

RECORD OF EXECUTIVE DECISION TAKEN BY AN EXECUTIVE MEMBER

This form **MUST** be used to record any decision taken by the Elected Mayor or an individual Executive Member (Portfolio Holder).
 The form must be completed and passed to the Chief Officer for Legal, Performance and Democratic Services no later than NOON on the second working day after the day on which the decision is taken. No action may be taken to implement the decision(s) recorded on this form until 7 days have passed and the Chief Officer for Legal, Performance and Democratic Services has confirmed the decision has not been called in.

1. Description of decision

That, following consideration by the Audit Committee, the updated Anti-Money Laundering Policy at Appendix A to the attached report be approved.

2. Date of decision

31 January 2024

3. Reasons for decision

The existing Anti-Money Laundering Policy is due for review. The updated policy is detailed at Appendix A to the report attached that was presented to Audit Committee on 30 November 2023, item 9. The report invited the Audit Committee to consider the revised Anti-Money Laundering Policy, which has been amended to take account of changes in legislation and any internal processes and responsibilities.

The Audit Committee was requested to consider, seek clarification and, if satisfied, recommend for approval by the Executive, the revised Anti-Money Laundering Policy. The Audit Committee resolved to recommend the updated Anti Money Laundering Policy for approval by the Executive.

The approval will ensure the Council has an effective and current Anti-Money Laundering Policy as part of its corporate governance arrangements.

4. Alternatives considered and rejected

Not applicable

5. How decision is to be funded

Not applicable

6. Conflicts of interest

Name of all Executive members who were consulted AND declared a conflict of interest.	Nature of interest	Did Standards Committee give a dispensation for that conflict of interest? (If yes, give details and date of dispensation)	Did the Chief Executive give a dispensation for that conflict of interest? (If yes, give details and the date of the dispensation).
No conflicts declared relevant to item 9 of Audit committee 30 Nov 2023.			

The Mayor has been consulted on this decision

30 January 2024
10/1/24

Signed *Graeme S. Coombes*

Date: 31 January 2024

Name of Decision Taker: Cllr. Graeme Coombes

This is a public document. A copy of it must be given to the Chief Officer for Legal, Performance and Democratic Services as soon as it is completed.

Date decision published:31January2024.....

Date decision can be implemented if not called in:12February2024.....

(Decision to be made exempt from call in.....NO.....)

Bedford Borough Council – AUDIT COMMITTEE

Date of Meeting: 30 NOVEMBER 2023

Report by: ASSISTANT CHIEF EXECUTIVE (FINANCE) & CHIEF FINANCE OFFICER

Subject: ANTI-MONEY LAUNDERING POLICY

1. EXECUTIVE SUMMARY

- 1.1 To invite the Committee to consider the Council’s revised Anti-Money Laundering Policy as part of the Council’s Corporate Governance Arrangements.

2. RECOMMENDATION

- 2.1 **The Committee is requested to consider, seek clarification and, if satisfied, to recommend the revised Anti-Money Laundering Policy for approval by the Executive and adoption by the Council as part of its corporate governance arrangements.**

3. REASONS FOR RECOMMENDATION

- 3.1 To enable the Committee to consider, comment on and amend where appropriate the Council’s revised Anti-Money Laundering Policy.

4. THE CURRENT POSITION

- 4.1 The existing Anti-Money Laundering Policy is due for review. The revised version is at **Appendix A**, with changes from the previous version marked in red.

5. **DETAILS**

- 5.1 The Anti-Money Laundering Policy was last approved by the Committee on 14 March 2018, following the introduction of the 2017 Regulations, although there is still no legal obligation to apply them. The Chartered Institute of Public Finance and Accountancy (CIPFA) recommends that Councils' as responsible public bodies should employ policies and procedures which reflect the essence of the UK's anti-terrorist financing and anti-money laundering regimes.
- 5.2 The Regulations introduced a requirement to adopt a more risk-based approach towards anti-money laundering and undertaking new customer due diligence checks. Other changes include references to the Serious Organised Crime Agency (SOCA) which was replaced by the National Crime Agency (NCA). Details of the key requirements of the regulations are given below:
- Conduct a money laundering and terrorist financing risk assessment
 - Implement systems, policies, controls and procedures to address money laundering and terrorist financing risks and meet the requirements under the regulations
 - Apply your policies, procedures and controls across your firm's group structure (if relevant)
 - Adopt appropriate internal controls
 - Provide training to staff
 - Comply with new customer due diligence, enhanced due diligence and simplified due diligence requirements
 - Ensure your record keeping and data protection systems, policies and procedures meet the requirements of the regulations
- 5.3 A revised Anti-money Laundering Policy is attached at **Appendix A** for consideration by the Committee. The aim of the Policy is to raise the awareness of money laundering and to advise staff on the procedure for reporting known or suspected money laundering activity to a nominated Money Laundering Reporting Officer. The Council also has a Confidential Reporting Policy and an Anti-Fraud Strategy to enable staff to report any concerns relating to suspicious financial irregularities to the relevant Officers for further investigations to be undertaken.

6. **ALTERNATIVES CONSIDERED AND REJECTED**

- 6.1 This section is not applicable.

7. KEY IMPLICATIONS

7.1 Legal Issues	Although there is no legal obligation for the Council to apply the Money Laundering Regulations, Terrorist Financing and Transfer of Funds (Information on payer) Regulations 2017, there is, however, the Criminal Finances Act 2017, Proceeds of Crime Act (POCA) 2002 (amended by the Policing and Crime Act 2009 and the Crime and Courts Act 2013) and the Terrorism Act 2000 (amended by the Terrorism Act 2006) which place obligations on the Council and its employees to ensure that procedures are in place to prevent the Council's services being used for money laundering.
7.2 Policy Issues	The Council is committed to the eradication of fraud, corruption and misappropriation and to the promotion of high standards of integrity and, in September 2017, approved an updated Anti-Fraud Strategy to outline the Council's arrangements to deter fraud and corruption. The Council is committed to being a model of public probity affording maximum protection to the funds administered.
7.3 Resource Implications	There are no resource implications arising directly from this report.
7.4 Risks	There is reputational risk if the Council does not have an Anti-money Laundering policy and reporting procedure in place. There is a risk that staff will not be aware of the requirements placed on the Council, staff, and them as individuals, by legislation.
7.5 Environmental Implications	There are no environmental implications identified as arising from this report.
7.6 Equalities Impact	The activity has no relevance to Bedford Borough Council's duty to promote equality of opportunity, promote good relations, promote positive attitudes and eliminate unlawful discrimination. An equality impact assessment is not needed.

7.7 Impact on Families	The activity has no implications for Families.
7.8 Community Safety and Resilience	The activity has no implications for Community Safety and Resilience.
7.9 Impact on Health and Wellbeing	The activity has no implications for Health and Wellbeing.

8. **SUMMARY OF CONSULTATIONS AND OUTCOME**

8.1 The following Council units or Officers and/or other organisations have been consulted in preparing this report:

Management Team

Relevant Managers: Interim Assistant Chief Executive and Chief Finance Officer

8.2 No adverse comments have been received.

9. **CONTACTS AND REFERENCES**

Report Contact Officer	<i>Surinder Momi, Chief Officer for Internal Audit</i> e-mail: surinder.momi@bedford.gov.uk
File Reference	<i>Internal Audit/Audit Committee/2023-24/November 2023/AML</i>
Previous Relevant Minutes	<i>Minute 45 – 14 March 2018</i>
Background Papers	<i>None</i>
Appendices	<i>A: Draft Anti-Money Laundering Policy - November 2023</i>

BEDFORD BOROUGH COUNCIL

ANTI-MONEY LAUNDERING POLICY

1. INTRODUCTION

- 1.1 Money laundering is the process by which criminally obtained money or other assets are exchanged for clean money or assets with no obvious link to their criminal origins. It also covers money, however come by, which is used to fund terrorism.
- 1.2 The ~~key UK legislation relating to anti money laundering is: the new~~ Money Laundering Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, which came into effect on 26 June 2017 ~~and is in addition to~~~~replaced~~ the Money Laundering Regulations 2007, together with ~~the Criminal Finances Act 2017, the Proceeds of Crime Act (POCA) 2002 (as amended by the Policing and Crime Act 2009 and the Crime and Courts Act 2013), and the Terrorism Act 2000 (as amended by the Terrorism Act 2006).~~~~are the key UK legislation relating to anti money laundering.~~
- 1.3 As Public authorities are neither “Relevant Persons” (as defined in the Money Laundering, ~~Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017~~) nor part of the “Regulated Sector” (as defined in the Proceeds of Crime Act 2002) they ~~are not obliged to apply the provisions of the Money Laundering Act 2017~~ do not have a statutory duty to comply with ~~the Money Laundering Regulations 2007~~.
- 1.4 However, as responsible public bodies, public authorities should employ policies and procedures which reflect the essence of the UK’s anti-terrorist financing and anti- money laundering ~~regimes~~~~laws and regulations~~.

