

NORTH YORKSHIRE COUNTY COUNCIL**AUDIT COMMITTEE****2 MARCH 2017****COUNTER FRAUD AND ASSOCIATED MATTERS****Report of the Head of Internal Audit**

Discussion of Appendices 2 and 3 to this report are likely to include exempt information of the description in paragraph 7 of Part 1 of Schedule 12A to the Local Government Act 1972 as amended by the Local Government [Access to Information] [variation] Order 2006

1.0 PURPOSE OF THE REPORT

- 1.1 To report on the number and type of investigations undertaken by Veritau Limited during 2016/17 to date.
- 1.2 To consider proposed changes to the County Council's money laundering policy prior to approval.
- 1.3 To consider the Annual Fraud Risk Assessment for the County Council.

2.0 BACKGROUND

- 2.1 In the current economic climate, all organisations are at an increased risk of fraud and corruption. The true cost of fraud is difficult to quantify but the most recent fraud indicator report¹ suggests that annual UK fraud could be £193 billion. Public sector fraud accounts for £37.5 billion of this total of which approximately £7.4 billion is committed against local government. The main types of local government fraud continue to be housing tenancy, council tax/NNDR, procurement, social care and 'internal' fraud. The recent CIPFA annual fraud and corruption tracker identified procurement and right to buy as significant growth areas. CIPFA also highlighted fraud where this is no immediate financial impact, for example, data manipulation and recruitment, as areas which should not be overlooked.
- 2.2 Reduced resources mean that local authorities have less capacity to investigate suspected fraud or undertake proactive counter fraud activities. In addition, responsibility for benefit fraud investigation transferred from local authorities to the Department for Work and Pensions in 2015/16. Many local authorities lost their in-house expertise and no longer have access to qualified and experienced fraud investigators. Whilst Veritau maintains a corporate fraud team, outside London only a limited number of councils are believed to have such arrangements in place.
- 2.3 Fraudsters are also adapting their methods and looking for new opportunities to perpetrate fraud. Local authorities are increasingly being targeted by organised

¹ University of Portsmouth/PKF/Experian – Annual Fraud Indicator Report 2016

criminals, including individuals and groups based outside the UK. Cross boundary fraud is also an increasing problem, particularly in the larger cities. This is at a time when the wider public sector is facing budget reductions, undergoing significant transformational change and increasing demand for services.

2.4 In July 2014, CIPFA established a new 'centre of excellence' to combat fraud. The centre is working closely with the Department for Communities and Local Government (DCLG), the Cabinet Office, the National Crime Agency (NCA) and other agencies to develop policies, tools and guidance to help public sector organisations to identify and address fraud. One of its first outputs was the Code of Practice on managing the risks of fraud and corruption. The Code highlighted five key principles which public sector organisations should consider:

- Acknowledge responsibility

Corporate leaders should acknowledge their responsibility for ensuring that the risks associated with fraud and corruption are managed effectively across all parts of the organisation;

- Identify risks

Fraud risks should be identified in order to understand specific exposures to risk, changing patterns in fraud and corruption threats and the potential consequences to the organisation and its service users;

- Develop a strategy

Each organisation should adopt a counter fraud strategy setting out its approach to managing its risks and defining responsibilities for action;

- Provide resources

Each organisation should make available appropriate resources to support the counter fraud strategy;

- Take action

Each organisation should put in place the policies and procedures to support the counter fraud and corruption strategy and take action to prevent, detect and investigate fraud.

2.5 An updated national fraud strategy '*Fighting Fraud and Corruption Locally*' was published in March 2016. The strategy is aimed at all those charged with governance in local authorities. The strategy calls for a greater emphasis on prevention and the recovery of losses. It also highlights the need for local authorities to retain a resilient response to fraud based on the sharing of services and specialist resources. The strategy sets out three principles, as follows:

- Acknowledging and understanding fraud risks

Assessing and understanding fraud risks, committing support and resource to tackling fraud, and maintaining a robust anti-fraud response

- Preventing and detecting more fraud

Making better use of information and technology, enhancing fraud controls and processes, and developing a more effective anti-fraud culture.

- Being stronger in punishing fraud / recovering losses

Prioritising fraud recovery and the use of civil sanctions, developing capability and capacity to punish fraudsters, and collaborating with law enforcement.

2.6 Whilst the County Council has a good record in maintaining standards of probity and propriety, it is essential that its arrangements for reducing the risk of loss from fraud and corruption remain effective. As a consequence the policy framework is kept under review and updated to reflect best practice as required.

2.7 In addition, the County Council in partnership with the City of York Council, Ryedale District Council, Richmondshire District Council, Hambleton District Council, and Selby District Council successfully bid for additional government funding to combat fraud. The funding was made available by the Department for Communities and Local Government (DCLG) and was intended to improve capacity in this area. The total allocation was £170k over two years and this is being used to investigate social care, council tax/NNDR and procurement related fraud across the partner councils.

3.0 **THE COUNTER FRAUD POLICY FRAMEWORK**

Background

3.1 The counter fraud policy framework includes the Counter Fraud Strategy, the Whistleblowing Policies and the Anti Money Laundering Policy.

3.2 The Counter Fraud Strategy was updated in March 2015 to reflect the best practice guidance contained in the Code of Practice. In addition, a new Fraud Prosecution and Loss Recovery policy, setting out the measures that can be taken to recover fraud losses, was approved. A revised Whistleblowing Policy was approved in March 2016. The related guidance for managers was also updated.

3.3 The Anti Money Laundering Policy has been reviewed and updated to take account of changes in the regulatory environment and best practice guidance. A copy of the revised Policy is attached as **Appendix 1** with the proposed amendments shown as tracked changes. New Money Laundering Regulations to implement the Fourth Directive on Money Laundering are anticipated later this year and will no doubt necessitate further amendments to the Anti Money Laundering Policy, which will be brought to the Committee for consideration. No other amendments are considered necessary to the current anti-fraud policy framework at this time.

4.0 **INVESTIGATIONS UNDERTAKEN IN 2016/17**

4.1 Concerns and allegations of possible fraudulent or corrupt working practices are raised with Veritau via the County Council's whistleblowing arrangements or directly by management and staff. Not all investigations result in sufficient evidence being obtained to support the allegations whilst other concerns prove to be unfounded. However, where evidence is found of fraud or wrongdoing, the following factors are often relevant:

- the need for managers and staff to remain vigilant and to question unusual transactions or patterns of behaviour;
- the need for staff to protect physical and information assets;
- the importance of sharing information about possible fraud risks with other councils and/or with other agencies;
- the importance of pro-active counter fraud measures to help prevent and detect fraud;
- the need for managers and staff to report concerns to Veritau at the earliest opportunity.

4.2 **Appendix 2** provides a summary of the number and type of investigations undertaken by Veritau during 2016/17 to date. Details of the cases investigated in the previous three years are provided for comparison purposes.

5.0 **FRAUD RISK ASSESSMENT**

5.1 Internal Audit completes an annual Fraud Risk Assessment, designed to identify the activities and areas within the County Council, which present the greatest risk of loss. This Risk Assessment is informed by the history of events and losses suffered by the County Council together with the results of recent investigations into suspected fraud, corruption and other irregularities. National issues and trends are also taken into account. The results of the Assessment are used by:

- management to develop or strengthen existing fraud prevention and detection measures;
- Veritau to further revise the Counter Fraud Policy Framework;
- Veritau to focus future audit and counter fraud work (as set out in the Annual Audit Plan).

5.2 **Appendix 3** provides the outcomes of the 2016/17 Annual Fraud Risk Assessment exercise.

6.0 **RECOMMENDATIONS**

Members are asked to:

- 6.1 note the investigations carried out by Veritau in 2016/17 to date, and the outcome of the annual Fraud Risk Assessment.
- 6.2 approve the proposed changes to the County Council's Anti Money Laundering Policy.

M A THOMAS
Head of Internal Audit

BACKGROUND DOCUMENTS

Relevant audit reports kept by Veritau Ltd at 50, South Parade

Report prepared and presented by Max Thomas, Head of Internal Audit.

