ANTI-MONEY LAUNDERING POLICY

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INTRODUCTION

1. Context

1.1 Money laundering is the process of exchanging money or assets that were obtained criminally for money or other assets that are 'clean'. The clean money or assets do not have an obvious link with any criminal activity. Money laundering includes money that is used to fund terrorism, however it is obtained.

1.2 Although Anti-Money Laundering legislation does not specifically cover local authorities as defined by organisations in the regulatory sector, it is implied best practice that we assess risk and put sufficient controls in place to prevent Brent from being used for money laundering.

1.3 We are also required to:

- Assess the risk of Brent being used by criminals to launder money
- Check the identity of our customers
- Check the identity of 'beneficial owners' of corporate bodies and partnerships
- Monitor our customers' business activities and report anything suspicious to the National Crime Agency (NCA)
- Make sure we have the necessary management control systems in place
- Keep all documents that relate to financial transactions, the identity of our customers, risk assessment and management procedures and processes
- Make sure our employees are aware of the regulations and have had the necessary training.

1.4 Whilst awareness of our Anti Money Laundering requirements is important, the majority of officers are likely to be unaffected, except in highly unusual circumstances. However, some officers in particular areas might be considered high risk, for example, those receipting large cash amounts, or working in the Right to Buy team in Housing. If in doubt, please contact the council's Head of Audit and Investigations for advice.

1.5 This policy, and the accompanying procedures and reporting forms, represents an important part of the council's approach to dealing with the risk of fraud and corruption. This policy seeks to complement the Anti-Fraud, Corruption and Bribery Policy and Whistleblowing Policy. This policy also contributes to the overall framework of Corporate Governance established to ensure that the council is well managed and fulfils its statutory and regulatory duties in a proper and responsible manner.

2. Purpose and Rationale

2.1 The risks to the council of contravening money laundering legislation are relatively low and some aspects of the legal and regulatory requirements do not apply to public authorities. However, it is recognised that the council is not immune from the risks surrounding money laundering. The purpose of the Anti-Money Laundering Policy is to provide guidance to officers and so reduce the risk of money laundering. It is important that all officers who deal with transactions, which are at risk of money laundering, understand and are committed to the underlying principles of money

laundering legislation. All officers should take all reasonable steps to prevent, detect and minimise the likelihood of money laundering occurring. This policy seeks to develop a suitable framework of arrangements to safeguard Brent against such transactions, whilst making satisfactory provisions to achieve compliance to legal and regulatory requirements, where appropriate.

3. Scope of the Policy

3.1 Whilst this policy applies to all employees of the council, it is particularly focused on high-risk groups of staff and aims to prevent criminal activity through money laundering. Those high-risk groups of staff are likely to be working in areas of the Council that handle material transactions on a regular or ad hoc fashion. For example, the Right to Buy Team in Housing, which may come across large cash sums or other sums that suddenly appear in a suspicious fashion e.g. through a large, unknown gift. Other teams may come across similar issues to pay off debts and local taxes. 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).

3.2 Failure by any employee 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.

4. What is Money Laundering?

4.1 Money laundering is a term designed to cover a number of offences. These offences relate to the improper handling of funds that are the proceeds of criminal acts, or terrorist acts, so that they appear to come from a legitimate source. It relates to both the activities of organised crime but also to those who benefit financially from dishonest activities such as receiving stolen goods. The Proceeds of Crime Act 2002 (POCA), (as amended by the Serious Organised Crime and Police Act 2005 and further amended by the Serious Crime Act 2015 and Criminal Finances Act 2017) covers a range of activities and offences in relation to money laundering. The primary activities and offences that may be committed under money laundering legislation are:

- Concealing, disguising, converting, transferring or removing criminal property from anywhere within 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 by or on behalf of another person
- Acquiring, using or possessing criminal property
- Failure to disclose knowledge or suspicion of another person(s) involvement in money laundering
- Tipping off or making a disclosure which is likely to prejudice an investigation being carried out by a law enforcing authority, knowing that such an investigation is in motion

- Doing something that might prejudice an investigation – for example, tipping off the offender that an investigation has been instigated.

These money laundering offences may be committed by an organisation or by individuals working for an organisation.

4.2 'Criminal Property' has a relatively broad definition in money laundering legislation and no financial ceiling has been specified above which organisations are obliged to take action when money laundering activities are suspected. Benefiting from 'criminal property' can work on two levels, an individual benefiting financially from the proceeds of a crime they have committed themselves, or an individual benefiting from the proceeds of a crime/dishonest activities perpetrated by someone else. No matter how large or small the sum of money involved in these dishonest activities, the full weight of the money laundering legislation and regulations will apply regardless of the financial sums identified.

5. The Legal and Regulatory Framework and the Obligations that it Places on the Council

5.1 The main laws and regulations, which set out the money laundering regulations, are:

- The Proceeds of Crime Act 2002 (amended by the Serious Organised Crime and Police Act 2005 and further amended by the Serious Crime Act 2015 and Criminal Finances Act 2017).
- The Terrorism Act 2000 (amended by the Anti-Terrorism, Crime and Security Act 2001 and Criminal Finances Act 2017).
- The Money Laundering Terrorist Financing and Transfer of Funds (Information on the Payer Regulations 2017 .

5.2 The Terrorism Act 2000 makes it an offence of money laundering to become concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of terrorism or resulting from acts of terrorism. Under the Terrorism Act 2000, all individuals and businesses in the UK have an obligation to report knowledge, reasonable grounds for belief or suspicion about the proceeds from, or finance likely to be used for terrorism or its laundering, where it relates to information that comes to them in the course of their business or employment.

5.3 The Chartered Institute of Public Finance and Accountancy (CIPFA) issued two sets of guidance on how legal and regulatory provisions impact on public authorities. CIPFA has confirmed that local authorities were not a "relevant business" in terms of the 2003 Money Laundering Regulations and are therefore not required to have systems in place to identify, record and report money laundering.

5.4 However, CIPFA has also advised, "it is prudent and responsible practice for public service organisations, including those outside the scope of the regulations, to

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". There couldalso be a "substantial reputational risk for an authority which does not have such procedures in place".

5.5 This policy and the working practices aligned to it have been designed to address the risk the council may face if it does not properly address the potential for money laundering. As a responsible authority, we need to be mindful that a money laundering offence could be committed by an employee, or the council could be a victim of such an offence.

6 The Council's Response

6.1 The council is required to:

- Appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from members or 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 (see section 8) in certain circumstances and maintain records.

7 The Money Laundering Reporting Officer

7.1 The council has nominated the Chief Financial Officer as the Money Laundering Reporting Officer (MLRO) and in their absence, the Head of Audit and Investigations Service. The council's Counter Fraud Manager also has a key role in anti-money laundering and can be contacted for advice and information. Their contact details are as follows:

- Minesh Patel, Chief Financial Officer, Minesh.Patel@brent.gov.uk, xt 4043
- Darren Armstrong, Head of Audit & Investigations Service, Darren.Armstrong@brent.gov.uk, xt 1751
- Michael Cassel, Counter Fraud Manager, michael.cassel@brent.gov.uk, xt 1265.

8 Reporting to the Money Laundering Reporting Officer

8.1 The primary duty of any employee, member or third party under this policy is to ensure that any suspicions or concerns that money laundering has occurred, or is likely to occur, should be reported to the MLRO as soon as the suspicion arises. The disclosure should be within 'hours' of a suspicious activity coming to an individual officer's attention rather than several days or weeks later.

8.2 To support the above process, appendix 1 provides information on the types of activities where the council may be subject to money laundering offences and guidance to staff on situations where money laundering activities could occur.

8.3 All available information needs to be given to the MLRO to enable them to make an informed judgement as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable them, if appropriate, to prepare a report to the National Crime Agency (NCA), 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 their/your involvement
- The types of money laundering activity involved (the MLRO can help identify this)
- The dates of such activity, 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.