2. SCOPE OF THE POLICY

- 2.1 This Policy aims to maintain the high standards of conduct, which currently exist within the Council by preventing criminal activity through money laundering.
- 2.2 This Policy applies to all employees, members, suppliers, individuals on work experience, training or educational placement, agency staff and those contractors working for the Council. The policy also applies to organisations working in partnership with the Council.
- 2.3 The Policy sets out the procedures which must be followed (for example the reporting of suspicions of money laundering activity) to enable the Council to comply with its legal obligations.
- 2.4 Failure by a member of staff 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 Procedure.

3. WHAT IS MONEY LAUNDERING?

3.1 Money laundering means:

- concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 of the POCA 2002); or
- entering into or becoming 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 (section 328 of the POCA 2002 Act); or
- acquiring, using or possessing criminal property (section 329 of the Proceeds of Crime Act 2002); or
- becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property (section 18 of the Terrorist Act 2000).

These are the primary money laundering offences and thus prohibited acts under the legislation.

3.2 Potentially any member of staff 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. This Policy sets out how any concerns should be raised.

3.3 Whilst the risk to the Council of contravening the legislation is low, **it is extremely important that all employees are familiar with their legal responsibilities; serious criminal sanctions may be imposed for breaches of the legislation.**

4. WHAT ARE THE OBLIGATIONS ON THE COUNCIL?

4.1 As stated above the Council ~~is not obliged to apply the provisions of~~ **do not have a statutory duty to comply with** The Money Laundering Regulations 2017. However, there is substantial reputational risk for an authority that does not have adequate policies and procedures in place. To that end, the Council has adopted **the relevant** ~~certain of the~~ procedures required of “relevant persons” as defined in the 2007 Regulations.

- appoint an Officer Responsible for Anti-Money Laundering; **the Money Laundering Reporting Officer** (~~“the Officer”~~ **the MLRO**) to receive disclosures from employees of money laundering activity (their own or anyone else’s);
- implement a procedure to enable the reporting of suspicions of money laundering;
- maintain client identification procedures in certain circumstances;
- maintain record keeping procedures; **and**
- undertake an annual Money Laundering Audit & Risk Assessment.

- 4.2 The main areas of concern are financial and property transactions undertaken by the Council's Finance, Legal and Property Services **teams**. However, the safest way to ensure compliance with the law is to apply them to all areas of work undertaken by the Council; therefore, **all** staff are required to comply with the reporting procedure set out in section 6 below.
- 4.3 The following sections of this Policy provide further detail about the requirements listed in paragraph 4.1.

~~OFFICER RESPONSIBLE FOR ANTI-MONEY LAUNDERING "the Officer" The Money Laundering Reporting Officer (the MLRO)~~

- 4.4 The officer nominated to receive disclosures about money laundering activity within the Council is the ~~Assistant Chief Executive (Law & Governance) – Monitoring Officer and Solicitor to the Council~~ Chief Officer for Internal Audit who can be contacted as follows:

~~Asst. Chief Executive
(Law & Governance) –
Monitoring Officer and
Solicitor to the
Council~~ Chief Officer
for Internal Audit
Bedford Borough
Council Borough Hall
Cauldwell
Street Bedford
MK42 9AP
Telephone: 01234 ~~26742228359~~ (Extension ~~4225742359~~)

- 4.5 In the absence of the MLRO ~~"the Officer"~~, the designated ~~Chief Officer for Internal Audit~~ ~~is Team Leader for Internal Audit~~ is authorised to deputise, on direct telephone number 01234 267422 (Extension ~~4235947832~~).
- 4.6 The role of ~~the MLRO "the Officer"~~, is to decide, upon receipt of the internal reported suspicion, whether the matter should be reported to the Serious Organised Crime Agency and, if appropriate, make such reports.

5. DISCLOSURE PROCEDURE

Reporting to The Money Laundering Reporting Officer (the MLRO)
~~the OFFICER RESPONSIBLE FOR ANTI-MONEY LAUNDERING "the Officer"~~

- 5.1 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. 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.**

- 5.2 Your disclosure should be made to ~~“the Officer”~~ the MLRO, using the proforma report attached at Appendix 1. The report must include 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 type of transaction being dealt with, the nature of their/your involvement. Provision of the following details:

- A completion date or court deadline for the transaction;
- The dates of such activities, including: whether the transactions have happened, are ongoing or are imminent;
- Where they took/are taking place;
- How they were/are being undertaken; and
- The (likely) amount of money/assets involved.

