

## Anti Money Laundering Policy

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### Introduction

1. This policy aims to provide guidance on how to report a suspicion of money laundering.
2. In carrying out their functions and responsibilities, RCLC wishes to promote a culture of openness and fairness and expect all those who work for and with them to adopt the highest standards of propriety and accountability.
3. New obligations were imposed by the Proceeds of Crime Act 2002 and the Money Laundering regulations 2003 which broaden the definition of money laundering and increase the range of activities caught by the statutory control framework; in particular, the duty to report suspicions of money laundering is strengthened and criminal sanctions imposed for failure to do so.
4. The broad definition of money laundering means that potentially anybody could commit a money laundering offence if they become aware of, or suspect the existence of criminal or terrorist property, and continue to be involved in the matter without reporting their concerns.
5. RCLC 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.
6. All staff dealing with the receipt of funds or having contact with the public must therefore be aware of RCLC's anti-money laundering policy.
7. It is every member of staff's responsibility to be vigilant.

### Money Laundering – Definition and Offences

8. Money laundering is the term used for a number of offences involving the proceeds of crime or terrorist funds. There are three principal offences (set out in Sections 327-329 of the Proceeds of Crime Act 2002):
  - Concealing is where someone knows or suspects a case of money laundering, but conceals or disguises its existence (or transfers or removes it from England and Wales, or Scotland or Northern Ireland);

- Arranging is where someone involves himself or herself in an arrangement to assist in money laundering; and
- Acquisition/use/possession is where someone seeks to benefit from money laundering by acquiring, using or possessing criminal property.

9. There are also third party offences:

- Failure to disclose one of the three principal offences;
- Tipping off a suspect, either directly or indirectly, 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; and
- Prejudicing an investigation is where you know or suspect that an appropriate officer is, or is about to be, conducting a money laundering investigation and you make a disclosure to a third party that is likely to prejudice the investigation.

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

### **Scope of the Policy**

12. This policy applies to all employees and aims to maintain the high standards of conduct, which currently exist within RCLC by preventing criminal activity through money laundering.

13. The procedures which must be followed (for example the reporting of suspicions of money laundering activity) to enable the councils to comply with its legal obligations, are set out below.

### **Anti-Money Laundering Procedure**

14. Where an employee knows or suspects that money laundering activity is taking/has taken place, or become concerned that their involvement in a matter may amount to a prohibited act under the legislation, they must disclose this as soon as practicable to the Centre Manager or Chairman. The disclosure should be within hours of the information coming to their attention, not weeks or months later. Should they not do so, then they may be liable to prosecution. Disclosure can be made verbally or in writing and should include as much detail as possible.

15. Once you have reported the matter to the Centre Manager the staff member must follow any directions given. They must not make any further enquiries into the matter themselves.

16. Staff should not voice any suspicion to the person(s) whom they suspect of money laundering, otherwise they may commit a 'tipping off' offence. Similarly they should not make any reference on a file to a report having been made to the Centre Manager or

Chairman. The Centre Manager or Chairman will keep appropriate records in a confidential manner.

17. The Centre Manager or Chairman may wish to involve the Trustees. They should evaluate the disclosure report and any other relevant information, to 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 this is the case; and
- Whether RCLC needs to seek consent from the National Criminal Intelligence Service (NCIS) for a particular transaction to proceed.

18. All disclosure reports referred to the Centre Manager/Chairman and reports made by the Centre Manager/Chairman to the NCIS must be retained by them in a confidential file kept for that purpose, for a minimum of five years.

19. The Centre Manager/Chairman commits a criminal offence if they know or suspect, or have reasonable grounds to do so, through a disclosure being made to them, that another person is engaged in money laundering and they do not disclose this as soon as practicable to the NCIS.

#### CLIENT IDENTIFICATION PROCEDURE

20. For RCLC the most likely circumstances which may involve money laundering is when funds are received as a donation or series of donations, especially where these come from a source other than in response to a fund raising application. In such circumstances the following process should be followed:

- checking the organisation's website to confirm the identity of personnel, its business address and any other details;
- if the funds are from an individual, evidence of their credentials should be obtained eg copy of passport, photo driving licence and evidence of their home address;
- attending the donator at their business address;
- a search of the telephone directory;
- evidence of the personal identity of the key contact officer (passport, photo driving licence).

