

# Prevention of Tax Evasion Policy

December 2023

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# Contents

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1. Introduction
2. Scope
3. Definitions
4. Guiding Principles
5. Risk Assessment
6. Proportionality of Risk-Based Prevention Procedures
7. Top Level Commitment
8. Due Diligence
9. Communication
10. Monitoring and Review
11. Policy Review

## **Prevention of Tax Evasion Policy**

### **1. INTRODUCTION**

- 1.1 The Criminal Finances Act 2017, Part 3, created two Corporate Criminal Offences. The Government believes that relevant bodies should be criminally liable where they fail to prevent those who act for, or on their behalf from criminally facilitating tax evasion.
- 1.2 The offences will be committed where a relevant body fails to prevent an associated person criminally facilitating the evasion of a tax, and this is the case whether the tax evaded is owed in the UK or in a foreign country.
- 1.3 The Government (HM Revenue & Customs) has published guidance for the corporate offences of failure to prevent the criminal facilitation of tax evasion.
- 1.4 The relevant body must be able to demonstrate that it has put in place a system of reasonable procedures that identifies and mitigates its tax evasion facilitation risks, to reduce the likelihood of prosecution as it will be able to raise a defence.
- 1.5 This policy should be read in conjunction with the Council's Counter Fraud Policy & Strategy and the Council's Whistleblowing Policy. The Council will seek to ensure the corporate stance on tax evasion is widely publicised and that employees and members have access to the appropriate guidance. A breach of this Policy may lead to disciplinary and/or criminal action being taken.

### **2. SCOPE**

- 2.1 This policy applies to Tameside Metropolitan Borough Council, and as a consequence it applies to all its members and all employees, including temporary and agency staff. It contains specific sections to advise employees and members of the process to be followed to enable the Council to comply with its legal obligations.

### **3. DEFINITIONS**

- 3.1 Tax Evasion is a criminal offence which is committed through the deliberate and dishonest evasion of tax (either UK tax or tax in a foreign country) or through taking steps to enable another person evade tax.
- 3.2 Relevant Body is a body corporate or partnership (wherever incorporate or formed).
- 3.3 A Corporate Criminal Offence(s) (CCO) is a failure of a Relevant Body to prevent evasion facilitation offences by an Associated Person(s):
  - Failure to prevent facilitation of a UK tax evasion offences
  - Failure to prevent facilitation of foreign tax evasion offences
- 3.4 An Associate Person is:
  - An employee of the Relevant Body acting in the capacity of an employee
  - An agent of the Relevant Body who is acting in the capacity of an agent
  - Any other person who performs services for or on behalf of a Relevant Body who is acting in the capacity of a person performing such services

#### **4. GUIDING PRINCIPLES**

- 4.1 HM Revenue and Customs Tackling Tax Evasion guidance is based on six guiding principles:
- Risk Assessment
  - Proportionality of Risk-Based Prevention Procedures
  - Top Level Commitment
  - Due Diligence
  - Communication
  - Monitoring and Review
- 4.2 This Policy is based on the guiding principles.

#### **5. RISK ASSESSMENT**

- 5.1 The Council should assess the nature and extent of its exposure to the risk of those who act in the capacity of a person associated with it criminally facilitating tax evasion offences. The risk assessment should be documented and kept under review.
- 5.2 It is unlikely that any one individual Council officer would benefit individually from Tax Evasion. There would have to be collusion either with a supplier or another Council employee for an individual to benefit.
- 5.3 However, the Assurance service will keep the risk under review and as part of ongoing work will, where required, conduct compliance checks in high risk areas, with the outcome reported to the Audit Panel as part of the Internal Audit / Counter Fraud reporting activities.
- 5.4 Areas of risk include:
- Value Added Tax (VAT)
  - Construction Industry Scheme (CIS)
  - Pay as you Earn (PAYE) Income Tax and National Insurance
  - Off Payroll Working (IR35)
  - Direct Payments (for care and support services)
  - Grants

#### **6. PROPORTIONALITY OF RISK-BASED PREVENTION PROCEDURES**

- 6.1 The Council should adopt reasonable procedures to prevent persons acting in the capacity of a person associated with it from criminally facilitating tax evasion will be proportionate to the risk the Council faces of persons associated with it committing tax evasion facilitation offences.
- 6.2 The Council has a zero tolerance for anyone committing tax evasion and recognises its responsibility to prevent the facilitation to tax evasion. This is reflected in the governance process and procedures to address specific risks.
- 6.3 The Assurance service incorporates specific audits and counter fraud work where high risks are identified.
- 6.4 The Council has the following policies and procedures in place that contribute to prevention:
- Council Constitution and Financial Procedure Rules
  - Officer and Member Code of Conduct
  - Counter Fraud Policy and Strategy
  - Anti Money Laundering Policy
  - Whistleblowing Policy

## **7. TOP LEVEL COMMITMENT**

- 7.1 The top-level management should be committed to preventing persons acting in the capacity of a person associated with it from engaging in criminal facilitation of tax evasion. They should foster a culture within the Council in which activity intended to facilitate tax evasion is never acceptable.
- 7.2 This Policy is supported by the Single Leadership Team and endorsed by the Audit Panel.

## **8. DUE DILIGENCE**

- 8.1 The Council should apply due diligence procedures, taking an appropriate and risk based approach, in respect of persons who perform or will perform services on behalf of the organisation, in order to mitigate identified risks.
- 8.2 Processes and procedures are in place in relation to the payment of invoices, issuing of grants, payment of salaries and wages, direct payments.
- 8.3 The Assurance service completes regular audits and counter fraud work in these areas.

## **9. COMMUNICATION**

- 9.1 The Council should seek to ensure that its prevention policies and procedures are communicated, embedded and understood throughout the organisation, through internal and external communication, including training.
- 9.2 All staff will be made aware of this Policy and the requirements via appropriate means of training. Further details can be obtained from the Assurance service.
- 9.3 The reporting process for anyone who may have concerns that either tax evasion or the facilitation of tax evasion offences may have been committed are:  
Head of Assurance  
**Address:** Tameside One, Market Place, Ashton-under-Lyne, Tameside, OL6 6BH  
**Telephone:** 0161 342 3231
- 9.4 In the absence of the Head of Assurance or in instances where it is suspected that the Head of Assurance is involved, concerns should be raised with the Audit Manager  
  
**Address:** Tameside One, Market Place, Ashton-under-Lyne, Tameside, OL6 6BH  
**Telephone:** 0161 342 2870

## **10. MONITORING AND REVIEW**

- 10.1 The Council should monitor and review its preventative procedures and makes improvements where necessary.
- 10.2 Monitoring review will form part of the annual risk assessment and formation of Assurance work, and annual reporting of Assurance work to the Audit Panel.

## **11. POLICY REVIEW**

- 11.1 This policy will be reviewed on an annual basis.