

Anti-Money Laundering and the Proceeds of Crime Policy

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1. Background

What is Money Laundering?

1.1 [The Proceeds of Crime Act 2002 \(POCA\)](#) defines Money Laundering as:

- Concealing, disguising, converting, transferring criminal property or removing it from the UK;
- Entering into or becoming concerned in an arrangement which you know or should reasonably suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person; and
- Acquiring, using or possessing criminal property.

The Legislation

1.2 Anti-money laundering legislation for the Financial Services industry has been in place for a number of years. On 26 June 2017, they were replaced by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(MLR 2017\)](#), and on 10 January 2020, [The Money Laundering and Terrorist Financing \(Amendment\) Regulations 2019 \(MLR 2019\)](#) came into force.

1.3 Legislation, in the form of POCA and the [Terrorism Act 2000 \(TA\)](#), place a duty on all organisations, irrespective of the sector they operate in, and their individual employees, both in a professional and personal capacity, to report under certain circumstances any suspected incidences of money laundering.

1.4 Legislation therefore, creates a two-tier system of requirements for the monitoring and reporting money laundering activity. On the one hand the MLR 2017 places a strict requirement on certain professionals to install formal monitoring and reporting procedures to ensure incidences of money laundering activity are identified and formally reported. On the other hand, POCA and TA do not require an organisation or its employees to actively seek out money laundering activity. However, POCA, which covers all organisations and individuals, does require any known or suspected incidences, where the organisation or individual is involved in the arrangements, to be formally reported. It is important to emphasise the statutory requirement under POCA on any individual in the UK to report suspected instances whether through their work or through their personal life.

- 1.5 The TA additionally places a requirement on a business or its employee to report any suspicion or belief that a person has committed an offence under the TA involving terrorist property. Terrorist property is that likely to be used for the purposes of terrorism, or the proceeds of the commission of an act of terrorism or acts carried out for the purposes of terrorism.
- 1.6 The MLR 2017 specifies that Customer Due Diligence (CDD) must be observed when entering into transactions with companies and customers. This requires that the Regulated Sector must take steps to ensure they are able to verify the identity of the customer and any other beneficial owners of a company before entering into a relationship. These steps must be recorded, and where necessary the customer/company monitored for suspicious activity. Where a customer or company fails the CDD or suspicions are raised, this must be reported.

2. Application to the London Borough of Camden

- 2.1 In order for the stricter monitoring/reporting requirements of the MLR 2017 to apply an organisation needs to operate in a *Regulated* sector or be undertaking “relevant business”. The Chartered Institute of Public Finance Accountants (CIPFA), in their guidance on money laundering in the public sector - *Proceeds of Crime (Anti-Money Laundering) Practical Guide for Public Service Organisations* concluded that the normal activities of a local authority do not automatically constitute either being part of the regulated sector or undertaking relevant business and are therefore, not automatically required to comply with MLR 2017.
- 2.2 Where the Council provides services to third parties, by way of business, such as other local authorities then those activities could fall under the formal monitoring and reporting requirements of MLR 2017. The services covered by the legislation are:
 - Accountancy services.
 - Insolvency practitioner.
 - Tax advice.
 - Audit Services.
 - Trust/Company Service Providers, Company formation.
 - Estate Agents.
 - High Value Dealers (see paragraph 8.1).

- 2.3 A risk assessment of the impact of money laundering legislation on the London Borough of Camden has not identified any such relevant third party arrangements within the Council. However, if managers have concerns that services being provided to third parties may be covered by the legislation, they should seek advice from the nominated officers.

MLR 2017 has placed a higher responsibility on CDD and as such, the London Borough of Camden has to be able to demonstrate such checks have been carried out as appropriate. Relevant training and guidance can be provided.

3. Scope of Policy

- 3.1 The Council believes that although the legislation relating to money laundering does not require it to implement formal detection and reporting procedures, it nevertheless considers that such procedures are best practice. Procedures have therefore, been introduced that are proportionate to the risk and likelihood that the Council will be faced with money laundering activities. The procedures introduced include the following:

- A means whereby employees can report any suspicions of money laundering they may have in the course of their duties;
- A nominated officer and deputy to receive and consider all internal money laundering referrals;
- A process whereby all referrals are reviewed by the nominated officer or their deputy and where considered appropriate formally report to the [National Crime Agency \(NCA\)](#);
- Guidance and training to relevant staff considered most likely to be faced with situations involving money laundering activity; and
- The setting of a financial level, (currently £9,000) above which cash payments to the Council will not be accepted.

