

Tackling Tax Evasion Statement

This statement sets out the commitment of Gateshead Council to prevent a person criminally facilitating tax evasion in accordance with the Criminal Finance Act 2017.

Aim of the legislation

Relevant bodies should be criminally liable where they fail to prevent those who act for, or on their behalf from criminally facilitating tax evasion.

The new offences 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.

The new offence, however, does not radically alter what is criminal, it simply focuses on who is held to account for acts contrary to the current criminal law.

If a relevant body can demonstrate that it has put in place a system of reasonable procedures that identifies and mitigates its tax evasion facilitation risks, then prosecution is unlikely as it will be able to raise a defence.

Introduction

Tax evasion is when individuals or businesses deliberately omit, conceal or misrepresent information to reduce their tax liabilities. Organisations can be used by associated individuals or businesses to facilitate taxpayer evasion in the UK or overseas.

There are three stages that apply to the 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

Defence: where the relevant body has put in place ‘reasonable prevention procedures’ to prevent its associated persons from committing tax evasion facilitation offences (stage two), or where it is unreasonable to expect such procedures, it shall have a defence

Risk Assessment

Gateshead Council has assessed 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 is documented and kept under review.

Reasonable prevention procedures proportionate to the size, complexity and risk have been implemented.

Top Level Commitment

The Council is committed to preventing persons acting in the capacity of a person associated with it from engaging in criminal facilitation of tax evasion. The Council has fostered a culture in which activity intended to facilitate tax evasion is never acceptable.

Senior management have been involved in the creation and implementation of preventative procedures and have been involved in the risk assessment process.

Due Diligence

Due diligence will be undertaken in order to ensure that the risk of potential interactions with the Council being used by associated persons to engage in the criminal facilitation of tax evasion is clearly identified before any transactions take place. This due diligence will be proportionate to the identified risk.

Communication and Awareness

The Council seeks to ensure that its prevention policies and procedures are communicated, embedded and understood throughout the organisation, through internal and external communication, including training. This is proportionate to the risk to which the organisation assesses that it is exposed.

To facilitate this, the Council is committed to ensuring officers and Members are aware of their responsibilities with regard to preventing tax evasion. To this end, the Council will ensure that procedures are updated to reflect the finance Act and employees will be made aware of the changes to legislation and their roles and responsibilities.

Monitoring and Review

The Council will undertake regular review and practices will evolve as more is understood about the risks that it faces and lessons are learnt. The Council maintains a risk register which identifies the risks and controls, including future controls, to mitigate those risks. This register is reviewed annually and updated throughout the year as required, as a result of the changes in the Council's activities.

The Council's Corporate Risk and Resilience Group are responsible for monitoring and maintaining the register. Updates will be provided to Audit and Standards Committee as appropriate.

Reporting and Reference Documents

In the first instance any suspicions should be directed to the Corporate Fraud Team via email Fraudreporting@gateshead.gov.uk or via the fraud hotline 0191 4332805.

Other relevant documents:

Anti-money Laundering Policy

Whistleblowing Policy

Counter Fraud and Corruption Strategy

Counter Fraud and Corruption Policy

Fraud Response Plan

Criminal Finance Act 2017

Bribery Act