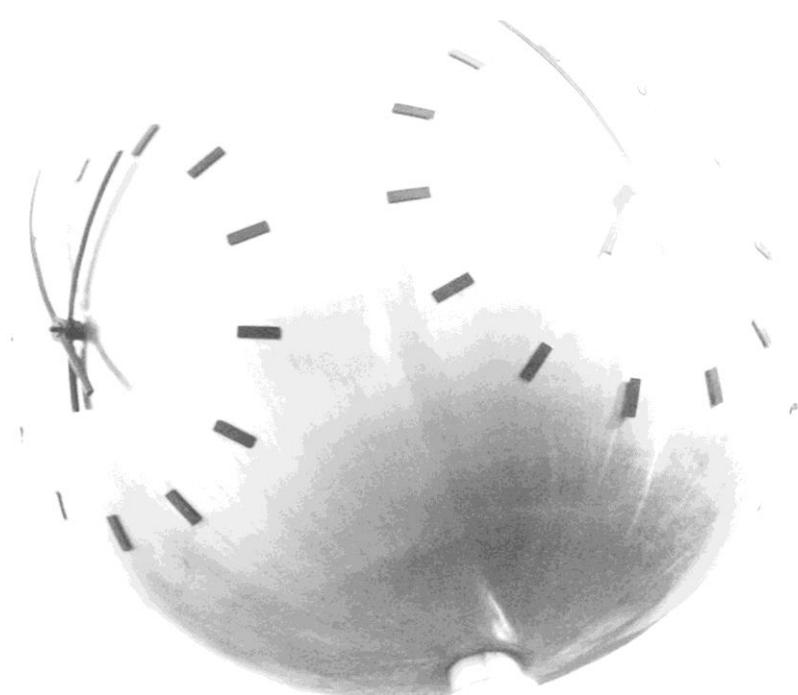


# Anti Money Laundering Policy & Guidance

January 2019



### Key Information (To correspond with Covalent)

Author:	Mike Porter, Audit & Corporate Fraud Service Manager
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# ANTI MONEY LAUNDERING - POLICY

## 1. Introduction

- 1.1 The Proceeds of Crime Act 2002, the Terrorism Act 2000 and Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 place obligations on the Council to establish internal procedures to prevent the use of their services for money laundering and the prevention of terrorist financing. The Council must also appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures of money laundering activity.
- 1.2 Local Authority procurement is at risk of infiltration from serious and organised crime and organised crime groups could be benefitting from public sector contracts. In 2013 it was estimated that £2.1 billion of fraud was perpetrated against local government (National Fraud Authority Annual Fraud Indicator 2013). Organised crime groups may seek to benefit from public services in different ways, including to raise money through fraudulent activity and to use businesses / services used by LAs to launder criminal proceeds. In this way public money can be lost to LAs and can ultimately fund other illegal activity.
- 1.3 Accompanying this policy is a guidance document that sets out the procedures, which must be followed (for example reporting of suspicions of money laundering activity) to enable the Council to demonstrate compliance with its legal obligations.

## 2. Policy Statement / Vision

- 2.1 This policy applies to all employees, members and contractors of the Council, and aims to maintain the high standards of conduct, which currently exist by preventing criminal activity through money laundering.
- 2.2 It is important that Basildon Council is able to identify, reports and takes precautions to guard against money laundering. We are required to abide by anti-money laundering (AML) legislation that applies to some of our activities and we have a duty to safeguard public money. The Council may be particularly attractive to criminals seeking to 'clean-up' money as financial institutions are now more heavily regulated.
- 2.3 The AML policy is part of the Council's anti-fraud framework, including its whistleblowing arrangements and should be read alongside those documents. It is also part of a wider set of mutually supporting arrangements for corporate governance that are collectively designed to ensure we:
  - conduct our business in line with the law and proper standards;
  - safeguard and properly account for public money and spend it economically, efficiently and effectively.
- 2.4 Failure by employees 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 Procedure.

## 3. What is money laundering?

- 3.1 Money laundering involves the "cleaning" of illegal proceeds in order to disguise their criminal origin. The proceeds of criminal activity, usually cash, but also other

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illegally gained assets, are introduced into the organisation's systems where they are processed, enabling them to leave the systems appearing to come from a legitimate source.

### 4. The Money Laundering Reporting Officer

- 4.1 The officer nominated to receive disclosures about money laundering activity within the Council is Kieran Carrigan, Corporate Director (S151). In the absence of the MLRO, the Deputy MLRO, Paul Burkinshaw, Assistant Director Corporate Services should be contacted.
- 4.2 Any disclosures will be notified to Internal Audit who will liaise with the Officers identified above.