4. The Nominated Officer

- 4.1 The Council considers that in order for this policy to be enforced and to ensure full compliance the officer nominated to receive and assess internal reports of suspicions of money laundering activity should be a senior officer. The nominated officer is also known as the Money Laundering Reporting Officer (MLRO).
- 4.2 The nominated officer is:
Head of Internal Audit, Investigations & Risk Management
Telephone: 020 7974 2211

Email: InternalAudit@camden.gov.uk

The nominated deputy is:
Principal Investigator
Telephone: 020 7974 2281
Email: InternalAudit@camden.gov.uk

All reports should be made to the deputy nominated officer on the prescribed form (ML1) attached to this policy and available on the Intranet.

MLR 2007 introduced new online reporting arrangements which allows for a number of delegated officers in relevant departments to make online reports directly to the NCA. These reports are reviewed and monitored by the MLR. Ongoing risk assessment and management reviews of the Councils ML risk will determine those officers who will require online access.

5. Obligations on Individuals/Employees

- 5.1 In the course of your work for the Council or in your private life, you may come across or become aware of some form of criminal activity. In many cases, it will be appropriate to report that criminal activity either to the police or to your manager, with a view to further action being taken. The Money Laundering legislation means that in certain circumstances, you will have a clear obligation to formally report such activity.

Offences

- 5.2 POCA creates 4 different types of offence, which may be committed by any person, in either a professional or private capacity, although the tipping off offence applies only to the regulated sector, as follows:

- concealing or otherwise dealing with criminal property.
- entering into an arrangement permitting the acquisition, retention and useful control of criminal property by another person.
- acquisition, use and possession of criminal property or
- tipping off *.

** In addition to the tipping off offence, a further offence exists in terms of 'prejudicing an investigation', which involves either making a disclosure which is likely to prejudice the investigation or falsifying, concealing or destroying or otherwise disposing of documents which are relevant to the investigation.*

Concealing

- 5.3 You will commit an offence if you conceal, disguise, convert or transfer criminal property, or remove it from England and Wales.

Arrangements

- 5.4 If you enter into or become 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, you commit an offence. What does this mean? It is difficult to be specific. However, it clearly applies if you are involved in some way in making an arrangement and that you have to have actual knowledge or suspect that the arrangement you are making allows another person to acquire, retain, use or control criminal property.
- 5.5 No offence is committed if you are carrying out a function that you have in connection with taking action against criminal conduct under other legislation.
- 5.6 Examples might include:
1. If you know that someone is a drug dealer, and you become aware that they are trying to buy their council flat under Right to Buy, you would need to report the case, if as part of your duties you were in some way involved in the right to buy process.
 2. If, as a social worker you had good reason to know that a client is not declaring the income, so that it is not taken into account for benefit purposes and you facilitate this by arranging childcare which allows them to go out to work, you would need to report your suspicion and you would be involved.
 3. If, as a trading standards officer, you are allowing someone to trade, under surveillance, in counterfeit goods so that you could catch someone else, perhaps a supplier, then you would not need to make a disclosure, because it relates to your function in connection with other criminal conduct.

Other examples might include:

- Tax evasion;
- Tenants sub-letting;
- Benefit fraud;
- Counterfeit Goods;
- Right to Buy or other property transactions involving cash from non-legitimate sources;
- Development partners where the source of funding is suspected to be from non-legitimate sources; or
- Criminal activity carried out from Council property, e.g. lock ups.

This list is not exhaustive, any activity involving criminal activity or the proceeds of crime is a reportable matter.

Acquisition, Possession and Use

- 5.7 You **will** commit an offence if you acquire, use or have possession of criminal property. However, no offence is committed if you report it, or if you are carrying out a function in connection with enforcement of the criminal law.

Tipping off

- 5.8 Tipping off involves alerting the suspect to the fact that there is either a suspicion regarding their activity or that the matter has been reported. Therefore, a suspicion should never be discussed with a third party other than the nominated officers nor should a suspect be approached. Where an employee seeks advice from a manager or third party that person then becomes aware and is required to ensure that the matter is reported and that tipping off is avoided. Any investigation of the circumstances by the nominated officers should avoid alerting any suspects to the suspicion. Any disclosure, which is likely to prejudice an investigation, is an offence.
- 5.9 As long as you have reported everything you know or suspect, once you have made a report to the nominated officer, you will have fulfilled your obligations under the legislation.
- 5.10 Suspicion is not defined in existing legislation. Case law and other sources indicate that suspicion is more than mere speculation but it falls short of proof or knowledge. Suspicion can be subjective so if in doubt report to the nominated officers and allow them to judge the validity of your suspicion.

