Anti-Money Laundering Policy

[DRAFT]

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Introduction

The Proceeds of Crime Act 2002, the Terrorism Act 2000 and Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 place obligations on the Council and its employees to establish internal procedures to prevent the use of their services for money laundering and the prevention of terrorist financing. The regulations apply to organisations engaged in the following transactions:

- Buying and selling of real property or business entities
- Managing client money, securities or other assets
- Opening or managing bank, savings or securities accounts
- Organising contributions necessary for the creation, operation or management of companies
- Creating, operating or managing trusts, companies, foundations or similar structures.

The Council must also appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees of money laundering activity.

We are committed to *robust arrangements* to identify and prevent any attempts to use Essex County Council to launder money.

What is Money Laundering?

Money laundering has been defined as:

- concealing, disguising, converting, transferring or removing criminal property from the UK;
- entering into or becoming concerned in an arrangement which a person knows or suspects facilitates the acquisition, retention, use or control of criminal property;
- acquiring criminal property, using criminal property; or possession of criminal property.

When a person knows or suspects that money laundering activity is taking place (or has taken place), or becomes concerned that their involvement in a matter may amount to a prohibited act under the legislation, **they must report this as soon as practicable to the Money Laundering Responsible Officer (MLRO) or risk prosecution**. Offences under the Proceeds of Crime Act and Money Laundering Regulations can attract penalties of unlimited fines and up to 14 years imprisonment.

Money laundering is the process of channelling ‘bad’ money into ‘good’ money in order to hide the fact that the money originated form 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.

The Council's Financial Regulations have been amended to prevent the acceptance of cash payments greater than £10,000 (including notes, coins or travellers cheques in any currency). This does not mean that cash transactions below this value will be valid and legal and professional scepticism is encouraged at all times. Any suspicions should be reported to the MLRO (see below) and any advice followed.

Scope of the Policy

This Policy applies to all employees of Essex County Council and sets out the procedures which must be followed (for example the reporting of any suspicions of money laundering activity) to enable the Council to comply with its legal obligations.

Essex Legal Services Ltd have adopted their own policy document, detailing the requirements placed on lawyers and the arrangements in place to adhere to these.

Not all staff will need a detailed knowledge of the types of criminal offences covered by the legislation. However, some staff will require additional guidance to raise their awareness of the possibility of money laundering.

Failure by any member of staff to comply with these procedures may lead to disciplinary action being taken against them.

Aims

The policy outlines the Council's arrangements:

- To nominate a Money Laundering Reporting Officer:
- To 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 the National Crime Agency (NCA);
- To make those staff most likely to be exposed to or suspicious of money laundering situations aware of the requirements and obligations placed on the organisation, and on them as individuals, by the Proceeds of Crime Act 2002, the Terrorism Act 2000 and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017;
- To give targeted training to those considered to be the most likely to encounter money laundering;
- To establish internal procedures to help forestall and prevent money laundering.

The Money Laundering Reporting Officer

The nominated officer at Essex County Council to receive disclosures about money laundering activity is the Head of Assurance, who can be contacted as follows:

Paula Clowes, Head of Assurance

Tel: 03330 321474

E-mail: paula.clowes@essex.gov.uk

If the MLRO is not available, any suspicion of money laundering should be reported to:

Karen Bellamy, Counter Fraud Manager, who is the Deputy MLRO,

Tel: 03330 138420

Email: karen.bellamy@essex.gov.uk

Reporting a Concern to the MLRO

Staff who know or suspect that they may have encountered criminal activity and that they may be at risk of contravening the money laundering legislation, should contact the MLRO to advise her of their concerns. **The disclosure should be at the earliest opportunity of the information coming to your attention, not weeks or months later.**

A flow chart illustrating the procedure for reporting money laundering is at appendix 1. More information about making a report to the MLRO is detailed at appendix 2, with a Money Laundering Disclosure Form attached.

Reporting to the National Crime Agency

The initial discussion/ disclosure will be noted by the MLRO, and she will promptly evaluate this and determine whether it is appropriate to report it to the National Crime Agency (NCA).

