



Cyngor Bwrdeistref Sirol
MERTHYR TUDFUL
MERTHYR TYDFIL
County Borough Council

**Anti-Money Laundering
(AML)
Policy**

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Control

Policy Lead Officer: Head of Regional Internal Audit Service
Responsible Officer: Head of Finance and Section 151 Officer
Consultation: Governance and Audit Committee
Implementation Date: xxxx 2022
Review Arrangements: Every 2 years

1. Introduction

Merthyr Tydfil County Borough Council (the Council) is committed to the highest possible standards of conduct. Although as a local authority it is not directly covered by the requirements of current anti-money laundering legislation, it has responded to guidance from the finance and legal professions and developed an Anti-Money Laundering Policy and accompanying Guidance Notes to provide advice and assistance where money laundering is encountered or suspected.

Money laundering is the process of concealing sources of money. Money evidently gained through crime is 'dirty' money, and money that has been 'laundered' to appear as if it came from a legitimate source is 'clean' money. Money can be laundered by many methods, which vary in complexity and sophistication.

Historically, legislation to tackle the laundering of the proceeds of crime was aimed at the financial and investment sector. However, it was subsequently recognised that those involved in criminal conduct were able to 'clean' criminal proceeds through a wider range of businesses and professional activities.

This policy confirms the Council's commitment to ensuring that the relevant legislation is complied with encompassing:

- The Proceeds of Crime Act 2002 (as amended by the Criminal Courts Act 2013 and the Serious Crime Act 2015)
- The Terrorism Acts 2000 & 2006
- The Counter-Terrorism Act 2008
- The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017)
- The Money Laundering and Transfer of Funds (Information) (Amendment) (EU Exit) Regulation 2019. (MLR 2019)

2. Scope

This Policy and its accompanying Guidance Notes applies to all Council employees and elected Members of the Council and aims to maintain existing high standards of conduct within the Council by preventing criminal activity through money laundering. The Policy sets out the procedures that must be followed to enable the Council to comply with its legal obligations. Further information can be found under the Obligations of the Council on page 5.

This policy sits alongside the Council's Anti-Fraud, Bribery, and Corruption Policy, Code of Conduct and Whistle Blowing Policy as components of the Council's Corporate Governance regime.

It is extremely important that all members and employees are familiar with their legal responsibilities and are vigilant at all times. 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 (MLRO).

3. Key Message

The key message of this Policy is that if you suspect that money-laundering activity may be taking place or proposed, in relation to anything you are dealing with, you should immediately disclose those suspicions to the Council's MLRO.

*(Please refer to the Money Laundering checklist at **Appendix 1** to assist and the reporting form at **Appendix 2**.)*

The Council's MLRO is the Head of Finance/Section 151 Officer and the designated Deputy MLRO is the Council's Deputy Section 151 Officer (Chief Accountant – Accountancy)

If the matter involves a proposed transaction (e.g. the sale of property) you should not proceed with the transaction without approval from the MLRO or the National Crime Agency (NCA). If possible, you should defer the transaction in such a way as not to alert anyone else to your suspicions. If you believe you cannot reasonably do so, you should immediately contact the MLRO or the Deputy MLRO.

If you are unable to defer the transaction without exposing your suspicions, e.g. as it is a cash transaction, you should complete the transaction as you usually would and record as much detail as possible on the form attached at **Appendix 2** and then pass the completed documentation to the MLRO.

4. What is Money Laundering

Money laundering is the process of concealing sources of money. Money evidently gained through crime is 'dirty' money, and money that has been 'laundered' to appear as if it came from a legitimate source is 'clean' money. Money can be laundered by many methods, which vary in complexity and sophistication.

Money laundering is the process of channelling 'bad' money into 'good' money to hide the fact that the money originated from criminal activity, and often involves three steps:

- **Placement** - cash is introduced into the financial system by some means;
- **Layering** - a financial transaction to camouflage the illegal source;
- **Integration** - acquisition of financial wealth from the transaction of the illicit funds.

There are two types of offences, which may be committed:

- Money laundering offences
- Failure to report money-laundering offences

The main types of money laundering offences are:

- Acquiring, using or possessing criminal property,
- Handling the proceeds of crimes such as theft, fraud and tax evasion,
- Being knowingly involved in any way with criminal or terrorist property,
- Entering into arrangements to facilitate laundering criminal or terrorist property,
- Investing the proceeds of crime in other financial products,
- Investing the proceeds of crimes through the acquisition of property/assets,
- Transferring criminal property.

