

OADBY & WIGSTON BOROUGH COUNCIL

ANTI-MONEY LAUNDERING POLICY AND PROCEDURE



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Policy Author: DM Gill, Head of Law and Democracy

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1.0 Background

Money laundering is defined as “a process that makes money with an illegal origin appear legal so that it may be used”. Oadby and Wigston Borough Council (“the Council”) must establish internal procedures to ensure that its services are not used for money laundering.

The key pieces of legislation concerning money laundering are the:

- Proceeds of Crime Act 2002 (“POCA”)
- Terrorism Act 2000 (“TA”)
- Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017/692

The Principal Money Laundering Offences

POCA lists the main offences as:

- Concealing, disguising, converting or transferring criminal property or removing it from the UK;
- Entering into or becoming concerned in an arrangement which the person knows or suspects eases the acquisition, retention, use or control of criminal property by or on behalf of another person;
- Acquiring, using or possessing criminal property;
- Failing to disclose a suspicion of money laundering;
- Tipping off money laundering suspects that they are under suspicion, or of any investigations into their conduct.
- Doing something that could prejudice a money laundering investigation.

This policy should be read in conjunction with the following Council policies:

- Anti-Fraud and Corruption policy;
- Whistleblowing;
- Disciplinary Proceedings;
- Financial Regulations
- Contract procedure Rules

2.0 Purpose

The key objectives of this policy are to:



- Emphasise the role of the Money Laundering Reporting Officer (“MLRO”). He will receive disclosures from Council workers and members of suspicions of money laundering activity.
- Implement a procedure for workers and Council members to disclose promptly any suspicions of money laundering to the MLRO. Failure to comply with the procedure may lead to disciplinary action being taken against them.
- Apply due diligence measures in certain circumstances.
- Obtain information on the purpose and nature of certain proposed transactions or business relationships.
- Conduct ongoing monitoring of certain business relationships.
- Maintain records and procedures.
- Provide training to the Council’s relevant employees and members, temporary agency workers and contractors on their responsibilities under the money laundering legislation, and the consequences of non-compliance.

3.0 Scope

This policy applies to all Council employees, members, contractors and suppliers. While it is unlikely that the Council will breach the legislation on money laundering, it is important that everyone at the Council is familiar with their legal responsibilities. The policy sets out the procedures that must be followed to enable the Council to comply with its legal obligations.

4.0 Roles and Responsibilities

Role	Responsibilities
Money Laundering Reporting Officer/Section 151 Officer	<ul style="list-style-type: none"> • Receives and records disclosure forms from Council workers and members (Appendix 1) as to suspicions of money laundering. • Offers advice and guidance to employees and others who raise concerns as to money laundering within the Council. • Considers all the evidence of raised concerns to determine whether there are grounds to suspect money laundering; completes a disclosure form to the National Crime Agency (“NCA”) if he feels that there are.

Role	Responsibilities
Council Employees, Members and Contractors	<ul style="list-style-type: none"> • It is the responsibility of all Council employees, members and contractors to be aware of their responsibilities under the money laundering legislation. • They must be vigilant and report any suspicions of money laundering to the MLRO. • Employees dealing with financial transactions must comply with the specified procedures.
Head of Law and Democracy	<ul style="list-style-type: none"> • Oversees the Whistleblowing Policy and Procedure through which money laundering may be reported. • Advises the MLRO on legal issues connected with investigating money laundering allegations.

5.0 The Money Laundering Reporting Officer

The MLRO is the Section 151 Officer.

In the absence of the MLRO, the Finance Manager will act as the authorised deputy.

6.0 Guidance and Procedures

Under the money laundering legislation, the Council must comply with set procedures when carrying out “regulated activities”: These activities include:

- Investments, accountancy and audit services;
- Financial, company and property transactions;
- Dealing in goods whenever a transaction (or linked one-off transactions) involves a cash payment of €15,000 (£13,210 in July 2018) or more.

Identification of the Client (“Due Diligence”)



When the Council conducts a regulated activity with a client, the client must provide the Council officer with identification evidence. The client should provide the officer with the client's passport or photo driving licence, along with documentation showing the client's name and address.

Corporate identity details can be established by the client providing company formation and/or business rates documents. Official letter-headed correspondence should be used. The client company registration details should be checked, along with VAT numbers, website details and the registered office address.

Copies of the identification documents should be kept.

