

This Report will be made public on 3 December 2019



Report Number: **C/19/47**

To: Cabinet
Date: 11 December
Status: Non Key Decision
Corporate Director: Tim Madden, Customers, Support and Specialist Services
Cabinet Member: Councillor David Monk, Leader of the Council

SUBJECT: Fair Tax Declaration

SUMMARY: The report sets out the background for Cabinet to consider adopting the Fair Tax Declaration on behalf of the Council.

REASONS FOR RECOMMENDATION:

Council is asked to agree the recommendations set out below because:-

- (a) It has been requested to consider the item by Council

RECOMMENDATIONS:

1. Receive and note report C/19/47.
2. To consider the issues as set out and decide whether it agrees to adopt the proposal.

1. Introduction

- 1.1 At its meeting of 25 September 2019, Council considered opposition business in relation to the Fair Tax Declaration. Below is a link to the Fair Tax website which sets out some of the detail behind the declaration:

<https://fairtaxmark.net/supporters/councils-for-fair-tax/>

- 1.2 The proposal asked Cabinet to adopt the following matters:
- Approve the Councils for Fair Tax Declaration.
 - Lead by example and demonstrate good practice in our tax conduct, right across our activities.
 - Ensure contractors implement IR35 robustly and pay a fair share of employment taxes.
 - Not use offshore vehicles for the purchase of land and property, especially where this leads to reduced payments of stamp duty.
 - Undertake due diligence to ensure that not-for-profit structures are not being used inappropriately as an artificial device to reduce the payment of tax and business rates.
 - Demand clarity on the ultimate beneficial ownership of suppliers and their consolidated profit& loss position.
 - Promote Fair Tax Mark certification for any business in which we have a significant stake and where corporation tax is due.
 - Support Fair Tax Week events in the area, and celebrate the tax contribution made by responsible businesses who say what they pay with pride.
 - Support calls for urgent reform of EU and UK law to enable local authorities to better penalise poor tax conduct and reward good tax conduct through their procurement policies
- 1.3 The Council resolved that the matter should be referred to Cabinet for their observations before deciding whether to make a decision in the issue (minute 42, Council dated 25 September 2019). The purpose of this paper is to provide further information for Cabinet to consider this business.

3. Matters to be considered

- 2.1 The Council itself currently undertakes activities in a number of these areas. These are set out in the paragraphs below. Cabinet is asked to consider whether it wishes further work to be undertaken or if it is satisfied that the issue is being adequately met.
- 2.2 Firstly, the Council operates in a way which ensures all tax arrangements are complied with in accordance with the laws which currently prevail. It already has many features in place which ensure both probity and integrity in dealing with these affairs and represent best practice for the sector. This includes the appropriate taxation arrangements for staff, collection of council tax and business rates as well as anti fraud activities for both these areas to ensure the right amount of tax is being paid. It also works with the

HMRC to ensure its VAT arrangements put in place are properly administered and collected.

- 2.3 It is also worth commenting that the Council has an income and debt management policy which sets out how we recover tax fairly. It has a duty to ensure that all revenue due to it is collected efficiently and effectively for the benefit of residents and taxpayers. It is essential that a consistent debt management system is in place for both financial stewardship and audit purposes. However, the council also recognises that some people do not pay their debts for a variety of reasons. This may include financial hardship which the council will endeavour to balance against its duty to collect. Conversely, the council aims to take a robust approach to those who can pay but won't pay. The council's Income and Debt Management debt collection and recovery policy aims to be fair to everyone notwithstanding their circumstances.
- 2.4 With regard to IR35, as a public authority currently the responsibility is to determine the employment status of the worker to see if the IR35 rules apply and then to collect the tax and NI due if this is required. That is undertaken by the Council's Human Resources function. From April 2020 the rules are changing which strengthen the Council's responsibilities to confirm the IR35 status of a contractor in a written "Status Determination Statement" and to provide this to the personal service company worker and the employment agency if necessary. This will include arrangements for any appeal against this determination. The Council is putting in place procedures and processes to manage this requirement when it becomes effective.
- 2.5 When undertaking any formal Invitation to Quote (ITQ) or Invitation to Tender (ITT), the Council has questionnaires in place which determine from any organisation critical details including their status, the type of body, who their parent company is, whether any subcontracting will be utilised if the contract is awarded, the company structure and controlling interests. Questions related to financial position can be asked but the Council is legally limited about the number of years these can be assessed across. Checks are also carried out via Credit Safe about the financial position however there are practical limitations in that the P&L position can only be assessed against the last published accounts. The Council does have checks in place for the voluntary sector to ensure these are registered appropriately. There are no specific statements relating to offshore entities or ownership and legally we could not exclude suppliers on this basis.
- 2.6 The resolution asks for a number of statements from the Council in relation to Fair Tax in particular in promoting events and requiring suppliers to be signed up to the mark (the final 3 bullet points above). At present the Council does not do this and it is a matter for Cabinet as to whether they consider it appropriate for further work on the implications of the council meeting these additional requirements.

3. **Conclusion**

3.1 The above sections set out the key principles of the Fair Tax resolution and Cabinet is asked to consider the proposal from Full Council.

4 LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

4.1 Legal Officer's Comments (AK)

There are no legal implications arising out of this report.

4.2 Finance Officer's Comments (TM)

There are no direct financial consequences arising from this report. There may be some implications depending on the actions adopted by Cabinet.

4.3 Diversity and Equalities Implications (TM)

There are no diversity and equality implications arising directly from this document.

5. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councilors with any questions arising out of this report should contact the following officer prior to the meeting

Tim Madden, Corporate Director, Customers, Support and Specialist Services

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The following background documents have been relied upon in the preparation of this report:

None