

**AUDIT COMMITTEE  
22 JULY 2024**

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**TAXATION STRATEGY**

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**SUMMARY REPORT**

**Purpose of the Report**

1. To present to the Audit Committee the proposed Taxation Strategy (Tax Strategy) for the Council.

**Summary**

2. The Tax Strategy sets out the overall framework for the Council's management of its tax affairs.
3. The Finance Act 2016 Schedule 19 sets out what should be included in a Tax Strategy. While the Council is not required to publish a Tax Strategy under this legislation, it is good practice to do so and demonstrates the Council's commitment and transparency in how it is managing its tax affairs.
4. The key components of the Tax Strategy are;
  - (a) The Council's approach to risk management and governance arrangements in relation to taxation.
  - (b) The Council's attitude towards tax planning.
  - (c) The level of risk in relation to taxation that the Council is prepared to accept.
  - (d) The Council's approach towards its dealings with HMRC.

**Recommendation**

5. The Committee reviews and notes the proposed Tax Strategy for the Council.

**Reason**

6. To comply with legislation and provide good practice in managing tax affairs.

**Elizabeth Davison  
Group Director of Operations**

## Background Papers

No background papers were used in the preparation of this report

David Grieveson : Extension 5402

S17 Crime and Disorder	There is no specific crime and disorder impact.
Health and Well Being	There is no specific health and well being impact.
Carbon Impact and Climate Change	There is no specific carbon impact.
Diversity	There is no specific diversity impact.
Wards Affected	All wards are affected equally.
Groups Affected	All groups are affected equally.
Budget and Policy Framework	This report does not affect the budget or policy framework.
Key Decision	This is not a key decision.
Urgent Decision	This is not an urgent decision.
Council Plan	This report has no particular implications for the Council Plan.
Efficiency	There is no specific efficiency impact.
Impact on Looked After Children and Care Leavers	The report does not impact upon Looked After Children or Care Leavers.

## MAIN REPORT

### Information and Analysis

7. The Tax Strategy sets out the overall framework for the Council's management of its tax affairs.
8. The Finance Act 2016 Schedule 19 sets out what should be included in a Tax Strategy. While the Council is not required to publish a Tax Strategy under this legislation, it is good practice to do so and demonstrates the Council's commitment and transparency in how it is managing its tax affairs.
9. The key components of the Tax Strategy are;
  - (a) The Council's approach to risk management and governance arrangements in relation to taxation.
  - (b) The Council's attitude towards tax planning.
  - (c) The level of risk in relation to taxation that the Council is prepared to accept.
  - (d) The Council's approach towards its dealings with HMRC.
10. The Council aims to be fully compliant with all tax laws, rules, and regulations. It is committed to conducting its tax affairs in an open, honest, and timely fashion. The Council does not seek to gain a tax advantage through tax avoidance and seeks to manage its tax affairs in an efficient manner.

11. To achieve this the Council undertakes to:
  - (a) Take all reasonable steps to ensure that it is fully compliant with tax legislation and pays the right amount of tax at the right time.
  - (b) Maintain an open, honest, and collaborative relationship with the tax authorities.
  - (c) Respond to all queries and enquiries in a timely fashion.
  - (d) Where the correct tax treatment is ambiguous and where it is appropriate to do so, take the appropriate external advice and act in accordance with that advice, making disclosures to the tax authorities as appropriate.
  - (e) In cases of dispute, act transparently and fairly, aiming to resolve the dispute in a manner that preserves good working relationships.
12. The Council's overall management of tax risk and supporting governance framework is the responsibility of the Director of Operations (Section 151 officer).
13. The Council's Tax Strategy attached in **Appendix 1**.

## **Tax Strategy**

### **Introduction**

1. The Tax Strategy of Darlington Borough Council sets out the overall framework for the Council's management of its tax affairs and includes:
  - (a) Compliance,
  - (b) Policies and procedures,
  - (c) Tax risk,
  - (d) Tax planning,
  - (e) Relationship with the tax authorities.
2. The Finance Act 2016 states a tax strategy should cover the following specific requirements:
  - (a) Governance arrangements in relation to tax.
  - (b) Approach to risk management.
  - (c) Attitude of the Council towards tax planning.
  - (d) The level of risk in relation to UK taxation that the Council is prepared to accept.
  - (e) Approach of the Council towards their dealings with HMRC.

### **Background**

3. The Council is a Local Government body and as such is a Section 33 Body under the VAT Act 1994. This entitles it to recover VAT attributable to non-business activities and to exempt business activities, providing this is an insignificant proportion of the total tax incurred.
4. As a Local Government body, the Council is exempt from Corporation Tax.

### **Governance**

5. Governance comprises the arrangements put in place by the Council to ensure that the intended outcomes for stakeholders are defined and achieved. To deliver good governance both the Council and individuals working for it must aim to achieve the Council's objectives while acting in the public interest at all times. The core principles of good governance are:
  - (a) Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law.
  - (b) Ensuring openness and comprehensive stakeholder engagement.
  - (c) Defining outcomes in terms of sustainable economic, social, and environmental benefits.

