Anti-Money Laundering Protocol

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1. Purpose

This protocol aims to ensure the Liverpool City Region Combined Authority (LCRCA) and Merseytravel (hereafter referred to as "the organisations") have a planned approach should concerns in respect of money laundering arise.

2. Statement

The organisations have adopted the underlying principles of the Terrorism Act 2000 and 2006, Proceeds of Crime Act 2002, the Criminal Finances Act 2017 and the Money Laundering and Terrorist Financing (Amendment) Regulations 2019. This is in order to mitigate the risk of the organisations, or any employee of the organisations, being implicated in money laundering and related criminal offences.

The organisations will also ensure that where Executive Directors and employees may become exposed to money laundering, they are made fully aware of this guidance and are suitably trained.

The organisations encourage Executive Directors and employees to report any concerns about money laundering in the organisations.

The organisations will fully support the Police and other external agencies in any investigations regarding money laundering.

3. Scope

This protocol will be implemented through the Anti-Money Laundering Procedures, which can be found at section 6 of this protocol. This protocol applies to all employees.

4. Evaluation

This protocol will be reviewed and updated on an annual basis by the Head of Internal Audit. In the case of significant changes, the protocol will be presented for approval to the LCRCA Audit and Governance Committee and Merseytravel. However, as a minimum, the protocol will be presented for re-approval every five years.

5. Responsibilities

The Head of Internal Audit will act as the organisations' Money Laundering Reporting Officer (MLRO) and is responsible for deploying this protocol across the organisations, monitoring its implementation and dealing with any suspicions of money laundering.

Heads of Service are responsible for maintaining effective systems of internal control that will ensure the Anti-Money Laundering Procedures are followed.

6. Anti-Money Laundering Procedures

Introduction

The organisations are committed to the highest legal, ethical and moral standards in the conduct of their business. The consequences of the organisations or any of their Directors or employees facing prosecution under the money laundering legislation would be very serious and reflect poorly not only on the individual(s) involved, but on the organisations as a whole.

As public bodies, the organisations are unlikely to be a prime target for money laundering, however, the size and scope of services provided is such that it is not possible to be wholly immune from the risks surrounding money laundering.

In order to mitigate this risk, the organisations have embraced the underlying principles behind the money laundering legislation and regulations.

This Anti-Money Laundering Protocol and the Procedures are part of the organisations' commitment to creating an anti-fraud and corruption culture. The procedures are designed to help Directors and employees familiarise themselves with the legal and regulatory requirements relating to money laundering and detail the reporting arrangements that have been put in place.

It should be noted that the professional bodies of some employees (e.g. accountants and solicitors, who are more likely to be exposed to money laundering practices) have issued guidance on personal obligations and responsibilities relating to money laundering, and those employees who are members of such bodies should familiarise themselves with that guidance.

What is Money Laundering?

Money laundering is the term used for several offences involving the proceeds of crime or terrorism. These include possessing, or in any way dealing with, or concealing, or converting the proceeds of any crime, as well as funds likely to be used for terrorism, or the proceeds of terrorism.

Money laundering is generally used to describe the activities of organised criminals converting the proceeds of crime into legitimate activities, thus hiding their true sources. The original legislation and regulations were designed to combat the scale of this criminal activity. However, current legislation covers all proceeds of crime, both money and property, regardless of how small the value.

To most people who are likely to come across it, money laundering involves a suspicion that someone they are dealing with is benefiting financially from dishonest

activities. Hence, for employees this could be the attempt to transact legitimate business with the organisations using assets and monies derived from the proceeds of crime or terrorism.

What laws exist to control Money Laundering?

The principal legislation and regulations relating to money laundering are the Terrorism Act 2000 and 2006, Proceeds of Crime Act 2002, the Criminal Finances Act 2017 and the Money Laundering and Terrorist Financing (Amendment) Regulations 2019. A notable aspect of this legislation is that the burden for identifying acts of money laundering was significantly shifted from Police and Government agencies to organisations and their employees. Whilst the main offences are summarised below, please refer to the legislation at www.legislation.gov.uk for the full details of the provisions of the relevant Acts of Parliament.

There are three primary offences of: concealing, arranging and acquisition, use or possession:

- 'concealing' is where someone knows or suspects a case of money laundering, but conceals or disguises its existence;
- 'arranging' is where someone involves himself or herself in an arrangement to assist money laundering;
- 'acquisition', 'use', or 'possession' is where someone seeks to benefit from money laundering by acquiring, using, or possessing the property concerned; and
- making a disclosure which is likely to prejudice the investigation.

There are also two third party offences of failing to disclose a primary offence, and tipping off:

- 'failing to disclose a primary offence' is where someone becomes aware or suspects money laundering, but fails to take action in reporting it; and
- 'tipping off' is where someone informs a person who is, or is suspected of being, involved in money laundering, in such a way as to reduce the likelihood of being investigated, or prejudicing an investigation.

Money laundering offences may be committed by an organisation itself, as well as by the Directors and employees working within it.

What are the obligations on the Organisations?