Why the employee is suspicious – The National Crime Agency (NCA) require full reasons, together with any other available information to enable ~~“the Officer”~~ the MLRO, to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable him ~~“the Officer”~~ the MLRO to prepare ~~their~~ his report to the NCA where appropriate. You should also enclose copies of any relevant supporting documentation.

Whether the employee is aware of any investigation already being undertaken by the Council or others in relation to this matter.

Whether there has been any discussion with others e.g. staff or manager(s).

Full details of who the employee has contacted, their response / guidance / action to be taken.

- 5.3 Once you have reported the matter to ~~“the Officer”~~ the MLRO, you must follow any directions he/she may give you. **You must NOT make any further enquiries into the matter yourself:** any necessary investigation will be undertaken by the NCA. Simply report your suspicions to the MLRO who will refer the matter on to the NCA if appropriate. All members of staff will be required to co-operate with ~~“the Officer”~~ the MLRO, and the authorities during any subsequent money laundering investigation.

Consideration of the disclosure by the Money Laundering Reporting Officer

- 5.4 Upon receipt of a disclosure report, the MLRO must note the date of receipt on his/her section of the report and acknowledge receipt of it. He/she should also advise you of the timescale within which he/she expects to respond to you.

5.5 ~~“The Officer”~~ The MLRO will consider the report and any other available internal information he/she thinks relevant e.g.:

- reviewing other transaction 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 held;

and undertake such other reasonable inquiries he/she thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA.

5.6 Once the MLRO has evaluated the disclosure report and any other relevant information, he/she must make a timely determination as to whether:

- there is actual or suspected money laundering taking place; or
- there are reasonable grounds to know or suspect that is the case; and
- whether he/she needs to seek consent from the NCA for a particular transaction to proceed.

5.7 Where ~~“the Officer”~~ the MLRO does so conclude, then he/she must disclose the matter as soon as practicable to the NCA.

5.8 Where ~~“the Officer”~~ the MLRO suspects money laundering but has a reasonable cause for non-disclosure, then he/she must note the report accordingly; he/she can then immediately give his/her consent for any ongoing or imminent transactions to proceed.

5.9 In cases where legal professional privilege may apply, ~~“the Officer”~~ the MLRO must liaise with the legal adviser to decide whether there is a reasonable excuse for not reporting the matter to the NCA.

5.10 Where consent is required from the NCA or a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the SOCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the NCA.

5.11 Where ~~“the Officer”~~ the MLRO concludes that there are no reasonable grounds to suspect money laundering then they shall mark the report accordingly and give his/her consent for any ongoing or imminent transaction(s) to proceed.

5.12 All disclosure reports referred to ~~“the Officer”~~ the MLRO, and subsequent reports made by him/her to the NCA must be retained by ~~the “the Officer”, the MLRO~~ in a confidential file kept for that purpose, for a minimum of five years.

5.13 ~~“The Officer”~~ The MLRO, ***commits a criminal offence if he/she knows or suspects, or has reasonable grounds to do so, through a disclosure being made to him/her, that another person is engaged in money laundering, and he/she does not disclose this as soon as practicable to the NCA.***

6. **CLIENT IDENTIFICATION PROCEDURE**

- 6.1 Although, as a result of The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, it is no longer a legal requirement for public authorities to have in place formal procedures for evidencing the identity of those they do business with, it is good practice to do so.
- 6.2 This will be especially true if the parties concerned are not physically present for identification purposes and to situations where they may be acting for absent third parties.
- 6.3 Staff in the relevant unit of the Council must obtain satisfactory evidence of the identity of the prospective client, as soon as practicable after instructions are received (unless evidence of the client has already been obtained).
- 6.4 Once instructions to provide relevant business have been received, and it has been established that any of the scenarios in paragraphs 7.1 and 7.2 apply, evidence of identity should be obtained as follows:

Internal clients

- 6.5 Appropriate evidence of identity for Council departments will be signed, written instructions on Council headed notepaper or an email on the internal email system at the outset of a particular matter. Such correspondence should then be placed on the Council's client file along with a prominent note explaining which correspondence constitutes the evidence and where it is located.

