

Meeting: Cabinet

Date: 24 August 2021

Wards Affected: All Wards in Torbay

Report Title: Policy for the Prevention of the Facilitation of Tax Evasion

Is the decision a key decision? No

When does the decision need to be implemented?

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1. Purpose of Report

- 1.1 The Criminal Finances Act 2017 Part 3 created the Corporate Offences of Failure to Prevent Facilitation of Tax Evasion. Under this Act, an offence may be committed by the Council where it fails to prevent an 'associated person' criminally facilitating the evasion of a tax, whether the tax evaded is owed in the UK or in a foreign country.
- 1.2 In response to the requirements of the Act, a 'Prevention of the Facilitation of Tax Evasion' Policy (referred hereinafter as 'the Policy') document has been prepared and is appendix 1 to this report.

2. Reason for Proposal and its benefits

- 2.1 To mitigate the risk of prosecution for the corporate criminal offences of the facilitation of tax evasion, the Council would need to prove that reasonable prevention procedures are in place. This would enable the Council to raise a defence.
- 2.2 The Policy demonstrates the Council's commitment to adopting a zero tolerance to all forms of tax evasion.
- 2.3 During 2021/22 the Council commits to undertake a risk assessment to identify those areas of the Council's activities where risk is highest and to implement the measures set out in the Policy.
- 2.4 If the Council were unable to prove that it had in place, reasonable prevention procedures, the penalties for this offence include: -
 - Unlimited financial penalties

- Ancillary orders e.g., confiscation orders
- Reputational damage

2.5 The Audit Committee met on 28 July and considered the policy as set out in the submitted report. The Audit Committee supported approval of the policy and recommended the Cabinet requested the Council's wholly owned companies to adopt the same if not a similar policy.

3. Recommendation(s) / Proposed Decision

3.1 That:

- i. The Prevention of the Facilitation of Tax Evasion Policy, as set out in Appendix 1 to the submitted report be approved;**
- ii. the Council's wholly owned companies be required to adopt the same or a similar policy.**
- iii. the Monitoring Officer be requested to review the Council's Financial Regulations and Contract Procedures as set out in the Council's Constitution.**
- iv. Cabinet notes that during 2021/22 the Council commits to undertake a risk assessment to identify those areas of the Council's activities where risk is considered high and to implement the measures set out in the Policy.**

Appendices

Appendix 1: Prevention of the Facilitation of the Tax Evasion Policy

Supporting Information

1. Introduction

- 1.1 The proposed Prevention of the Facilitation of Tax Evasion Policy is set out in Appendix 1.

2. Options under consideration

- 2.1 As set out in Appendix 1

3. Financial Opportunities and Implications

- 3.1 As set out in Appendix 1

4. Legal Implications

- 4.1 As set out in Appendix 1

5. Engagement and Consultation

- 5.1 N/A

6. Purchasing or Hiring of Goods and/or Services

- 6.1 N/A

7. Tackling Climate Change

- 7.1 N/A

8. Associated Risks

- 8.1 As set out in Appendix 1.

During 2021/22 the Council commits to undertake a risk assessment to identify those areas of the Council's activities where risk is considered high and to implement the measures set out in the Policy.