

REPORT TO: POLICY AND RESOURCES COMMITTEE - 27 OCTOBER 2008

REPORT ON: ANTI MONEY LAUNDERING POLICY AND REPORTING PROCEDURES

REPORT BY: DEPUTE CHIEF EXECUTIVE (FINANCE)

REPORT NO: 502 - 2008

1.0 PURPOSE OF REPORT

The purpose of this report is to inform the Committee of the legislation relating to Proceeds of Crime and Money Laundering and recommend a revised Council policy and procedures to ensure compliance.

2.0 RECOMMENDATION

2.1 It is recommended that the Proceeds of Crime Officer (POCO) for the Council now be known as the Money Laundering Reporting Officer (MLRO) and the Nominated Officer be known as the Depute MLRO. These duties are currently undertaken the Head of Income and Recovery and Income Manager, respectively, both from the Revenues Division (Finance Department).

2.2 It is recommended that the Committee approve the Anti Money Laundering Policy detailed in Appendix A.

2.3 It is recommended that the Committee approve funding of £9,000 for training.

3.0 FINANCIAL IMPLICATIONS

The training costs are estimated to be £9,000 in the current financial year and can be contained within the projected underspend of the Revenues Division (Finance Department).

4.0 MAIN TEXT

4.1 There has been a lot of debate about the impact of money laundering on local authorities, but a decision was taken in December 2005 to comply with the regulations. A policy was agreed by the Council Management Team and cascaded to all departments.

4.2 Due to changes to legislation during 2007 and a review of procedures by Internal Audit that highlighted improvements required in the current procedures a review of the policy, procedures and training was undertaken.

4.3 An implementation plan is currently being actioned by the Head of Income and Recovery. In addition to the policy and its endorsement the implementation includes:

- revising the AML guidance & reporting procedures then ensure that all appropriate staff are made aware of these
- carrying out a risk assessment of the Council's exposure to the risks associated with money laundering
- developing proportionate systems and controls to address the risks, suitably documented and including reporting procedures for the concerns of staff; and
- raising awareness for all as well as specific training for vulnerable staff.

4.4 An assessment of training requirements has been undertaken and a plan drawn up of what this will entail for staff. Training ranges from raising general awareness to more specialist training where necessary.

5.0 POLICY IMPLICATIONS

5.1 This Report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty and Risk Management with no major issues.

6.0 CONSULTATIONS

The Chief Executive, Depute Chief Executive (Support Services), Head of Finance, Head of Personnel and Chief Internal Auditor have been consulted on the content of this report.

7.0 BACKGROUND PAPERS

None.

**DAVID K DORWARD
DEPUTE CHIEF EXECUTIVE (FINANCE)**

DATE



Anti-Money Laundering Policy

Dundee City Council (the Council) will do all it can to prevent the Council and its staff being exposed to money laundering, to identify the potential areas where it may occur, and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases.

Key points

- The Council is committed to the prevention, detection and reporting of money laundering
- All employees must be vigilant for the signs of money laundering
- Any employee who suspects money laundering activity must report this promptly to the Money Laundering Reporting Officer (MLRO) or the Depute MLRO
- No payment to the Council will be accepted in cash (*see definition 1*) if it exceeds £10,000
- Where the Council is carrying out certain regulated activities (*see definition 2*) by way of business then the Customer Due Diligence procedure must be followed
- The Money Laundering Regulations are detailed and complex – if you are in any doubt about the application of this Policy please contact the MLRO or the Depute MLRO

1 Introduction

- 1.1 The Proceeds of Crime Act 2002, the Terrorism Act 2000 and the Money Laundering Regulations 2007 place obligations on the Council and its employees with respect to suspected money laundering.

2 Scope of the Policy

- 2.1 This Policy applies to all employees of the Council and aims to maintain the high standards of conduct which currently exist within the Council by preventing criminal activity through money laundering. The Policy sets out the procedures which must be followed (for example the reporting of suspicions of money laundering activity) to enable the Council to comply with its legal obligations.
- 2.2 Failure by a member of staff 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 Policy and Procedure. Furthermore, a member of staff could also be subject to criminal conviction.

3 What Is Money Laundering?

3.1 Money laundering is the term used for a number of offences involving proceeds of crime or terrorism funds. The following acts constitute the act of money laundering:

- concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 of the Proceeds of Crime Act 2002);
- 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 (section 328); or
- acquiring, using or possessing criminal property (section 329).

These are the primary money laundering offences, and are thus prohibited acts under the legislation. There are also two secondary offences: failure to disclose any of the three primary offences and tipping off. Tipping off is where someone informs a person or people who are, or who are suspected of being involved in money laundering, in such a way as to reduce the likelihood of them being investigated or prejudicing an investigation.

3.2 Any member of staff could potentially be caught by the money laundering provisions, if they suspect money laundering and either become involved with it in some way and/or do nothing about it. This Policy sets out how any concerns should be raised.

3.3 While the risk to the Council of contravening the legislation is low, it is important that all employees are familiar with their responsibilities: serious criminal sanctions may be imposed for breaches of the legislation. The key requirement on employees is to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer.

