

## MUNICIPAL YEAR 2018/19 REPORT NO. 194

### MEETING TITLE AND DATE:

Audit & Risk Management  
Committee  
6 March 2019

### REPORT OF:

Director of Law and  
Governance

Agenda – Part:

Item: 12

**Subject: Anti-Money Laundering  
Policy and Guidance**

**Wards: All**

**Cabinet Member consulted:**

Contact officer and telephone number:

Gemma Young – Head of Internal Audit & Risk Management

07900 168938

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### 1. EXECUTIVE SUMMARY

- 1.1 The Money Laundering Regulations 2007, in conjunction with the EU's Fourth Money Laundering Directive (effective from June 2017), brought the UK in line with other European Union countries and made it more difficult for criminals to utilise the proceeds of their crimes, as well as preventing terrorist funding. The regulations require relevant businesses to maintain appropriate policies and procedures to prevent and detect activities relating to money laundering. The aim of the attached policy and guidance is to raise awareness of individual and organisational responsibilities for preventing and responding to suspected attempts to launder money through the systems of the Council or its relevant subsidiary companies.
- 1.2 The anti-money laundering policy was last presented to the Audit & Risk Management Committee in January 2018. The document has been reviewed to ensure that it remains fit for purpose. Minor changes have been made to reflect any changes of personnel.
- 1.3 This report presents the updated anti-money laundering policy as well as guidance to enable staff, members and contractors to comply with the policy. These documents support the Council's zero tolerance to fraud and identify the internal controls required to prevent and respond to instances of money laundering.

### 2. RECOMMENDATIONS

- 2.1 Members are asked to endorse the updated anti-money laundering policy and guidance.

## **BACKGROUND**

- 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 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.
- 3.2 The aim of this policy is to reduce the risk of the Council, its subsidiary companies, employees, members and contractors being exposed to money laundering, and to enable compliance with legal and regulatory requirements.
- 3.3 In June 2017, the EU's fourth money laundering directive was implemented via the Money Laundering Regulations 2017. These require significant changes including updating of policies and procedures and more onerous due diligence procedures for relevant services. In particular, the Council’s trading companies which undertake regulated services (e.g. estate agency) are obliged to comply with the regulations. These changes, including the appointment of a Compliance Officer to ensure that customer due diligence arrangements are in place for the Council’s subsidiary companies, were incorporated into the policy as part of the 2018 review.
- 3.4 The policy presented at Appendix A outlines the Council’s and its subsidiary companies’ responsibility to comply with the money laundering regulations and replaces the previous policy that was issued in January 2018.
- 3.5 Guidance presented at Appendix B provides advice to enable employees, members and contractors to comply with the requirements of the policy. In particular, directions to facilitate reporting of money laundering suspicions are set out, and due diligence procedures are outlined for services that are most likely to be exposed to money laundering attempts.
- 3.6 Awareness among staff will continue to be raised by a programme of specific training, targeted towards those who are more likely to be exposed to money laundering practices (for example, those involved in right-to-buy transactions).

## **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 There are no other options which can be considered as it is good practice for the Council to have up-to-date anti-money laundering policy and guidance.

## **5. REASONS FOR RECOMMENDATIONS**

- 5.1 These items are being brought to the attention of the Audit & Risk Management Committee for information.

## **6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS**

### **6.1 Financial Implications**

The Council is exposed to risk of financial loss if it does not have in place a mechanism to combat fraud. Therefore, this strategy will contribute towards safeguarding of the Council's financial resources.

### **6.2 Legal Implications**

The consequences of any public service organisation or members of its staff becoming involved in money laundering, without there having been policies and procedures in place to help prevent it, may be very serious. It may result in criminal prosecutions if organisations and individuals are not fulfilling their duty under the law.

The Proceeds of Crime Act 2002 as amended by the Serious Organised Crime and Police Act 2005 established a series of criminal offences in connection with money laundering, failing to report knowledge or suspicions, tipping off and prejudicing an investigation. It created investigative powers for law enforcement and set out primary offences relating to money laundering, including the laundering of terrorist funds.

The Money Laundering Regulations 2007 and EU's Fourth Money Laundering Directive require relevant businesses to take measures to identify their customers and specify the policies and procedures that must be put in place to prevent and identify activities relating to money laundering and terrorist financing.

The Chartered Institute of Public Finance and Accountancy guidelines state that local authorities should take all reasonable steps to minimise the likelihood of money laundering occurring by putting in place proper policies and procedures.

