

**GOVERNANCE AND AUDIT COMMITTEE
22 MARCH 2011**

**ANTI MONEY LAUNDERING POLICY
Borough Treasurer**

1 PURPOSE OF DECISION

- 1.1 To approve the Councils Anti Money Laundering Policy and to agree steps to implement the policy.

2 RECOMMENDATION(S)

- 2.1 **Approve the Council's Anti Money laundering policy set out in Appendix A and agree the steps to be taken to implement the policy.**
- 2.2 **That the Borough Treasurer is nominated as the Money Laundering Reporting Officer**

3 REASONS FOR RECOMMENDATION(S)

- 3.1 Money laundering is any attempt to use the proceeds of crime for legitimate purposes. Although Public authorities are not legally obliged to implement the provisions of the Money Laundering Regulations 2007, the Council and its individual Members and employees have legal obligations relating to money laundering. It is recommended by CIPFA that as a responsible public body, the Council should have an approved anti money laundering policy. However it advises Councils that this should be appropriate and proportionate for the protection of its staff and Members.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 None

5 SUPPORTING INFORMATION

- 5.1 Money laundering is any action taken to conceal, arrange, use or possess the proceeds of any criminal conduct. Criminals try to launder 'dirty money' in an attempt to make it look 'clean' in order to be able to use the proceeds without detection and to put them beyond the reach of law enforcement and taxation agencies.
- 5.2 The legal and regulatory framework for the UK's anti-terrorist financing and anti money laundering arrangements comprises:
- The Terrorism Act 2000 (TA) as amended by the Anti Terrorism Crime and Security Act 2001 and the Terrorism Act 2006;
 - The Proceeds of Crime Act 2002 (POCA) as amended by The Serious Organised Crime and Police Act 2005; and
 - The Money Laundering Regulations 2007 (MLR).
- 5.3 All individuals have obligations under these acts relating to money laundering. Potentially any one 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 it.

- 5.4 The Council is not legally obliged to apply the provisions of the MLR 2007 because public authorities are neither 'relevant persons' (as defined in the MLR) nor part of the 'regulated sector' (as defined in POCA 2002). However, as a prudent and responsible public body, the Council's policy and procedures should be designed to reflect the essence of the UK's anti-terrorist financing and anti money laundering regimes.

Main Considerations

- 5.5 CIPFA have provided guidance and interpretation of the legislation as it relates to Local Authorities in its publication Combating Financial Crime Further Guidance On Anti-Money Laundering (2009).
- 5.6 Although the Council's risk of exposure to money laundering is relatively low and some of the provisions of the legal and regulatory framework do not apply, there is a reputational risk for any authority that does not have adequate policies and procedures in place. CIPFA's advice is that "public service organisations, including those outside the scope of the regulations, should put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements, designed to enable them to detect and avoid involvement in the crimes described in the legislation and regulations".
- 5.7 The risk is not only reputational. There is also a risk that individuals who, in the course of Council business, become aware that criminal property or funds could be involved may commit offences if a reasonable suspicion is not reported.
- 5.9 It is therefore important that appropriate and proportionate arrangements are established to ensure that the Council, its staff and Members are protected as far as practicable, notably by having in place a reporting mechanism, arrangements for publicising the responsibilities of individuals and provisions for appropriate training and education. The draft policy drawn up in accordance with CIPFA's guidance is attached as Appendix A.

Steps to Implement the Policy

- 5.10 The policy once approved will be made available to all staff and Members on the Intranet along with further practical guidance. This guidance will include examples of Money Laundering.
- 5.11 For the purposes of the policy, the Borough Treasurer has been nominated as the Money Laundering Reporting Officer to whom suspicions should be reported in the first instance and who will determine the need for internal investigation, in consultation with the Chief Executive and/or the Borough Solicitor. Depending on the result of that investigation the Borough Treasurer will arrange for a report to be submitted to the National Criminal Intelligence Service.
- 5.11 The Staff most likely to be exposed to or suspicious of money laundering will receive proportionate awareness training mainly delivered through the use of the intranet. This staff will include those who potentially could receive individual cash payments of over £1000, those who initiate or authorise refund from overpayment to the Council or those involved in the management and operation of the Councils Investments and Deposits (Treasury Management).

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

6.1 Nothing to add to the report

Borough Treasurer

6.2 Nothing to add to the report

Equalities Impact Assessment

6.3 Equalities Impact Assessment form attached at Appendix B

Strategic Risk Management Issues

6.4 There are no major risks to the Council as it is advisory and not mandatory that an anti-money laundering policy is adopted by the Council.

7 CONSULTATION

Principal Groups Consulted

7.1 None

Method of Consultation

7.2 None

Representations Received

7.3 None

Background Papers

CIPFA – Combating Financial Crime – Further Guidance on Anti Money Laundering (2009)

Contact for further information

Chris Herbert - 01344 355694

Chris.herbert@bracknell-forest.gov.uk

Doc. Ref

executive-report-template (November 2008)

THE MONEY LAUNDERING POLICY

1. Introduction

- 1.1 Bracknell Forest Borough Council, "the Council" takes a zero- tolerance approach to fraud and corruption and as such will be taking a proactive approach to the prevention, detection and reporting of suspected money laundering incidents.
- 1.2 This Anti-Money Laundering Policy sets out the Council's commitment to ensuring compliance with the requirements of the Proceeds of Crime Act 2002, the Money Laundering Regulations 2007 and Chartered Institute of Public Finance and Accountancy (CIPFA) guidance for Local Authorities on Money Laundering.

