

By: Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services – Peter Oakford  
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To: Governance and Audit Committee – 19 October 2022

Subject: Review and approval of Kent County Council's Tax Strategy and Corporate Criminal Offence policy

Classification: Unrestricted

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Summary: This report summarises the importance of the implementation of the Tax Strategy and the Corporate Criminal Offence (CCO) policy and asks the Committee to approve both documents.

## **FOR APPROVAL**

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### **1. Background**

- 1.1 HMRC require a tax strategy to be published at least annually as set out in Section 16 of the Finance Act 2016. The tax strategy must set out the following:
- a) Approach to risk management and governance arrangements in relation to UK taxation;
  - b) Attitude towards tax planning;
  - c) The level of risk in relation to UK taxation KCC is prepared to accept; and
  - d) Approach towards dealing with HMRC.

- 1.2 The Criminal Finance Act 2017, came into force in September 2017 and part 3 of the Act creates two separate corporate criminal offences (CCO):

- a) Failure to prevent facilitation of UK taxation, and
- b) Failure to prevent facilitation of overseas tax evasion.

Further to this, organisations who fail to prevent their own staff or those acting on their behalf from facilitating tax evasion, face becoming criminally liable themselves.

Attached to the report is the draft KCC tax strategy and CCO for comment and approval. Sections 2 and 3 below set out the key areas.

- 1.3 Training courses in respect of CCO have been attended and research conducted on how other Councils have implemented the Tax Strategy and CCO.

## **2. Tax Strategy Summary**

The Council's tax strategy has been drafted in line with HMRC requirements and Finance Act 2016.

### **2.1 Tax Governance**

Tax governance ensures that KCC is compliant with its tax affairs by confirming that all taxes are paid and reclaimed accurately on a timely basis. Examples can be found in Appendix 1.

### **2.2 Approach to risk management**

KCC has a risk aware culture, and a Risk Assessment Register (RAR) is used to manage and monitor risk. This is good practice and is monitored regularly.

The formal tax strategy provides the framework to assess VAT and all other tax related risks.

All stakeholders should be aware of the Council's Code of Conduct; and policy and procedures in relation to our approach to risk.

### **2.3 Tax planning**

A Tax Strategy will ensure that KCC minimises its tax liabilities and takes advantage of taxation allowances. Tax planning will be used to support business strategy. A proactive risk management approach is encouraged by the Council whereby individual decisions are based on properly assessed risks.

### **2.4 Approach towards HMRC engagement**

KCC has a zero-tolerance policy towards the evasion of tax. The Council engages with HMRC openly, honestly, and constructively in respect of tax matters.

## **3. Corporate Criminal Offence Policy Summary**

The Council has adopted a zero-tolerance approach to all forms of facilitation of tax evasion and it will always aim to conduct its financial affairs in a law-abiding manner.

Six reasonable prevention procedures have been put in place as set out below to ensure compliance with the CCO and is in line with HMRC guidelines.

### 3.1 Areas of risk and risk assessment

Focus is driven by using a “managing risk toolkit” and relevant risks under the CCO are captured. Reviews take place half yearly.

### 3.2 Risk- based prevention procedures

Risk management and policy strategy are in place to address specific risks. The Tax Strategy will be reviewed annually in the same way that the Anti-Fraud and Corruption Strategy is renewed annually.

### 3.3 Top level commitment

Compliance with the CCO should be led by example and communication to staff should follow a top-level commitment, preferably supported by CMT and relevant Members.

### 3.4 Due diligence

This outlines the reasonable steps that KCC should take to ensure that it mitigates the risk of tax evasion. For example, the Council undertakes due diligence at initial stages of projects for tax compliance. Further examples of cautions being exercised can be found in Appendix 1.

### 3.5 Communication and training

Training will be provided to staff and communicated via KNet. Training is to be prioritised in accordance with the level of risk a role is exposed to.

### 3.6 Monitoring and Review

Regular reviews to ensure the compliance with the main principles of tax treatment are to be conducted.

## **4. Practical next steps**

Relevant policies and procedures which overlap the CCO can be found in Appendix 2. Failure to comply with the CCO may result in criminal prosecution, unlimited fines, a public record of conviction, and potential implications for the ability to trade.

A risk register has been designed to understand the Council's exposure to corporate criminal offences. Each owner is responsible for completing their risk register and reviewing their own risks. The data is captured in JCAD system maintained by the Corporate Risk Team.

## **5. Governance Review**

To be reviewed by the Chief Accountant's Team annually.

## **6. Recommendation**

The committee is asked to approve the implementation of Tax Strategy and Corporate Criminal Offence policy.

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