### **6.3 Property Implications**

There are no specific property implications associated with this report.

## **7. KEY RISKS**

- 7.1 This report forms part of the Council's risk management and governance process. There is a risk of incidents arising from not reporting money laundering and any subsequent recriminations.

Without a policy, the Council is at risk of being party to money laundering and either not recognising it or not reporting it.

## **8. IMPACT ON COUNCIL PRIORITIES**

### **8.1 Fairness for All**

An effective anti-money laundering policy and guidance are part of the Council's system of internal control, which contributes towards assurance over risks to services and other Council activities that might otherwise affect the delivery of high quality, affordable, accessible services to all residents.

### **8.2 Growth and Sustainability**

An effective anti-money laundering policy and guidance will help the Council achieve its objectives in the area of growth and sustainability.

### **8.3 Strong Communities**

An effective anti-money laundering policy and guidance will assist the Council achieve its objectives in the area of strong communities.

## **9. EQUALITIES IMPACT IMPLICATIONS**

Corporate advice has been sought in regard to equalities and an agreement has been reached that it is not relevant or proportionate to carry out an equalities impact assessment/analysis for this report.

## **10. PERFORMANCE MANAGEMENT IMPLICATIONS**

There are no specific performance management implications relating to this report.

## **11. HEALTH AND SAFETY IMPLICATIONS**

There are no direct Health and Safety implications relating to this report.

## **12. HR IMPLICATIONS**

There are no direct HR implications arising from this report, although individuals may be prosecuted if they knowingly fail to report suspicions of money laundering.

## **13. PUBLIC HEALTH IMPLICATIONS**

Items summarised in this report do not have a direct impact on the health and well-being of the public in Enfield.

## **Background Papers**

Anti-Money Laundering Policy and Guidance.

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**1. Introduction**

- 1.1 The Money Laundering Regulations 2007, in conjunction with the EU's Fourth Money Laundering Directive (effective from June 2017), have brought the UK in line with all European Union countries and made it more difficult for criminals to utilise the proceeds of their crimes as well as preventing terrorist funding. This policy outlines the Council's and its relevant subsidiary companies' responsibility to comply with these regulations and updates the previous policy that was issued in 2018.
- 1.2 In addition, a guidance document to this policy available to all staff, members and contractors with access to Enfield Eye, sets out the procedures which must be followed (for example the reporting of suspicions of money laundering activity), to enable the Council and its subsidiary companies to demonstrate compliance with its legal obligations.
- 1.3 The legislation relating to this area is detailed and complex. Should you require further information, you should contact the Money Laundering Reporting Officer (MLRO), or the Audit and Risk Management Team, on 020 8379 4028.

**2 Scope of the Policy**

- 2.1 This policy applies to all employees, members and contractors of the Council and its subsidiary companies and aims to maintain the high standards of conduct which currently exist by preventing criminal activity through money laundering.
- 2.2 This policy sits alongside the Council's Counter Fraud Strategy as well as the Whistleblowing Policy.
- 2.3 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 Policy and Procedure.
- 2.4 For the purposes of this policy, any reference to "employees" or "staff" includes by definition employees of both the Council and any of its subsidiary companies.

**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

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cash, but also other 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. Policy Statement**

4.1 Our policy is to do all we can to:

- i) Prevent, wherever possible, the Council and its relevant subsidiary companies, its employees, members and contractors from being exposed to money laundering.
- ii) Identify the potential areas where it may occur.
- iii) Comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases.

4.2 To do this:

- i) This policy document and the associated Guidance Note will be published on Enfield Eye.
- ii) We will provide training to relevant staff via the fraud computer-based training module.
- iii) We will undertake risk-based targeted internal audit work to provide assurance about compliance.
- iv) The MLRO, with assistance from a nominated deputy will ensure that money laundering suspicions are reported in accordance with the legal and regulatory requirements.
- v) Provide updates and assurance to members, via the Audit & Risk Management Committee, on how the Council is complying with and implementing the Money Laundering Regulations.

**5. The Money Laundering Reporting Officer and Compliance Officer**

5.1 The officer nominated to receive disclosures about money laundering activity within the Council and its subsidiary companies is Gemma Young, Head of Internal Audit and Risk Management, who may be contacted by telephone on 07900 168938 or by email: [gemma.young@enfield.gov.uk](mailto:gemma.young@enfield.gov.uk).