County Hall
Northallerton

10 February 2017

NORTH YORKSHIRE COUNTY COUNCIL

ANTI-MONEY LAUNDERING POLICY

July-March 2017

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1.0 INTRODUCTION

- 1.1 Most organised criminal activity is directly or indirectly aimed at making money. The ability to ‘launder’ this money into apparently legitimate proceeds and to clean the trail of its origins to prevent it being associated with criminal activity is a major concern for criminals or organised criminal groups. The proceeds of most crime are usually generated as cash, however, this represents a considerable risk to criminals: it increases the possibility of exposure, theft by rival criminals and/or seizure by law enforcement agencies (as when cash enters the legitimate economy, it is easier to identify). Cash is also bulky and cumbersome to handle in large quantities.
- 1.2 To avoid this, criminals take action to prevent this cash from attracting suspicion, for example, they may move it to other locations, including abroad, or use it to buy other assets or try and introduce it into the legitimate economy through businesses with a high cash turnover.
- 1.3 Historically, the statutory framework seeking to prevent the laundering of the proceeds of criminal activity was aimed at professionals in the financial and investment sector, however it was subsequently recognised that those involved in criminal conduct were able to “clean” the proceeds of crime through a wider range of businesses and professional activities. A detailed regulatory compliance framework has therefore developed over time, aimed at preventing the use of the world’s financial system for the purposes of money laundering and terrorist financing.
- 1.4 The legislation concerning money laundering (the Proceeds of Crime Act 2002, the Terrorism Act 2000 and the Money Laundering Regulations 2007 (all as amended) and supporting legislation) has broadened the definition of money laundering and increased the range of activities and organisations/individuals brought within the statutory framework. As a result, the obligations now impact on certain areas of local authority business. Some parts of the anti-money laundering framework apply, potentially, to everybody whereas other parts only apply to particular organisations which are in the regulated sector or carrying out certain regulated activities. It has long been unclear whether or not local authorities undertaking regulated activities are technically caught by the framework (despite legislative amendments designed to clarify that they are excluded). Guidance from supervisory bodies such as CIPFA has urged caution and advised an approach that complies with the spirit of the legislation.
- 1.5 The County Council has therefore introduced proportionate procedures designed to prevent the use of its services for money laundering, which are set out in this Policy. The Policy forms part of the Council’s suite of counter-fraud policies.
- 1.6 — and is published on the Council’s intranet (Finance and Central Services, Internal Audit pages) and can be accessed by following the link below:
- 1.7 —
- 1.8 — http://intranet/directorate/fcs/central_finance/internal_audit/Pages/Home.aspx
- 1.91.6 Whilst the concept of ‘money laundering’ being applicable to the Council may, at first, seem strange, it is easier to understand after seeing the breadth of the definition of money laundering (essentially any involvement with criminal property, ie that which represents a person’s benefit from virtually any crime). So, for the majority of us, it will usually mean a suspicion that someone we know, or know of, is benefiting financially from dishonest and criminal activities. Potentially any member of staff could commit a money laundering offence if they suspect money laundering and either become involved with it in some way (without reporting it to, and seeking permission from, the Council’s Money Laundering Reporting Officer (“MLRO”) to continue in the transaction) and/or do nothing about it. This Policy sets out how to report such concerns.

2.0 SCOPE OF THE POLICY

2.1 This Policy applies to all employees of the ~~County~~ Council and aims to maintain the high standards of conduct which currently exist within the ~~County~~ Council by preventing criminal activity through money laundering.

2.2 All staff MUST be aware of the content of this Policy, to enable the ~~County~~ Council to comply with its legal obligations. 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 and may also constitute a criminal offence. Any disciplinary action will be dealt with in accordance with the ~~County~~ Council's Disciplinary Policy and Procedure.

3.0 WHAT IS MONEY LAUNDERING?

3.1 Under the legislation there are two main types of offences which may be committed: primary money laundering offences and failure to report money laundering offences.

Primary money laundering offences:

3.2 Money laundering means:

- concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 of the 2002 Act); 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); or
- acquiring, using or possessing criminal property (section 329); or
 - an attempt, conspiracy or incitement to commit such an offence; or
 - aiding, abetting, counselling or procuring such an offence; 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);²⁷

These are the primary money laundering offences and are prohibited acts under the legislation. The provisions apply to everyone. There are certain defences, including making a disclosure to the Council's Money Laundering Reporting Officer (MLRO) and obtaining consent to continue to act.

3.3 "Criminal property" is widely defined: it is ~~property representing that which represents~~ a person's benefit from criminal conduct where you know or suspect that that is the case. It includes all property (situated in the UK or abroad) real or personal, including money, and also includes an interest in land or a right in relation to property other than land.

3.4 "Terrorist property" means money or other property which is likely to be used for the purposes of terrorism, proceeds of the commission of acts of terrorism,²⁷ and of acts carried out for the purposes of terrorism.

3.5 Money laundering therefore goes beyond major drug money laundering operations, terrorism and serious crime and now covers a range of activities (which do not necessarily need to involve money or laundering) regarding the proceeds of potentially any crime, no matter how minor and irrespective of the size of the benefit gained, for example "an illegally obtained sum of £10 is no less susceptible to the definition of criminal property than a sum of £1million." (P v P, 2003). Legitimate organisations coming into contact with criminals and the proceeds of their crimes may therefore inadvertently contravene the legislation.

Failure to report money laundering offences:

- 3.6 In addition to the primary money laundering offences, the legislation sets out further offences of failure to report suspicions of money laundering activities (to which there are certain defences). These are concerned with a person's actions (or lack of them) where money laundering activity is suspected. Such offences are committed where, in the course of conducting business in the regulated sector:
- you know or suspect, or have reasonable grounds to do so (even if you did not actually know or suspect), that another person is engaged in money laundering;
 - you can identify the money launderer or the whereabouts of the laundered property (or you believe, or it is reasonable to expect you to believe, that the information you have will assist you to identify the person/property); and
 - you do not disclose this as soon as is practicable to the MLRO (section 330 of the 2002 Act and section 21A of the 2000 Act).
- 3.7 The broad definition of money laundering means that the Act applies to a very wide range of everyday activities within the authority and therefore potentially any member of staff (irrespective of what sort of ~~County~~ Council business they are undertaking) could be caught by the money laundering provisions if they suspect money laundering and become involved with it in some way. In short, the money laundering offences apply to your own actions and to matters in which you become involved. If you become aware that your involvement in a matter through your work may amount to money laundering under the 2002 Act then you must discuss it with the MLRO and not take any further action until you have received, through the MLRO, the consent of ~~SOC~~the National Crime Agency (NCA). The failure to report money laundering obligations, referred to above, relates also to your knowledge or suspicions of others, through your work. If you know or suspect, through the course of your work, that anyone is involved in any sort of criminal conduct then it is highly likely, given the wide definition of money laundering, that s/he is also engaged in money laundering and a report to the MLRO will be required.
- 3.8 Whilst the risk to the ~~County~~ 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**. Any person found guilty of a money laundering offence is liable to imprisonment (maximum of 14 years), a fine or both. However, an offence is not committed if the suspected money laundering activity is reported to the Council's MLRO and, where necessary, official permission obtained to continue in the transaction. Certain other defences are also available.

Possible signs of money laundering

- 3.9 It is impossible to give a definitive list of ways in which to spot money laundering or how to decide whether to make a report to the MLRO. The following are types of risk factors which may, either alone or cumulatively with other factors, suggest the possibility of money laundering activity:
- (a) **General**
- A new client;
 - A secretive client: eg, refuses to provide requested information without a reasonable explanation;
 - A client you have not met;

- Difficulties in establishing the identity of the client:
- Concerns about the honesty, integrity, identity or location of a client eg a client who is not present in the area and there is no good reason why they would instruct us, or information reveals that the client is linked with criminality;
- Complex or unusually large transactions/systems;
- Illogical third party transactions from the third party's perspective: eg, unnecessary routing or receipt of funds from third parties or through third party accounts;
- The source or destination of funds differs from the original details given by the client;
- Involvement of an unconnected third party without logical reason or explanation;
- Payment of a substantial sum in cash (over £10,000);
- Overpayments by a client (or money given on account); care will need to be taken, especially with requests for refunds eg a significant overpayment which results in a repayment should be properly investigated and authorised before payment;
- Absence of an obvious legitimate source of the funds;
- Movement of funds overseas, particularly to a higher risk country or tax haven;
- Providing assistance in setting up trusts or company structures, which could be used to obscure ownership of property;
- Where, without reasonable explanation, the size, nature and frequency of transactions or instructions (or the size, location or type of a client) is out of line with normal expectations;
- Unusual patterns of transactions which have no apparent economic, efficient or visible lawful purpose;
- The cancellation or reversal of an earlier transaction (where the client is likely to request the return of previously deposited monies);
- Requests for release of client account details other than in the normal course of business;
- Companies and trusts: extensive use of corporate structures and trusts in circumstances where the client's needs are inconsistent with the use of such structures;
- Poor business records or internal accounting controls;
- A previous transaction for the same client which has been, or should have been, reported to the MLRO;
- Any other activity which by its nature is likely to be related to money laundering or terrorist financing;

(b) **Property Matters**

- A cash buyer;

- Sudden change of buyer;
- The client's financial profile does not fit;
- Unusual property investment transactions if there is no apparent investment purpose or rationale;
- Instructions to receive and pay out money where there is no linked substantive property transaction involved (surrogate banking);
- Re property transactions, funds received for deposits or prior to completion from an unexpected source or where instructions are given for settlement funds to be paid to an unexpected destination;
- No clear explanation as to the source of funds along with lack of clarity as to how the client would be in a position to finance the purchase;
- Money comes in from an unexpected source.

3.10 Property transactions are a ~~slightly~~ higher risk for the ~~County~~ Council. For example, if the ~~County~~ Council agrees to sell a parcel of land to a developer or other third party, at a price that is far in excess of its estimated value, or the buyer offers to pay the full price in cash, then this may be evidence of money laundering activity. In addition, if a buyer has no legal representation, then client identification must be sought before business is conducted (see later in this Policy). If the buyer does have legal representation then that representative is responsible for undertaking the required identification.

3.11 Facts which tend to suggest that something odd is happening may be sufficient for a reasonable suspicion of money laundering to arise. Employees need to be on the look-out for anything out of the ordinary. **If something seems unusual, stop and question it.** If you are unsure, seek guidance from the MLRO.

4.0 WHAT ARE THE OBLIGATIONS ON THE COUNTY COUNCIL?

4.1 Organisations in the “**regulated sector**” and which undertake particular types of **regulated activity** (see paragraph 4.2) must:

- appoint a Money Laundering Reporting Officer (“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;
- apply customer due diligence measures in certain circumstances;
- obtain information on the purpose and nature of certain proposed transactions/business relationships;
- conduct ongoing monitoring of certain business relationships;
- maintain record keeping and other specified procedures on a risk sensitive basis;
- train relevant staff;

the aim being to require such organisations to know their clients and the detail of the transaction being entered into and to monitor the use of their services by clients.