### 5. Council Promises

Corporate Promises	Levels of Impact			
	High	Medium	Low	None
A place where people are happy, healthy and active.				√
An attractive and welcoming place that people are proud to call home.				√
A place that encourages business to grow and residents to succeed.			√	

### 6. Outcomes

- 6.1 The outcomes sought from this policy, are that:
- we have a robust, risk-based process that is effectively and consistently followed, to understand with whom we are dealing and any money laundering risks;
  - money laundering suspicions are proactively and immediately reported
  - we maintain comprehensive records of anti-money laundering checks and concerns;
  - we guard against the Council becoming involved in money laundering, safeguarding public money;
  - staff are aware of and understand the AML legal requirements, offences and background, the process and expectations set down in this policy, and appropriate support is in place to ensure it is complied with;
  - we meet anti-money laundering legal requirements and associated regulations.

### 7. Links to other Corporate Policies and Partner documents

- 7.1 This policy should be read in conjunction with:
- Counter Fraud Policy & Strategy
  - Whistleblowing Policy

## 1. What are the obligations on the Council?

Whilst Local Authorities are not directly covered by the requirements of the Money Laundering Regulations 2017, guidance from finance and legal professions, including the Chartered Institute of Public Finance and Accounting (CIPFA), indicates that public service organisations should comply with the underlying spirit of the legislation and regulations. It is recommended they put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.

The Regulations apply to “relevant persons” acting in the course of business carried on by them in the UK. Not all of the Council’s business is “relevant” for the purposes of the Regulations; it is mainly accountancy and financial, company and property transactions undertaken by Legal Services.

It is reasonable to conclude that the money laundering regime is not primarily aimed at local authorities and that local authorities’ work is to some extent indirect to the regime. However, the safest way to ensure compliance is to apply its requirements to all of the Council’s areas of work and to ensure that all staff comply with the reporting procedure set out in the policy.

The obligations on the Councils are to establish and maintain appropriate and risk-sensitive policies and procedures relating to the following:

- Customer due diligence measures and ongoing monitoring;
- Reporting;
- Record-keeping;
- Internal control;
- Risk assessment and management;
- The monitoring and management of compliance with, and the internal communication of such policies and procedures.

All employees are required to follow the procedure set out in the policy and in this way the Council will properly discharge its obligations under the money laundering regime. Failure by an employee to comply with the procedures set out in this policy may lead to disciplinary action being taken against them. Failure to comply may also result in an individual being fined or imprisoned.

## 2. Definition

Money laundering involves the ‘cleaning’ of illegal proceeds in order to disguise their criminal origin. The proceeds of criminal activity, usually cash, but also other illegally gained assets are introduced into organisation’s systems where they are processed, enabling them to leave the systems appearing to come from a legitimate source. Money laundering involves three stages:

- Placement

After a crime has been committed, funds are paid into a bank account or used to buy an asset.

- Layering

To try and hide the source of the proceeds of crime, criminals carry out transactions, which can be complex and numerous.

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- Integration

Once the origin of the funds has been hidden through sufficient 'layering', the funds are imported back into the financial system.

The introduction of the Proceeds of Crime Act 2002 and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 has broadened the definition of money laundering and has widened the range of activities controlled by the statutory framework. There are a number of different offences that may be committed under the applicable legislation:

- concealing, disguising, converting, transferring or removing criminal property from the UK (Section 327 POCA);
- entering into or becoming concerned in an arrangement which a person knows or suspects facilitates the acquisition, retention, use or control of criminal property (Section 328 POCA);
- acquiring criminal property, using criminal property; or possession of criminal property (Section 329 POCA).

When a person knows or suspects that money laundering activity is taking place (or has taken place), or becomes concerned that their involvement in a matter may amount to a prohibited act under the legislation, they must report this as soon as practicable to the Money Laundering Responsible Officer (MLRO) or risk prosecution.

The above are the primary Money Laundering offences, and are prohibited under the legislation.

There are two secondary offences:

- Failure to disclose/report any of the three primary offences
- Tipping off – this is where someone informs a person, or people, who 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.

### **3. The Money Laundering Reporting Officer**

The Money Laundering Reporting Officer for Basildon District Council is the Corporate Director / Section 151 Officer.

The Money Laundering Reporting Officer is responsible for receiving disclosures regarding suspected Money Laundering activity, evaluating the information provided and determining when to report suspicions of Money Laundering to the National Crime Agency (NCA).

In the absence of the MLRO, the Deputy Money Laundering Reporting Officer is the Assistant Director Corporate Services.

## 4. Disclosure Procedure

Where you know or suspect that money laundering activity is taking/has taken place, or you are concerned that your involvement in the matter may amount to a prohibited act under the legislation, you must disclose to the MLRO this suspicion or concern as soon as practicable. The legislation determines that a single cash transaction or a series of linked transactions totalling over €15,000 (approximately £10,000 at the time of the legislation) should be treated as suspicious. However, vigilance also needs to be maintained in respect of all other possibilities such as a series of smaller payments in cash (something that is monitored by the Corporate Fraud Team from reports received from Customer Services).

Your disclosure should be made to the MLRO on the pro-forma attached at Appendix 2.

Once you have reported the matter to the MLRO you must follow any directions they may give you. You must not make any further enquiries into the matter yourself and you must not proceed with the transaction until given the all clear. Any necessary investigation will be undertaken by the NCA. All employees will be required to cooperate with the MLRO and the authorities during any subsequent money laundering investigation.

