

Preventing Tax Evasion Policy

Scope:	This policy applies to all employees, councillors, contractors, partners, suppliers, consultants, residents and service users of the council.
Effective Date:	October 2020
Review Date:	October 2021 (or sooner if there are changes to legislation)
Approval (Committee and Date):	TBC
Author:	Head of Resources
Policy Owned by:	Section 151 Officer
Statute:	Criminal Finance Act 2017 Regulation of Investigatory Powers Act 2000 (RIPA) Criminal Procedures and Investigations Act 1996 Police and Criminal Evidence Act 1984 (PACE)
National Standards and Guidance	Tackling Tax Evasion: Government Guidance for the corporate offences of failure to prevent the criminal facilitation of tax evasion (<i>HMRC</i>)
Related Policies	Anti-fraud and Corruption Policy Gifts and Hospitality IR35 Policy and Guidance Anti-money Laundering Policy Whistleblowing Policy Codes of Conduct for Employees and Members Contract Procedure Rules Anti-bribery Policy

1 Scope

- 1.1 This policy outlines the council's approach to tax evasion. It applies to all employees, councillors, contractors, partners, suppliers, consultants, volunteers, residents and service users of the council.
- 1.2 The policy applies to all council's activities, including its work with strategic partners, third parties, suppliers and others. In the case of partnership working, the council will seek to promote the adoption of this policy by its partners.

2 Background

- 2.1 The Criminal Finance Act 2017, which became law in the summer of 2017, sets out how those organisations categorised as 'relevant bodies' under the Act will be considered criminally liable where they fail to prevent those who act for, or on their behalf from criminally facilitating tax evasion.
- 2.2 The Act introduced new offences that will be committed where a relevant body fails to prevent an associated person criminally facilitating the evasion of a tax, and this will be the case whether the tax evaded is owed in the UK or in a foreign country.
- 2.3 Organisations, including Councils, could be liable to severe penalties if they fail to implement adequate procedures to prevent tax evasion.
- 2.4 On 1 September 2018 Her Majesty's Revenue and Customs (HMRC) issued guidance for relevant bodies formulated around the following six guiding principles:
 - Risk assessment;
 - Proportionality of risk-based prevention procedures;
 - Top level commitment;
 - Due diligence;
 - Communication (including training); and
 - Monitoring and reviewing.

3 Definition of Tax Evasion

- 3.1 It is an offence to dishonestly "take steps with a view to" or "be knowingly concerned in" the evasion of the tax. For these offences to be committed it is not necessary that any tax actually be successfully evaded.
- 3.2 There are three stages that apply to both the domestic and foreign tax evasion facilitation offences.
 - Stage One: the criminal tax evasion by a taxpayer (either an individual or a legal entity) under existing law;
 - Stage Two: the criminal facilitation of the tax evasion by an "associated person" of the relevant body acting in that capacity;
 - Stage Three: the relevant body failed to prevent its representative from committing the criminal facilitation act.

4 Key Principles

- 4.1 The objective of the policy is to provide a coherent and consistent approach to all employees and any person who performs services for and on behalf of Welwyn & Hatfield Borough Council (the Council), including contractors and subcontractors, on the prevention of tax evasion by those parties engaged in any form of activity with the Council.
- 4.2 It will enable employees, members, contractors and volunteers to understand their responsibilities and allow them to take the necessary action such as reporting any potential breaches of the policy.
- 4.3 The policy will form part of the Council's Anti-Fraud and Corruption Framework.
- 4.4 The Council is committed to preventing tax evasion and will not tolerate it in any of its activities.

5 Policy Statement

- 5.1 The Council understands its role in the prevention of tax evasion and takes its responsibilities seriously.
- 5.2 The Council will ensure it has adequate procedures in place to assess and prevent tax evasion.
- 5.3 It is considered unacceptable knowingly or through collusion to:
 - enter false or misleading information in relation to the employment of an individual to facilitate the underpayment of income tax;
 - process invoice payments or raise debt to facilitate the underpayment of tax;
 - artificially document services supplied to the Authority as being outside the scope of VAT;
 - helping an overseas contractor avoid overseas tax on payments they make to the Authority; or
 - process a payment to an employee or contractor as an expense rather than another type of payment which would be subject to tax.
- 5.4 The Council will ensure it adequately investigates and takes action on any suspicion of tax evasion.

6 Procedures

- 6.1 Whether procedures are adequate is for the courts to decide on a case by case basis. The procedures need to be applied proportionately based on the level of risk of tax evasion to the Council.

6.2 Adequate procedures cover:

- **Risk Assessment** - The Council will assess the nature and extent of its exposure to being considered as having failed to prevent the act of tax evasion.
- **Top Level Commitment** - The Corporate Management Team and Cabinet are committed to supporting proportionate measures to safeguard against tax evasion and that this is clearly communicated to all managers, staff and partners of the Council.
- **Due Diligence** - That the Council can demonstrate it is confident that its business relationships are transparent and ethical.
- **Clear, Practical and Accessible Policies and Procedures** - That the Council's policies and procedures to prevent tax evasion are clear, practical, accessible and enforceable.
- **Effective Implementation** - The Prevention of Tax Evasion policy and any related procedures are embedded throughout the Council. This means that statements setting out its commitment to preventing tax evasion are embedded in the recruitment, retention, and operational policies and in training programmes.
- **Monitoring and Review** - That the Council monitors and reviews its policies and procedures on a regular basis to ensure that they are current, up to date and fit for purpose. Fraud cases will be monitored to ensure the correct application of the policies and procedures.

7 Identification and Notification Regarding Tax Evasion

- 7.1 Prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control.
- 7.2 Concerns must be raised with the Council's Section 151 Officer as soon as practicably possible if there is a suspicion that this policy has been breached using antifraud@welhat.gov.uk or at Welwyn Hatfield Borough Council, The Campus, Welwyn Garden City, Herts, AL8 6AE.

8 Sanctions

- 8.1 Staff who breach this policy will be investigated and may face disciplinary action, which could result in dismissal for misconduct or gross misconduct.
- 8.2 In line with the Public Contract Regulations 2015 the council will exclude a supplier from participation in a procurement where the supplier has been found guilty of breaching its obligations in relation to the payment of taxes and may exclude a supplier where the council has knowledge of breach short of a conviction.

9 Version History

Version no.	1.0	Date effective:	October 2020
Full / partial review?	Full		
Brief summary of changes:	Fundamental review of policy		
Staff consultation (teams):	Legal Governance Client Services Procurement Human Resources Finance/Payroll Trade Unions		
Resident consultation:	N/A		
Approved By Cabinet / Council:	TBC		
Author:	Richard Baker, Head of Resources		