4 Policy Statement

4.1 Our Policy is to do all we can to prevent, wherever possible, the Council and its staff being exposed to money laundering, to identify the potential areas where it may occur, and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases. We cannot stress too strongly, however, that it is every member of staff's responsibility to be vigilant of money laundering.

5 What Are The Obligations on the Council?

5.1 As an organisation conducting 'relevant business' the Council must:

- appoint a Money Laundering Reporting Officer ("MLRO") to receive disclosures from employees detecting actual or suspected money laundering activity (their own or anyone else's);
- establish internal procedures to help prevent money laundering;
- make arrangements to receive and manage the concerns of staff about money laundering and their suspicions of it, to make internal enquiries, and to make reports where necessary to the Serious and Organised Crime Agency (SOCA);
- ensure that all staff have an awareness of money laundering matters;
- target training to staff most likely to encounter money laundering;
- maintain client identification procedures in certain circumstances; and
- maintain record keeping procedures.

5.2 Not all of the Council's business is "relevant" for the purposes of the legislation: it is mainly the income collection, treasury management, company, and property related transactions. However, the safest way to ensure compliance with the law is to apply them to all areas of work undertaken by the Council; therefore, **all** staff are required to comply with the reporting procedure set out in Section 7.

6 The Money Laundering Reporting Officer (MLRO)

- 6.1 The officer nominated to receive disclosures about money laundering activity within the council is the Head of Income and Recovery. She can be contacted as follows:

Andrea Calder
Head of Income and Recovery
Finance Dept - Revenues Division

Tel: 01382 431301

Fax: 01382 431383

Email: andrea.calder@dundee.gov.uk

- 6.2 In the absence of the MLRO, the depute MLRO is Tracey Russell, Incomes Manager email: tracey.russell@dundee.gov.uk or telephone 01382 431333).

7 Reporting

- 7.1 All employees who may be affected by this legislation, especially those working in the 'relevant' business areas, must familiarise themselves with this policy and the AML Guidance & Reporting Procedures.
- 7.2 Any employee who suspects money laundering activity must report their suspicion promptly to the MLRO, or to the Depute MLRO's if appropriate, using the AML Reporting form . If you would prefer, you can discuss your suspicions with the MLRO or the Depute MLRO first.
- 7.3 The employee must follow any subsequent directions of the MLRO or Depute MLRO, and must not themselves make any further enquiries into the matter. They must not take any further steps in any related transaction without authorisation from the MLRO.
- 7.4 The employee must not disclose or otherwise indicate their suspicions to the person suspected of the money laundering. They must not discuss the matter with others or note on the file that a report has been made to the MLRO in case this results in the suspect becoming aware of the situation.
- 7.5 The MLRO or Depute MLRO must promptly evaluate any AML Reporting form, to determine whether it should be reported to the Serious and Organised Crime Agency (SOCA).
- 7.6 The MLRO or Depute MLRO must, if they so determine, promptly report the matter to SOCA on their **standard report form** and in the prescribed manner.
- 7.7 It is a criminal offence if the MLRO or Depute MLRO 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 and they do not disclose this as soon as practicable to SOCA, and they would thus be subject to both disciplinary action as well as criminal action.

8 Record Keeping

- 8.1 Where 'relevant business' is carried out then the Customer Due Diligence (CDD) records and details of the relevant transaction(s) for that client must be retained for at least five years after the end of the business relationship. An electronic copy of any relevant CDD records in relation to any AML disclosures must be sent to the MLRO to ensure that requirements of the Regulations are met and for audit purposes.
- 8.2 An electronic copy of reports and any associated documents as detailed in the Reporting Procedures must be forwarded to the MLRO as appropriate.

9 Guidance and Training

9.1 In support of the policy and guidance, the Council will:

- make all staff aware of the requirements and obligations placed on the Council and on themselves as individuals by the anti-money laundering legislation;
- give targeted training to those most likely to encounter money laundering; and
- ensure that all departmental heads ensure awareness and training needs of new staff are addressed and include details in departmental induction manuals/sessions.

10 Further Information

10.1 Further information can be obtained from the MLRO and the following sources:

- Website of the Serious and Organised Crime Agency at www.soca.gov.uk
- “Proceeds of Crime (Anti-Money Laundering) – Practical Guidance for Public Service Organisations” – CIPFA
- “Anti-Money Laundering (Proceeds of Crime and Terrorism) – Second Interim Guidance for Accountants” – CCAB at www.ccab.org.uk
- Money Laundering Guidance from the Law Society at www.lawsociety.org.uk or the Law Society of Scotland at www.lawscot.org.uk
- SI 2007 No. 2157 The Money Laundering Regulations 2007 at www.hm-treasury.gov.uk

Definitions

- 1 *Cash is defined as including notes, coins or travellers' cheques in any currency.*
- 2 *“Regulated activity is defined as the provision ‘by way of business’ of: advice about tax affairs; accounting services; treasury management, investment or other financial services; audit services; legal services; estate agency; services involving the formation, operation or arrangement of a company or trust or; dealing in goods wherever a transaction involves a cash payment of €15,000 or more.”*