If the client cannot be identified, the Council officer should be aware that:

- There is a greater risk of money laundering where the client is not physically present when being identified;
- The business relationship or transaction should not proceed if satisfactory identification evidence is not obtained;
- If the client acts, or appears to act for another person, reasonable measures must be taken to establish that person.

Cash Payments and Refunds

Cash payments to the Council in excess of £10,000 will not be accepted without guidance from the MLRO. "Cash" is defined as including notes, coins or travellers' cheques in any currency.

Council employees will need to be careful in dealing with refunds. Overpayments of money resulting in refunds should be thoroughly investigated and authorised by the MLRO before repayment. All refunds will be made only to the original source of the payment and not a different account.

Training

The Council will take appropriate measures to ensure that relevant employees are trained on:

- the money laundering legislation,
- factors to suggest money laundering may be taking place, and
- how to deal with transactions which may be a front for money laundering.

Contractors will be expected to take similar steps concerning their employees.



Reporting to the Money Laundering Reporting Officer

Council employees¹ who **reasonably** suspect money laundering within the Council's activities must report their suspicions immediately to the MLRO (regardless of the amount of money involved): the disclosure form in **Appendix 1** should be completed, although the suspicions can be discussed with the MLRO before doing this. The form must be completed as soon as possible: unreasonable delay in submitting the disclosure form may render the employee liable to prosecution and disciplinary proceedings by the Council.

The MLRO must evaluate the disclosure form quickly and advise the employee.

The employee must follow the directions of the MLRO, and must make no further enquiries into the matter.

Further steps in any related transactions must not be taken without written authorisation from the MRLO.

The money laundering suspect must not be warned of the allegation, or that there may be a money laundering investigation. Anyone who notifies the suspect will be committing the offence of "tipping off".

When looking into the employee's disclosure, the MLRO will make such reasonable enquiries as he deems fit. If necessary, he will take legal and financial advice. He will also decide whether to notify NCA of the allegations; if he does, he must complete a Suspicious Activity Report of the incident on the NCA database:

<http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/economic-crime/ukfiu/how-to-report-sars>

or complete a Suspicious Activity Report form which can be downloaded from the website page.

In the event of an investigation taking place into the money laundering allegation, all employees must fully co-operate with the MLRO and NCA.

In cases where legal professional privilege may apply, the MLRO will liaise with the Head of Law and Democracy in deciding whether to report the matter to NCA or not.

Record Keeping

Council officers and contractors conducting relevant business must keep records of:

¹ This equally applies to Council members, contractors, suppliers, and members of the public.

- Client identification evidence – this must be kept for 5 years after the end of the business transaction or relationship;
- Details of relevant transactions carried out for clients for at least 5 years from the completion of the transaction: they may be needed by the authorities as evidence in any money laundering investigation. The documents can be stored electronically provided they can be kept available for inspection with sufficient notice.

The MLRO must be informed of the existence and location of such records.

7.0 Indications of Money Laundering

Employees of the Council who deal with transactions should watch out for these possible indications of money laundering:

- Transactions which make no financial or business sense: money launderers will wish to disguise the source of the money, even if they incur financial loss.
- Large volume/large cash transactions: such payments should be investigated thoroughly. Payments should be encouraged through the banking system to avoid problems.
- Payments received from third parties.
- Client unwillingness to answer questions about the money.
- Use of overseas companies to make payments.
- New companies.
- Overpayments of money where refunds would be necessary.

8.0 Review and Monitoring of the Policy

This policy and procedure will be reviewed on a biennial basis.

The Head of Law and Democracy will have delegated responsibility to make minor and insignificant changes, such as changes to grammar, spelling, paragraphing and font for example.



Appendix 1: Internal Disclosure Form to Money Laundering Reporting Officer

To: Money Laundering Reporting Officer, Oadby and Wigston Borough Council

From: [insert name and job title of employee]

Service Area:

DETAILS OF SUSPECTED OFFENCE

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

Nature, value and timing of activity involved:

[Please include full details, e.g. what, when, where, how. Continue on a separate sheet if necessary]

Nature of suspicions regarding such activity:

[please continue on a separate sheet if necessary]