8.4 Suspicions can be raised through direct contact with the MLRO, however, it is preferable to use the reporting form, which has been developed at appendix 2, and email/post the completed form to the MLRO.

8.5 The employee, member or third party should not make any further enquiries into the matter themselves and any further action must be with the approval of the MLRO. Those who have raised a concern should ensure that they do not then voice their suspicions to the suspect or tell them that you have reported the transaction. Otherwise, you may commit a criminal offence of 'tipping off' which carries a maximum penalty of five years imprisonment and unlimited fine.

8.6 Upon receipt of a disclosure report, the MLRO must acknowledge receipt and confirm the timescale within which they expect to respond.

8.7 The MLRO is required to promptly evaluate any concerns/disclosures raised and determine whether they require further investigation and hence referral to the NCA, using the reporting forms included at appendix 2. The MLRO should not undertake investigations of any concerns themselves. Where legal professional privilege may apply, the MLRO must liaise with the Solicitor of the Council to determine the further action to be taken.

8.8 Where money laundering is suspected the MLRO will report to the NCA, by completing a Suspicious Activity Report and notify the Monitoring Officer. The MLRO may also report to other senior officers, but any such further reporting will be limited to a 'need to know' basis in order to avoid the risk of compromising an investigation.

8.9 In some cases, it may be necessary to seek approval from the NCA before the council can undertake any further activity in respect of the transaction. Where the MLRO has made such a referral to the NCA, they will notify the person raising the concern, and again inform the individual when the NCA has provided permission for the transaction to proceed.

8.10 If a request for consent has been made to the NCA, no action should occur for a period of 7 days or until the NCA gives consent. If this results in a transaction having to be deferred or delayed, it should be carefully handled to ensure that the customer is not tipped off as to the money laundering concern.

8.11 After 7 days, if the NCA does not notify otherwise, they are deemed to have given consent to the transaction. If the NCA instead notifies they refuse to give consent, they have a further 31 calendar days to take action, a moratorium period of 31 days starts on the day the council receives the refusal notice. During this period, the council cannot proceed with the matter for which the consent was applied. At the expiry of the 31 days if we have not heard anything, the NCA is deemed to have consented to the request and the council can proceed.

8.12 **T**he MLRO should retain the details of any referrals made, including correspondence with the necessary bodies, using the forms included in appendix 2. All information should be retained for a minimum of 6 years.

8.13 To ensure the council minimises the risk of tipping off, and to minimise any reputational damage should the suspicion be unfounded, the confidentiality of the matter will be respected at all times, the MLRO will only inform anyone of the suspicion where there is a genuine business need.

9 Customer Due Diligence

9.1 The council does undertake activities that may be considered, under the Money Laundering Regulations, to be regulated, however, it does not undertake these activities by way of business and therefore, would not normally be expected to undertake due diligence in respect of any clients to whom it provides these services. The types of activities that are regulated are:

- Credit and financial institutions
- Legal, auditors, accountants and tax advisors
- Trust of company service providers
- Estate agents
- Casinos
- High value dealers i.e. dealing in goods of any description where the trader makes or receives, in respect of any transaction, a payment or payments in cash of at least 10,000 euros (or equivalent in any currency) in total.

9.2 However, it is good practice that wherever the council does enter into such activities with a third party then due diligence checks should be actioned before the

establishment of a relationship/transaction with the third party. Anyone entering into such transactions should refer these to the MLRO to undertake due diligence checks.

9.3 Undertaking customer due diligence checks can take a number of forms. HM Revenues and Customs has issued 'core guidance' in this area. Consideration should be given to taking one or more of the following where applicable:

- Confirming the identity of the client via documentation, data or information obtained from a reliable and independent source e.g. passport and/or position within an organisation, where appropriate
- Obtaining confirmation from Companies House as to the registration details of the company and details of the company business
- Seeking electronic verification e.g. performing credit checks
- Obtaining confirmation to regulated industries bodies e.g. in the case of accountants, checking to CCAB certified bodies
- Requesting copies of financial statements
- Requesting details of interests and beneficial ownerships – with reference to the latter, this is any individual who holds more than 25% of the shares, voting rights or interest in a company, partnership or trust
- Obtaining information on the purpose and intended nature of the business relationship.