If a report is made then the relevant NCA forms must be completed by the MLRO, or reported by the MRLO via the online portal:

Link to the NCA SAR Online System (ukciu.gov.uk)

Up to date 'Suspicious Activity Report' forms can be downloaded from the NCA website at:

http://www.nationalcrimeagency.gov.uk/

In the event that a report is not submitted online, a form can be downloaded from the following website:

Suspicious Activity Reports - National Crime Agency

If no report is made, the reason must be recorded by the MLRO.

All disclosure reports referred to the MLRO and reports made to the NCA must be retained by the MLRO in a confidential file for a minimum of 5 years. The Money Laundering Disclosure Form at Appendix 2 should be used to facilitate the recording of any action taken.

The MLRO or deputy will commit a criminal offence if they know or suspect, or have reasonable grounds to do so, through a disclosure being made to them, that another person is engaged in money laundering and they do not disclose this as soon as practicable to the NCA.

Record Keeping

The MLRO will keep a record of all referrals received and any action taken to ensure an audit trail is maintained.

All information obtained for the purposes of money laundering checks and referrals must be kept up-to-date and will be held and processed in compliance with relevant Data Protection legislation.

Staff training and awareness

All staff are required to undertake e-learning which outlines money laundering offences (providing examples) and the protocol for referral.

However, there are some areas of the Council's activities that may be more vulnerable to attempts to launder money. The Counter Fraud Team will assess the risk and where appropriate will facilitate enhanced awareness training. Essex Legal Services Ltd have developed their own policy and procedural document regarding potential money laundering activity.

Internal procedures to help forestall and prevent money laundering

In addition to introducing procedures to address specifically the requirements of the money laundering regulations, there are also robust strategies and procedures already in place to fight fraud and corruption that also apply to money laundering.

These are recorded in the Counter Fraud & Anti-Bribery Strategy and the Whistleblowing Policy, both of which are available on the Intranet.

The regulations require a risk-based approach. The County Council will focus its resources on the areas of greatest risk within each function. This helps a more efficient and effective use of resources proportionate to the risks faced. This also minimises compliance costs and provides a greater flexibility to respond to emerging risks as laundering and terrorist financing methods change.

The County Council will need to consider higher risk transactions based on:

- The origin or destination of the funds,
- Complicated financial or property transactions,
- Transactions that have no apparent economic or legal purpose,
- Where the beneficial owner is a legal person (other than a company listed on a regulated market), trust, company, foundation or similar legal arrangement;
- Providing assistance in setting up trusts or company structures, which could be used to obscure ownership of property,
- Payments that are made or received from third parties,
- Payments made by cash,
- Transactions with a cross-border element,
- A Politically Exposed Person (see definition below),
- where false or stolen identification documentation or information has been provided to the County Council on establishing the relationship,

Involving countries identified as high risk by the Financial Action Taskforce (FATF).

There will be circumstances where simplified due diligence is permitted. After consideration, if the transaction does not fall under the conditions for high risk transaction and the transaction presents a low degree of risk as determined by the County Council, a simple customer due diligence is permitted to be undertaken.

Politically Exposed Person ("PEP")

In considering higher risk transactions, one of the criterion the council has to consider is whether the transaction(s) relate to Politically Exposed Persons (PEP). Set out below is the definition of PEP.

A PEP under the Money Laundering, Terrorist Financing and Transfer of Functions Regulations 2017 now extends to persons who fall under the definition of 'Politically Exposed Persons' in the UK, as well as abroad.

A politically exposed person is considered any individual who is entrusted with prominent public functions (as set out in Regulation 35(12) of the Money Laundering, Terrorist Financing and Transfer of Functions Regulations 2017, including:

- A foreign person who has held any time in the preceding year a prominent public function outside the United Kingdom, in a state or international institution
- Members of courts of auditors or of the boards of central banks
- Ambassadors, chargés d'affaires and high-ranking officers in the armed forces
- Members of the administrative, management or supervisory bodies of state-owned enterprises
- Heads of state, heads of government, ministers and deputy or assistant ministers
- Members of parliaments or of similar legislative bodies
- Members of the governing bodies of political parties
- Members of supreme courts, constitutional courts or of other high-level judicial bodies the decisions of which are not subject to further appeal except in exceptional circumstances
- Member of the administrative, management or supervisory bodies of State-owned enterprises
- directors, deputy directors and members of the board or equivalent function of an international organisation

The definition explicitly excludes middle-ranking or more junior officials.