4.2 Not all of the business of the ~~County~~ Council is caught by the above preventative requirements: it is mainly the accountancy and treasury management, ~~tax and audit~~ services carried out by Finance, ~~and Central Services~~ and certain financial, company and property transactions undertaken by Legal and Democratic Services, and payroll services provided by Employment Support Services (and possibly others within NYCC).

Regulated activities

- ◆ participating in financial or real property transactions concerning:
 - the buying and selling of real property or business entities;
 - the managing of client money, securities or other assets;
 - the opening or management of bank, savings or securities accounts;
 - the organisation of contributions necessary for the creation, operation or management of companies; or
 - the creation, operation or management of trusts, companies or similar structures;

(a person participates in a transaction by assisting in the planning or execution of the transaction or otherwise acting for a client in relation to it);
- ◆ forming companies or other legal persons;
- ◆ acting, or arranging for another person to act:
 - as a director or secretary of a company;
 - as a partner of a partnership; or
 - in a similar position in relation to other legal persons;
- ◆ providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;
- ◆ acting, or arranging for another person to act, as:
 - a trustee of an express trust or similar legal arrangement; or
 - a nominee shareholder for a person other than a company whose securities are listed on a regulated market.

4.24.3 It is clear that from recent regulations and supervisory body guidance that local authorities and in-house lawyers and accountants are not intended to be caught within the regulated sector: however, although ~~these officers~~ ~~ose business units~~ are not external/independent advisers to the ~~County~~ Council, they are to the external clients for whom they may undertake such work under contract. Such external work may, therefore, bring the ~~County~~ Council within the regulated sector.

4.34.4 Under the legislation, certain offences (eg failure to report money laundering activity) may only be committed in the course of a business in the regulated sector however, the safest way to ensure compliance with the law and consistency throughout the Council is to apply most of the requirements to all areas of work undertaken by the ~~County~~ Council; therefore, **all staff are required to comply with the reporting procedure set out in section 6 below.** The Customer Due Diligence Procedure and other internal procedures referred to later are only required to be followed by those engaging in regulated business as defined above.

4.44.5 Failure to comply with the above preventative requirements is a criminal offence for which you may be liable to imprisonment for up to 2 years, a fine or both.

4.54.6 The following sections of this Policy provide further detail about the requirements listed in **paragraph 4.1**.

5.0 MONEY LAUNDERING REPORTING OFFICER

5.1 The officer nominated to receive disclosures about suspected money laundering/terrorist financing activity within the ~~County~~ Council is the Head of Internal Audit, who can be contacted as follows:

Max Thomas
Director and Head of Internal Audit

Veritau Limited
[West Offices](#)
[Station Rise](#)
[York](#)
[YO1 6GAPO-Box 31](#)
[Library Square](#)
[York](#)
[YO1 7DU](#)

Telephone: City of York Council - 01904 552940

North Yorkshire County Council
County Hall
Racecourse Lane
NORTHALLERTON
North Yorkshire DL7 8AL
Telephone: North Yorkshire County Council - 01609 532143

[Mobile number - 07500766321](#)
e-mail – max.thomas@veritau.co.uk

~~(based part week at each location)~~

5.2 In the absence or unavailability of the MLRO, the Assistant Chief Executive (Legal and Democratic Services), ~~Carole Dunn~~[Barry Khan](#), is authorised to deputise for him. ~~Carole Barry~~ can be contacted at County Hall, Northallerton (see above address) or on telephone number 01609 532173 (direct line).

6.0 DISCLOSURE PROCEDURE – All employees to comply with

Reporting to the Money Laundering Reporting Officer

6.1 Where you know or suspect that money laundering activity is taking/has taken place, or you become concerned that your involvement in a matter may amount to a prohibited act under the legislation (see **paragraph 3.2** above), you **must** disclose this as soon as possible to the MLRO.

6.2 Your disclosure should be made to 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), eg name, date of birth, address, company names, directorships, phone numbers, etc;
- full details of the property involved and its whereabouts (if known);

- full details of the nature of their/your involvement:
 - if you are concerned that your involvement in the transaction would amount to a prohibited act under the legislation, then your report must include all relevant details, as you will need consent from the ~~Serious Organised National~~ Crime Agency (~~SOGANCA~~), via the MLRO, to take any further part in the transaction - this is the case even if the client gives instructions for the matter to proceed before such consent is given;
 - you should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent eg a completion date or court deadline;
- your suspicions of the types of money laundering activity involved (if you are aware of possible particular offences, please cite the relevant section number(s) if known);
- the dates of such activities, including:
 - whether the transactions have happened, are ongoing or are imminent;
- where they took place;
- how they were undertaken;
- the (likely) amount of money/assets involved;
- why, exactly, you are suspicious – ~~SOGA-NCA~~ will require full reasons;

along with any other available information to enable 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/her to prepare his/her report to ~~SOGANCA~~, where appropriate. You should also enclose copies of any relevant supporting documentation.