External Clients

- 6.6 The MLRO will maintain a central file of general client identification evidence regarding the external organisations to whom Financial Services and Legal Services provide professional services. You should check with ~~"the Officer"~~ **the MLRO** that the organisation in respect of which you require identification is included in the **MLRO's** ~~"the Officer's"~~; central file and check the precise details contained in relation to that organisation. If the organisation is not included in the central file, you should discuss with ~~"the Officer"~~ **the MLRO**. You should also then obtain the following additional evidence:
- 6.7 For external clients, appropriate additional evidence of identity will be written instructions on the organisation's official letterhead at the outset of the matter or an email from the organisation's e-communication system. Such correspondence should then be placed on the Council's client file along with a prominent note explaining which correspondence constitutes the evidence and where it is located (and including a reference to a search of the **MLRO's** ~~"the Officer's"~~, central file, if undertaken).
- 6.8 With instructions from new clients, or further instructions from a client not well known to you, you may wish to seek additional evidence of the identity of key individuals in the organisation and of the organisation itself.
- 6.9 In all cases, the evidence should be retained for at least five years from the end of the business relationship or transaction(s).

- 6.10 ***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.***

7. RECORD KEEPING PROCEDURES

- 7.1 Each unit of the Council 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 five years. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.

- 7.2 The precise nature of the records is not prescribed by law, 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 business units of the Council will be routinely making records of work carried out for clients in the course of normal business and these should suffice in this regard.

8. CONCLUSION

- 8.1 The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This Policy has been written so as to enable the Council to meet the legal requirements in a way, which is proportionate to the very low risk to the Council of contravening the legislation.
- 8.2 Should you have any concerns whatsoever regarding any transactions then you should contact ~~“the Officer”~~ the MLRO.

~~January 2018~~ November 2023

CONFIDENTIAL

REPORT TO THE MONEY LAUNDERING REPORTING OFFICER RESPONSIBLE FOR ANTI-MONEY LAUNDERING Re Money Laundering Activity

To: **THE MONEY LAUNDERING REPORTING OFFICER RESPONSIBLE FOR ANTI-MONEY LAUNDERING**

From:
[insert name of employee]

Directorate: Ext/Tel No:.....
[insert post title and Business Unit]

DETAILS OF SUSPECTED OFFENCE:

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

Nature, value, and timing of activity involved:
[Please include full details e.g. what, when, where, how. Continue on a separate sheet if necessary]

Nature of suspicions regarding such activity:

[Please continue on a separate sheet if necessary]

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

Yes

No

[Please tick the relevant box]

If yes, please include details below:

Have you discussed your suspicions with anyone else?

[Please tick the relevant box]

Yes

No

If yes, please specify below, explaining why such discussion was necessary:

Have you consulted any supervisory body guidance re money laundering? (e.g. the Law Society) *[Please tick the relevant box]*

Yes

No

If yes, please specify below:

Do you feel you have a reasonable excuse for not disclosing the matter to the NCA? (e.g. are you a lawyer and wish to claim legal professional privilege?) *[Please tick the relevant box]* **If yes, please set out full details below:**

Yes

No

Are you involved in a transaction which might be a prohibited act under sections 327- 329 of the POCA Act 2000 and which requires appropriate consent from the NCA?

Yes

No

[Please tick the relevant box]

If yes, please enclose details in the box below:

Please set out below any other information you feel is relevant:

Signed:..... **Dated:**.....

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

THE FOLLOWING PART OF THIS FORM IS FOR COMPLETION BY THE MONEY LAUNDERING REPORTING OFFICER "THE OFFICER"

Date report received:.....

Date receipt of report acknowledged:

CONSIDERATION OF DISCLOSURE:

Action plan:

OUTCOME OF CONSIDERATION OF DISCLOSURE:

Are there reasonable grounds for suspecting money laundering activity?

If there are reasonable grounds for suspicion, will a report be made to the NCA? [Please tick the relevant box]

Yes

No

If yes, please confirm date of report to NCA:

.....

and complete the box below:

Details of liaison with the NCA regarding the report:

Notice Period: to

Moratorium Period: to

Is consent required from the NCA to any ongoing or imminent transactions which would otherwise be prohibited acts?

Yes

No

If yes, please confirm full details in the box below:

Date consent received from NCA:.....

Date consent given by you to employee:.....

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

[Please set out any reasonable excuse for non-disclosure]

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

.....

Other relevant information:

Signed:.....

Dated:.....

THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS