|  |  |
| --- | --- |
| **Anti - Money Laundering Policy** | |
| **Date when Policy is to become effective** | Date approved by Board (30th April 2019) |
| **Who is the lead person for the policy** | Director of Resources |
| **Who has been consulted** | Executive Leadership Team  Company Secretary |
| **Who approves this Policy** | Board on recommendation from Audit and Risk Committee |
| **When is the next review due** | 3 years |
| **Which version number is this** | 1. New Policy, version 1 |
| **To be read in conjunction with:** | |
| **Internal** | ELT  Company Secretary |
| **External** | NHF Code of Governance  HCA Regulatory Standards-Governance and Financial Viability Standard  Relevant legislation |
| **Strategic priority that this policy supports** | Strong Governance and Finance |
| **Brief Policy Summary:** | |
| Sets out LHP’s approach to preventing and mitigating the risks of money laundering in its activities, and where instances occur to have clear investigation plan and processes to deal with it in compliance with legislation | |

Contents

[**1.** **INTRODUCTION** 2](#_Toc5025083)

[**2.** **WHAT IS MONEY LAUNDERING?** 2](#_Toc5025084)

[**3.** **CONSEQUENCES OF FAILING TO IDENTIFY MONEY LAUNDERING** 2](#_Toc5025085)

[**3.2.** **Proceeds of Crime Act 2002** 2](#_Toc5025086)

[**3.3.** **Money Laundering Regulations 2003 and 2007** 2](#_Toc5025087)

[**4.** **Implementing the Regulations** 3](#_Toc5025088)

[**5.** **YOUR RESPONSIBILITIES AS AN EMPLOYEE** 3](#_Toc5025089)

[**6.** **IDENTIFYING SUSPICIOUS TRANSACTIONS** 4](#_Toc5025090)

[**7.** **IDENTIFICATION ISSUES** 4](#_Toc5025091)

[**8.** **CASH BASED BUSINESSES** 5](#_Toc5025092)

[**9.** **CONCERNS received** 6](#_Toc5025093)

[**10.** **MONEY LAUNDERING REPORTING OFFICER (MLRO)** 6](#_Toc5025094)

[**11.** **Money Laundering Compliance Officer (MLCO)** 6](#_Toc5025095)

[**13.** **ADDITIONAL GUIDANCE** 7](#_Toc5025096)

[**14.** **REVIEW** 7](#_Toc5025097)

[**15.** **RELATED POLICIES** 7](#_Toc5025098)

[**Appendix 1: Responsibilities Regarding Making a Disclosure** 9](#_Toc5025099)

[**Procedure for reporting suspicious transactions** 9](#_Toc5025100)

[**Dealing with individuals about whom you have suspicions** 9](#_Toc5025101)

[**Appendix 2: Report to Money Laundering Reporting Officer** 11](#_Toc5025102)

1. **INTRODUCTION**
   1. This Policy sets out how Lincolnshire Housing Partnership (LHP) will prevent criminal activity through money laundering. The policy sets out the principles and procedures which must be followed, all of which apply to the Board and employees at all levels.
   2. The Proceeds of Crime Act 2002 and the Money Laundering Regulations 2003 as amended by the Money Laundering etc. Regulations 2017 broadened the definition of money laundering and increased the range of activities caught by the statutory framework. As a result, obligations impact on certain activities of the housing sector and require RPs to establish how to prevent the use of their services for money laundering.

