

## ABERDEEN CITY COUNCIL

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<b>COMMITTEE</b>	Finance and Resources
<b>DATE</b>	12 September 2024
<b>EXEMPT</b>	No
<b>CONFIDENTIAL</b>	No
<b>REPORT TITLE</b>	Fair Tax Mark
<b>REPORT NUMBER</b>	CORS/24/271
<b>EXECUTIVE DIRECTOR</b>	Andy MacDonald
<b>CHIEF OFFICER</b>	Craig Innes
<b>REPORT AUTHOR</b>	Michele Pittendreigh
<b>TERMS OF REFERENCE</b>	1.1.5 and 1.1.7

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### 1. PURPOSE OF REPORT

- 1.1 The Finance and Resources Committee at its meeting on 30 January 2024 agreed to “instruct the Chief Officer - Finance following consultation with the Chief Officer – Corporate Landlord and the Head of Commercial and Procurement Services to bring a report back to the Finance and Resources Committee on 8 May 2024” on the implications of implementing a Notice of Motion by Councillor Thomson regarding the promotion by the Council of the Fair Tax Mark certification.
- 1.2 The Committee on 7 August 2024 were advised that work had been undertaken to establish whether a Fair Tax Mark could be introduced within the Council Tender processes. Unfortunately this had not been concluded to meet the Committee cycle and it was agreed that a full detailed report would be presented by Commercial & Procurement Services to this Committee on 12<sup>th</sup> September. This report fulfils that instruction.

### 2. RECOMMENDATION(S)

That the Committee:-

- 2.1 Notes the Fair Tax Mark accreditation application process as detailed at paragraph 3.3 and the current monitoring processes of existing exclusion criteria detailed in paragraph 3.8 of the report; and
- 2.2 Instructs the Chief Officer - Commercial & Procurement Services to insert clauses into the Council’s formal tender documentation that actively promote to all bidders the application for Fair Tax Mark accreditation.

### 3. CURRENT SITUATION

3.1 The Notice of Motion by Councillor Thomson was in the following terms:-

That the Committee notes that:-

- (1) The pressure on organisations to pay the right amount of tax in the right place at the right time has never been stronger;
- (2) Polling from the Institute for Business Ethics finds that “corporate tax avoidance” has, since 2013, been the clear number one concern of the British public when it comes to business conduct;
- (3) More than two-thirds (68%) of the Scottish public agree that the Government and local councils should consider a company’s ethics and how they pay their tax as well as value for money and quality of service provided, when undertaking procurement;
- (4) Around 15% of public contracts in Scotland have been won by companies with links to tax havens;
- (5) It has been conservatively estimated that losses from multinational profit-shifting (just one form of tax avoidance) could be costing the UK some £17bn per annum in lost corporation tax revenues; and
- (6) The Fair Tax Mark offers a means for business to demonstrate good tax conduct, and has been secured by wide range of businesses across the UK, including FTSE-listed PLCs, cooperatives, social enterprises and large private businesses.

That the Committee believes that:-

- (1) Paying tax is often presented as a burden, but it shouldn’t be;
- (2) Tax enables us to provide services from education, health and social care, to flood defence, roads, policing and defence. It also helps to counter financial inequalities and rebalance distorted economies;
- (3) As recipients of significant public funding, local authorities should take the lead in the promotion of exemplary tax conduct; be that by ensuring contractors are paying their proper share of tax, or by refusing to go along with offshore tax dodging when buying land and property;
- (4) Where substantive stakes are held in private enterprises, then influence should be wielded to ensure that such businesses are exemplars of tax transparency and tax avoidance is shunned - e.g., no use of marketed schemes requiring disclosure under DOTAS regulations (Disclosure Of Tax Avoidance Schemes) or arrangements that might fall foul of the General Anti-Abuse Rule;
- (5) More action is needed, however, as current law significantly restricts councils’ ability to either penalise poor tax conduct or reward good tax conduct, when buying goods or services; and
- (6) UK cities, counties and towns can and should stand up for responsible tax conduct – doing what they can within existing frameworks and pledging to do more given the opportunity, as active supporters of international tax justice.

That the Committee resolves to:-

- (1) Approve the Councils for Fair Tax Declaration;
- (2) Lead by example and demonstrate good practice in our tax conduct, right across our activities;

- (3) Ensure contractors implement IR35 robustly and 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 as an artificial device to reduce the payment of tax and business rates;
- (6) Demand clarity on the ultimate beneficial ownership of suppliers and their consolidated profit & loss position;
- (7) Promote Fair Tax Mark certification to 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 who say what they pay with pride; and
- (9) Support calls for urgent reform of EU, UK and Scots law to enable local authorities to better penalise poor tax conduct and reward good tax conduct through their procurement policies.

3.2 The Fair Tax Mark is a voluntary accreditation scheme that certifies organisations that demonstrate good tax conduct and transparency. It aims to promote responsible tax behaviour and to distinguish businesses that pay their fair share of tax from those that engage in tax avoidance or evasion. The Fair Tax Mark has been endorsed by various public sector organisations, trade unions, and politicians as a way to encourage ethical business practices and to increase public trust.

3.3 The Fair Tax Mark application process consists of four steps: 1) an initial assessment, where the Fair Tax Foundation reviews the applicant's tax policies and practices; 2) a feedback and improvement stage, where the applicant receives a report with recommendations and suggestions to improve their tax conduct; 3) a verification and certification stage, where the applicant submits evidence to demonstrate compliance with the Fair Tax Mark criteria and receives a certificate and a logo; and 4) a renewal and review stage, where the applicant undergoes annual checks to maintain their accreditation.

3.4 Details relating to the Fair Tax Mark application process can be found at this link:- [Fair Tax Mark application process - Fair Tax Foundation Fair Tax Foundation](#).

3.5 Businesses must pay fees to obtain accreditation and are required to seek annual re-accreditation, the fees are based on the size, structure, and complexity of the organisation, the cost and resource required in order to become accredited may act as a barrier to opportunities particularly for Micro and Small Enterprises. The fees, based on business income, but with nature and complexity of the business being taken into account, are as follows:

<b>Annual Turnover</b>	<b>Fees (+VAT) (Accreditation and annual licence)</b>
Less than £700k	£299
£701k – £10m	£300 – 1,000
£10.1m – £36m	£1,000 - £3,000
£36m – £100m	£3,000 - £5,000
£100.1m – £500m	£5,000 - £7,000
£500m and above	£7,000 - £20,000

- 3.6 The proposal is to take a position of encouragement rather than mandating a requirement. This approach would be synonymous with the Living Wage accreditation. The Council is unable to mandate the requirement because of the requirement and principles of procurement legislation of equal treatment and non-discrimination. If the requirement was mandatory there would be a risk of challenge from bidders based outside the UK who are active in public sector procurement and who may be litigious.
- 3.7 There are no specific legislative provisions or guidance on the use of the Fair Tax Mark therefore no mandated reporting mechanism. A system to capture information would need to be developed internally which would incur cost and require resource to implement and manage thereafter.
- 3.8 It may be worth noting that all above threshold procurement exercises already require bidders to complete a Single Procurement Document (SPD) in which they must make certain declarations, including those relating to payment of taxes. The SPD is used to assess the suitability, capacity and competency of bidders. It contains mandatory and discretionary exclusion criteria in relation to the breach of tax and social security payment and also includes criteria to enable the assessment of the financial stability of bidders i.e. Turnover and/or Financial ratios.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 There would be indirect officer resource costs associated with developing, implementing and managing any system of capturing and recording the relevant information.

#### **5. LEGAL IMPLICATIONS**

- 5.1 The legal implications arising from the recommendations are highlighted in this report.

#### **6. ENVIRONMENTAL IMPLICATIONS**

- 6.1 There are no direct environmental implications arising from the recommendations of this report.

## 7. RISK

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H)  *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
<b>Strategic Risk</b>	No significant risks identified		L	<b>Yes</b>
<b>Compliance</b>	No significant risks identified		L	<b>Yes</b>
<b>Operational</b>	No significant risks identified		L	<b>Yes</b>
<b>Financial</b>	No significant risks identified		L	<b>Yes</b>
<b>Reputational</b>	No significant risks identified		L	<b>Yes</b>
<b>Environment / Climate</b>	No significant risks identified		L	<b>Yes</b>

## 8. OUTCOMES

<b>Council Delivery Plan 2024</b>	
	<b>Impact of Report</b>
<b>Aberdeen City Council Policy Statement</b>  <u><a href="#">Working in Partnership for Aberdeen</a></u>	The proposals in this report have no impact on the Council Delivery Plan
<u><a href="#">Local Outcome Improvement Plan</a></u>	
Prosperous Economy Stretch Outcomes	The proposals in this report have no impact on the LOIP stretch outcomes.
Prosperous People Stretch Outcomes	The proposals in this report have no impact on the LOIP stretch outcomes.
Prosperous Place Stretch Outcomes	The proposals in this report have no impact on the LOIP stretch outcomes.
<b>Regional and City Strategies</b>	The proposals in this report have no impact on the Regional and City Strategies

## 9. IMPACT ASSESSMENTS

Assessment	Outcome
<b>Integrated Impact Assessment</b>	No assessment required. I confirm this has been discussed and agreed with the Chief Officer - Commercial & Procurement Services on 16 August 2024.
<b>Data Protection Impact Assessment</b>	Not required.
<b>Other</b>	No additional impact assessments have been completed for this report.

## 10. BACKGROUND PAPERS

10.1 [Fair Tax Mark application process - Fair Tax Foundation Fair Tax Foundation.](#)

## 11. APPENDICES

11.1 There are no appendices.

## 12. REPORT AUTHOR CONTACT DETAILS

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