6. Liability of employees

- 6.1 The Council and its employees, who are involved in an arrangement which they know of or suspect involves criminal property, will be liable to prosecution under the legislation if a report is not made, the penalties for non-compliance are severe.
- 6.2 Failure to report a suspicion relating to terrorist property is also an offence with severe penalties.
- 6.3 Ignoring a situation is no defence under the legislation and you would remain open to prosecution.
- 6.4 The Council and its employees as individuals would also be liable to prosecution and the same penalties if they were found to have “*tipped off*” a suspected perpetrator, either deliberately or inadvertently.
- 6.5 Money laundering is not restricted to large cash sums or organised criminals. The emphasis of the legislation is not on the value but the act itself. The legislation does not set a lower financial limit on what would be regarded as the proceeds of crime or a limit on the

circumstances when a situation would be considered to relate to the proceeds of crime.

7. Disclosure Procedure

- 7.1 Where an employee is concerned that they may have become involved in money laundering activities, they are required to immediately report this to the deputy nominated officer, either through the appropriate report forms or through an arranged meeting with the nominated officers. Such a reporting process ensures compliance with both POCA and TA and an employee will have fulfilled their obligations under the legislation if they report, irrespective of what subsequent action is taken in the matter.
- 7.2 The disclosure needs to be made as soon as possible after the matter comes to the attention of the individual – not days or weeks later. A delayed disclosure could make the individual liable to prosecution.

Delegated Officers

The NCA online reporting service is available to the MLR, DMLR and delegated officers. This provides online guidance on how to report and responsibilities. <https://www.ukciu.gov.uk/saronline.aspx>

- 7.3 The disclosure report form is available on the Council's intranet. The form should be completed and emailed to InternalAudit@camden.gov.uk or hand delivered to Internal Audit, 5th Floor, 5PS. If in any doubt always act quickly and seek advice from MLRO or Deputy MLRO.

8. Cash Limit

- 8.1 Although the Council considers its unlikely that it would receive cash payments for goods to a value which would lead it to be designated as a "High Value Dealer" under the money laundering legislation it has been decided to impose a limit of £9,000 per transaction above which cash will not be accepted. Therefore, officers should **not** accept **CASH** payments in a single transaction or a linked series of transactions in excess of a total of £9,000. Cash is defined as currency or travellers' cheques, but excludes cheques, card or other forms of transaction.
- 8.2 Where an individual or organisation pays the Council in excess of £3,000 using cash, the full details of the transaction must be reported by email to the deputy nominated officer. The nominated officers will consider the transaction and where appropriate report the matter formally to NCA.

9. Reports to NCA (National Crime Agency)

- 9.1 Upon receipt of a disclosure report or an email regarding cash payments over £3,000, the nominated officers must record the date of receipt both in a formal record and on the report itself and complete an assessment form (ML2). The nominated officers will formally acknowledge receipt of the report and will advise the individual making the report of the processes to be undertaken and their timescales.
- 9.2 The nominated officers will consider the report and any other available internal information and will undertake such other reasonable inquiries felt appropriate in order to ensure that all available information is taken into account when determining whether a report should be made to NCA.
- 9.3 The nominated officers will make a timely determination as to whether there is actual or suspected money laundering taking place or reasonable grounds to suspect it and whether a report needs to be made to NCA to seek authority for the particular transaction to proceed.
- 9.4 Where a report to NCA is determined appropriate this report will be made in a timely manner using the prescribed forms required by NCA. Where the nominated officer determines that they have reasonable and valid grounds not to report the matter that determination will be fully recorded and evidenced.
- 9.5 The nominated officers commit a criminal offence if they know or have reasonable grounds to suspect that another person is engaging in money laundering and do not report to NCA as soon as practicable.

10. Staff Awareness and Guidance

- 10.1 Few staff are likely to be involved directly in situations involving significant cash based money laundering transactions. The risk assessment undertaken by the Council has identified that the principal activities where significant cash based money laundering transactions are most likely to be encountered are Cashiers, Treasury Management and with property transactions in Property Services and Legal Services.
- 10.2 Accountants, Auditors and professional staff within the finance and legal teams will have received independent advice from their respective professional associations and they should ensure this is followed. Where this advice conflicts with the requirements of this Policy, the matter should immediately be brought to the attention of the nominated officers.