1. **WHAT IS MONEY LAUNDERING?**
   1. Money laundering includes all forms of handling or possessing criminal property, and facilitating any handling or possession of criminal property. Criminal property may take any form, including money or money’s worth, securities, tangible property and intangible property. Money laundering is also taken to encompass activities relating to terrorist financing as well as proceeds from terrorism.
   2. The purpose of money laundering is to hide the origin of the criminal sourced money so that it appears to have come from a legitimate source. No organisation is safe from the threat of money laundering, particularly where it is receiving funds from sources where the identity of the payer is unknown. LHP may be targeted by criminals wishing to launder the proceeds of crime.
   3. In addition, it is possible that the proceeds of crime may be received from individuals or organisations that do not realise that they are committing an offence. It is no defence for the payer or the recipient to claim that they did not know that they were committing an offence if they should have been aware of the origin of the funds.
   4. All staff dealing with the receipt of funds or having contact with third parties must, therefore, be aware of this Policy.
2. **CONSEQUENCES OF FAILING TO IDENTIFY MONEY LAUNDERING**
   1. Failing to identify possible instances of money laundering, and making the appropriate reports, are serious offences. Individuals can be personally liable to prosecution.
   2. **Proceeds of Crime Act 2002**
      1. Under the Act you may be guilty of an offence if you help an individual to launder funds from a criminal source. If you know or suspect that the funds may be from a criminal source you must make the appropriate disclosure or you may receive a fine and/or imprisonment for up to 14 years. The Act relates to **all** organisations and sectors.
   3. **Money Laundering Regulations 2003 and 2007**
      1. The Regulations contain rules for how various businesses and professionals must operate. The Regulations primarily relate to “regulated” sectors. Some activities within the housing sector can fall as regulated activities. Regardless of that, current recognised ‘good practice’ advises that RPs apply the key principles of the Regulations in any event. Failure to report money laundering or failure to have adequate policies in place to minimise the risk of money laundering, may call into question the integrity of LHP, and could constitute an offence. Regulated activities are:

* Most UK financial firms (banks, building societies, money transmitters, bureaux de change, cheque cashers, savings and investment firms);
* Legal Professionals (when undertaking some activities);
* Accountants, tax advisors, auditors, insolvency practitioners;
* Estate Agents;
* Casinos;
* High value dealers when dealing in goods worth over 15,000 Euro (approximately £10,000); and
* Trust or company service providers.

1. **Implementing the Regulations**

Regardless whether activities are regulated or not it is good practice to ensure:

* systems and procedures in place to prevent money laundering;
* Staff are made aware of the procedures and systems;
* Staff are trained in how to recognise and deal with transactions which may be related to money laundering;
* All third parties dealing with LHP who fall within certain criteria are properly identified;
* Identification and transaction records are maintained;
* A record of identification for all persons engaged in business must be retained for a period of five years after the end of that business relationship; and
* A Money Laundering Reporting Officer is appointed.

1. **YOUR RESPONSIBILITIES AS AN EMPLOYEE**
   1. Your responsibilities as an employee in relation to preventing money laundering are as follows:

* To be alert to where LHP may be targeted by individuals trying to launder the proceeds of crime;
* To avoid alerting anyone dealing with LHP that you have a suspicion that they may be attempting to launder, or have laundered, the proceeds of crime; and
* c) To report any suspicions of money laundering to the organisations MLCO using the specified forms.
  1. It is not an employee’s responsibility to decide whether a suspicious transaction actually constitutes money laundering. **If you have any suspicions that a transaction may involve laundering the proceeds of crime, then you must report it to the MLCO**.
  2. This policy will be brought to the attention of all employees and form part of the induction process for new staff. It is incumbent on all to report any concerns they may have concerning money laundering. Employee responsibilities are set out in Appendix1relating to reporting suspicious matters using the template reporting form in Appendix 2.

