



COMPLIANCE WITH PROCEEDS OF CRIME (ANTI-MONEY LAUNDERING) LEGISLATION

1. Introduction

1.1 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 or suspects 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 benefiting financially 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.

1.2 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.

2. What is the University's policy on money laundering?

2.1 Our policy is to do all we can to prevent, wherever possible, the University 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. It cannot be too strongly stressed, however, that it is every member of staff's responsibility to be vigilant.

3. What are the main money laundering offences?

3.1 There are three principal offences - concealing, arranging and acquisition/use/ possession.

3.2 Concealing is where someone knows or suspects a case of money laundering, but conceals or disguises its existence.

3.3 Arranging is where someone involves himself or herself in an arrangement to assist in money laundering.

3.4 Acquisition etc. is where someone seeks to benefit from money laundering by acquiring, using or possessing the property concerned.

3.5 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.

4. What are the implications for the University and its staff?

4.1 The University 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 University has also implemented procedures for reporting suspicious transactions and, if necessary, making an appropriate report to the National Criminal Intelligence Service (NCIS).

4.2 The consequences for staff of committing an offence are potentially very serious. Whilst 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 itself, and there are only very limited grounds in law for not reporting a suspicion.

4.3 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.

4.4 If you suspect a case of money laundering, you should report it immediately to the Internal Auditor. She 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.

5. Practical Guidance

5.1 This section offers some practical guidance on situations within the University that could possibly involve exposure to the proceeds of crime.

5.2 First and foremost, know who you are dealing with. For any individual financial transaction above 100 paid using a non-UK bank or a credit/debit card issued outside the UK you must obtain adequate evidence of identity such as a passport or national identity card. In such cases you should take a photocopy of the identity card or the relevant page of the passport showing the holder's details.

5.3 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 debt, and the person(s) concerned request a non-cash refund of the excess. This will include double payments.

5.4 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 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

5.5 It will no longer be possible to allow students to make a payment to settle their fees and request a balance to be returned to them as living expenses. Sponsors should be advised to make separate payments for maintenance purposes.

5.6 Any refunds made by the University must be in the same form, and to the same account, as the payment originally received. It is not acceptable to make a cash refund of a payment originally taken by credit card, neither is it acceptable to issue a cheque refund to a student if the original payment was by cheque, but from someone else's account. All resource centres must ensure that they have adequate records of the source of each payment received to comply with this requirement.