- (d) Determining the interventions necessary to optimise the achievement of the intended outcomes.
  - (e) Developing the entity's capacity, including the capability of its leadership and the individuals within it.
  - (f) Managing risks and performance through robust internal control and strong public financial management.
  - (g) Implementing good practices in transparency, reporting, and audit, to deliver effective accountability.
6. The Council supports these principles fully and has developed the Local Code of Corporate Governance as a public statement of the commitment to these principles and sets out clearly the way in which the Council will meet that commitment.
7. In line with the Council's governance framework and consistent with its wider values, the Council aims to being fully compliant with all tax laws, rules, and regulations. It is committed to conducting its tax affairs in an open, honest, and timely fashion. The Council does not seek to gain a tax advantage through tax avoidance and seeks to manage its tax affairs in an efficient manner.
8. To achieve this the Council undertakes to:
- (a) Take all reasonable steps to ensure that it is fully compliant with tax legislation and pays the right amount of tax at the right time.
  - (b) Maintain an open, honest, and collaborative relationship with the tax authorities.
  - (c) Respond to all queries and enquiries in a timely fashion.
  - (d) Where the correct tax treatment is ambiguous and where it is appropriate to do so, take the appropriate external advice and act in accordance with that advice, making disclosures to the tax authorities as appropriate.
  - (e) In cases of dispute, act transparently and fairly, aiming to resolve the dispute in a manner that preserves good working relationships.
9. The Council has specific controls and procedures in place at operational level to ensure compliance with relevant tax legislation and mitigate tax risk. There are appropriate designated lead tax officers within the Council and its Shared Services provider that deal with the day-to-day tax compliance.
10. The Council's day to day management of tax affairs is the responsibility of the Assistant Director of Resources with the overall management of tax risk and supporting governance framework is the responsibility of the Group Director of Operations (Section 151 officer).

## **Risk Management**

11. The Council's Risk Management Policy Statement states that 'the Council will embed risk management into its culture, processes, and structure to ensure that opportunities are maximised and will encourage managers to identify, understand and manage risks'.
12. The Council's Risk Management Strategy explains the processes in identifying, analysing, managing, and monitoring risks. By focusing upon these key risks and priorities for the Council, risks can then be managed through the development of appropriate action plans.
13. Tax risk falls into three broad categories:
  - (a) Compliance Risk – procedures or processes are deficient in ensuring that the right amount of tax is paid at the right time.
  - (b) Transactional Risk – transactions are entered without full consideration of the tax implications.
  - (c) Reputational Risk – the damage risks have on the Council's relationship with stakeholders including HMRC.
14. Given the size and complexity of the Council, it is not possible to completely eliminate tax risk, however, with careful management, the chance of errors and impact of risks can be significantly reduced.
15. The Council maintains robust processes and controls which are designed to minimise the risk of errors or inaccuracies arising which could impact the amount of tax that we pay. These processes and controls are regularly monitored, reviewed, and tested and underpin the submission of returns prepared by us and, as an employer, for our staff.
16. The Council engages the services of an external tax advisor which specialises in public sector tax, which includes a helpline, regular VAT & Employment Tax Forums, and tax briefings on both established and emerging tax issues.
17. For more complex or unusual transactions the Council will seek specialist tax advice to ensure tax implications are fully understood and considered.
18. The Council has a low-risk appetite in relation to tax matters and does not use artificial tax structures or undertake transactions whose sole purpose is to create an abusive tax result. When evaluating tax planning the Council's reputation and corporate and social responsibilities are always considered.
19. Tax implications, particularly VAT, are considered as part of the council approval process and a section is included in cabinet and council reports.

## **Tax Planning**

20. The Council will claim such reliefs and incentives as it is properly entitled to and will take reasonable steps to minimise its tax liabilities, where it is appropriate and responsible to do so.

21. The Council strives for full compliance with all statutory obligations, full disclosure to relevant tax authorities and payment of the right amount of tax.
22. Tax planning is used to support the Council's decision-making process. Proactive risk management approach is encouraged as this will lead to decisions made based on properly assessed risks, and this will ensure the right actions taken at the right time.
23. The Council seeks to consider the tax implications of any proposed activity, so they are properly recognised before decisions are made.
24. Designated tax officers are available to offer advice to service areas and external advisors are engaged for complex or unusual activities. Advice is sought from external advisers where uncertainty exists.
25. To determine the council's future VAT exposure with regards to exempt VAT, projections of the council's partial exemption position are made on a regular basis and reported to the Asset Management Group whose membership includes Group Directors and Assistant Directors.

#### **Dealings with HMRC**

26. The Council is transparent about its approach to tax and where it is appropriate to do so will discuss the interpretation of tax legislation with external advisors and HMRC, particularly where the tax treatment is unclear. HMRC will be kept up to date regarding major changes or transactions within the business, so that any potential tax risks can be addressed at an early stage.
27. The Council engages with HMRC openly, honestly, and constructively with a proactive attitude in respect of tax matters and responds to queries and enquiries in a timely fashion.
28. The Council submits voluntary disclosures to HMRC when errors occur and acts quickly to ensure the appropriate actions are carried out to prevent reoccurrences.

#### **Related Policies & Procedures**

29. The following policies and procedures support the Council's approach to tax:
  - (a) Local Code of Corporate Governance
  - (b) Financial Procedure Rules
  - (c) Risk Management Strategy
  - (d) Anti-Fraud and Corruption Policy
  - (e) Anti-Money Laundering Policy
  - (f) Whistleblowing Policy.