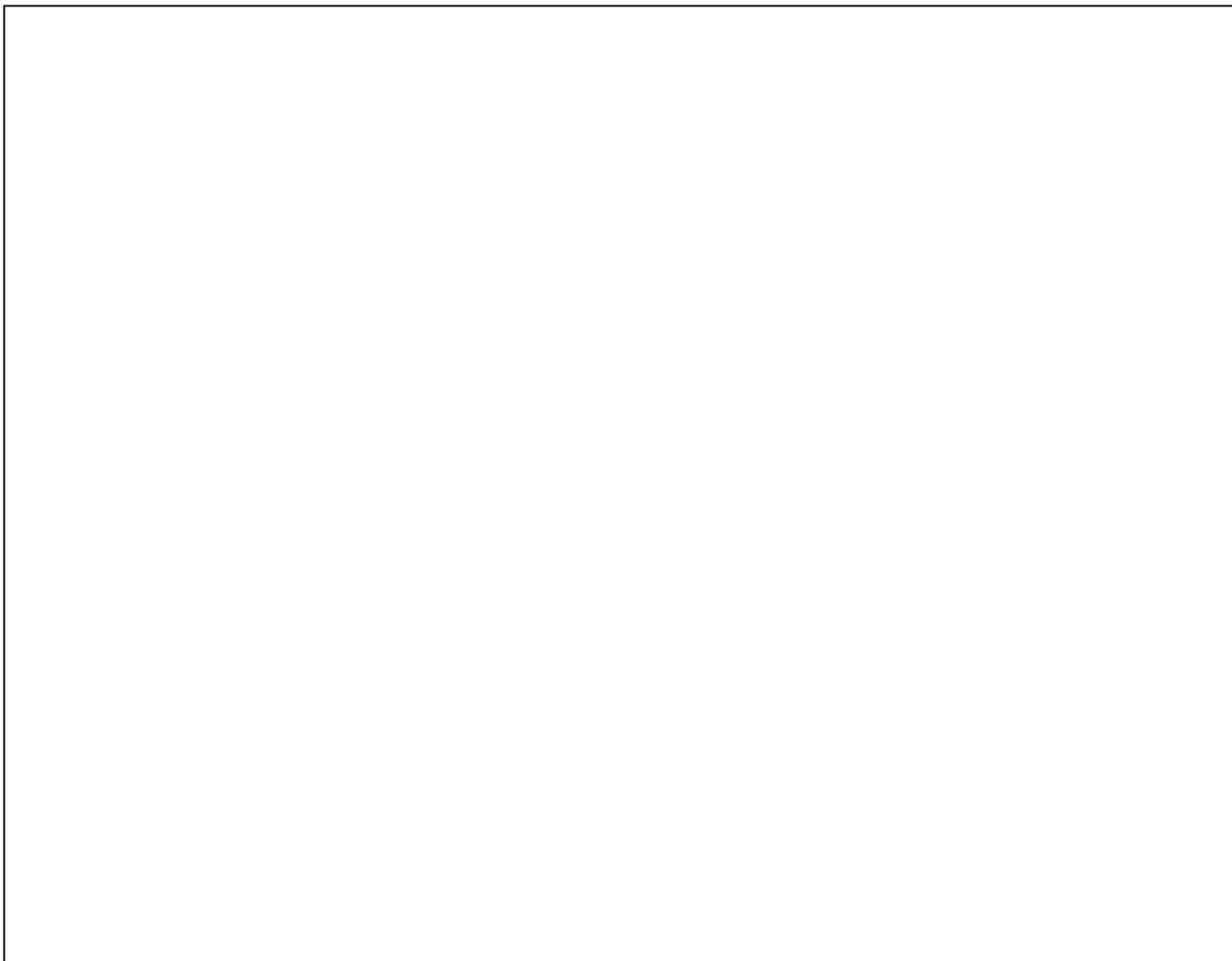
Has any investigation been undertaken (as far as you are aware)?

If yes, please include details below.

Have you discussed your suspicions with anyone else? If yes, please specify why such discussion was necessary.

Please set out any further 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 under money laundering legislation.



TO BE COMPLETED BY THE MONEY LAUNDERING REPORTING OFFICER

Date report was received:

Date receipt of report was acknowledged:

Consideration of Disclosure

Action Plan:

OUTCOME OF CONSIDERATION OF DISCLOSURE:

Are there reasonable grounds for suspecting money laundering activity? If yes, will a report be made to the National Crime Agency?



If yes, please confirm date of report to NCA. Provide details of NCA advice.



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

Signed:

Dated:

THIS REPORT MUST BE RETAINED FOR AT LEAST 5 YEARS.