9.4 Examples of other available internal information that may be considered relevant are:

- 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.

9.5 Any checks undertaken should remain proportionate to the risks of the individual business and the relationship. Additional checking may need to be performed if the person is not physically present to be identified, or they are politically exposed, by virtue of holding a prominent public function. Details of such checks should be recorded on the reporting forms in appendix 2 and retained for a minimum of 6 years, with an electronic copy of every customer due diligence record being retained by the MLRO to meet the requirements of the regulations and in case of inspection by the relevant supervising body.

9.6 There is also now an on-going legal obligation to check the identity of existing clients and the nature and purpose of the business relationship with them at appropriate times. One option to review these matters might be to do so as part of the on-going monitoring of the business arrangements, as is usually provided for in the Terms of Business Letter, Service Level Agreement or other written record, as well as scrutinising transactions as they occur, paying particular attention to complex or unusually large transactions, unusual patterns of transactions and/or unexpected transactions etc.

9.7 Once the MLRO has evaluated the disclosure report and any other relevant information, they must make a timely determination as to whether:

- There is actual or suspected money laundering taking place
- There are reasonable grounds to know or suspect that this is the case
- Whether they need to seek consent from the NCA for a particular transaction to proceed
- Where the MLRO concludes a referral is needed then they must disclose the matter as soon as possible to the NCA.

9.8 Where the MLRO suspects either money laundering but has reasonable excuse for non-disclosure or concludes that there are no reasonable grounds to suspect money laundering, they must note the report accordingly and give immediate consent for any on-going or imminent transactions to proceed.

9.9 Where money laundering is suspected the MLRO will report to the NCA by making a Suspicious Activity Report and notify the Monitoring Officer.

10 Training

10.1 The council will take appropriate measures to ensure that all high risk employees mentioned in this document, 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.

11 Further Information

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

- www.nationalcrimeagency.gov.uk – website of the National Crime Agency
- HMRC.gov.uk – website HM Revenues & Customs
- Anti-Money Laundering (Proceeds of Crime and Terrorism) – Second Interim Guide for Accountants, published by CCAB at www.ccab.org.uk
- Money Laundering Guidance at www.lawsociety.org.uk
- Money Laundering information & guidance at www.hm-treasury.gov.uk.

12 Review of the Policy

12.1 The policy will be reviewed at least every 3 years, by the MLRO and Head of Audit & Investigations Service (or more frequently if required by changes to statutory legislation) and approved by Audit Committee. Subsequent to any approval, the following parties shall be consulted:

- Senior council officers responsible for receiving suspicions of money laundering activities
- The council's Corporate Management Team.

12.2 On an annual basis, section 7 of the policy, which describes details of the key parties responsible for money laundering reporting activities, shall be reviewed by the MLRO and the Head of Audit & Investigations Service to ensure that details remain relevant and up to date. This review will not require re-endorsement of the policy.

APPENDIX 1

How the council may be exposed to money laundering.

1 Guidelines to Staff and Members on Concerns or Suspicions

1.1 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.

1.2 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.

1.3 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 do not 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.

1.4 It is recognised that a lot of the council′s activities are sensitive in nature, and in cases what, 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.

2 The Types of Activities that May Be Affected

2.1 The following list 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 does not mean you should not report it.

The types of activities that may be affected:

- New customers with high value transactions
- 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

- 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 demonstrate what funding was used for
- Customers who we think are acting dishonestly or illegally
- People paying for council services who do not provide details about themselves
- People making odd or unusual requests for payment arrangements
- Illogical transactions
- People paying in cash then requesting refunds
- Requests for the council to pay seemingly unconnected third parties in respect of goods/services provided by the council
- Requests for the council to pay in foreign currencies for no apparent reasons.