1. **IDENTIFYING SUSPICIOUS TRANSACTIONS**
   1. It is not possible to provide an exhaustive list of the ways to spot money laundering or state every situation in which you should be suspicious. It will very much depend on the circumstances.
   2. However, in providing guidance the National Crime Agency (NCA) has produced a list of possible ‘indicators of suspicion’ for money laundering activity:

* Is the person's behaviour unusual in the circumstances?
* Has the person refused to supply any form of identification and if so, why?
* Is the activity unusual in itself?
* Is the activity unusual for the customer?
* Do I have other knowledge which leads me to believe the customer or activity is criminal?
* The customer wants to pay a large sum in cash
* Money is paid by a third party with no link to the transaction
  1. Examples relevant to LHP activity, in which money laundering could be taking place:
* Payment of a substantial sum in cash (over £1,000) by a single customer in a single transaction or over a short period of time, particularly where in unexplained changed circumstances.
* A purchase of a property pulls out unexpectedly when asked for ID
* A customer presses for completion of business before necessary checks taken
* Overpayments or duplicate payments made by a customer followed by a refund, or a request for a refund.
* Right to Buy property sold before expiry of discount period.
* Purchase of land and buildings re-sold within 3-12 months.
* Purchase of assets re-sold within 3 months.

1. **IDENTIFICATION ISSUES**
   1. It would be difficult for LHP to identify all of the people with whom it has business dealings. However, it is important to identify individuals and organisations where there may be a higher risk of receiving the proceeds of crime. It should be noted that this Policy not only refers to one off cash transactions but could relate to a series of transactions including:

* Cash payments;
* Cheque/credit card payments;
* BACS transfers; and/or
* Direct Debit/Standing Order payments.
  1. Some of the best means of verifying a person’s identify are:
* Current full signed Passport;
* Resident Permit issued to EU nationals by Home Office;
* Current UK/EU Photo Driving Licence;
* State Pension or Benefits Book/notification letter; and,
* Inland Revenue tax notification – P45/P60/notice of coding.
  1. In addition to the name/names used and date of birth where this is available, it is important that the current permanent address should be verified as it is an integral part of identity using different items to verify the individual. Any subsequent changes to the individual’s name or address that are notified should also be recorded.
  2. Obtaining identification from partner and/or franchise organisations can be difficult; therefore LHP should take care when entering into any new agreements to ensure that adequate identification, including knowledge of the owner(s) of the business, is obtained.
  3. For companies, it is useful to obtain a Companies House Search to identify who the Directors are. 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.
  4. 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.
  5. Copies of any evidence provided in support of the identification of an individual or organisation should be kept on a central file so that it can be referred to later if necessary.

1. **CASH BASED BUSINESSES**
   1. Cash based businesses are ideal vehicles for money laundering. Where you are dealing with a business which deals in cash on a regular basis you must be aware that there is a higher chance that the business bank account may have been used to launder the proceeds of crime. There are two reasons for this:

* Firstly, as the business is receiving all or part of its income in cash it is easier for sums to be taken out of the business without there being a record of the transactions. Taking sums out of the business in this manner could constitute tax evasion, which is an offence for the purposes of money laundering; and
* Secondly, cash based businesses are often used as a simple means of laundering cash. This is done by banking illicit funds with the legitimate takings of the business thereby making it appear that all of the cash has been generated by the business.

1. **CONCERNS received** 
   1. If LHP receives a complaint that criminal activity may be taking place and may be generating funds, then LHP is in receipt of information which may require disclosure to the National Crime Agency (NCA).
   2. The criminal activity could involve:

* Terrorist activity;
* Tax evasion;
* Employing illegal immigrants or assisting in their trafficking;
* Employing staff who are known to be illegally claiming benefits;
* Any form of fraudulent activity;
* Dealing in drugs or other illegal substances;
* Dealing in “bootleg” alcohol and cigarettes;
* Dealing in illegal pornographic material; and
* Prostitution, protection schemes or counterfeiting.
  1. This list is not exhaustive and disclosure must be made of any instances of criminal activity that may result in a financial gain or the financing of terrorist activity. The internal disclosure form should be prepared and passed to the MLCO as soon as possible after receiving the information giving rise to your suspicion.

1. **MONEY LAUNDERING REPORTING OFFICER (MLRO)**
   1. The role of the MLRO is to formulate and implement the Policy. Any potential breaches or deviations from the Policy should therefore be reported to the MLRO immediately you become aware of them.
   2. The responsibility for ensuring that LHP complies with the requirements of the legislation rests with the MLRO. If he/she fails to carry out his/her duty correctly he/she may face a fine and/or imprisonment for up to 14 years.
   3. LHP has appointed the Director of Resources as its MLRO.
   4. In the absence of the Director of Resources, the Chief Executive is authorised to deputise.
2. **Money Laundering Compliance Officer (MLCO)**
   1. The MLCO is responsible for day-to-day administration relating to money laundering avoidance. Reports of suspicious transactions will be sent to the MLCO who will collate the information and prepare the necessary reports for the National Crime Agency (NCA). They will also liaise with NCA in relation to the outcome of disclosures.
   2. LHP has appointed the Risk and Assurance Manager as its MLCO.
   3. In the absence of the Risk and Assurance Manager the Chief Executive is authorised to deputise.
3. **STAFF TRAINING**
   1. All relevant staff should receive training on the requirements of the legislation and how to spot and prevent money laundering. They must also sign a declaration to confirm they have read and understood the Policy and their responsibilities
4. **ADDITIONAL GUIDANCE**
   1. If you require any additional information or guidance in relation to the contents of this policy and your responsibilities please contact either the MLRO or the MLCO.
5. **REVIEW**
   1. This policy will be subject to a 3 year review.
6. **RELATED POLICIES**

Code of Conduct

Probity Policy

Standing Orders and Delegations

Procurement Rules

Financial Regulations

Anti-fraud and Corruption

Anti-bribery

Confidential Reporting (Whistleblowing)

Disciplinary Policy and Procedures

**Appendix 1: Responsibilities Regarding Making a Disclosure**

**REPORTING**

**Procedure for reporting suspicious transactions**

Any suspicious transactions which you may become aware of in the course of your work must be reported to the MLCO immediately using Internal Disclosure Form (see Appendix 2). Failure to make the appropriate report immediately may be regarded as gross misconduct and could therefore be dealt with in line with Disciplinary Procedures.

In addition, under the Proceeds of Crime Act 2002 you may face up to 14 years imprisonment for failing to ensure that the appropriate authorities are notified of any suspicious transactions. Once you have completed the Internal Declaration Form in respect of a suspicious transaction and passed it to the MLCO, the threat of 14 years imprisonment passes from you to the MLCO. It is therefore in your interests to ensure that you complete and pass on Internal Declarations Forms in respect of suspicious transactions as quickly as possible.

**Dealing with individuals about whom you have suspicions**

If you have a suspicion concerning an individual or organisation with which you are dealing, it is imperative that you do not alert them to that suspicion. You must, therefore, not make them aware that you will be making, or are considering making, an internal disclosure report or that this may be passed to the authorities.

If you have a suspicion about an individual you should try to establish the facts of the situation without alerting the individual to your suspicions. Once you have completed your discussion you must immediately pass details of your suspicions to the MLCO using the internal disclosure report form provided.

You must not bank any cash, cheques or other form of payment from this source until you have clearance to do so from MLCO. Such clearance may take up to seven days from the time of passing your initial report to the MLCO.

If you bank funds where you have a suspicion concerning their origin or the nature of the transaction without first receiving clearance from the MLCO, you run the risk of a fine and/or imprisonment for up to 14 years. This applies whether the funds are received in cash, cheque, banker’s draft or building society cheque.

**In summary:** Staff members must:

* Report their suspicions or knowledge of money laundering activity;
* Retain full documentation about the transaction;
* Not arouse suspicion that they are concerned;
* Not tip off any persons involved or suspected to be involved.

**Consideration of disclosure by the Money Laundering Reporting Officer**

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. He/she should also advise you of the timescale within which he/she expects to respond to you.

The MLRO will consider the report and any other available internal information she/he thinks relevant and undertakes any reasonable inquiries she/he thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA is required. The MLRO may also need to discuss the report with you.

