



National Audit Office

UK National Audit Office

Internal procedures to be followed in the event of money laundering being suspected or discovered

This guidance is for the attention of all financial audit and value for money (performance audit) staff. It provides guidance for staff on procedures to be followed should they discover evidence of potential money laundering during the course of their audit work. It sets out the role of the NAO's designated Money Laundering Reporting Officer, and the procedures necessary for staff to comply with the statutory and professional requirements contained within the Proceeds of Crime and anti-Terrorism legislation.

1. Under the Terrorism Act 2000 it is a criminal offence for any person to fail to report knowledge or suspicion, or reasonable grounds for knowledge or suspicion of money laundering, in respect of drug trafficking or terrorist activity as soon as it is practicable to do so. The Proceeds of Crime Act 2002 and the associated Money Laundering Regulations 2003 has extended the legal responsibility to report knowledge or suspicion of money laundering.
2. From 1st March 2004, auditors as individuals and the NAO as an organisation have had the responsibility to report knowledge or suspicion or reasonable grounds for knowledge or suspicion that a person has received a benefit from the proceeds of any crime. It is also an offence for any audit organisation to fail to maintain procedures to ensure that all known and suspected cases are reported internally, and then where

appropriate on to law enforcement agencies. Whilst there are serious penalties for failing to act in accordance with the law, by acting in accordance with internal practice requirements, staff will be able to satisfy their responsibilities in full. Details of the legal obligations of staff, with extracts of appropriate legislation are included at [Annex A](#) to this circular.

3. Reporting of suspicion or knowledge of incidents should be handled through the NAOs designated Money Laundering Reporting Officer, who is responsible for receiving and acknowledging any cases of knowledge or suspicion of money laundering and reporting this to the National Criminal Intelligence Service. Graham Miller has been appointed as NAO's Money Laundering Reporting Officer. Additional guidance regarding the Proceeds of Crime Act and The Money Laundering Regulations 2003 is set out in Money Laundering Legislation - An Overview.

Alerting the NAO Money Laundering Reporting Officer

4. The need to alert the NAO Money Laundering Reporting Officer arises once an auditor either knows or suspects or has reasonable grounds for knowing or suspecting that another person (whether or not a client) is engaged in money laundering. Preliminary enquiries made by the auditor to clients do not constitute suspicion unless the auditor concerned has some foundation to suspect the existence or likelihood of money laundering within the client body.
5. The Regulations governing the reporting of money laundering provide for the reporting of findings and concerns to the appointed Money Laundering Reporting Officer. Staff should take steps to ensure that in the event that they make such disclosures, their actions do not run the risk of tipping off those involved in criminal activity before an investigation can take place.
6. Reports to the NAO Money Laundering Reporting Officer should be made in writing (which includes e-mail) as soon as possible after money laundering is discovered or suspected (or where there are reasonable grounds to know or suspect). Procedures to be followed and issues to consider before submitting a report to the NAO Money Laundering Reporting Officer are attached at Annex A. The NAO Money Laundering Reporting Officer will then determine whether or not the report actually

- gives rise to a suspicion of money laundering, and ensure disclosure of information to the National Criminal Intelligence Service (NCIS) where appropriate. All these procedures should be documented and acknowledged, and in accordance with regulations records should be retained for five years.
7. Documentation of money laundering cases or the suspicion thereof should show the nature of any evidence obtained, with copies of documents where appropriate. Auditors are also advised where possible to note the source and destination of any funds, and the nature of the suspect transaction or transactions. Guidance on the types of information that will aid the Money Laundering Reporting Officer in deciding whether to submit reports to NCIS, the UK Financial Intelligence Unit, is attached at [Annex B](#).

Procedures

8. While the risk of money laundering in the central government public sector may be somewhat lower than that of the private sector, it is important for staff to follow the procedures set down herein. Staff should note that making a declaration to the NAO Money Laundering Reporting Officer discharges in full their personal obligation to report suspicion or knowledge of money laundering.

6 August 2004

ANNEX A

MONEY LAUNDERING PROCEDURES TO FOLLOW AND ISSUES TO CONSIDER WHEN SUBMITTING A REPORT

1. The existing UK law on money laundering is found in: The Proceeds of Crime Act 2002 ("the Act"), The Money Laundering Regulations 2003 (which came into force on 1 March 2004), and the Terrorism Act 2000.

When should a report be made

2. Under s.330 of the Act it is a criminal offence for any person working in the regulated sector to fail to report where they have **knowledge**, **suspicion** or **reasonable grounds** for such knowledge or suspicion that a person is laundering the proceeds of any criminal conduct as soon as is practicable after the information came to their attention in the course of their business activities.
3. **"Suspicion"** is not currently defined in law, but can be taken to mean evidence that goes beyond mere speculation but falls short of knowledge.
4. **"Reasonable grounds to suspect"** means "there are facts or circumstances from which an honest and reasonable person engaged in a similar professional activity would have inferred or formed the suspicion that another was engaged in money laundering".
5. There is no de minimis limit on the size of transactions that must be reported.

6. No distinction is made as to whether the action that has given rise to knowledge or suspicion has been committed by the client, a member of client staff or a third party. The requirement is to report all relevant actions that staff come across during the course of business activities.

7. The requirement to report applies irrespective of whether the action that has given rise to knowledge or suspicion was initially detected by NAO staff or by the client; and irrespective of whether the client or any other party has already informed a relevant investigating authority or the National Criminal Intelligence Service (NCIS). This means that if staff look at a Departmental losses register to gain evidence to support a losses and special payments note, all cases of fraud or suspected fraud on that register must be reported, irrespective of whether they have already been passed to the police for investigation.

Issues to consider before making a report

8. The Money Laundering Reporting Officer (MLRO) has to consider all reports submitted to him and has the legal responsibility to make a decision on each of them. It is therefore important that due consideration is taken before making a report.

9. Members of staff should consider:
 - Whether a crime has or may have been committed; and
 - Whether they have knowledge or suspicion as opposed to speculation. Staff should be aware that there may be a number of pieces of evidence that individually may lead to speculation that money laundering has taken place, but when taken together could constitute reasonable grounds for suspicion.

10. However, members of staff are not expected to be legal experts, nor are they expected to investigate issues to firm up suspicions. To conduct further investigation could give rise to the risk of **tipping off** a suspected money launderer or could **prejudice** a later investigation by a relevant authority by making some evidence inadmissible in court. Therefore, for reporting purposes **members of staff are only required to carry out audit processes that would be followed in the normal course of**

their work. Further work beyond any that would be performed for audit purposes could give rise to the risk of tipping off.

11. All cases where members of staff believe that they have knowledge or suspicion of money laundering, should be subject to review by an appropriate level of management before a report is made to the MLRO. Ideally each case will be reviewed by the Client or Assignment Director as appropriate. In certain circumstances this may not be practicable. In these cases, the Assignment Manager should conduct the review.

How to report

12. All reports should be made to the NAO's Money Laundering Reporting Officer (MLRO). The NAO's MLRO is Graham Miller. By making a report to the MLRO, staff fulfil their legal obligations under the Act.
13. An initial referral or consultation can be made by phone. However, this should be supported by a written report or by email as soon as is practicable. The dedicated email address for money laundering reports is MLRO.
14. Information submitted to the MLRO should be confined to:
 - Information regarding which members of the audit team and, where applicable which members of client staff, have been consulted regarding the knowledge or suspicion; and
 - Information that would aid an investigating authority. The type of information that would be useful to an investigating authority is attached in [Annex B](#).
15. Further guidance on what to include in a report will be expanded or updated as appropriate.
16. Once the MLRO has received a written report, he will issue a confirmation of receipt to the Assignment/Client Director and/or the

reporting officer as appropriate. In normal circumstances the MLRO will let the Assignment/Client Director and/or the reporting officer know whether he had made a report to NCIS.

17. The MLRO has the legal responsibility to decide whether a report should be made to NCIS, to keep records of all internal reports and to develop and maintain internal procedures to combat Money Laundering. Staff should not make reports directly to NCIS.

