

# Anti-Money Laundering Policy

Procedures and Reporting Arrangements

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## Anti-Money Laundering Policy

### 1. Introduction

- 1.1 Crawley Borough Council (the Council) will do all it can to prevent the Council 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.
- 1.2 The Money Laundering and Terrorist Financing Regulation 2020 (Amendment) (EU Exit) are made in exercise of powers in section 2(2) of the European Communities Act 1972 and section 8 of the European Union (Withdrawal) Act 2018. Whilst these obligations are not directly imposed on Local Authorities, guidance provided from financial professions, including the Chartered Institute of Public Finance and accounting (CIPFA) indicates that public service organisations should comply with the underlying spirit of the legislation and regulations and have in place internal procedures to prevent the use of their services for money laundering. Specific to these regulations is an enhanced risk based approach in conducting due diligence reviews, which are detailed further in this policy.
- 1.3 Money Laundering Regulations apply to cash transactions in excess of 15,000 Euros (approximately £13,000). However, Proceeds of Crime Act 2002 (POCA) applies to all transactions and can include dealings with agents, third parties, property or equipment, cheques, cash or bank transfers.
- 1.4 Key points:
- The Council is committed to the prevention, detection and reporting of money laundering
  - All employees must be vigilant for the signs of money laundering
  - Any employee who suspects money laundering activity must report this promptly to the Money Laundering Reporting Officer (MLRO)
  - No payment to the Council will be accepted in cash (notes, coins or travellers' cheques in any currency) if it exceeds £2,500.
  - Where the Council is carrying out certain regulated activities by way of business then the customer due diligence procedure must be followed.
  - The Money Laundering Regulations are detailed and complex. If you are in any doubt the application of this Policy please contact the MLRO.

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## 2. Scope

- 2.1 This Policy applies to all employees of the council and aims to maintain the high standards of conduct, which currently exists within the council preventing criminal activity through money laundering. The Policy sets out the procedures which must be followed (reporting of suspicions of money laundering) to enable the Council and staff to comply with their legal obligations.
- 2.2 This Policy sits alongside the Council's Fraud and Corruption, Whistleblowing and Anti-Bribery policies.
- 2.3 Failure by a member of staff to comply with the procedures set up in this Policy may lead to disciplinary action being taken against them and may also lead to conviction under POCA and Money Laundering Regulations. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary Procedures.

## 3. What is Money Laundering?

3.1 Money Laundering is the term used for several offences involving the Proceeds of crime or terrorism funds. The following acts constitute the act of money laundering:

- Concealing, disguising, converting, transferring criminal property or removing it from the UK (POCA S327)
  - Entering into or becoming concerned in an arrangement which you know, or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person. (POCA S328)
  - Acquiring, using or possessing criminal property (POCA S329)
- These are the primary money laundering offences and are thus prohibited acts under the legislation. There are also 2 secondary offences:
- Failure to disclose any of the primary offences
  - Tipping off

Tipping off is where a person informs a person suspected of money laundering that an investigation is taking place.

3.2 Any member of staff could potentially be caught by the money laundering provisions as noted above, if they suspect money laundering and either become involved with it in some way and/or do nothing about it.

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3.3 While the risk to the Council of contravening the legislation is low, it is important that all employees are familiar with their responsibilities. Serious criminal sanctions may be imposed for breaches of the legislation. The key requirement of employees is to promptly report any suspected money laundering activity to the MLRO.

#### 4. Policy Statement

4.1 Our Policy is to do all we can to prevent, wherever possible, the Council 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.

#### 5. Nominated Officers

5.1 The Officer nominated to receive disclosures about money laundering activity within the Council is the Head of Corporate Finance who is also the S151 officer. In the absence of the MLRO, the Deputy MLRO is the Head of Governance, People & Performance.

#### 6. Reporting Arrangements

6.1 Cash payments to the council exceeding £2,500 must be reported immediately to the MLRO using the attached form (appendix A) regardless of whether you suspect money laundering activities or not.

6.2 The employee must follow any subsequent directions of the MLRO and must not themselves make any further enquiries into the matter. They must not take any further steps in any related transaction without authorisation from the MLRO.

6.3 The employee must not disclose or otherwise indicate their suspicions to the person suspected of the money laundering. They must not discuss the matter with others or note on the file that a report has been to the MLRO in case this results in the suspect becoming aware of the situation.

6.4 The MLRO must promptly evaluate any Disclosure Report, to determine whether it should be reported to the National Crime Agency (NCA) via the UK Financial Intelligence unit by means of a Suspicious Activity Report (SAR).

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## 7. Customer Due Diligence

- 7.1 Customer due diligence means that the council must know its clients and understand their businesses. This is so that the council is in a position to know if there is suspicious activity that should be reported.
- 7.2 Although the regulation maybe complex there are 3 simple questions which will help you decide the level of due diligence required.
- Is the service a regulated<sup>1</sup> activity?
  - Is the Council charging for the service i.e is it by way of business?
  - Is the service being provided to a customer other than a UK public authority?

If the answer to any of these questions is “**no**” then you **do not** need to carry out customer due diligence.

If the answer is “**yes**” then you **do** need to carry out customer due diligence **before** any business is undertaken.

- 7.3 Where you need to carry out customer due diligence the you must seek evidence of identity. Examples are but not limited to:
- Checking with the customer’s website to confirm their business address
  - Conducting an on-line search via Companies House to confirm the nature and business of the customer and confirm identities of any directors
  - Seeking evidence from the key contacts or individuals of their personal identity, eg passports and their position within the organisation
- 7.4 The requirement for customer due diligence applies immediately for new customers and should be applied on a risk basis for existing customers.
- 7.5 Ongoing customer due diligence must also be carried out during the life of a business relationship but should be proportionate to the risk of money laundering and terrorist funding, based on the other's knowledge of the Customer and a regular scrutiny of the transactions involved.

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<sup>1</sup> “Regulated activity is defined as the provision ‘by way of business’ of: advice about tax affairs; accounting services; treasury management, investment or other financial services; audit services; legal services; estate agency; services involving the formation, operation or arrangement of a company or trust or; dealing in goods wherever a transaction involves a cash payment of €15,000 or more.”

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7.6 If, at any time, you suspect that a client or customer for whom you are currently or are planning to carry out a regulated activity is carrying out money laundering or terrorist financing, or has lied about their identity then you must report this to the MLRO.

## 8 Enhanced Due Diligence

8.3 In certain circumstances enhanced customer due diligence must be carried out for example where:

- The customer has not been physically present for identification
- The customer is a politically exposed person<sup>2</sup>
- There is a beneficial owner who is not the customer. (An individual who holds more than 25% of the shares, voting rights or interest in a company, partnership or trust)

8.4 Enhanced customer due diligence could include additional documentation, data or information that will confirm the customer's identity and/or source of the funds to be used in the business relationship/transaction. If you believe that enhanced customer due diligence is required you must consult the MLRO prior to carrying it out, to ensure that the checks are completed. An example of this would be in the case of 'Right to Buy' where there is an intention to pay either in part or fully in cash.

## 9 Record Keeping

9.1 Each service area of the Council conducting regulated business must monitor, on an on-going basis, their business relationships in terms of scrutinising transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure that the transactions are consistent with their knowledge of the client, its business and risk profile.

9.2 Where 'relevant business' is carried out then the customer due diligence records and details of the relevant transaction(s) for that client must be retained for at least five years after the end of the business relationship.

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<sup>2</sup> A politically exposed person is an individual who at any time in the preceding year has held a prominent public function outside the UK and EU or international institution/ body, their immediate family members or close associates.

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9.3 An electronic copy of every customer due diligence record as outlined in section 7 must be sent to the MLRO to meet the requirements of the Regulations and in case of inspection by the relevant supervising body.

## 10 Guidance and Training

10.1 In support of the policy and procedure, the council will:

- Endeavour to make all staff aware of the requirement and obligation placed on the council on themselves as individuals by the anti-money laundering legislation and
- Provide targeted training where it has been identified staff are most likely to encounter money laundering

## 11 Further Information

11.1 Further information can be obtained from the MLRO and the following sources:

- National Crime Agency (NCA). <https://nationalcrimeagency.gov.uk>
- Proceeds of crime Act 2002. <https://www.legislation.gov.uk/ukpga/2002/29/contents>
- Anti-Money Laundering “Guidance for Accountants”. [www.ccab.org.uk](http://www.ccab.org.uk)
- Anti-Money Laundering Resources. [www.lawsociety.org.uk](http://www.lawsociety.org.uk)
- Anti-Money Laundering Resources [www.cipfa.org](http://www.cipfa.org)
- [CBC Whistleblowing Policy](#)
- [CBC Fraud and Corruption Policy](#)
- [Constitution of Crawley Borough Council](#)

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Appendix A – CONFIDENTIAL

REPORT TO MONEY LAUNDERING REPORTING OFFICER

RE: MONEY LAUNDERING ACTIVITY

TO:	S151
FROM:	
DEPARTMENT:	
CONTACT No:	

Details of Suspected Offence

Name(s) and address(es) of person(s) involved:  
 (if a company/public body please include details of their nature of business)

Nature, value and timing of activity involved:  
 (please include full details e.g. what, when, where and how including dates.  
 Continue on separate sheet if necessary)

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Nature of suspicions regarding such activity:  
(continue on a separate sheet if necessary)

Has any investigation been undertaken to your knowledge?  
(If yes please include full details)

Have you discussed your suspicions with anyone else?  
(If yes please explain with who any why discussion was necessary)

Signed:

Date:

**IMPORTANT:** Please do not discuss the content of this report with anyone you believe to be involved in the suspected money laundering activity either directly or indirectly with anyone else who could alert the suspect(s) that are under investigation. If you do, this may be considered as 'tipping off' under the legislation which carries a maximum penalty of 5 years' imprisonment.

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Appendix B

CONSIDERATION OF DISCLOSURE BY MLRO

THE FOLLOWING PART OF THIS FORM IS COMPLETED BY THE MLRO

Date Report Received	
Date receipt of report acknowledged	

Action Plan:

Are there reasonable grounds for suspecting money laundering activity?

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<p>If there are reasonable grounds for suspicion will a Suspicious activity report (SAR) be made to the NCA?</p>
<p>If YES date report sent to NCA:</p>
<p>If NO please state below reason for non-disclosure to the NCA:  (Please include details of any discussions with other officers, e.g. Legal together with name(s) and advice given)</p>

<p>Is consent required from the NCA to any on-going or imminent transactions which would otherwise be prohibited acts?  If YES please confirm full details</p>
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Details of liaison with the NCA	
Consent Requested	

Notice Period From	
Notice Period To	
The NCA has 7 working day starting the first working day after the consent request is made to refuse continuation of the activity. If no refusal has been received consent is deemed to have been given and the activity may continue.	

Moratorium Period From	
Moratorium Period To	

(If consent is refused during the notice period, a further 31 days starting with the day on which the consent is refused must elapse before the activity may continue. In the absence of any action to restrain the activity by law enforcement during the moratorium period the activity may continue).

Date and time given by the NCA: (Telephone consent will often be given, which can be relied upon, and followed up in writing several days later	
Consent Reference:	
Name and Contact number of NCA officer:	

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