5.2 In the absence of the MLRO, Bob Cundick, Counter Fraud Manager, is authorised to deputise, and can be contacted at on telephone number 020 8379 4028 or email [bob.cundick@enfield.gov.uk](mailto:bob.cundick@enfield.gov.uk).

5.3 In the absence of both the MLRO and deputy MLRO, you must contact your Head of Service for advice.

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5.4 In order to comply with responsibilities covered by the EU's Fourth Money Laundering Directive that came in force in June 2017, the Council and its relevant subsidiary companies have appointed a suitably senior officer / board member as Compliance Officer, to oversee activities that fall within the scope of the money laundering regulations, particularly regarding compliance with due diligence arrangements for services where there is exposure to the risk of money laundering. This officer shall be Fay Hammond, Executive Director of Resources.

**6 Key Responsibilities**

6.1 For this policy to be effective, it is the responsibility of every employee, member and contractor to be vigilant and to report any transaction or potential transaction that may arouse suspicion to the MLRO, or deputy MLRO. This should be done as soon as possible, to protect both the Council or its relevant subsidiary companies and the member of staff from future legal action.

6.2 Once a report has been received, it will be the MLRO's responsibility to undertake reasonable enquiries to determine what further action is to be taken. This will include whether a Suspicious Activity Report (SAR) should be prepared and submitted to the National Crime Agency (NCA).

6.3 All employees, members and contractors are required to co-operate with the MLRO and other investigating authorities during any subsequent money laundering investigation. Where it has been considered necessary for checks to be completed with regards to the identity of an individual for compliance with the money laundering regulations, Council or relevant subsidiary departments should maintain records of evidence gathered, when, and make them available to any investigation.

6.4 Under no circumstances should an individual:

- Undertake any further enquiries into the matter themselves; or
- Raise any suspicions with the person(s) suspected of money laundering, even if consent to proceed with the transaction has been received. This would be referred to as 'tipping off'.

6.5 Failure to comply with the money laundering regulations including "tipping off" may result in an individual being fined or imprisoned.

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- 6.6 The Compliance Officer is responsible for ensuring that appropriate due diligence arrangements are in place in relevant services that could be exposed to the risk of money laundering.
- 6.7 Should an employee, member or contractor have any concerns, or require further advice, they should contact the MLRO.

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**DEFINITION**

Money laundering involves the “cleaning” of illegal property in order to disguise the criminal origin. The proceeds of criminal activity, usually cash, but also other illegally acquired assets, are introduced into the organisation’s system where they are processed, enabling them to leave the system appearing to come from a legitimate source. As the Council or its relevant subsidiary companies enter into thousands of transactions every day it could be subject to money laundering attempts.

**1. INTRODUCTION**

- 1.1 The Money Laundering Regulations 2007 brought the UK in line with all European Union countries and made it more difficult for criminals to utilise the proceeds of their crimes as well as preventing terrorist funding.
- 1.2 The primary anti-money laundering offences are now embodied within the Proceeds of Crime Act 2002 (POCA) as amended by the Serious Organised Crime and Police Act 2005.
- 1.3 The definition of money laundering has been broadened and there is now an increased range of activities caught by the statutory framework. As a result, the obligations now impact on certain areas of local authority business and require them to establish internal procedures to prevent the use of their services for money laundering and plan the scope of customer due diligence. There is now a stronger emphasis on professional services to know their clients and monitor how their clients use their services.

**2. SCOPE OF THE ANTI-MONEY LAUNDERING POLICY**

- 2.1 The money laundering regulations apply to all individuals, including employees, members and contractors of the Council or its relevant subsidiary companies (including agency workers). The Council’s anti-money laundering policy aims to maintain the high standards of conduct that currently exist by preventing criminal activity through money laundering.
- 2.2 This Guidance Note sets out the procedures, which must be followed (for example the reporting of suspicions of money laundering activity) to enable the Council and its relevant subsidiary companies to comply with their legal obligations.
- 2.3 Failure by an employee to comply with the procedures set out in the 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.
- 2.4 Failure to comply may also result in an individual being fined or imprisoned.

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### 3. WHAT IS MONEY LAUNDERING?

3.1 There are three elements that constitute money laundering:

**Concealing** - you commit this offence if you conceal, disguise, convert, or transfer criminal property or remove it from England, Wales, Scotland or Northern Ireland (Section 327 POCA).

