

Proceeds of Crime (Anti Money Laundering) This Organisation's and Your Own Personal Responsibilities

Purpose

These notes are important. They are designed to help you familiarise yourself with the legal and regulatory requirements relating to money laundering, as they affect both the organisation and you personally.

What is Money Laundering?

Money Laundering is the term used for a number of offences involving the proceeds of crime or terrorist funds. The following acts constitute the act of money laundering:

- Concealing, disguising, converting, transferring or removing criminal property from England and Wales, or from Scotland, or from Northern Ireland.
- Becoming concerned in an arrangement in which someone knowingly suspects or facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person.
- Acquiring, using or possessing criminal property

Although the term 'money laundering' is generally used when describing the activities of organised crime – for which the legislation and regulations were first and foremost introduced – to most people who are likely to come across it, or be affected by it, it involves a suspicion that someone they know, or know of, is financially benefiting from dishonest activities.

Criminal property is defined very widely in the law relating to money laundering. It includes not only the proceeds of crime committed by somebody else, but also possession of the proceeds of an individual's own crime – for example, the retention of monies from non-payment of income tax. It does not matter how small the amount of money involved is. It also includes the proceeds of crimes that take place abroad.

What laws exist to control Money Laundering?

In recent years, new laws have been passed which shift significantly the burden for identifying acts of money laundering away from government agencies and more towards organisations and their employees. They prescribe potentially very heavy penalties, including imprisonment, for those who are convicted of breaking the law. These laws are important, and, for those who wish to refer to them, and we hope you will, a list of them appear at the end of these notes, together with a list of useful websites.

What is this Organisation's policy on Money Laundering?

Our policy is to do all we can to prevent, wherever possible, the organisation and its staff being exposed to money laundering, to identify the potential areas where it may occur and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases. We cannot stress too strongly however, that it is every member of staff's responsibility to be vigilant.

The organisation has nominated **the Chief Legal Officer, 01228 227350, assisted by the Head of Management Audit** to be responsible for anti-money laundering measures within the organisation.

What are the main Money Laundering offences?

There are three principal offences – concealing, arranging and acquisition / use / 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 in money laundering. **Acquisition (etc)** is where someone seeks to benefit from money laundering by acquiring, using, or possessing the property concerned.

There are also two ‘third party’ offences – failure to disclose one of the three principal offences and ‘tipping off’. Tipping off is where someone informs a person or people, who are, or are suspected of being, involved in money laundering, in such a way as to reduce the likelihood of their being investigated or prejudicing an investigation.

All the money laundering offences may be committed by an organisation or by the individuals working for it.

What are the implications for the organisation and its staff?

The organisation has accepted the responsibility to ensure that those of its staff who are most likely to be exposed to money laundering can make themselves fully aware of the law, and where necessary, are suitably trained. The organisation has also implemented procedures for reporting suspicious transactions and, if necessary, making an appropriate report to the National Criminal Intelligence Service (NCIS).

The consequences for staff of committing an offence are potentially very serious. While it is considered most unlikely that a member of staff would commit one of the three principal offences, the failure to disclose a suspicion of a case of money laundering is a serious offence in itself, and there are only very limited grounds in law for not reporting a suspicion.

Whilst stressing the importance of reporting your suspicions, however, you should understand that failure to do so is only an offence if your suspicion relates, in the event, to an actual crime.

What are the penalties?

Money laundering offences may be tried at a magistrates’ court or in the Crown Court, depending on the severity of the suspected offence. Trials at the former can attract fines of up to £5,000, up to six months in prison, or both. In a Crown Court, fines are unlimited, and sentences from two to 14 years may be handed out.

What should I do if I suspect a case of Money Laundering?

You should report the case immediately to **the contacts above** either using a form the above contacts will give you or, if you prefer, in a discussion. **The contacts** will decide whether the transaction is suspicious and whether to make a report to the NCIS. There is no clear definition of what constitutes suspicion – common sense will be needed. If you are considered likely to be exposed to suspicious situations, you

will be made aware of these by your senior officer, and where appropriate, training will be provided.

Summary

Robust money laundering procedures are essential if this organisation and its staff are to comply with our responsibilities and legal obligations. It falls to you as a member of the organisation's staff, as well as to the organisation itself, to follow these procedures rigorously.

Legislation and Regulations relating to Money Laundering

- The Proceeds of Crime Act 2002
- The Terrorism Act 2000
- The Money Laundering Regulations 2003

Examples

Any transaction involving an unusually large amount of cash should cause questions to be asked about the source. This will particularly be the case where cash paid exceeds the amount necessary to settle a transaction, and the person(s) concerned request a non-cash return of the excess. This will include double payments.

The reason for the use of trusts or offshore funds for handling the proceeds or settlement of a transaction should be questioned.

Care should be exercised and further enquiries may be needed where:

- A third party intermediary becomes involved in a transaction
- The identity of a party is difficult to establish or is undisclosed
- A vehicle company is used by a third party and the ultimate ownership is concealed or difficult to establish
- A party is evasive as to the source or destiny of funds