- 6.3 Once you have reported the matter to the MLRO you must follow any directions s/he may give you. **You must NOT make any further enquiries into the matter yourself:** any necessary investigation will be undertaken by ~~SOGANCA~~. Simply report your suspicions to the MLRO who will refer the matter on to ~~SOGA-NCA~~ if appropriate. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.
- 6.4 Similarly, **at no time and under no circumstances should you voice any suspicions** to the person(s) whom you suspect of money laundering (or anyone else), even if ~~SOGA-NCA~~ has given consent to a particular transaction proceeding, without the specific consent of the MLRO; otherwise, you may commit a criminal offence of “tipping off” (s333A POCA and s21D TA).
- 6.5 Do not, therefore, make any reference on a client file to a report having been made to the MLRO – should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

Consideration of the disclosure by the Money Laundering Reporting Officer

- 6.6 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. S/he should also advise you of the timescale within which s/he expects to respond to you.
- 6.7 The MLRO will consider the report and any other available internal information s/he thinks relevant eg:

- 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 due diligence information held;

and undertake such other reasonable inquiries s/he thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to SOCA-NCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved). The MLRO may also need to discuss the report with you.

- 6.8 Once the MLRO has evaluated the disclosure report and any other relevant information, s/he 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;
 - s/he knows the identity of the money launderer or the whereabouts of the property involved or they could be identified or the information may assist in such identification, and
 - whether s/he needs to seek consent from SOCA-NCA for a particular transaction to proceed.
- 6.9 Where the MLRO does so conclude, then s/he must disclose the matter as soon as practicable to SOCA-NCA via their secure on-line reporting system, **unless** s/he has a reasonable excuse for non-disclosure to SOCA-NCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).
- 6.10 Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then s/he must note the report accordingly; s/he can then immediately give his/her consent for any ongoing or imminent transactions to proceed.
- 6.11 In cases where legal professional privilege may apply, the MLRO must liaise with the legal adviser to decide whether there is a reasonable excuse for not reporting the matter to SOGANCA.
- 6.12 Where consent is required from SOCA-NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until SOCA-NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from NCASOGA.
- 6.13 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then s/he shall mark the report accordingly and give his/her consent for any ongoing or imminent transaction(s) to proceed.
- 6.14 All disclosure reports referred to the MLRO and reports made by him/her to NCA SOGA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.
- 6.15 **The MLRO commits a criminal offence if s/he 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 of whom s/he knows the identity or the whereabouts of laundered property in consequence of the disclosure, that the person or property's whereabouts can be identified from that information, or s/he believes, or it is**

reasonable to expect him/her to believe, that the information will or may assist in such identification and s/he does not disclose this as soon as practicable to **NCASOGA**.

7.0 **CUSTOMER DUE DILIGENCE PROCEDURE – relevant to those undertaking regulated business**

7.1 Where the ~~County~~ Council is carrying out certain activities which might fall within the definition of **regulated business** (accountancy, [treasury management and payroll](#) ~~audit and tax services and legal services re financial, company or property transactions~~ – see [paragraph 4.2](#)) and:

- a) forms an ongoing business relationship with a client (which is expected to have an element of duration);
- b) undertakes an occasional transaction amounting to 15,000 Euro (approximately £11,000) or more whether carried out in a single operation or several linked ones;
- c) suspects money laundering or terrorist financing, or
- d) doubts the veracity or adequacy of information previously obtained for the purposes of client identification or verification;

then customer due diligence measures must be applied and this Customer Due Diligence Procedure must be followed **before** the establishment of the relationship or carrying out of the transaction. Customer due diligence measures must also be applied at other times to existing clients on a risk-sensitive basis.

7.2 Applying customer due diligence means:

- identifying the client and verifying the client's identity on the basis of documents, data or information obtained from a reliable and independent source:
 - Where the client is acting or appears to be acting for someone else, reasonable steps must also be taken to establish the identity of that other person (although this is unlikely to be relevant to the ~~County~~ Council).
- identifying the beneficial owner (where s/he or it is not the client) so that we are satisfied that we know who the beneficial owner is; ~~including, in the case of a legal person, trust or similar legal arrangement, measures to understand the ownership and control structure of the person, trust or arrangement, and~~
 - Where there is a beneficial owner who is not the client, adequate measures should be taken, on a risk-sensitive basis, to verify the beneficial owner's identity, so that you are satisfied that you know who they are, including, in the case of a legal person, trust or similar legal arrangement, measures to understand the ownership and control structure of the person, trust or arrangement. In terms of clients for whom Finance, [Employment Support Services](#) ~~and Central Services~~ and Legal Services provide services, "beneficial owner" would include bodies corporate (eg our public authority clients) and any individual who exercises control over the management of the body (eg Chief Executive Officer).
- obtaining information on the purpose and intended nature of the business relationship.