**Arrangements** – you commit an offence if you enter into or become concerned in an arrangement which you know or suspect facilitates (by whatever means) the acquisition, retention, use or control of criminal property by or on behalf of another person (Section 328 POCA).

**Acquisition use and possession** – you commit an offence if you acquire, use or have possession of criminal property (Section 329 POCA).

It is also an offence to fail to disclose knowledge or suspicion of money laundering where you acquired such knowledge or suspicion in the course of your work (Section 330 POCA). There are further offences of Tipping Off and Prejudicing an investigation (Section 333A and Section 342 POCA).

### 4. WHAT ARE THE COUNCIL'S AND SUSIDIARY COMPANIES' OBLIGATIONS?

4.1 Organisations conducting “relevant business” must:

**Appoint** a Money Laundering Reporting Officer (“MLRO”) to receive disclosures from employees of money laundering activity (their own or anyone else’s);

**Appoint** a Compliance Officer with sufficient authority to ensure that appropriate due diligence arrangements are in place and operating effectively for relevant services, where there is significant exposure to the risk of money laundering.

**Implement** a procedure to enable the reporting of suspicions of money laundering;

**Maintain** client due diligence procedures in certain circumstances; and

**Maintain** record keeping procedures.

4.2 Not all of the Council’s business is “relevant” for the purposes of the legislation. However, the safest way to ensure compliance with the law is to apply them to all areas of work undertaken by the Council or its relevant subsidiary companies; therefore, all staff are required to comply with the reporting procedure set out in section 6 below.

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**ENFIELD**  
Council  
www.enfield.gov.uk**5. THE MONEY LAUNDERING REPORTING OFFICER (MLRO)**

- 5.1 The officer nominated to receive disclosures about money laundering activity within the Council or its relevant subsidiary companies is the Head of Internal Audit and Risk Management, Gemma Young, who can be contacted on telephone number 07900 168938 or by email: [gemma.young@enfield.gov.uk](mailto:gemma.young@enfield.gov.uk).
- 5.2 In the absence of the MLRO, Bob Cundick, Counter Fraud Manager, is authorised to deputise, and can be contacted on telephone number 020 8379 4028 or by email: [bob.cundick@enfield.gov.uk](mailto:bob.cundick@enfield.gov.uk)
- 5.3 In the absence of both the MLRO and deputy MLRO, you must contact your Head of Service for advice.

**6. DISCLOSURE PROCEDURE****Reporting to the Money Laundering Reporting Officer**

- 6.1 Where you know or suspect that money laundering activity is taking / has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the legislation, you must disclose this as soon as practicable to the MLRO or deputy. The disclosure should be within “hours” of the information coming to your attention, not weeks or months later. Should you not do so, then you may be liable to prosecution.
- 6.2 Your disclosure should be made to the MLRO using the pro-forma report attached at Annex 1.
- 6.3 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 National Crime Agency (NCA). Simply report your suspicions to the MLRO who will undertake some preliminary enquiries and refer the matter on to the NCA if appropriate. All members of staff will be required to co-operate with the MLRO and the investigating authorities during any subsequent money laundering investigation.
- 6.4 Similarly, at no time and under no circumstances should you voice any suspicions or raise suspicions by your actions to the person(s) whom you suspect of money laundering, even if the NCA has given consent to a particular transaction proceeding, without the specific consent of the MLRO. Otherwise you may commit a criminal offence of “tipping off” (see 3.1 above).

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**Consideration of the disclosure by the Money Laundering Reporting Officer**

- 6.5 Upon receipt of a disclosure report, the MLRO will advise you of the timescale within which you will be responded to. Usually this will be within 10 working days.
- 6.6 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.
- 6.7 Where consent is required from the NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the NCA.
- 6.8 The MLRO commits a criminal offence if she knows or suspects, or has reasonable grounds to do so, through a disclosure being made to her, that another person is engaged in money laundering and she does not disclose this as soon as practicable to the NCA.

**7. CUSTOMER DUE DILIGENCE (CDD)**

- 7.1 Customer Due Diligence (CDD) is a procedure which is carried out when undertaking 'regulated activities'. New regulations recommend that additional screening requirements should be required for staff who are involved in CDD procedures.

Regulated activity is the provision 'by way of business' of, amongst other things, certain legal services, estate agency, accountancy, audit, and other financial services, which requires that extra care is taken to check the identity of the customer or client. It requires procedures to identify your customers and check they are who they say they are. This requires obtaining a customer's:

- name
- photograph on an official document which confirms their identity
- residential address or date of birth.

