
AUDIT COMMITTEE: 17 November 2020

DRAFT ANTI-MONEY LAUNDERING POLICY

REPORT OF THE CORPORATE DIRECTOR RESOURCES

AGENDA ITEM: 7.2

Reason for this Report

1. The Audit Committee's Terms of Reference requires Members to:
 - Monitor the Counter-fraud strategy, actions and resources;
 - Review the assessment of fraud risks and potential harm to the council from fraud and corruption.
2. This report has been prepared to provide Audit Committee with an opportunity to comment on and consider an updated Council policy on money laundering, prior to a request for Cabinet approval on 10 December 2020.

Background

3. Money laundering is the process of making money generated by a criminal activity, such as drug dealing or theft appear to have come from a legitimate source, through a process of cleansing criminal proceeds to disguise their illicit origins. The National Crime Agency reports that money laundering costs the UK more than £100 billion pounds a year.
4. The draft Anti-Money Laundering Policy is aligned to the aspirations of the Counter-Fraud and Corruption Strategy, and to the Council's Risk Management Strategy and Policy. It provides adequate safeguards and reporting arrangements, to prevent the Council from being used by third parties for money laundering, and to prevent terrorist financing.
5. The policy is designed to replace and update the existing Money Laundering Policy and Procedure, as approved by Cabinet on 5 June 2015, and it incorporates the requirements of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 and the Money Laundering and Terrorist Financing (amendment) Regulations 2019, as well as other relevant legislation. The main changes to the policy, relate to a strengthening of both the processes for client verification checks, and to the mechanisms for internal referral. The policy is intended to be supported by targeted training for those working in high-risk areas.
6. The draft policy has been subject to consideration and comment from the portfolio Cabinet Member, Senior Management Team, and the Equalities Team. Comments received have been incorporated into the current attached draft policy in Appendix A. A presentation has been prepared for Trade Union consideration, through a meeting scheduled to take place on 16 November 2020.

Issues

7. The policy sets out background information, including an overview and definition of the process of money laundering, the obligations on the Council to mitigate the risk and, it provides information about relevant legislation and offences. The contact details of the Council's Money Laundering Reporting Officer and the Data Protection Officer are provided for further support, guidance and referral, as appropriate.
8. A primary focus of the policy is on setting out the responsibilities of Officers and Members. All staff are already required to complete fraud awareness training, and the policy proposes that all staff have a reporting responsibility in the event of any concerns, and that at a minimum, all staff who receive cash, monitor cash receipts or who manage staff in these areas, and all solicitors must complete further eLearning on anti-money laundering. This includes Operational Managers in these areas, who are responsible for customer verification, due diligence checks and internal referrals.
9. A number of high-risk areas are highlighted within the policy for which particular vigilance is required, including the receipt of cash payments, the entering of new business relationships, the sale of land and properties, grants and loans to third parties, and a pattern of overpayments and requests for refunds. The Council has set a cash payment limit of £10,000 at which point a higher level of due diligence checks are necessary. A series of smaller, linked cash transactions also require a higher level of checks, as this could be an attempt for funds from illegal activities to go unnoticed.
10. The policy contains a 'Due Diligence and Know Your Customer Procedure', which represents an appraisal of an individual or organisation that should be undertaken before entering into a business transaction. Criminals often seek to mask their identity by using complex and opaque ownership structures, and the purpose of customer due diligence is to know and understand a client's identity and business activities so that any money laundering risks can be properly managed. Effective customer due diligence is therefore, a key part of anti-money laundering defences. By knowing the identity of a client, including matters of business ownership and control, the Council not only fulfils its legal and regulatory requirements, it equips itself to make informed decisions about the client's standing and acceptability.
11. The process for customer due diligence must be completed for all cases where there is a high risk of money laundering in accordance with section 8 of this policy, which is to be documented on the respective form as appended to the policy for a private individual (Appendix A) or a business (Appendix B). In order to proceed with such transactions, documented Operational Manager approval is required on the respective form, and in the event of any concerns, or if further advice or guidance is required, a referral is to be made to the Money Laundering Reporting Officer before proceeding.

Legal Implications

12. The Council has a duty under the Terrorism Act 2000, the Proceeds of Crime Act 2002 and The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 to take all reasonable steps to minimise the risk of money laundering occurring through safeguards and reporting arrangements in order to detect and avoid involvement in money laundering.
13. Reference to the Committee's Terms of Reference in paragraph 1 establishes the Committee's requirement to consider the Anti-Money Laundering Policy.

14. The contents of this Report contains all relevant information on the subject of anti-money laundering so as to enable the Committee to make an informed decision on the draft policy.
15. In considering this matter, the Council must have regard to its public sector equality duties under the Equality Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties, Councils must in making decisions have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. The Protected characteristics are: age, gender reassignment, sex, race – including ethnic or national origin, colour or nationality, disability, pregnancy and maternity, marriage and civil partnership, sexual orientation, religion or belief – including lack of belief. An Equalities Impact Assessment has been carried out to identify the equalities implications and due regard should be given to the outcomes of the Equalities Impact Assessment.

Financial Implications

16. This Policy sets out the expectations of all officers and members and provides a detailed toolkit in order for those roles and responsibilities to be carried out and reduce the risk of being unwittingly complicit in money laundering activities. It is not anticipated that additional financial resources are required in order to undertake these duties but where additional interventions may be required then there is a need to identify financial resources prior to proceeding.

HR Implications

17. There are HR implications for this policy with regards to employee training and management actions and responsibilities, these are all set out in the policy. These will be communicated to employees should the policy be adopted.

RECOMMENDATIONS

18. That the Committee notes and considers the draft Anti-Money Laundering Policy, prior to a request for Cabinet approval on 10 December 2020.

Christopher Lee
Corporate Director Resources

The following appendices are attached:

Appendix A: Draft Anti Money Laundering Policy
Appendix B: Equality Impact Assessment