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 require the identification and monitoring of clients on a risk-sensitive basis. Where "relevant business" is undertaken clients need to be subject to some form of risk-based due diligence.

Organisations conducting "relevant business" must:

- Appoint a Money Laundering Reporting Officer ("MLRO") to receive disclosures from employees of money laundering activity;
- Maintain client identification procedures in certain circumstances;

- Maintain record keeping procedures; and
- Implement a disclosure procedure to enable the reporting of suspicions of money laundering.

Most of the organisations' business is not defined in the regulations as being relevant, however some activities are undertaken that may be considered to be regulated for example, treasury services, financial and accounting services, audit services, estate functions, assisting the formation, operation or arrangement of a company.

These activities are not undertaken by way of business in providing a service to external clients and therefore there would not normally be an expectation to undertake due diligence. However, it is good practice that wherever the organisations do enter into such activities with a third party then due diligence checks are actioned before the establishment of a relationship/transaction with the third party and enhanced customer due diligence should apply to any cases with a high risk of money laundering (e.g. transaction is unusually large or transaction has no apparent economic reason)

In those cases where the client is another public or statutory body the risk assessment indicates that no further due diligence about the status of the client is needed. However, for other third-party clients or politically exposed persons (1) there needs to be formal and recorded due diligence checks.

(1) A politically exposed person is defined in the regulations as a person "who is or has, at any time in the preceding year been entrusted with a prominent public function by a state other than the United Kingdom, a European Community institution or an international body", in addition family members or known close associates of such a person should be included.

What are the implications for the Organisations or the individual?

While the risk of the organisations contravening legislation is low, nonetheless it is the responsibility of every Director and employee to be vigilant, and to be aware of the requirement to report actual or suspected cases of money laundering.

A failure to disclose a suspicion of money laundering is a serious offence in itself and could result in serious criminal charges and/or sanctions being imposed on the organisations and/or the individual concerned.

There is no financial threshold below which the obligation to recognise and report suspicion does not apply and there are only very limited grounds in law for not reporting a suspicion.

Depending on the severity of such an offence, the Magistrates' Court can issue fines of up to £5,000 or sentences of up to 6 months in prison (or both). Where such an offence is tried in the Crown Court fines are unlimited and sentences of up to 14 years may be handed out.

Civil penalties for non-compliance with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 also apply, including

fines, prohibition on individual to hold a certain office. Such penalties are imposed by HM Revenue and Customs.

How can money laundering be spotted?

It is not possible to provide an exhaustive list of the ways to spot money laundering or state every scenario in which you should be suspicious.

However, the following are examples of possible 'indicators of suspicion' for money laundering activity:

- transactions which have no apparent purpose, and which make no obvious economic sense;
- where the transaction being requested by the client, without reasonable explanation, is out of the ordinary range of services normally requested or is outside the experience of the organisation in relation to the particular client;
- where, without reasonable explanation, the size or pattern of transactions is out of line with any pattern that has previously emerged;
- where the client refuses to provide the information requested without reasonable explanation;
- where cash been tendered which significantly exceeds the amount of the debt;
- where a debt has been paid twice or more and a refund of the balance been requested;
- where a client who has entered into a business relationship uses the relationship for a single transaction or for a very short period of time;
- the extensive use of offshore accounts, companies or structures in circumstances where the client's needs do not support such economic requirements;
- unnecessary routing of funds through third-party accounts; and
- unusual investment transactions without an apparently discernible profitable motive.

What is the Client Identification procedure?

Where activities are undertaken that may be considered to be regulated then Client Identification should be carried out before any business is undertaken for that client.

In the case of non-regulated activities, there may be situations where funds are received from an unfamiliar source. For instance, if a new business relationship is formed or consideration is given to undertaking a significant one-off transaction. In such cases it would be prudent to identify fully the parties involved.

Cashiers may be asked in the normal course of their work to accept payment in large amounts of cash for the settlement of debts. Amounts exceeding £2,500 cannot be accepted without establishing the identity of the individual/company involved to seek to ensure that the risk of receiving the proceeds of crime can be minimised.

If more than £2,500 is offered, the person offering it should be advised that it is not the organisations' policy to accept large amounts of cash of more than £2,500 and that the transaction will have to be referred to a senior member of staff.

To establish the identities of individuals, their passport or photo driving licence should be provided, together with one of the following:

- Utility bills i.e. electricity, water etc. however mobile phone bills are not acceptable;
- Mortgage/building society/bank statements;
- Credit card statements; and
- Pension or benefit books.

If passport or photo driving licence is not available, then two of the other items listed above will need to be produced.

- For companies, a Companies House search should be undertaken to confirm the existence of the company and identify the directors. Personal identification should then be obtained for the representatives of the company together with proof of their authority to act on behalf of the company. Care should be taken if it becomes clear that the individual has only recently become a director of the company or if there has been a recent change in the registered office. Any discrepancies between the information held on customers compared with the information held in the Companies House Register should be reported to Companies House. The organisation also needs to understand the ownership and control structure of its corporate customers, and record any difficulties encountered in identifying beneficial ownership. Beneficial ownership is the ownership or control of at least 25% of a company's share capital or voting rights, or who otherwise influence a company's operations.

- For any other type of organisation, for example a sole trader or partnership, personal identification should be obtained for the individuals together with documents indicating their relationship to the organisation.

- In certain circumstances, such as when there are relevant transactions between parties based in high-risk third countries, an assessment of the need for enhanced due diligence (EDD) and seeking additional information and monitoring may be required.

Should client identification be necessary, guidance on performing the due diligence checks can be obtained from the Money Laundering Reporting Officer (MLRO).

Legislation requires that records of any evidence obtained in support of the identification of a client along with details of all relevant business transactions with the client must be kept on file for five years after the end of the business relationship. This is so that they can be referred to later if a money laundering investigation was ever to be conducted.

In practice client identification evidence must be sent to the MLRO while the organisations' departments will be routinely making records of work carried out for clients in the course of normal business and these should suffice.

What should I do or not do if I suspect a case of Money Laundering?

You should report any suspicious transactions or concerns as soon as practicable to the MLRO using the Money Laundering Reporting Form (see Appendix A). This should be done within "hours" of the concern arising and not weeks or months later, and wherever possible, the form should be delivered in person.

A report can be made to the MLRO in the form of a request for consent to undertake a transaction if the Director or employee making the disclosure is concerned that he/she may commit a prohibited act in processing a transaction.

You should also report any complaints you receive from a member of the public in relation to possible criminal activity being carried out by someone who may be a customer of the organisations.

Once you have reported the matter to the MLRO you must follow any directions given to you by the MLRO. You must NOT make any further enquiries into the matter yourself. The MLRO will consider the report and any necessary investigation will be undertaken by the National Crime Agency (NCA). All members of staff will be required to co-operate during any subsequent money laundering investigation.

Similarly, at no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering, even if the NCA has given consent to a particular transaction proceeding. If you do, you may commit a criminal offence of "tipping off" which may render you liable to prosecution personally.

Do not, therefore, make any reference on a client file to an anti-money laundering report having been made to the NCA. 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.

What will the Money Laundering Reporting Officer do with a disclosure?

Upon receipt of a disclosure report the MLRO must note the date of receipt on the relevant section and acknowledge receipt of it. The MLRO will advise the Director or employee making the disclosure of the timescale for receiving a response.

The MLRO will consider the report and any other relevant information in order to ensure that all available information is taken into account in deciding whether a report to the NCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved). Other relevant internal information may include:

- 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; and
- Any identification evidence held;

The MLRO may also need to discuss the report with the Director or employee making the disclosure.

Once the MLRO has evaluated the disclosure report and any other relevant information a decision will be made as to whether:

- There is actual or suspected money laundering taking place; or
- There are reasonable grounds to know or suspect that is the case; and
- Whether they needs to seek consent from the NCA for a particular transaction to proceed.

Where the MLRO does so conclude, then the matter must be disclosed as soon as practicable to the NCA unless there is reasonable excuse for non-disclosure to the NCA (for example, a lawyer wishing to claim legal professional privilege for not disclosing the information). Disclosure is by means of a Suspicious Activity Report (SAR). NCA's preferred method of reporting is electronic using "SAR Online".

Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then this must be noted on the report accordingly; consent can then be given for any on-going or imminent transactions to proceed.

In cases where legal professional privilege may apply, the MLRO must liaise with the Chief Legal Officer and Monitoring Officer to decide whether there is a reasonable excuse for not reporting the matter to the NCA.

7. Appendices

APPENDIX A

CONFIDENTIAL
MONEY LAUNDERING REPORTING FORM

DATE OF REPORT	

EMPLOYEE DETAILS

Name	
Directorate / Department	
Telephone number	

DETAILS OF SUSPECTED OFFENCE

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

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

Nature of suspicions regarding such activity: *[Please continue on a separate sheet if necessary]*

Has any investigation been undertaken (as far as you are aware)? *[Please tick the relevant box below]*

Yes		No	

If yes, please provide details:

Have you discussed your suspicions with anyone else? *[Please tick the relevant box below]*

Yes		No	

If yes, please provide details 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 below]*

Yes		No	

If yes, please provide details:

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

Yes		No	

If yes, please provide details:

Are you involved in a transaction which might be a prohibited act under sections 327- 329 of the Act and which requires appropriate consent from the NCA? *[Please tick the relevant box below]*

Yes		No	

If yes, please provide details:

Please set out 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?

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

Yes		No	

If yes, please confirm date of report to NCA:

Details of liaison with the NCA regarding the report:

Notice Period: …….. to ……..

Moratorium Period: …….. to ……

Is consent required from the NCA to any ongoing or imminent transactions which would otherwise be prohibited acts? *[Please tick the relevant box below]*

Yes		No	

If yes, please confirm full details: **Date consent received from NCA:** **Date consent given by you to employee:**

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

Please set out any other information you feel is relevant:

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

THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS FROM THE DATE OF THE REPORT