Payments of substantial sums by cash:

- Large debt arrears paid in cash
- Refunding overpayments
- Deposits/payments for property.

Movement of funds overseas:

- Requests to pay monies overseas, potentially for 'tax purposes'.

Cancellation of earlier transactions:

- Third party 'refunds' grant payment as no longer needed/used
- No payment demanded even though goods/service have been provided
- Sudden and unexpected termination of lease agreements.

Requests for client account details outside the normal course of business:

- Queries from other companies regarding legitimacy of customers
- Council receiving correspondence/information on behalf of other companies.

Extensive and over-complicated client business structures/arrangements:

- 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:

- 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:

- 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:

- Property transactions where the council is dealing with several different parties.

APPENDIX 2

MONEY LAUNDERING REPORT FORM

Employee Details	
Name	Enter here
Department	Enter here
Date reported	Enter here
Contact details	Enter here

Offence Details
Identities of the person(s)/company(s) subject to the enquiry
Enter here
Address and contact details of the subject
Enter here
Nature and details of the activity – please include whether this has already occurred or is likely to occur, where/when this occurred and how it arose. Include details of all transactions
Enter here
Investigations – has any investigation already occurred? If so, please detail
Enter here
Discussions – have you discussed your suspicions with anyone, including any advisory bodies?
Enter here
Disclosure – Is there any reason why you believe this should not be disclosed to the NCA?
Enter here
Further information – is there any further information you believe to be relevant?
Enter here

Signed	
Date	

The forms should now be passed directly to the Money Laundering Reporting Officer

MONEY LAUNDERING DISCLOSURE FORM

TO BE COMPLETED BY THE MONEY LAUNDERING REPORTING OFFICER

Date of report being made	
Subject of investigation	
Will this matter be reported to the NCA?	
Date of report to NCA	
If this is not being reported, why not?	
Officer referring customer	
Contact details of officer	
Is consent required from NCA for transaction to occur?	Yes/No
Contact details of NCA liaison	
Has consent been received within 7 days?	Yes/No
After 7 days has notification been given to employee?	Yes/No
Has consent been denied by NCA?	Yes/No
After moratorium has notification been given to employee?	Yes/No
Can the council proceed with the transaction?	Yes/No

Name	
Signed	
Date	

CUSTOMER DUE DILIGENCE FORM – PRIVATE INDIVIDUAL

TO BE COMPLETED BY THE MONEY LAUNDERING REPORTING OFFICER

Officer referring customer	
Contact details for officer	
Name of customer	
Address	
Date of birth	
Contact number	
Contact email	
Summary of transactions and role of the individual	
Enter here	
Evidence of identity obtained (photocopies should be attached to this form)	
Enter here	
Face to Face contact?	Yes/No
Is the customer politically exposed?	Yes/No
Is the transaction by nature high risk?	Yes/No
Is further enhanced verification required? If yes to any of the above 3 question enhanced verification will be required	Yes/No
If enhanced verification required, detail all checks performed	
Enter here	
Can the council proceed with the transaction?	Yes/No

Name	
Signed	
Date	

CUSTOMER DUE DILIGENCE FORM – BUSINESS

TO BE COMPLETED BY THE MONEY LAUNDERING REPORTING OFFICER

Officer referring business	
Contact details for officer	
Name of business	
Purpose of business	
Companies House registration number	
Address	
Contact number	
Contact email	
Type of organisation (PLC/sole trader etc)	
Who are the company directors – are there any beneficial owners ie any person who owns more than 25% of the company in question	
Enter here	
Date of first contact with company	
Enter here	
Nature of transaction with company	
Enter here	
Please attach details of all checks undertaken to verify the evidence of this company	
Enter here	
Can the council proceed with the transaction?	Yes/No

Name	
Signed	
Date	