Please note that unlike the reporting procedure, the Customer Due Diligence Procedure is restricted to those employees undertaking relevant business, (eg

Finance, Employment Support Services and Central Services and Legal and Democratic Services).

7.3 In the above circumstances, staff in the relevant Service Unit of the ~~County~~ Council must obtain satisfactory evidence of the identity of the prospective client, and full details of the purpose and intended nature of the relationship/transaction, as soon as practicable after instructions are received and before the establishment of the business relationship or carrying out of the occasional transaction. **However**, the legislation does allow organisations to vary customer due diligence and monitoring according to the risk of money laundering or terrorist financing which depends on the type of customer, business relationship, product or transaction. This recognises that not all clients present the same risk. Satisfactory evidence of identity is that which:

- is capable of establishing, to the satisfaction of the person receiving it, that the client is who they claim to be; and
- does in fact do so.

7.4 In the ~~County~~ Council, details of proposed transactions are usually, as a matter of good case management practice, recorded in writing in any event and proposed ongoing business relationships are usually the subject of Terms of Business Letters, Service Level Agreements or other written record which will record the necessary details.

7.5 There is also ~~now~~ an ongoing legal obligation to check the identity of existing clients and the nature and purpose of the business relationship with them at appropriate times. Opportunities to do this will differ, however one option is to review these matters as part of the ongoing monitoring of the business arrangements, as is usually provided for in the Terms of Business Letter, Service Level Agreement or other written record. The opportunity should also be taken at these times to scrutinise the transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure they are consistent with your knowledge of the client, its business and risk profile. Particular scrutiny should be given to the following:

- complex or unusually large transactions;
- unusual patterns of transactions which have no apparent economic or visible lawful purpose; and
- any other activity particularly likely by its nature to be related to money laundering or terrorist financing.

7.6 ~~County~~ Council staff conducting regulated business need to be able to demonstrate that they know their clients and the rationale behind particular instructions and transactions.

7.7 Once instructions to provide regulated business have been received, and it has been established that any of **paragraphs 7.1 (a) to (d)** apply, or it is otherwise an appropriate time to apply due diligence measures to an existing client, evidence of identity and information about the nature of the particular work should be obtained/checked as follows:

Internal clients:

7.8 Internal clients are part of the ~~County~~ Council. Under the legislation, there is **no need to apply customer due diligence measures where the client is a UK public authority**. However, as a matter of good practice, identity of internal clients should continue to be checked as before by ensuring that signed, written instructions on ~~County~~ Council headed notepaper or via email on the internal ~~County~~ Council email system are obtained at the outset of a particular matter. Such correspondence should then be placed on the ~~County~~ Council's client file along with a prominent note explaining which correspondence constitutes the

evidence and where it is located. Full details about the nature of the proposed transaction should be recorded on the client file.

External Clients

7.9 Most of the external clients to whom the ~~County~~ Council provides potentially regulated business services are UK public authorities and consequently, as above, there is no need to apply customer due diligence measures. However, again as a matter of good practice, full details about the nature of the proposed transaction should be recorded on the client file or suitable central record (kept by the relevant Service Unit), and the identity of such external clients should continue to be checked, along with other external clients (eg designated public bodies), using the following procedure.

~~7.10 The MLRO will maintain a central file of general client identification evidence regarding the external organisations to whom Finance and Central Services and Legal and Democratic Services provide professional services, (eg the North York Moors National Park Authority, the Yorkshire Dales National Park Authority, North Yorkshire Police, North Yorkshire Fire and Rescue Authority, the North Yorkshire Probation Board, District/Borough Councils). You should check with the MLRO that the organisation in respect of which you require identification is included in the MLRO's central file and check the precise details contained in relation to that organisation.~~

7.10⁴ You should also then obtain the appropriate additional evidence: 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 ~~County Council's relevant~~ client file or central record 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 central file, if undertaken).~~

7.11² In some circumstances, however, enhanced due diligence (eg obtaining additional evidence of identity or source of funds to be used in the relationship/transaction) must be carried out, for example where:

- the client is not physically present when being identified. This situation is however unlikely to occur as the ~~County~~ Council normally only undertakes its regulated business for other local authorities and designated public bodies (not individuals) and therefore instructions will usually be given in writing;
- the client is a "politically exposed person" (an individual who at any time in the preceding year has held a prominent public function outside of the UK, and EU or international institution/body, their immediate family members or close associates). This is unlikely to ever be relevant to the ~~County~~ Council but the provision must be included in local procedures;

7.12³ 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, for example:

- checking the organisation's website to confirm the identity of key personnel, its business address and any other details;
- conducting an on-line search via Companies House to confirm the nature and business of the client (including any registered office and registration number) and to confirm the identities of any directors;
- attending the client at their business address;

• ~~a search of the telephone directory;~~

- asking the key contact officer and/ or any individual who exercises control over the management of the body (eg the Chief Executive Officer) to provide evidence of their personal identity and position within the organisation, for example:
 - passport;
 - photocard driving licence;
 - birth certificate;
 - medical card;
 - utility bill
 - bank/building society statement (but not if used to prove address and no older than 3 months);

 - National Insurance number;

 - signed, written confirmation from their Head of Service or Chair of the relevant organisation that such person works for the organisation.

If such additional evidence is obtained, then copies should be retained on the relevant client file or a suitable central record. ~~sent to the MLRO for his/her central client identification file.~~

7.134 In all cases, the due diligence evidence should be retained for at least five years from the **end** of the business relationship or transaction(s). This could be used in any future money laundering investigation. Such personal data should be recorded and stored carefully and in compliance with the Council's information governance requirements.

7.145 **If satisfactory evidence of identity is not obtained and verified at the outset of the matter then generally the business relationship or one off transaction(s) cannot proceed any further and any existing business relationship with that client must be terminated.**

8.0 ONGOING MONITORING AND RECORD KEEPING PROCEDURES

8.1 Each Service Unit of the ~~County~~ Council conducting potentially regulated business (see paragraph 4.2) must monitor, on an ongoing basis, their business relationships in terms of scrutinising transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure that the transactions are consistent with ~~the~~ their knowledge of the client, its business and risk profile.

8.2 We must also maintain records of:

- client identification/verification evidence obtained (or references to it), and
- details of all regulated business transactions carried out for clients;

for at least five years from the end of the transaction/relationship. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.

8.3 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 the source of, and in what form, any funds were received or paid. In practice, the Service Units of the ~~County~~ 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. See also **paragraphs 7.4 to 7.6.**

9.0 TRAINING

9.1 The Council will take appropriate measures to ensure that all employees are made aware of the law relating to money laundering and will arrange targeted, ongoing, training to key individuals most likely to be affected by the legislation.

10.0 RISK MANAGEMENT AND INTERNAL CONTROL

10.1 The risk to the ~~County~~ Council of contravening the anti-money laundering legislation will be assessed on a periodic basis and the adequacy and effectiveness of the Anti-Money Laundering Policy will be reviewed in light of such assessments.

10.2 The adequacy and effectiveness of, promotion of, and compliance by employees with, the documentation and procedures will also be monitored through the ~~County~~ Council's Corporate Governance and Counter Fraud Policy frameworks.

11.0 CONCLUSION

11.1 The legislative requirements concerning anti-money laundering provisions and procedures are lengthy, technical and complex. This Policy has been written so as to enable the ~~County~~ Council to meet the legal requirements in a way which is proportionate to the very low risk to the County Council of contravening the legislation.

11.2 Should you have any concerns whatsoever regarding any transactions then you should contact the MLRO.

12.0 REVIEW OF THE POLICY

12.1 The Policy will be subject to review as and when required.

~~11 April~~ March 2017~~4~~

CONFIDENTIAL

Report to Money Laundering Reporting Officer
re money laundering activity

To: MAX THOMAS, Head of Internal Audit, NYCC Money Laundering Reporting Officer

From:
[insert name of employee]

Directorate:
[insert post title and Business Unit]

Ext/Tel No:.....

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, whereabouts, value and timing of activity/property involved:
[Please include full details eg what, when, where, how. Please also include details of current whereabouts of the laundered property, so far as you are aware. 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)?

[Please tick the relevant box]

Yes

No

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 NCASOCA? (e.g. are you a lawyer and wish to claim legal professional privilege?) *[Please tick the relevant box]*

Yes

No

If yes, please set out full details below:

Are you involved in a transaction which might be a prohibited act (under sections 327- 329 of the 2002 Act or section 18 of the 2000 Act) and which requires appropriate consent from **NCASOGA**?
[Please tick the relevant box]

Yes

No

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 MLRO

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?
Do you know the identity of the alleged money launderer or the whereabouts of the property concerned?**

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

Yes

No

If yes, please confirm date of report to **NCA SOGA**:
and complete the box below:

Details of liaison with NCA SOGA regarding the report:

Notice Period: to

Moratorium Period: to

Is consent required from **NCA SOGA** 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 SOGA**:

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 **NCA SOGA**, 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