- 7.2 Where the Council or its subsidiary companies are carrying out relevant business and:
- a) Forms an ongoing business relationship with a client which is expected to have an element of duration; or
  - b) Undertakes a one-off transaction involving payment by or to the client of 15,000 Euro (approximately £12,000) or more; or
  - c) Undertakes a series of linked one-off transactions involving total payment by or to the client(s) of 15,000 Euro (approximately £12,000) or more; or

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- d) It is known or suspected that a one-off transaction (or a series of them) involves money laundering or terrorist financing; or
- e) Doubts the veracity or adequacy of documents, data or information previously obtained for the purposes of identification or verification;

then the CDD must be followed before any business is undertaken for that client. Verification may be carried out during the establishment of the business relationship where it is necessary not to interrupt the normal conduct of business and there is little risk of money laundering/terrorist financing occurring, provided that the verification is completed as soon as practicable after contact is first established.

7.3 The objective of completing the CDD is:

- To establish the purpose of the relationship;
- Understand the intended nature of the relationship - for example where funds will come from, the purpose of transactions, and so on.

The information that you need to obtain may include:

- details of your customer's business or employment;
- the source and origin of funds that your customer will be using in the relationship;
- copies of recent and current financial statements;
- details of the relationships between signatories and any underlying beneficial owners;
- the expected level and type of activity that will take place in your relationship.

7.4 Enhanced CDD is the gathering of additional evidence of identity or source of funds to be used in a transaction where:

- the client has not been physically present for identification;
- the client is a politically exposed person, that is an individual who at any time in the previous year has held a prominent public function outside of the UK and EU or international institution/body, this also includes their immediate family members or close associates, including holders of prominent political functions;
- there is a beneficial owner who is not your client. A beneficial owner is a person who holds more than 25% of the shares, voting rights or interest in a company, partnership or trust.

7.5 Where it is established enhanced CDD is required then the sources of evidence referred to in paragraph 7.1 and 7.3 should be applied. Such correspondence should

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then be placed on the client file along with a prominent note explaining which correspondence constitutes the evidence and where it is located.

- 7.6 The Compliance Officer is responsible for gaining assurance that appropriate CDD procedures are in place.

**8. RECORD KEEPING PROCEDURES AND REPORTING**

- 8.1 Each unit of the Council and its subsidiary companies conducting relevant business must maintain records of:

- Client identification evidence obtained; and
- Details of all relevant business transactions carried out for clients

for at least six years. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.

**9. GUIDANCE AND TRAINING**

- 9.1 In support of the policy and procedure, the Council will provide and update training for all relevant staff in respect of its procedures to prevent and identify money laundering and anti-terrorism situations.

**10. CONCLUSION**

- 10.1 The legislative requirements concerning anti-money laundering are lengthy and complex. This Guidance has been written to support the application of the Council's anti-money laundering policy so as to enable the Council and its relevant subsidiary companies to meet the legal requirements in a way that is proportionate to the risk of contravening the legislation.
- 10.2 Should you have any concerns regarding any transactions then you should contact the MLRO or deputy MLRO.

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ANNEX A

**CONFIDENTIAL**

**Report to Money Laundering Reporting Officer**

To: **Money Laundering Reporting Officer (MLRO)**  
Department of Resources  
Enfield Council  
Thomas Hardy House  
39 London Road  
Enfield, EN2 6DS  
Contact details: 020 8379 6870  
Email: gemma.young@enfield.gov.uk

From: .....  
*(insert name of employee)*

Ext/Tel No.....

**DETAILS OF SUSPECT:**

Title :  
Surname :  
Forename :  
Date of Birth:  
Address :

**IN THE CASE OF A LEGAL ENTITY (COMPANY)**

Name :  
Address :  
Company Number : (if known)  
VAT number : (if known)

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**REASON FOR DISCLOSURE:**

Please detail your suspicion providing an explanation of the activity and amounts. If you know or suspect what the offence behind the reported activity may be, please also provide those details.

**OFFICE USE ONLY**

RECEIVED BY MLRO

Date:

Signature:

**Please do not discuss your money laundering suspicion with anyone you believe to be involved in the suspected activity described. To do so may constitute a tipping off offence, which carries a maximum penalty of 5 years imprisonment.**