5. Obligations of the Council

The law requires those organisations in the regulated sector and conducting relevant business to:

- Appoint a MLRO to receive Suspicious Activity Reports from employees of suspected money laundering activity,
- Implement risk sensitive policies and procedures relating to customer due diligence, reporting, record keeping, internal control, risk assessment and management, the monitoring and management of compliance and the internal communication of such policies and procedures.

Not all the Council's business is 'relevant' for these purposes, it is mainly the accountancy and audit services carried out by the Finance Department and certain financial, company and property transactions carried out by the Legal Department.

However, the safest way to ensure compliance with the law is to apply it to all areas of work undertaken by the Council.

Therefore, all employees are required to comply with the Council's Anti Money Laundering Policy in terms of reporting concerns about possible money laundering.

The Money Laundering Regulations 2017 require appropriate systems of internal control to prevent money laundering. There must be management controls in place to help identify possible attempts to launder money or fund terrorism, so that appropriate action to prevent or report it can be taken. Systems of internal control should help identify unusual or suspicious transactions or customer activity and should include:

- Identification of relevant responsibilities under this Policy.
- Provision of information to relevant persons on suspected money laundering risks.
- Training of relevant employees on the legal and regulatory responsibilities for money laundering and control measures.
- Measures to ensure that money laundering risks are taken into account in the day-to-day operations of the organisation.

6. Money Laundering Reporting Officer (MLRO)

The officer nominated to receive any reports about money laundering activity within the Council is the Head of Finance/151 Officer, in the absence of the MLRO, the Council's Deputy S151 Officer (Chief Accountant – Accountancy) can be contacted using a confidential email address Steve.Jones@merthyr.gov.uk or Adele.Lewis@merthyr.gov.uk

7. Potential Money Laundering Situations

It is not possible to give a definitive list of ways in which to identify money laundering or how to decide whether to make a report to the MLRO. The following are types of risk factors, which may, either alone or cumulatively, suggest possible money laundering activity:

- Payment of a substantial sum in cash, anything that is £5,000 or more,
- Payment of lower cash sums where cash is not the normal means of payment,
- A new customer or use of new/shell companies,
- A secretive customer, e.g. refuses to provide requested information without a reasonable explanation,
- Concerns about the honesty, integrity, identity or location of a customer,
- Illogical third-party transaction such as unnecessary routing or receipt of funds from third parties or through third party accounts,

- Involvement of an unconnected third party without logical reason or explanation,
- Overpayments by a customer or payments of deposits subsequently requested back,
- Absence of an obvious legitimate source of funds,
- Unusual transactions or ways of conducting business, without reasonable explanation,
- A transaction without obvious legitimate purpose or which appears uneconomic, inefficient or irrational,
- The cancellation or reversal of an earlier transaction,
- Requests for release of customer account details other than in the normal course of business,
- Transactions at substantially above or below fair market values,
- Poor business records or internal accounting controls,
- A previous transaction for the same customer which has been, or should have been, reported to the MLRO,
- Lack of 'traceability' of persons involved,
- Individuals and companies that are insolvent yet have funds.

8. Failure to Report Offences or Suspicions

Where, in the course of conducting relevant business, you know or suspect, or have reasonable grounds to do so (even if you did not know or suspect), that another person is engaged in money laundering and you do not disclose this as soon as is practicable to the MLRO you are committing an offence.

Failure to report money-laundering offences means that potentially any employee could 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 their suspicions.

Whilst the risk of contravening the legislation is low, it is extremely important that all employees understand their legal responsibilities: serious criminal sanctions may be imposed for breaches of the legislation. However, an offence is not committed if the suspected money laundering activity is reported to the MLRO and appropriate consent obtained to continue with the transaction.

If you report suspected money laundering to the MLRO, you should not discuss it with anyone else: you may commit a further offence of 'tipping off' (if, knowing a disclosure to the MLRO has been made, you make a disclosure to someone else which is likely to prejudice any investigation which might be conducted).

Even if you have not reported the matter to the MLRO, if you know or suspect that such a disclosure has been made and you mention it to someone else, this could amount to a tipping off offence. Be very careful what you say and to whom, in these circumstances. Any person found guilty of tipping off or prejudicing an investigation is liable to imprisonment (maximum five years), a fine or both.

9. Reporting Procedure

If you know or suspect that money laundering activity is taking place, has taken place, or that your involvement in a matter may amount to a prohibited act under the legislation, this must be disclosed immediately to the MLRO. This disclosure should be done within hours of the information coming to your attention, not weeks or months later. If you do not disclose information immediately, then you may be liable to criminal prosecution.

Your disclosure should be made using the report form attached at **Appendix 2**. The disclosure report must contain as much detail as possible, for example:

- Full details of the people involved (including yourself if relevant), e.g. name, date of birth, address, company names, directorships, phone numbers, etc.
- Full details of the nature of your and their involvement,
- The types of money laundering activity suspected,
- The dates of such activities, including whether the transactions have happened, are on-going or are imminent,
- Where they took place,
- How they were undertaken,
- The (likely) amount of money/assets involved,
- Why, exactly, you are suspicious?

You should also supply any other available information to help the MLRO to make a sound judgement as to the next steps to be taken and you should enclose copies of any relevant supporting documentation.

If you are a legal adviser and consider that legal professional privilege may apply to the information, you should explain fully in the report form the reasons why you contend the information is privileged. The MLRO, in consultation with the Head of Legal Services/Monitoring Officer, will then decide whether the information is exempt from the requirement to report suspected money laundering to the NCA.

Once you have reported the matter to the MLRO you must follow any directions the MLRO may give you. You must **NOT** make any further enquiries into the matter yourself. Any necessary investigation will be undertaken by the NCA. All employees will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

At no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering or to any other individual without the specific consent of the MLRO. If you do so, you may commit the offence of 'tipping off'.

Do not make any reference on records held to the fact that you have made a report to the MLRO. If a customer exercises their right to see their record, any such note would obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

In all cases, no further action must be taken in relation to the transaction(s) in question until either the MLRO or the NCA (if applicable) has specifically given their written consent to proceed.

10. Money Laundering Report

On receipt of a money laundering report, the MLRO will record the date of receipt on the report, acknowledge receipt of it and indicate when the MLRO expects to respond.

The MLRO will consider the report and any other available internal information. This may include:

- Reviewing other transactions, patterns and volumes,
- The length of any business relationship involved,
- The number of any one-off transactions and linked one-off transactions,
- Any identification evidence.

The MLRO will undertake any inquiries deemed appropriate and will ensure that all available information has been obtained. In doing so, the MLRO will avoid any action which could tip off those involved, or which could give the appearance of tipping them off. Where appropriate, Internal Audit will investigate on behalf of the MLRO.

The MLRO may also need to discuss the report with the employee who reported the case.

The MLRO will then consider all aspects of the case and decide whether a report to the NCA is required. The MLRO must make a timely determination as to:

- Whether there is actual or suspected money laundering taking place,
- Whether there are reasonable grounds to know or suspect that money laundering is taking place,
- Whether the MLRO needs to seek consent from the NCA for a particular transaction to proceed.

Where the MLRO concludes one or more of the above, the MLRO will record the conclusion and disclose the matter as soon as possible to NCA online.

Once the MLRO has made a disclosure to NCA, their consent will be needed before any further part in the transaction can take place. Consent will be received in the following way:

- Specific consent,
- Deemed consent if no notice of refusal is received from NCA during the notice period (i.e. 7 working days starting with the first working day after the MLRO makes the disclosure),
- Deemed consent if refusal of consent is given during the notice period but the moratorium period has expired (31 days starting with the day on which the

MLRO receives notice of refusal of consent) has elapsed without any further refusal of consent.

The MLRO should make clear in the report to NCA if such consent is required, and if there are any deadlines for giving such consent, e.g. completion date or court deadline.

Where the MLRO concludes that there are no reasonable grounds to suspect money laundering this will be recorded appropriately, and the MLRO will give consent for any on-going or imminent transaction(s) to proceed.

All Money Laundering reports referred to the MLRO and reports made to NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.

The MLRO commits a criminal offence if they know or suspect, or has reasonable grounds to suspect that another person is engaged in money laundering and this is not disclosed as soon as possible to the NCA.

11. Additional Requirements for Finance and Legal Employees

Those employees providing certain financial and legal services (i.e. 'relevant persons') must comply with the customer identification procedure, 'due diligence' and the record keeping procedures.

There are various levels of 'due diligence'. The 2017 Regulations require due diligence to be carried out on a risk sensitive basis, so that:

- Simplified due diligence is required where there is a low risk of money laundering. For example, if a company is listed on the stock exchange, a company search and evidence of the listing would suffice. (Note, for example, a company search is often undertaken / may already have been undertaken for the Council by the Procurement Section in conjunction with the Accountancy Section – so further inquiry may not need to be undertaken),
- 'Enhanced due diligence' for those with a high-risk status, for example remote transactions where the customer is not physically present to be identified would require additional appropriate documents to be requested.
- The 'beneficial owner', the individual that ultimately owns or controls the customer or on whose behalf a transaction or activity is being conducted, should be identified.
- The business relationship should be scrutinised throughout its existence and not just at the beginning.

