



Corporate Criminal Offence 2017

Failure to prevent the facilitation of UK tax evasion and evasion of foreign tax under Criminal Finances.

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1.0 Introduction

As part of the Criminal Finance Act 2017, the Council has adopted a policy to aid compliance with the Corporate Criminal Offence (CCO). The Council expects all employees and members to conduct themselves in an honest and ethical manner.

We require all our stakeholders who have, or seek to have a relationship with the Council, to familiarise themselves with our policy and act in accordance with our Codes of Conducts, while always incorporating our values and culture.

2.0 Legislation

The legislation states that the Council would be found guilty if a “*relevant body*” acting in the capacity of the Council commits the **facilitation of tax evasion** in the UK or overseas.

A ‘*relevant body*’ is defined as any corporation or partnership whether formed in the UK or elsewhere, who acts in the capacity of a person associated with the Council. Examples include: -

- 1) An employee of the Council.
- 2) An agent of the Council, or
- 3) Any other persons (individual or corporate) that performs services for or on behalf of KCC and acts in the capacity of a person performing such services.

The Council aims to conduct its financial affairs in a law-abiding manner and has a **zero-tolerance** approach to all forms of facilitation of tax evasion, whether in the UK and/or overseas.

Failure to do so will result in unlimited fines, a public record of the conviction, reputational damage, and likelihood of regulatory sanction.

Note: The Council is only responsible for the actions of persons in respect of services/goods they provide for, or on behalf of, the Council. The Council is not responsible for the way contractors manage their own business. We would expect LATCos to sort out their own policy, but we have liaised with the FD (Marcus Yarham) for confirmation and to see what they are doing about it.

3.0 Difference between tax evasion and tax avoidance

Tax evasion is the use of **illegal** methods to conceal income or information from the tax authorities. This is deliberate and dishonest conduct. Tax evasion can result in fines, penalties, and/or prison time.

For a Council, tax evasion means cheating the public revenue, omission with dishonest intent and/or taking deliberate steps with a view to the fraudulent evasion of a tax, resulting in depriving HMRC of the money which is entitled to. Tax evasion will be reported to the internal audit and Counter Fraud team. Any findings that could compromise our integrity will be reported to HMRC.

Tax avoidance is the use of **legal** methods of reducing the taxable income or tax owed. Therefore, tax avoidance is a form of structuring your affairs so that you pay the least amount of tax. This involves finding the loopholes in the tax legislation.

4.0 Reasonable prevention procedures (RPP)

The Government recognises that the any regime that is risk-based and proportionate cannot be seen/assumed to be a zero-failure regime.

Six reasonable prevention procedures have been incorporated in this document to enhance your understanding. These are outlined below. (This is directed to KCC staff and management)

4.1 Areas of risks and Risk Assessment

It is unlikely that any employee will benefit individually from tax evasion. However, the current economic climate change where employees are working from home, where there are staff reductions, and where management are focused on critical areas of the business does provide opportunities for committing tax evasion.

The Council has a managing risk toolkit¹ and, this is the process where areas of risks relevant to the CCO Act are captured. This will form part of the risk assessment and the prevention procedures as per HMRC guidelines.

This CCO risk assessment will be reviewed periodically. The identified risks are **here** for you to view.

*Note: By clicking the word "**here**" you will be directed to the Excel document. Please refer to Excel document.*

4.2 Risk-based prevention procedures

The Council has a risk management and policy strategy to address specific risks. (Please see section 5) There are further finance guidance on Knet. Examples include VAT guidance, AR01 forms flowcharts, Ir35 guidance documents. All relevant policies are outlined in Section 5. The Chief Accountant's Team is also available for help in tax matters.

The Council has a Tax Strategy in place and a robust Anti-Fraud and Corruption Strategy² which is annually reviewed by Internal Audit service.

¹ Managing Risk Toolkit

<https://kentcountycouncil.sharepoint.com/sites/KNet/documentsmain/Risk%20Register%20Sheet.xlsx>

² Anti- Fraud and Corruption Strategy

<https://kentcountycouncil.sharepoint.com/sites/KNet/kentdocuments/Anti-Fraud%20and%20Corruption%20Strategy.pdf>

4.3 Top level commitment

The involvement of the Members and senior management in the design, implementation and communication of the CCO emphasises leading by example for all staff and stakeholders. This policy is supported by the Corporate Management Team (CMT) and endorsed by the Audit Committee (G&A).

The Council has a *zero-tolerance* policy towards the criminal facilitation of tax evasion. It is important that everyone acts diligently and do not do anything that will discredit the Council's reputation, and public confidence.

4.4 Due diligence

Due diligence should be exercised in all aspects of the Council's operations. Reasonable steps are being undertaken to ensure that due diligence is carried out in the initial stages of the Council's commissioning cycle ensuring the Council mitigates the risk of tax evasion.

Due diligence is conducted on both internal and external matters as this forms part of our good corporate governance.

For example, reasonable care and caution are exercised when processing all transactions; particularly high value/ high risk area payments. Regular monitoring takes place and particular caution is exercised when making payment to new suppliers.

A risk register is used as part of the CCO Act process. This is reviewed by the Chief Accountant's Team at the Council on a quarterly basis.

4.5 Communication and training

All staff should be aware of this policy and will be given training on how the offences occur and how to spot the risks. Training on this will be provided as part of the recommended training and further information can be found at Knet.

The aim of the training is to provide everyone with an understanding of this offence and the associated risks, without needing to understand the underlying tax law. Training will be prioritised in accordance with the level of risk that a role exposed to.

Further references to the CCO Act will be embedded in other policies with the aim of making this more comprehensive through the Council's functioning policies.

4.6 Monitoring and review

The Council understands that monitoring and reviewing are an important process; therefore, regular health checks that cover the main principles of tax rules are conducted and this ensures that the organisation is meeting its tax obligations.

5.0 Practical next steps

A collection of relevant existing policies and procedures has been identified where the CCO Act overlaps them. These will be reviewed to identify and fill in the gaps where tax is also affected by the failure to act upon the relevant policies below.

The other relevant policies are as follows:-

- Anti-Bribery Policy
- Anti-Money Laundering Policy
- Whistleblowing Policy and Procedure
- Tax Strategy
- The Kent Code
- Risk assessment register
- Anti-Fraud and Corruption strategy
- Financial Regulations
- Code of Member Conduct

- [IR35 Guidance Policy](#)
- Expenses policy
- Records management policy
- Data protection policy
- Information sharing policy
- Debt management policy
- Data breach policy

6.0 Raising a concern

The Council is committed to ensuring that there is a safe, reliable, and confidential way of reporting any suspicious activity, and there is clear guidance to ensure everyone know how they can raise concerns regarding the intention of tax evasion.

For example, where there is a capital project, there are questions on tax implications to ensure that VAT and any other tax matters are considered.

Knet advises what to do in relation to tax matters and this is reviewed on a rolling basis.

There is also training available and, but I think the message in this instance needs to come from the top.