Following disclosure

18. Receipt of a confirmation from the MLRO or even notification that a report has been submitted to NCIS does not indicate either that the suspicion has been passed to an investigating authority or that it is unfounded. Members of staff should continue to look out for any additional transaction or information that gives grounds for suspicion, submitting a further report to the MLRO as necessary.

Tipping off

19. The NAO and its staff must also have regard to offences created by sections 333 (**tipping off**) and 342 (**prejudicing an investigation**) of the Act.

20. An offence is committed if staff:

Know or suspect that a money laundering report has been made or will be made; and

Wilfully or through negligence disclose information to the suspect that would enable them to conceal evidence that would prejudice a future investigation or prejudice an ongoing investigation.

21. Therefore, it is important that staff do not discuss knowledge or suspicion with client staff without due consideration.

22. If senior members of client staff are not implicated in the suspected money laundering, it may possible to discuss our knowledge or

suspicion with them. However, such discussions should only be conducted at Director or Assignment Manager level.

23. In rare cases, continuing normal work may lead to the risk of **tipping off**. If this is considered to be a risk then the Assignment Director should consult with the MLRO. The MLRO will make a decision on whether continuing work will lead to a risk of **tipping off** (after consultation with NCIS if appropriate) and will formally report the decision to the Assignment Director.

Client Management

24. Clients may be concerned that we may be reporting certain issues to a third party outside the normal reporting chain. In some cases the risk of **tipping off** may mean that we are unable to inform our clients about knowledge or suspicion of money laundering. This means that our responsibilities in respect of POCA will need to be explained with a degree of sensitivity. The NAO's and central public sector requirements in money laundering have been recognised and confirmed by HM Treasury.
25. Directors should have opened up a dialogue on this issue, by sending out letters setting out our responsibilities in respect to money laundering (attached at [Annex C](#)). Staff should also be aware that they can refer clients to the guidance produced by the Treasury.

Client Identification Procedures

26. Section 328 of the Act has created the criminal offence of "entering into or becoming concerned in an arrangement which a person knows or suspects **facilitates** the acquisition, retention, use or control of criminal property on behalf of another person". Reporting the suspect transaction to NCIS is a defence from prosecution under this section of the Act.
27. Due to the risk of facilitating money laundering, best practice proposed by the Institute of Chartered Accountants in England and Wales,

ICAEW, is to institute rigorous client identification procedures. While the risk of the NAO taking on client bodies which will be actively engaged in money laundering may be very low, we have decided to follow best practice.

28. Appropriate procedure for the identification of clients in our context would include obtaining a copy of the authorising legislation or framework document establishing the body and a copy of the formal appointment of the Accounting Officer or Chief Executive.

29. This guidance is not intended to be an exhaustive and definitive statement of the law. Where a member of staff has any queries in relation to the application of these requirements or any specific transaction they should contact the MLRO, Graham Miller, immediately.

ANNEX B

INFORMATION REQUIRED TO SUPPORT DISCLOSURE TO THE MLRO

1. Where possible provide the following details

Subject Details

- Main subject or associated subject
- Suspect or victim
- If associated subject reason for association with main subject

If the subject of the report is an individual

2. Full name (including title)
3. Occupation
4. Date of Birth
5. Gender

If the subject of the report is a company or other legal entity

6. Legal entity name
7. Legal entity number (e.g. company number, charity number etc)
8. VAT number
9. Country of registration
10. Type of Business

For each subject

11. Full address or addresses

12. Other useful information that may aid identification (e.g. passport, phone numbers etc)

Transaction Details

- Only provide details if you feel it would add to law enforcements knowledge of or ability to investigate the suspect criminal actions.

Account Summary

- Name of asset holding institution
- Account name, sort code and account number
- Account balance
- Balance Date
- Date account opened and/or closed

For each Transaction

- Activity type
- Activity date
- Amount & currency
- Credit or Debit
- Details of any other party involved in transaction (provide same details as for account summary)

Reasons for Reporting

2. If you have knowledge or suspicion that a particular crime has been committed, specify the crime.
3. In addition provide your reasons for knowledge or suspicion that someone may be engaged in money laundering. You may wish to consider:
 - The dates/period over which the suspicious activity has occurred;
 - The knowledge you have about the origin of the assets;

- Knowledge of the destination/intended beneficiary of the assets;
- Any aspects of your report that you consider to be particularly urgent or interesting;
- Whether any of the information you have provided cannot be confirmed.