21. If satisfactory evidence of identity is not obtained at the outset of the matter then the donation should not be accepted.

#### RECORD KEEPING PROCEDURE

22. Details of all donations should be maintained for at least five years. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.

23. The precise nature of the records is not prescribed by law however they must be capable of providing an audit trail, for example distinguishing the donator and the relevant transaction and recording in what form any funds were received or paid.

**Examples of situations most likely to give rise to money laundering or suspicion of it**

24. A transaction involving an unusually large amount of cash, especially if a non cash refund or related transaction or purchase was requested either at the time or at a later date.

25. Transactions or donations that appear to make no commercial or economic sense from the perspective of the other party. A money launderer's objective is to disguise the origin of the criminal funds, and not necessarily to make a profit. A launderer may therefore undertake transactions at a financial loss if it will assist in disguising the source of the funds and allow the funds to enter the financial system.

26. Payments received from third parties. Money launderers will often look to legitimate business activity to 'clean' criminal funds by making payments on behalf of a legitimate company.

27. Transactions where the identity of the party is difficult to establish or is undisclosed.

28. Transaction where the party is evasive as to the source or destiny of funds.

29. Transactions with companies in offshore jurisdictions. Some jurisdictions can provide money launderers with the facility to hide their true identity. Extra care should be taken when undertaking business with such companies.

30. Changes to payment instructions to the use of offshore funds. Payments are normally made to or from a UK bank to establish a business relationship and then changed to a bank in an off shore jurisdiction.

31. The cancellation or reversal of an earlier transaction.

**Suspicion**

32. The concept of a 'suspicion' of money laundering features a number of times in the legislation but is not defined. The courts have defined it as being beyond mere speculation, being based on some foundation. For a transaction to be suspicious, the exact nature of the criminal offence need not be certain.

**Individual Responsibilities**

- 33. To be alert to where RCLC may be targeted by individuals trying to launder the proceeds of crime.
- 34. To avoid alerting anyone dealing with RCLC that you have a suspicion that they may be attempting to launder, or have laundered, the proceeds of crime.
- 35. To report any suspicions of money laundering the Centre Manager or Chairman.
- 36. It is not an individuals' responsibility to decide whether a suspicious transaction actually constitutes money laundering. If they have any suspicions that a transaction may involve laundering the proceeds of crime, then they must report it to the Centre Manager or Chairman.

**Example of a Formal Report of Suspected Money Laundering Transaction**  
**Re: Suspicion money laundering activity**

**To:**  
**From:** .....  
*[name of employee]*

**Post title:** .....

.....  
**Tel:** .....

**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, value and timing of activity involved:**  
*[Please include full details eg 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)?  
 Yes/No

**If yes, please include details:**

Have you discussed your suspicions with anyone else?  
 Yes/No

If yes, please specify, explaining why such discussion was necessary:

Have you consulted any supervisory body guidance re money laundering? (e.g. the Law Society)

Yes/No

If yes, please specify :

Are you involved in a transaction which might be a prohibited act under sections 327-329\* of the Proceeds of Crime Act and which requires appropriate consent from the NCIS?

Yes/No

If yes, please enclose 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 Centre Manager/Chairman

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 NCIS?

Yes /No

If yes, confirm date of report to NCIS:

and complete the following:

Details of liaison with the NCIS regarding the report:

Notice Period: ..... to .....

Moratorium Period: ..... to .....

Is consent required from the NCIS to any ongoing or imminent transactions which would otherwise be prohibited acts?

Yes/No

If yes, please confirm full details:

Date consent received from NCIS:

.....

Date consent given to employee:

.....

If there are reasonable grounds to suspect money laundering, but we do not intend to report the matter to the NCIS, please set out below the reason(s) for non-disclosure:

*[Please set out any reasonable excuse for non-disclosure]*

Date consent given to employee for any prohibited act transactions to proceed: .....

Other relevant information:

Signed:.....

Dated:.....

**THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS**

Date Approved by Board 23.04.2013

Review Date April 2016

Signed on behalf of the Board of Trustees

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Dated

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