You may rely on due diligence undertaken by those regulated by the Financial Conduct Authority (FCA) or supervised by a listed professional regulator e.g. the Solicitors Regulation Authority. Any information obtained may be used as evidence in any subsequent investigation by the relevant enforcement authorities into money laundering.

In all cases, evidence of the customer identification and record of the relationship / transaction should be retained for at least five years from the end of the business relationship of transaction(s). The records that must be kept are:

- A copy of, or references to, the evidence of the identity obtained under the customer due diligence requirements in the Regulations,
- The supporting evidence and records in respect of the business relationships and occasional transactions which are the subject of customer due diligence measures or on-going monitoring,
- A copy of the identification documents accepted, and verification evidence obtained,
- References to the evidence of identity,
- Transaction and business relationship records should be maintained in a form from which a satisfactory audit trail may be compiled, and which may establish a financial profile of any suspect account or customer.

If satisfactory evidence of identity is not obtained at the outset of the matter, then the business relationship or one-off transaction(s) cannot proceed any further.

The customer identification procedure must be carried out when the Council is carrying out 'relevant business' and:

- Forms a business partnership with a customer,
- Undertakes a one-off transaction (including a property transaction or payment of a debt) involving a cash payment by or to a customer of 15,000 euros (approximately £12,500) or more,
- Undertakes a series of linked one-off transactions involving total payment by or to the customer(s) of 15,000 euros (approximately £12,500) or more;
- It is known or suspected that a one-off transaction, or a series of them, involves money laundering. This must be completed before any business is undertaken for that customer in relation to accountancy, procurement, audit and legal services with a financial or real estate transaction.

In the above circumstances, employees must:

- Identify the person seeking to form the business relationship or conduct the transaction (an individual or company / organisation),
- Verify their identity using reliable, independent sources of information,
- Identify who benefits from the transaction,
- Monitor transactions to make sure they are consistent with what you understand about that person or country,
- Understand the source of their funds,
- Ensure there is a logical reason why they would want to do business with the Council.

This applies to existing customers, as well as new ones, but identification evidence is not required for matters entered into prior to 1st March 2004.

The law does not prescribe the precise nature of the records to be retained. However, they must be capable of providing an audit trail during any subsequent

investigation, for example distinguishing the client and the relevant transaction and recording in what form any funds were received or paid. In practice, the Council will be routinely making records of work carried out in the course of normal business and these should suffice in this regard.

12. Training

The Council will take appropriate measures to ensure that employees are made aware of the law relating to money laundering and will arrange targeted, on-going, training to key individuals most likely to be affected by the legislation.

13. Further Information

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

- <https://www.nationalcrimeagency.gov.uk> – website of the National Crime Agency
- Anti-Money Laundering Guidance for the accountancy sector, published by Consultative Committee of Accountancy Bodies (CCAB) www.ccab.org.uk
- Anti-Money Laundering Guidance for the legal sector at the Law Society: <https://www.lawsociety.org.uk/>
- The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 at: <https://www.legislation.gov.uk>

14. Conclusion

The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This document has been written to enable the Council to meet the legal requirements in a way that is proportionate to the low risk to the Council of contravening the legislation. Should you have any concerns whatsoever regarding any transactions then you should contact the MLRO.

The policy will be reviewed as and when required e.g. following any legislative changes and reported to Cabinet and the Governance and Audit Committee.

Money Laundering Checklist

Guidelines to staff and members on concerns or suspicions

It is anticipated that the most likely scenario in which a money laundering issue may arise is where officers unwittingly become concerned or involved in an arrangement which we know or suspect enables criminal property to be retained or acquired by a third party.

If you do have any suspicions or concerns about an individual or transaction, then it is always better to raise those concerns appropriately. If necessary, you may wish to use the Council's Whistleblowing Policy for further support and guidance on how to raise a concern. Conversely, if in doubt, seek advice from the MLRO.

Although some offences and suspicions may be fairly apparent, some can be more difficult to identify. The simple guidance is to be vigilant, and not be afraid to question something if you don't think it looks right. If you think something looks suspicious, then the probability is someone else may also think the same. It is better for the Council to be safe when handling public money – it would not reflect well on the Council's reputation if it was found we had taken monies that were obtained through theft, drug trafficking, terrorism, etc.

It is recognised that a lot of the Council's activities are sensitive in nature, and in cases where, to some people, may be suspicious or concerning behaviour, from a money laundering perspective may not necessarily be in line with the activity occurring. However, people should always be mindful of genuine concern and suspicion.

The types of activity that may be affected

The following table sets out the types of activities that might be suspicious, and how the Council may come across those activities. It is not intended to be exhaustive, and just because something you are suspicious about is not on the list, it doesn't mean you shouldn't report it.

