

Anti tax evasion policy

Policy and Reporting Procedure

Introduction

1. The council's anti tax evasion policy was put in place following the Criminal Finances Act 2017 which created two new corporate criminal offences, the first applying to the facilitation of UK tax evasion and the second to the facilitation of foreign tax evasion.
2. The government has published guidance on the procedures that relevant bodies can put in place to prevent persons acting in the capacity of an associated person from committing tax evasion facilitation offences. Although it is not entirely clear that the legislation applies to local authorities, it is considered that HMRC are likely to regard a local authority as a body corporate, particularly as they have not been specifically excluded.
3. Organisations are encouraged to self-report to the HMRC if they have failed to prevent the criminal facilitation of tax evasion and consider that they may be guilty of one of the offences under the Criminal Finances Act 2017, but if a relevant body can demonstrate that it has put in place a system of reasonable procedures to identify and mitigate its tax evasion facilitation risk, this would be a defence in the event of a prosecution.
4. If the council does not have procedures in place to prevent a person providing a service for it or on its behalf (this includes staff, agency workers, volunteers and contractors) from facilitating tax evasion, this may result in an offence being committed by it.
5. This document sets out information relating to the identification, reporting and recording of suspected tax evasion so that Southwark council staff and others working on behalf of the council (e.g. agency workers, volunteers and contractors) are aware of the procedures to be followed if they suspect tax evasion or its facilitation.
6. This policy will be reviewed in May 2023, or earlier in the event of new legislation or as otherwise required.

Definition of tax evasion

7. 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 to evade tax. For the facilitation of tax evasion to be a criminal act, a person must have deliberately and dishonestly helped another person to evade tax: it does not include the accidental, ignorant or negligent facilitation of tax evasion.
8. Tax is defined widely to cover all forms of UK taxation, including corporate tax, income tax, VAT, stamp duty, NI contributions etc. It is not the same as tax avoidance which is the legal minimisation of tax payable.
9. Corporate criminal offences related to tax evasion are detailed in Part 3 of the Criminal Finances Act 2017 and can be summarised as:
 - Failure to prevent facilitation of UK tax evasion – this is aimed at catching corporations facilitating the evasion of UK taxes;
 - Failure to prevent facilitation of foreign tax evasion – this covers the evasion of foreign taxes facilitated by an entity that has a connection with the UK (e.g. a UK

based office) and where there is dual criminality with the UK.

10. Although these apply mainly to the regulated sector, anyone can be convicted of these offences.
11. Factors which require particular consideration when carrying out council business include:
 - Payment of a substantial sum in cash / businesses that are cash intensive;
 - Payment received from unknown or un-associated third parties;
 - A secretive client: e.g. refuses to provide requested information without good reason;
 - Anonymous transactions;
 - A previous transaction for the same client which has been, or should have been, reported to the nominated officer;
 - Any concerns about the identity or honesty of a client;
 - Transactions with countries identified as not having robust anti-money laundering or counter-terrorism financing arrangements;
 - Transactions with countries subject to sanctions or embargoes or similar measures imposed, for example, by the UN.

Obligations of the council

12. The council, in order to put in place proportionate anti-tax evasion safeguards, will:
 - Continue to apply customer due diligence measures when dealing with new clients or undertaking certain transactions;
 - Appoint nominated officers to whom suspicions of tax evasion activity should be reported;
 - Implement internal reporting procedures;
 - Establish internal procedures with respect to tax evasion;
 - Train relevant staff in the subject.
13. The council's actions to comply with these obligations are outlined below.

Nominated officers

14. The council has nominated the Strategic Director of Finance and Governance, as the nominated officer to whom suspicions of tax evasion activity should be reported.
15. The council has nominated the Fraud Manager as the nominated deputy officer to whom such suspicions should be reported.

Reporting Procedure

16. If a member of staff or other individual acting on behalf of the council suspects any instance of tax evasion or its facilitation, they should contact the nominated officer or deputy immediately.
17. Where necessary the nominated officer will request completion of the tax evasion

report form attached to this document. The steps to follow are clearly marked on the form.

18. The nominated officer will make a full assessment of the evidence presented with the report, before deciding whether it constitutes a sufficient case for suspecting tax evasion or its facilitation has taken place. If the nominated officer so determines, it is their duty to report it to the HMRC.
19. All transactions involved in the suspected activity are to be ceased immediately until further notice from the HMRC. Any person(s) proceeding with any transaction involved in the suspected activity could be committing an offence and therefore be liable for prosecution.

Staff Training

20. Appropriate staff training will continue to be identified and implemented.
21. This document provides all the necessary information for staff wishing to report a suspected instance of tax evasion or its facilitation, however in the event of further queries please contact the nominated officer or deputy.

Record-keeping Procedure

22. All documentary evidence collected by the nominated officer will be recorded and retained in line with the council's retention policy.

CONFIDENTIAL

Tax Evasion Report Form

Procedure Notes

Please complete all relevant boxes.

Give as much detail as possible - a full report is crucial to ensuring a proper investigation into the matter disclosed is undertaken. Include details such as:

- When/where any transactions took place
- The exact nature of the transactions (if possible provide documentary evidence)
- Whether the suspected activity has happened, is ongoing or is imminent
- Why you believe the activity to be suspicious

Please DO NOT DISCLOSE the matter to anyone other than the nominated officer. There is a section on this form to be filled out if anyone other than the nominated officer has been informed, but you must give good reason as to why such a disclosure was made.

Once the form has been completed please email to the Strategic Director of Finance and Governance:

Duncan.whitfield@southwark.gov.uk

Or post to:

Strategic Director of Finance and Governance
Finance and Governance
2nd Floor
PO Box 64529
London SE1P 5LX

- PLEASE NOTE THE DETAILS OF ANY DISCLOSURE WILL BE HELD IN THE STRICTEST CONFIDENCE.

DISCLOSURE UNDER ANTI TAX EVASION POLICY

ABOUT YOU:			
Name:			
Department / organisation:			
Contact number:			
Contact e-mail:			
ABOUT YOUR CONCERN			
Nature of Suspicious activity			
Name, address and any contact details of person(s) you think may be involved If a company or other body, please include details of nature of business			
Nature / value and timing of activity or transaction involved (e.g. cash)			
Please give any other information you think is relevant			
Have you informed anybody of your suspicions already?	Yes	See below	NO
<i>If 'yes' please give name and contact details of the person:</i>			
<i>If 'yes': please say why you felt a disclosure was necessary:</i>			
Do you have good reason for the matter not to be disclosed to the HMRC (e.g. you are a lawyer and wish to claim legal professional privilege)	Yes	See below	NO
<i>If 'yes' please give details:</i>			

Signed:
Name:
Date: