

Council

18 July 2024

‘Fair Tax’ Motion – Update

Portfolio Holder: Vince Maple, Leader of the Council

Report from / author: Phil Watts, Chief Operating Officer (Section 151 Officer)

Summary

This report provides an update in respect of the ten resolutions made by Full Council on 20 July 2023, when it passed a motion approving the ‘Councils for Fair Tax’ declaration. The report was considered by the Cabinet on 11 June 2024, the decision of which is set out at section 5 of the report.

1. Recommendations

- 1.1. Council is asked to note the update provided in respect of each of the ten resolutions made by Full Council.

2. Budget and policy framework

- 2.1. Rule 10.1(b), Chapter 4 – Rules of the Council’s Constitution set out the rules for submission of motions that require notice and the debate of these at Full Council. A motion titled ‘Standing up for Responsible Tax Conduct’ was agreed by Full Council on 20 July 2023. This included a request for an update on progress to be submitted to Cabinet and Full Council.

3. Background

- 3.1. On 20 July 2023 Full Council passed a motion titled ‘Standing up for Responsible Tax Conduct’, which included approving the Council’s ‘Fair Tax’ declaration, available at minute number 140 of minutes of the meeting on the Council’s website:

<https://democracy.medway.gov.uk/ieListDocuments.aspx?CId=122&MID=5604#A130352>

- 3.2. The motion included a request for Cabinet to receive a report in due course regarding the implementation of the measures set out in the motion, and that the Cabinet referred the report to Full Council. The report will not include a Diversity Impact Assessment.

3.3. In approving the declaration, the Council made ten resolutions. Full Council resolved to:

1. Approve the Councils for Fair Tax Declaration (attached at Appendix 2.)
2. Lead by example and demonstrate good practice in our tax conduct, right across our activities.
3. Ensure IR35 is implemented robustly and contract workers pay a fair share of employment taxes.
4. Not use offshore vehicles for the purchase of land and property, especially where this leads to reduced payments of stamp duty.
5. Undertake due diligence to ensure that not-for-profit structures are not being used inappropriately by suppliers as an artificial device to reduce the payment of tax and business rates.
6. Demand clarity on the ultimate beneficial ownership of suppliers.
7. Promote Fair Tax Mark certification especially for any business in which we have a significant stake and where corporation tax is due.
8. Support Fair Tax Week events in the area and celebrate the tax contribution made by responsible businesses, proud to promote responsible tax conduct and pay their fair share of corporation tax.
9. Support calls for urgent reform of UK procurement law to enable local authorities to better penalise poor tax conduct and reward good tax conduct through their procurement policies.
10. Request that the Cabinet receives a report in due course regarding the implementation of the measures set out in points 1-9 above.

4. Update in respect of the ten resolutions

- 4.1. Resolution 1: The 'Councils for Fair Tax' declaration was approved at Full Council on 20 July 2023.
- 4.2. Resolution 2: Though our contract with specialist public sector tax advisors, PS Tax we access regular briefings, training and advisory services on significant projects and workstreams, to help make sure all our activities are in line with the latest requirements and guidance. Our financial systems and processes are designed and maintained, and staff are trained and provided with guidance to ensure we account for VAT properly on every transaction. Our payroll systems and processes are designed and maintained to ensure we deduct and pay the appropriate sums in respect of the tax liabilities of all our employees and Members. We have not engaged any specialist services, nor do we pursue any in-house strategies to reduce the Council's property tax liabilities, including Business Rates.
- 4.3. Resolution 3: Medway is committed to ensuring that its locum and temporary staff comply with IR35 regulations and pay the correct amounts of employment tax. Our Internal Audit and Counter Fraud team completed a full review of our IR35 assessment process during the second half of 2023/24. The draft report made five 'amber' recommendations, agreed by management:

- A full review of the Council's intranet pages to ensure recruiting managers are fully aware of up-to-date guidance.
- Access via the Council's intranet to the HMRC online assessment tool for recruiting managers. HMRC have updated this tool and confirmed that they will now stand by the status determination outcome.
- A process to prevent reinstatement of an interim or temporary worker, unless accompanied by confirmation from the Temporary Recruitment team or Category Management team.
- Regular sample checking of new workers to be introduced to ensure that the HMRC online assessment tool determination has been completed correctly. We are proposing to go further than this and check all new agency workers.
- A process to regularly monitor work roles, to ensure that a new assessment is completed if a work role changes.