- 10.3 Staff in the finance and legal teams have received training on the money laundering legislation and its application to local government.
- 10.4 Any member of Camden's staff could face the prospect of becoming involved in a money laundering activity through their Council duties. As the examples in paragraph 5.6 illustrate money laundering can take many forms, therefore all staff need to ensure they are conversant with the requirements of this Policy. Managers need to ensure that their staff are aware of the implications of money laundering and the reporting requirements of this Policy.
- 10.5 MLR requires that ML training is recorded and monitored. LBC should be able to show this duty has been discharged by demonstrating which staff have been trained, when and how those staff were identified.

11. Politically Exposed Person (PEP)

- 11.1 In considering higher risk transactions, one of the criterion the council has to consider is whether the transaction(s) relate to Politically Exposed Persons (PEP). Set out below is the definition of PEP.
- 11.2 A PEP under the MLR 2017 now extends to persons who fall under the definition of 'Politically Exposed Persons' in the UK, as well as abroad.
- 11.3 A politically exposed person is considered any individual who is entrusted with prominent public functions (as set out in Regulation 35(12) of the MLR 2017, including:
- A foreign person who has held any time in the preceding year a prominent public function outside the United Kingdom, in a state or international institution.
 - Members of courts of auditors or of the boards of central banks.
 - Ambassadors, chargés d'affaires and high-ranking officers in the armed forces.
 - Members of the administrative, management or supervisory bodies of state-owned enterprises.
 - Heads of state, heads of government, ministers and deputy or assistant ministers.
 - Members of parliaments or of similar legislative bodies.
 - Members of the governing bodies of political parties.
 - Members of supreme courts, constitutional courts or of other high-level judicial bodies the decisions of which are not subject to further appeal except in exceptional circumstances.
 - Member of the administrative, management or supervisory bodies of State-owned enterprises.
 - Directors, deputy directors and members of the board or equivalent function of an international organisation.

- 11.4 The definition explicitly excludes middle-ranking or more junior officials. However, PEP status also extends to relatives and close associates and relatives are set out in the Regulation as a spouse or civil partner of the PEP; children of the PEP and the spouses or civil partners of the PEP's children and parents of the PEP.
- 11.5 Close associates include any individual who is known to have joint beneficial ownership of a legal entity or legal arrangement, or any other close business relations. It also includes any individual who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit of a person referred to in regulation.

12. Conclusion

- 12.1 This Policy codifies the procedures and it enables the London Borough of Camden to meet its legal obligations in the event of it encountering money laundering. Following the Council's procedures will also be instrumental in protecting employees from personal liability.

13. Contacts

Nominated Officer (MLRO): Head of Internal Audit, Investigations and Risk Management

Email: InternalAudit@camden.gov.uk

Phone: 020 7974 2211

Deputy Nominated Officer (Deputy MLRO): Principal Investigator

Email report to: InternalAudit@camden.gov.uk

Phone: 020 7974 2281

London Borough of Camden

CONFIDENTIAL

Report to Money Laundering Nominated Officer

From:

Post Title: Tel No:

Directorate:

Would you like a meeting to discuss your suspicions? Yes/No

Details of Suspected Offence:

Names and addresses of persons involved:

(if a company/public body please include details of the nature of business)

Nature, value and timing of activity involved:

Nature of suspicion:

(please give full details of every aspect)

If any inquiries or investigation into the matter have been undertaken please provide details:

Please provide any further information you feel may be relevant:

Signed:.....

Date:.....

1. This form should be submitted via email to:

- MLRO: InternalAudit@camden.gov.uk
- Deputy MLRO: InternalAudit@camden.gov.uk

2. You should report your suspicions immediately

3. Please provide full details of your suspicions and the circumstances

London Borough of Camden

CONFIDENTIAL**Money Laundering Nominated Officer's Assessment Report**

Date report received:

Was a meeting requested? Yes/No

Date of meeting: (Minutes of meeting should be taken)

Date report acknowledged:

Report is timely to the reporter becoming aware of the circumstances: Yes/No

Report Ref No:

CONSIDERATION OF DISCLOSURE**Action Plan:**

(Evidence and records to be reviewed and Inquiries required)

OUTCOME OF CONSIDERATION OF DISCLOSURE

Details of whether the disclosure is substantiated and whether there are reasonable grounds for suspecting money laundering:

Will a report be made to the NCA?

Yes/No

If Yes, date of report to NCA:

Is consent required from the NCA to any ongoing or imminent transactions which would otherwise be prohibited acts? Yes/No

If Yes please provide details:

Date consent received:

Consent Reference no.:

Date consent passed by you to employee:

Are there reasonable grounds for suspicions but you feel there is an excuse for not reporting to the NCA? Yes/No

If Yes please provide details:

This report must be filed and retained for a minimum of 5 years.

Signed:..... Date:.....

Name/Title: