

Anti-Tax Evasion Strategy

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Division and Local Member: All

1. Summary

- 1.1. Part 3 of the Criminal Finances Act 2017 creates a new corporate criminal offence where a corporate entity fails to prevent the facilitation of tax evasion by its staff, agents and contractual associates. The legislation requires all bodies corporate to publish an Anti-Tax Evasion Policy.
- 1.2. The Council's Anti-Tax Evasion Policy was drafted and presented to the Governance Board meeting in December 2019 for consideration. The Board noted the commitments identified in Section 8 of the policy and the requirement for a risk assessment. The Board tasked the Strategic Risk Management Group (SRMG) with consideration of Section 8, with a specific focus on the requirement for a risk assessment.
- 1.3. The risk assessment was reviewed at the meeting of SRMG on 12th February 2020 and has been appended to this report for consideration by the Committee.

2. Issues for consideration / recommendations

- 2.1. The Committee is asked to review and adopt the Anti-Tax Evasion Strategy (Appendix A) and associated Risk Assessment (Appendix B).
- 2.2. On approval of the Anti-Tax Evasion Strategy, the Corporate VAT Team will put in place measures to ensure full compliance on all risks identified. Any additional risks or issues will be reported back to the Committee.

3. Background

- 3.1. Under the Criminal Finances Act 2017 (CFA 2017), the Council, if found to be facilitating tax evasion, could face an unlimited fine and consequent damage to its reputation. The Council will be guilty of the offence where a third party commits tax evasion, which a member of staff (or an associate) has in some way assisted.
- 3.2. Tax evasion is the illegal non-payment or underpayment of taxes, usually as the result of making a false declaration (or no declaration) of taxes due to the relevant tax authorities, which results in legal penalties if the perpetrator is caught. Tax avoidance, by contrast, is seeking to minimise the payment of taxes

without deliberate deception. This is often legitimate but is sometimes contrary to the spirit of the law, e.g. involving the exploitation of loopholes.

3.3. It is a defence to the corporate criminal offence of facilitating tax evasion if the Council can prove that it has in place such prevention procedures as it is reasonable to expect in the circumstances. Government guidance suggests an appropriate set of prevention measures which gives due recognition to the following:

- Risk assessment;
- Proportionality of risk-based prevention procedures;
- Top-level commitment;
- Due diligence;
- Communication (including training); and
- Monitoring and review

4. Consultations undertaken

4.1. The policy was reviewed in conjunction with the S151 Officer.

5. Implications

5.1. Failure to comply with the legislation could expose the Council to:

- An unlimited fine;
- Public record of the conviction; and
- Significant reputational damage and adverse publicity.

6. Background papers

6.1. Tackling tax evasion: Government guidance for the corporate offences of failure to prevent the criminal facilitation of tax evasion – Sept17

6.2 South West Audit Partnership – Combatting Tax Evasion 2019/20 (June20)

6.3 Anti-Tax Evasion Policy – Formal Risk Assessment

Note For sight of individual background papers please contact the report author