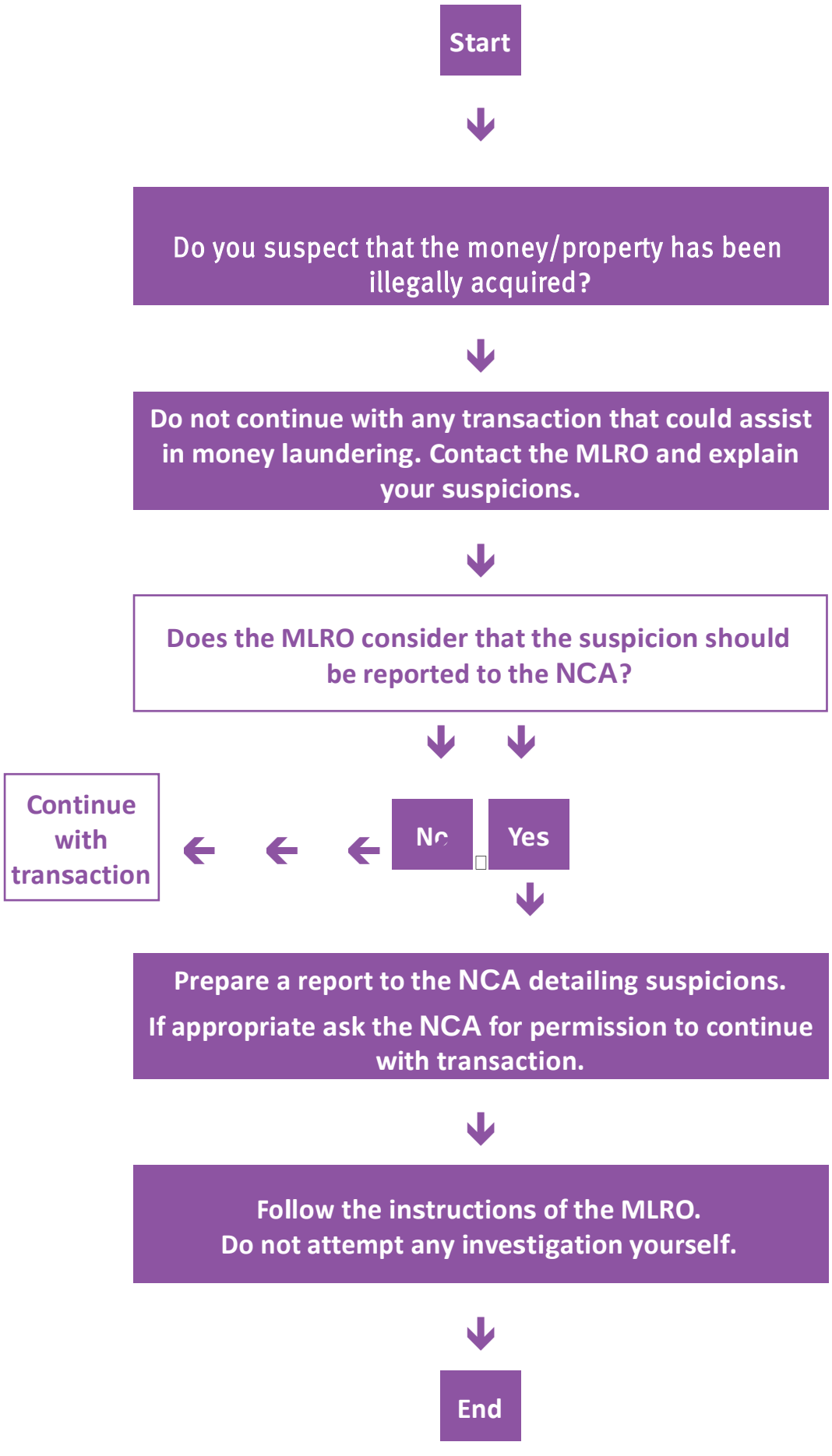
PEP status also extends to relatives and close associates.

Relatives are set out in the Regulations as a spouse or civil partner of the PEP; children of the PEP and the spouses or civil partners of the PEP's children; and parents of the PEP.

Close associates include any individual who is known to have joint beneficial ownership of a legal entity or legal arrangement, or any other close business relations. It also includes any individual who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit of a person referred to in regulation.

The Council will take a risk sensitive approach to identifying PEPs. It will undertake a risk assessment with regards to each individual PEP on a case by case basis.

Appendix 1: Procedure for reporting money.



Appendix 2: Procedure for reporting money laundering

If you suspect that money laundering activity is taking place (or has taken place), or think that your involvement in a matter may amount to a prohibited act under the legislation, you must disclose this as soon as possible to Paula Clowes, the MLRO (paula.clowes@essex.gov.uk, telephone 03330 321474). You should contact the MLRO as soon as is practicable, or you may become liable to prosecution. Considerations of confidentiality do not apply if money laundering is at issue.

In the first instance, the report may be made informally to allow the MLRO to assess the information and decide whether a Suspicious Activity Report (SAR) should be made to the National Crime Agency (NCA). You should include as much detail as possible, for example:

- Details of the people involved – name, date of birth, address, company names, directorships, phone numbers etc;
- Full details of the nature of the involvement;
- The dates of activities;
- Where they took place;
- How they were undertaken;
- Likely amounts of money or assets involved;
- Why you are suspicious.

This will assist the MLRO to make a judgement as to whether there are reasonable grounds for assuming knowledge or suspicion of money laundering. The MLRO may initiate an investigation to enable him to decide whether a report should be made to the NCA.

In cases where legal professional privilege may apply, the MLRO must decide (taking legal advice if required) whether there is a reasonable excuse for not reporting the matter.

If a decision is made that a report should be made, the NCA provide forms for completion, to facilitate processing the information. It is recommended that for reasons of confidentiality, Essex County Council's name should only be included once on the front sheet of the reporting form as the source ID and not anywhere else in the report. It is also recommended that the name or names of those making the report to the MLRO are not included in the report, and that the MLRO is given as contact for queries on the report.

Once the matter has been reported to the MLRO, you must follow any directions she may give you. ***You must not make any further enquiries into the matter yourself***. Any investigations will be undertaken by the NCA.

If you are still involved with the situation that has given rise to suspicions of money laundering, you must not take any further action ***that might constitute a money laundering offence*** unless permission is given by the NCA to continue with the process. In these circumstances, permission should be sought from NCA when the report is made to continue with the process that may involve money laundering. Permission will be given (or withheld) within 7 working days and this may mean that work for a client has to stop until and unless consent is given.

However, there is no automatic need to stop work for a client when a report has been made, unless the business would commit to one of the main money laundering offences by continuing its work for the client.

Care should be taken that the client who is suspected of money laundering is not alerted that a report has been made to the NCA. 'Tipping off' is a specific offence under the Proceeds of Crime Act, covering situations where disclosures are made following a report to NCA that may prejudice an investigation.

If the NCA has any queries on the report, responses to those queries should be routed via the MLRO to ensure that any reply is covered by appropriate protection against claims for breaches of confidentiality.

You should not make any reference on a client file to a report having been made to the MLRO – the client might exercise their right to see the file, and such a note would tip them off to a report having been made, and might make you liable to prosecution.

Report to Money Laundering Reporting Officer	
Staff member's name	
Title / Department	
Phone	
Email	
Details of Suspected Offence	
Names and addressed of the persons involved (if a company the nature of their business)	
Nature, value, timing of activity	
Nature of suspicions	
Has any investigation been undertaken?	
Have you discussed your suspicions with someone else ?	
Have you consulted any supervisory body e.g. The Law Society	
Do you have any good reason not to disclose the matter to the NCA?	
Signed and dated	
For Completion by the MLRO	
Date received	
Date acknowledged	
Unique case reference no.	
Are their reasonable grounds for suspecting money laundering ?	
If yes, confirm date of report to NCA?	
Date consent given to employee for transaction to proceed	
Categories	1. Debt/charge 2. Overpayment 3. Refund 4. Cashier error 5. Land/building resale within 3-12 months 6. House or Asset resale within 3 months
Signed and dated	
THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS	

This information is issued by

Essex County Council, Counter Fraud.

You can contact us in the following ways:

By email:

CounterFraud.team@essex.gov.uk or cfteam@essex.gov.uk

By telephone:

03330 138917

By post:

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