Where the MLRO concludes that it is necessary to make a disclosure, he/she must disclose the matter as soon as practicable to the NCA on their Suspicious Activity Report form (SAR) and in the prescribed manner. The only exception to this is where it is felt that there is good reason for non-disclosure to the NCA. An example of this would be if a lawyer wished to claim legal professional privilege for not disclosing the information.

**Consideration of disclosures by NCA and Law Enforcement Agencies (LEA)**

Where an internal report is made to the MLRO before a prohibited act (an act of money laundering), and a SAR is made to NCA or another Law Enforcement Agency, the MLRO is not allowed to give consent to the act until they receive consent from NCA that this can go ahead. The exception to this is where the Notice Period for reply has expired. The Notice Period runs for 7 working days beginning the day after the report is received.

Below are examples of the actions taken when NCA or another LEA receives a disclosure report:

NCA:

* Prioritise and process all consent requests, contacts reporters with results of decisions made.
* Records all SARs on the NCA database.
* Analyses SARs on the NCA database to extract strategic and tactical intelligence
* Makes SARs available to Law Enforcement for investigation.

LEAs:

* Prioritise and deal with all consent requests forwarded by NCA.
* Check SAR subject details against Force Intelligence databases for relevant additional information/current or future operations.
* Depending on outcome of above, commence investigation or uses information to enhance existing operation or knowledge of subject.

**Appendix 2: Report to Money Laundering Reporting Officer**

**CONFIDENTIAL**

**REPORT TO MONEY LAUNDERING REPORTING OFFICER**

**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.**

When completed, please print off the form and put it in a sealed envelope, marked “Strictly Private and Confidential” and hand deliver to the MLRO.

Your report will be treated in the strictest confidence.

|  |  |
| --- | --- |
| To: | Director of Resources /  Chief Executive |
| From: |  |
| Job Title: |  |
| Telephone Extension: |  |
| Department: |  |
|  |  |
| Date Completed: |  |

**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 and cause of suspicion:  (Please include full details e.g. what, when, where, how) |
|  |
|  |
| Has any investigation been carried out (as far as you are aware)? |
| (Please circle appropriate answer) Yes / No |

|  |
| --- |
| If yes, please include details below: |
|  |
|  |
| Have you discussed your suspicions with anyone else? |
| (Please circle appropriate answer) Yes / No |
|  |
| If yes, please specify below whom the discussion took place with, when and why such discussion was necessary: |
|  |
|  |
| Do you feel you have a reasonable excuse for not disclosing the matter to NCA (National Crime Agency) e.g. Are you a Lawyer and wish to claim legal professional privilege? |
| (Please circle appropriate answer) Yes / No |
|  |
| If yes, please set out full details below: |
|  |

|  |
| --- |
| Please set out below any other information you feel is relevant: |
|  |

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**THE FOLLOWING PART OF THIS FORM IS FOR COMPLETION BY THE MLROs**

|  |  |
| --- | --- |
| Date report received: |  |
| Date receipt of report acknowledged: |  |
| Form completed by: |  |

**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 circle appropriate answer) Yes / No |

|  |  |
| --- | --- |
| If yes, please confirm date of report to the NCA and complete the details below: | Date of report: |
| 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 circle appropriate answer) Yes / No |

|  |
| --- |
| If yes, please confirm full details below: |
| Date consent received from the 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 for any prohibited act transactions to proceed: |
|  |

|  |
| --- |
| Other relevant information: |
|  |

|  |  |
| --- | --- |
| Categories: | |
| Debt charge | Yes / No |
| Overpayment | Yes / No |
| Refund | Yes / No |
| Cashier error | Yes / No |
| Land / buildings resale within 3-12 months | Yes / No |
| House resale before expiry of discount period | Yes / No |
| Asset resale within 3 months | Yes / No |
| Other | (Insert details) |

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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