2. Scope

- 2.1 The policy applies to:
 - All Council staff (permanent and temporary, including staff working within schools)
 - Elected members
 - Agency staff
 - Consultants
- 2.2 The policy sits alongside the Council's Employee Code of Conduct and the Anti-Fraud and Corruption Policy.

3. Definition

- 3.1 Money Laundering is defined as:
 - The process by which the proceeds of crime are; concealed, disguised, converted, transferred or removed from England, Wales, Scotland or Northern Ireland.
 - Being involved in an arrangement which a person knows or suspects facilitates the acquisition, retention, use or control of criminal property.
 - Acquiring, using or possessing criminal property.
- 3.2 There are also secondary offences of:
 - Failure to disclose money laundering offences.
 - Tipping off a suspect, either directly or indirectly.
 - Prejudicing an investigation.

4. Requirements of Money Laundering Legislation

- 4.1 The CIPFA Guidance for Local Authorities on Money Laundering makes clear that Local Authorities are not obliged to comply with the requirements of the Money Laundering Regulations 2007. However the guidance does recommend that public service organisations should embrace the underlying principles of the money laundering legislation and regulations.
- 4.2 The Council is therefore required to produce its own internal policies and procedures to prevent, detect and report suspicions of money laundering activities.

4.3 The Council will ensure that it adheres to the CIPFA Money Laundering Guidance for Local Authorities. In particular:

- Ensuring that employees who are most likely to be exposed to or suspicious of money laundering are aware of the requirements and obligations placed on the Council and on them as individuals.
- Providing targeted training for those staff considered to be most likely to encounter money laundering.
- Make arrangements to receive and manage the concerns of staff about money laundering and their suspicion of it, to make internal enquiries and to make reports where necessary to NCIS.
- Establish internal procedures to help forestall and prevent money laundering.

5. Reporting of Money Laundering Concerns

- 5.1 The Council has nominated the Borough Treasurer as the main point of contact for money laundering issues and to act as the nominated Money Laundering Reporting Officer. Staff should report any suspicions to the Borough Treasurer immediately they arise.
- 5.2 Suspicions may be reported informally by telephone or email and the responsible officer will seek to establish the facts of the case and determine whether a formal referral to the National Criminal Intelligence Service (NCIS) is appropriate.
- 5.3 Once the suspicions have been reported to the Borough Treasurer then the person who has reported this must not make any further enquiries nor talk to other staff about the matter in case they alert the person(s) involved. In this respect it is important that they do not expose themselves to any of the secondary offences e.g. indirectly 'tipping off' the suspect(s). Their obligations under the relevant legislation in relation to anti money laundering will have been met in full by reporting the matter to the Borough Treasurer.
- 5.4 The Money Laundering Reporting Officer, or their delegated officer, will consult with staff as appropriate in order to investigate the matter.

6. Review of Policy

- 6.1 This policy will be subject to regular review and approval by the Governance and Audit Committee.

Equality Impact Assessment Record

EIA Guidance

Please ensure that you have read the Council's EIA Guidance booklet, available on Boris, before starting work on your EIA, it should be read in conjunction with this form. If anything is unclear please contact your departmental equality representative listed below. This form is designed to summarise the findings of your EIA. **Please also keep a record of your other discussions in producing the impact assessment.**

Drafting your EIA

The boxes in this form are designed to expand please ensure that you add data, consultation results and other information to back up any assertions that you make. A draft of this record form must be sent to the Councils Equality Officer Abby Thomas and your departmental equality representative(s) (listed below) who will send you comments on it before it is finalised and signed off by your Chief Officer. This step is important to check the quality and consistency of EIAs across the Council.

Departmental Equality Representatives

ECC Jane Eaton
CS Abby Thomas

SCL Graham Symonds and Ilona Cowe
CXO Stephanie Boodhna

Publishing

The Council is legally required to publish this EIA record form on the Councils website. Please send a copy of the final version of the EIA record form to the Councils Equality Officer Abby Thomas to publish.

Date of EIA	14 February 2011	EIA Guidance
Directorate	Corporate Services	
Part One - Initial Screening Record		See Pages 9 - 10
1. Activity to be assessed	Anti-Money Laundering Policy	
2. What is the activity?	<input type="checkbox"/> Policy/strategy	
3. Is it a new or existing activity?	<input type="checkbox"/> New	
4. Who are the members of the EIA team?	Chris Herbert, Borough Treasurer	
5. Initial screening assessment. If the answer to either of these questions is 'yes' then it is necessary to go ahead with a full Equality Impact Assessment.	1. Does the activity have the potential to cause adverse impact or discriminate against different groups in the Councils workforce or the community? No as the relevant acts and guidance on anti-money laundering are applicable to all. 2. Does the activity make a positive contribution to equalities? No, as above.	
6. Did Part 1: Initial Screening indicate that a full EIA was necessary?	<input type="checkbox"/> No – full EIA not completed record ends here, please ensure this record is signed by the Chief Officer in box 19 overleaf and then email to abby.thomas@bracknell-forest.gov.uk	