ANNEX C

NOTIFICATIONS SENT TO CLIENTS

To clients audited by NAO staff:

PROCEEDS OF CRIME ACT 2002 - MONEY LAUNDERING REPORTING
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Government bodies and specifically Accounting Officers have always had responsibilities, as set out in Government Accounting, for ensuring high standards of financial propriety and regularity and for reporting to appropriate authorities, such as the Treasury, any instances of fraud. The National Audit Office (NAO) addresses regularity and propriety within the scope of its audit and as you are aware the Comptroller and Auditor General includes a specific reference to regularity within his audit certificate. In the wider audit profession all auditors have for a number of years had a specific duty to report to an appropriate authority where they suspect the laundering of money that either derives from drug trafficking or that is related to terrorist offences. The Proceeds of Crime Act 2002 (the Act) and the related Money Laundering Regulations 2003 (the Regulations) extend both the definition of what money laundering comprises and the auditors' reporting responsibilities. The legislation and the responsibilities that it places on auditors affect all sectors and it is relevant to the NAO's audit of your [organisation].

The anti-money laundering legislation is complex and uncertainty inevitably exists as to how the courts will interpret it in practice. The NAO has instituted procedures that are in line with the exposure draft of the Auditing Practices Board's Practice Note 12 (revised) 'Money Laundering - Guidance to Auditors', as this represents best practice guidance available currently to the auditing profession.

The key changes introduced by the Act and the Regulations are as follows:

- The definition of money laundering has been extended to include possessing, or in any way dealing with, or concealing the proceeds of any crime, whether committed by an entity or an individual. The Act does not include any de minimis concessions.
- Whilst the Act does not extend the scope of audit work, auditors are now required to report where they know or suspect, or have reasonable grounds to know or suspect, that money laundering has taken place where the information has come to them during the normal course of business.
- Failure by an auditor to report knowledge or suspicion of money laundering in relation to the proceeds of any crime is now a criminal offence. The requirement to report is incumbent both on all qualified staff as individuals and on the NAO as an organisation.
- The requirement to report is not just related to matters that might be considered material to the financial statements; auditors are now required to report knowledge or suspicion of crimes that potentially have no material financial statement impact.
- In performing further investigations as part of normal audit activities, auditors need to be aware that the Act includes a criminal offence of 'tipping off.' Tipping off is defined as: disclosing information to any person if doing so is likely to prejudice a future criminal investigation.

Departments, Agencies and NDPBs are still required to report frauds to the Treasury in line with Government Accounting. However, as a result of the wider reporting regime introduced by the Act, the NAO will also be required to make a report to the National Criminal Intelligence Service (NCIS) where we suspect as a result of information gained during the course of our normal audit work that there may have been criminal acts that involve a financial gain. This is irrespective of whether suspicions of a crime have already been reported to the authorities.

The range of criminal offences which we may come across is very wide and includes environmental offences that might have a financial impact, such as deliberately failing to meet health and safety standards to avoid incurring extra costs, as well as offences that might normally be viewed as fraud. No distinction with regard to the need to report is made as to whether the suspected offence has been committed by the audited body or by another body or person.

The Regulations do not just relate to statutory financial audit work but also to information gained during the course of our Value for Money studies or any other audit work.

To comply with the Regulations the NAO has appointed a Money Laundering Reporting Officer (MLRO). Individual staff members fulfil their legal responsibilities under the Act by reporting knowledge or suspicion of money laundering to the MLRO. Prior to taking this step individual staff members will also have discussed their concerns with the senior member of their audit team, generally the Director. The role of the MLRO includes the responsibility for reviewing all internal reports to ensure the consistency of standards when determining what constitutes knowledge or suspicion of money laundering. In addition, the MLRO is personally responsible for making all reports to NCIS that are necessary as a result of our work.

We would also normally inform you if we intended to make a report to NCIS. However, the rules on "tipping off" mean that in exceptional circumstances we may not be able to let you know about any suspicions we may have and by implication whether we have or intend to make a report to NCIS.

I emphasise that we are not required to carry out procedures outside of our normal work to specifically look for crimes but only to report suspicions of crime which come to our attention.

I trust this letter explains the new regulations as they affect our audit relationship. Please contact me if you have any further questions.

To clients where the audit has been contracted out:

PROCEEDS OF CRIME ACT 2002 - MONEY LAUNDERING REPORTING

Government bodies and specifically Accounting Officers have always had responsibilities, as set out in Government Accounting, for ensuring high standards of financial propriety and regularity and for reporting to appropriate authorities, such as the Treasury, any instances of fraud. The National Audit Office (NAO) addresses regularity and propriety within the scope of its audit and as you are aware the Comptroller and Auditor General includes a specific reference to regularity within his audit certificate. In the wider audit profession all auditors have for a number of years had a specific duty to report to an

appropriate authority where they suspect the laundering of money that either derives from drug trafficking or that is related to terrorist offences. The Proceeds of Crime Act 2002 (the Act) and the related Money Laundering Regulations 2003 (the Regulations) extend both the definition of what money laundering comprises and the auditors' reporting responsibilities. The legislation and the responsibilities that it places on auditors affect all sectors and it is relevant to the NAO's audit of your [organisation].

The anti-money laundering legislation is complex and uncertainty inevitably exists as to how the courts will interpret it in practice. The NAO has instituted procedures that are in line with the exposure draft of the Auditing Practices Board's Practice Note 12 (revised) 'Money Laundering - Guidance to Auditors', as this represents best practice guidance available currently to the auditing profession.

The key changes introduced by the Act and the Regulations are as follows:

- The definition of money laundering has been extended to include possessing, or in any way dealing with, or concealing the proceeds of any crime, whether committed by an entity or an individual. The Act does not include any de minimis concessions.
- Whilst the Act does not extend the scope of audit work, auditors are now required to report where they know or suspect, or have reasonable grounds to know or suspect, that money laundering has taken place where the information has come to them during the normal course of business.
- Failure by an auditor to report knowledge or suspicion of money laundering in relation to the proceeds of any crime is now a criminal offence. The requirement to report is incumbent both on all qualified staff as individuals and on the NAO as an organisation.
- The requirement to report is not just related to matters that might be considered material to the financial statements; auditors are now required to report knowledge or suspicion of crimes that potentially have no material financial statement impact.
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Departments, Agencies and NDPBs are still required to report frauds to the Treasury in line with Government Accounting. However, as a result of the wider reporting regime introduced by the Act, the NAO and our partner firm are both required to make a report to National Criminal Intelligence Service (NCIS) where

we suspect as a result of information gained during the course of our normal audit work that there may have been criminal acts that involve a financial gain. This is irrespective of whether suspicions of a crime have already been reported to the authorities.

The range of criminal offences which we may come across is very wide and includes environmental offences that might have a financial impact, such as deliberately failing to meet health and safety standards to avoid incurring extra costs, as well as offences that might normally be viewed as fraud. No distinction with regard to the need to report is made as to whether the suspected offence has been committed by the audited body or by another body or person.

The Regulations do not just relate to statutory financial audit work but also to information gained during the course of our Value for Money studies or any other audit work.

To comply with the Regulations the NAO has appointed a Money Laundering Reporting Officer (MLRO). Individual staff members fulfil their legal responsibilities under the Act by reporting knowledge or suspicion of money laundering to the MLRO. Prior to taking this step individual staff members will also have discussed their concerns with the senior member of their audit team, generally the Director. The role of the MLRO includes the responsibility for reviewing all internal reports to ensure the consistency of standards when determining what constitutes knowledge or suspicion of money laundering. In addition, the MLRO is personally responsible for making all reports to NCIS that are necessary as a result of our work.

We would also normally inform you if we intended to make a report to NCIS. However, the rules on "tipping off" mean that in exceptional circumstances we may not be able to let you know about any suspicions we may have and by implication whether we have or intend to make a report to NCIS.

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