Activity	The types of activity that may be affected
New customers with high value transactions	<ul style="list-style-type: none"> • Selling property to individuals or businesses • Renting out property to individuals or businesses • Entering into other lease agreements • Undertaking services for other organisations
Secretive clients	<ul style="list-style-type: none"> • Housing benefit claimants who have sums of money entering into / out of their bank account (even if we do not award them benefit, we should still consider money laundering implications) • People buying or renting property from the Council who may not want to say what it is for • People receiving grant funding who refuse to

Activity	The types of activity that may be affected
	demonstrate what funding was used for
Customers who we think are acting dishonestly or illegally	<ul style="list-style-type: none"> • People paying for Council services who do not provide details about themselves • People making odd or unusual requests for payment arrangements
Illogical transactions	<ul style="list-style-type: none"> • People paying in cash then requesting refunds • Requests for the Council to pay seemingly unconnected third parties in respect of goods / services provided to the Council • Requests for the Council to pay in foreign currencies for no apparent reasons
Payments of substantial sums by cash	<ul style="list-style-type: none"> • Large debt arrears paid in cash • Refunding overpayments • Deposits / payments for property
Movement of funds overseas	<ul style="list-style-type: none"> • Requests to pay monies overseas, potentially for “tax purposes”
Cancellation of earlier transactions	<ul style="list-style-type: none"> • Third party “refunds” grant payment as no longer needed / used • No payment demanded even though good / service has been provided • Sudden and unexpected termination of lease agreements
Requests for client account details outside normal course of business	<ul style="list-style-type: none"> • Queries from other companies regarding legitimacy of customers • Council receiving correspondence / information on behalf of other companies
Extensive and Overcomplicated client business structures / arrangements	<ul style="list-style-type: none"> • Requests to pay third parties in respect of goods / services • Receipt of business payments (rent, business rates) in settlement from seemingly unconnected third parties
Poor accounting records and internal financial control	<ul style="list-style-type: none"> • Requests for grant funding / business support indicates third party not supported by financial information • Companies tendering for contracts unable to provide proper financial information / information provided raises concerns • Tender for a contract which is suspiciously low
Unusual property investments or transactions	<ul style="list-style-type: none"> • Requests to purchase Council assets / land with no apparent purpose • Requests to rent Council property with no apparent business motive
Overcomplicated legal arrangements / multiple solicitors	<ul style="list-style-type: none"> • Property transactions where the Council is dealing with several different parties

MONEY LAUNDERING REPORT FORM

Employee Details

Name _____

Department / Section _____

Date Reported _____

Contact details _____

Offence Details

Give full details of the name(s) and address (es) of the person(s) / Company (s) / public body (s) / Directorship (s) involved Identities of the person(s) / company (s) subject to the enquiry

Nature, value and timing of the activity involved – please include full details of whether this has already occurred, is on-going or is likely to occur, where / when this occurred, how it arose, and the amount of money / assets involved and why you are suspicious. Please continue on another sheet if necessary.

Investigations – has any investigation already occurred, as far as you are aware? If so, please detail below:

Discussions – have you discussed your suspicions with anyone – including any advisory bodies? Please identify who you have contacted and why such discussions were necessary.

Disclosure – is there any reason why you believe this should not be disclosed to National Crime Agency (NCA)?

Further Information – if there is any further information you believe to be relevant, please include here:

Signed: _____

Date: _____

This completed form is to be submitted to the Councils Money Laundering Reporting Officer or Deputy via email :

- Steve.Jones@merthyr.gov.uk
- Adele.Lewis@merthyr.gov.uk

OR/ By post to

Civic Centre,
Castle Street,
Merthyr Tydfil,
CF47 8AN

MONEY LAUNDERING DISCLOSURE FORM
(TO BE COMPLETED BY THE MONEY LAUNDERING REPORTING OFFICER)

Date of Money Laundering Report Form being received: _____

Date when acknowledgement receipt of Money Laundering Report Form:

Report Form related to:

Report Form completed by:

Officer contact details:

Action taken to review Report Form:

Findings of review:

Are there reasonable grounds for suspecting money laundering activity? If yes, please give details:

If yes, please complete the following details:

Date or report to NCA:
Details of liaison with NCA regarding the report:
Notice Period:
Moratorium period:

Is consent required from NCA? Has consent been received?

--

Date consent given by MLRO to employee for Council to proceed with the transaction:

Date consent given to MLRO to employee for any prohibited act transactions to proceed:

Other relevant information:

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Signed: _____

Name: _____

Date: _____