The MLRO will undertake such other reasonable enquiries considered appropriate to ensure that all available information is taken into account in deciding whether a Suspicious Activity Report (SAR) to the NCA is required. Only the MLRO, or the Deputy MLRO can make the decision to report a suspicion or not. Where the MLRO concludes that there are no reasonable grounds to suspect money laundering this will be recorded appropriately and he/she will give their consent for any ongoing or imminent transaction(s) to proceed.

At no time and under any circumstances should an employee voice their suspicions to the individual(s) that they suspect of money laundering, or to any person other than the MLRO or Deputy MLRO, as this may constitute a criminal offence of 'tipping off'.

If an employee suspects money laundering and does nothing about it, they can be in breach of the provisions of the legislation, and related Council procedures. Whilst the risk to the Council is low, it is important that all employees are aware of their responsibilities. The key responsibility of all employees is to promptly report any suspicion of money laundering to the MLRO.

## 5. Customer Due Diligence

Customer Due Diligence (CDD) or Know Your Customer (KYC) is a keystone in the fight against money laundering, serving to ensure our dealings are with bona fide individuals and organisations, and assisting in the identification of suspicious behavior.

Where the Council is carrying out certain regulated business (accountancy, audit and tax services and legal services re financial, company or property transactions) and as part of this:

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- a) forms an ongoing business relationship with a client
- b) undertakes a one off or occasional transaction amounting to €15,000 (approximately £10,000 at the time of the legislation) or more whether carried out as a single transaction or several linked ones
- c) suspects money laundering or terrorist financing;

then the Customer Due Diligence Procedure must be followed before any business is undertaken for that client.

Customer due diligence means:

- a) Identifying the customer and verifying the customer's identity on the basis of information obtained from a reliable and independent source e.g. conducting a search at Companies House.
- b) Obtaining information on the purpose and intended nature of the business relationship.

The Regulations regarding customer due diligence are detailed but the following questions help determine whether it is necessary:

- Is the service a regulated activity?
- Is the Council charging for the service?
- Is the service being provided to a customer other than another UK public authority?

If the answer to any of these questions is **no then there is no need to carry out customer due diligence.**

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

### 6. Record Keeping

The MLRO will keep a record of all referrals received and any action taken to ensure an audit trail is maintained.

All information obtained for the purposes of money laundering checks and referrals must be kept (for at least five years) and processed in compliance with relevant Data Protection legislation. The precise nature of these records is not set down in law but should be capable of providing an audit trail during any subsequent investigation.

### 7. Training & Awareness

In support of the policy the Council will provide and update training for all relevant staff in respect of its procedures to prevent and identify money laundering.

Contact List

Money Laundering Reporting Officer (MLRO)

Kieran Carrigan, Corporate Director

Email: [kieran.carrigan@basildon.gov.uk](mailto:kieran.carrigan@basildon.gov.uk)

Phone: 01268 206868 Ext 9211

Deputy Money Laundering Reporting Officer (MLRO)

Paul Burkinshaw, Assistant Director Corporate Services

Email: [paul.burkinshaw@basildon.gov.uk](mailto:paul.burkinshaw@basildon.gov.uk)

Phone: 01268 207972

Audit & Corporate Fraud

Paula Mills, Strategic and Executive Support Manager

Email: [paula.mills@basildon.gov.uk](mailto:paula.mills@basildon.gov.uk)

Phone: 01268 207999

Mike Porter, Audit & Corporate Fraud Service Manager

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Phone: 01268 207969

**CONFIDENTIAL**  
**Report to the Money Laundering Reporting Officer**  
**Report of Money Laundering Activity**

To: **Money Laundering Reporting Officer**

**Please forward the completed form to the Audit & Corporate Fraud Service Manager**

<b>Report from</b>	
Staff member's name	
Directorate / Department	
Phone	
<b>Details of suspected offence</b>	
Names and address of the persons involved (If a company/public body please include details of the nature of their business)	
Nature, value, timing of activity involved (Please include full details e.g. what, when, where, how)	
Nature of suspicions regarding such activity	
Has any investigation been undertaken?	
Have you discussed your suspicion with anyone else?	
Have you consulted any supervisory body e.g. The Law Society	
Signed and dated	

## ANTI MONEY LAUNDERING - GUIDANCE

<b>For completion by MLRO</b>	
Date received	
Date acknowledged	
Unique case reference no.	
Are there reasonable grounds for suspecting money laundering activity?	
If yes, confirm date of report to NCA	
Is consent required from the NCA to any on-going or imminent transactions which would otherwise be prohibited act? If yes please confirm full details in the box.	
Date consent received from NCA	
Date consent given to employee for transaction to proceed	
If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to the NCA, please set out the reason(s) for non-disclosure	
Date consent given by you to the employee for transaction to proceed.	
Signed and dated	
<b>THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS</b>	

Monday to Friday  
10am to 5pm



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