- 4.4. Resolution 4: Medway Council has never used, nor does it intend to use, offshore vehicles for the purchase of land and property, in order to reduce its liability for stamp duty.
- 4.5. Resolution 5: When bidders submit tenders to win Council contracts, they are required to disclose not only their own organisation structure details, but also those of any additional parties they will rely on to fulfil the deliverables of the contract. In doing so and as part of their submission, lead bidders are required to declare they have met all obligations relating to taxes and social security contributions.
- 4.6. Resolution 6: As part of our tenders, we will always ascertain immediate and ultimate parent company details if they exist. In addition to this, following the passing of this motion, bidders are now asked to disclose their ultimate beneficial owners, should these be different from their legal ownership.
- 4.7. Resolution 7: Neither of the two 100% Council owned companies, nor the joint venture with Norse, currently hold 'Fair Tax Mark' certification, however all have resolved to discuss this at their next Board meetings.
- 4.8. Resolution 8: Officers have reached out to the Fair Tax Foundation and they have shared their Fair Tax Week resource pack. They've also indicated a couple of large Fair Tax Certified organisations with a presence in Medway and officers will seek to connect with these organisations.
- 4.9. Resolution 9: There are termination provisions in our Council contracts, based on meeting tax obligations, which if triggered would indicate a breach of contract and allow us to exit without penalty. The Council does support calls for urgent reform of UK procurement law to enable local authorities to better penalise poor tax conduct and reward good tax conduct and it is anticipated that this will be an indirect deliverable of the Procurement Bill currently passing through Parliament.
- 4.10. Resolution 10: This report for noting by Cabinet on 4 June 2024.

5. Cabinet

- 5.1. The Cabinet considered the report on 11 June 2024 and its decision was as follows:

5.2. The Cabinet noted the update provided in respect of each of the ten resolutions made by Full Council and noted that the report would also be submitted to Full Council for consideration on 18 July 2024.

6. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Medway Council fails to ensure that the parties it transacts with behave with integrity in the conduct of their tax affairs.	Without taking the action agreed as part of the Council's 'Fair Tax' declaration, the Council cannot with certainty vouch for the tax conduct of the parties it transacts with.	The action referred to in this report, should provide the Council with greater confidence over the conduct of the parties it transacts with.	CIII
Likelihood		Impact:	
A Very likely B Likely C Unlikely D Rare		I Catastrophic II Major III Moderate IV Minor	

7. Consultation

7.1. This motion, together with its amendment, was agreed by Full Council on 20 July 2023 and was supported by all sides of the Council chamber.

8. Climate change implications

8.1. There are no climate change implications arising directly from the contents of this report.

9. Financial implications

9.1. There are no financial implications arising directly from the contents of this report.

10. Legal implications

10.1. There are no legal implications arising directly from the contents of this report.

11. Conclusions

11.1. Officers have taken or are in the process of taking forward all of the action resolved by Full Council in passing the motion titled 'Standing up for Responsible Tax Conduct', as agreed by Full Council on 20 July 2023.

Lead officer contact

Phil Watts, Chief Operating Officer, Gun Wharf, 01634 334411,
phil.watts@medway.gov.uk

Appendices

None

Background papers

['Standing up for Responsible Tax Conduct' – motion agreed at Full Council on 20 July 2023](#)

[Medway Council's 'Fair Tax' declaration – appendix to the motion agreed at Full Council on 20 July 2023](#)