

Overview and Scrutiny Committee

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| Title: | Fair Tax and Economic Crime |
| Report of: | Pedro Wrobel, Executive Director of Innovation and Change, and Sarah Warman Strategic Director of Housing and Commercial Partnerships |
| Cabinet Member | Councillor Adam Hug, Leader of the Council |
| Wards Involved: | All |
| Policy Context: | Fairer Westminster |
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1. Executive Summary

- 1.1. This report provides an update for the Overview and Scrutiny Committee on the progress made following the Council's commitment to become a Fair Tax Council, and the wider work associated with this to tackle Dirty Money and Economic Crime in the city.

2. Key Matters for the Committee's Consideration

- 2.1 The Committee is invited to:

- Consider whether there are other avenues for the council to apply more pressure on freeholders and long leaseholders who have candy stores as tenants;
- Consider whether there are other insights we should look to gain on overseas property ownership;
- Consider and provide feedback on Procurement and Commercial Services' proposed approach to engaging with suppliers and raising awareness of the importance of fair tax conduct, set within the context of both our Councils for Fair Tax Declaration and our increased focus on Supplier Relationship Management.

3. Background to Fair Tax and Economic Crime

- 3.1 Britain's long established and stable social structures have made our country a place where people worldwide want to invest their money. Central London and Westminster in particular proudly attract many international investors in residential and commercial property – and has long been the engine for UK economic growth.
- 3.2 This is vital for the success of Britain's economy and for our standing in the world, bringing jobs and growth to the benefit of local residents and citizens up and down the country. But our reputation is at risk as increasingly a growing minority of these investors use Central London as a place for money laundering, fraud and economic crime¹. The National Crime Agency estimates that money laundering costs the UK economy £100bn every year, and state that 'the property market is [a] route exploited by criminals, particularly in London'².
- 3.3 The reputation of Westminster has been further impacted post-pandemic by the presence of candy stores and souvenir shops taking up – at peak levels – 30 units on Oxford Street. These firms owe the Council millions in unpaid business rates, but as we have tried to pursue them we have come up against patsy directors registered on Companies House, and phoenixing where firms have shut to re-open under a new name in the same property but are able to avoid their business rates liability.
- 3.4 These two strands - questionable overseas property ownership and candy stores carrying out questionable business practices to avoid their responsibilities - have overlap in the cause and potential solutions when considered under a broader heading of 'Economic Crime'.
- 3.5 A parallel concern, which Westminster Council and public authority counterparts have a role in addressing, is instances of tax avoidance within our supply chain. The UK Government estimates losses in revenue due to tax avoidance at £1.4billionⁱ per annum, however recent academic research suggests that the extent of losses could reach a further £17billion if 'profit shifting' is also factored inⁱⁱ.
- 3.6 A key part of both ensuring we were not contributing to the problem, and creating a platform to lead others, was to ensure that our own financial responsibilities were in order by making the Councils for Fair Tax Declaration. This acted as a springboard for us to lead, and where necessary take a more assertive stance, on these issues.

4. Economic Crime and the Dirty Money Charter

¹ The latest report (2021) by the Office for Professional Bodies Anti-Money Laundering Supervision (OPBAS) – a UK government body set up to oversee the professional bodies that supervise legal and accountancy firms and companies in regard to their anti-money laundering procedures – found that the vast majority (81 per cent) of the 22 professional bodies had not implemented an effective risk-based approach.

² <https://www.nationalcrimeagency.gov.uk/what-we-do/crime-threats/money-laundering-and-illicit-finance>

- 4.1 There are multiple elements to our efforts to reduce economic crime, working with Government, transparency groups and businesses. Nationally, we have been working with HM Revenue & Customs (HMRC) and the National Crime Agency (NCA) to investigate the financial practices of Candy stores and pursue the people behind them.
- 4.2 These investigations take a long time and the quantum (c.£9m) that we are asking them to pursue is relatively small compared to other evasion cases, but we are continuing to push them to make progress as quickly as possible and recover these funds for taxpayers. As well as the scale, the complexity of navigating multiple overseas accounts and creating a sufficient legal case to use the powers that these agencies have is still not simple.
- 4.3 We have also had good engagement with HMG on the Economic Crime and Corporate Transparency Bill, which is nearly through parliament, which could offer marginal improvements to our ability to pursue Candy Stores by forcing greater transparency, if the existing loopholes are removed – which we continue to engage with Government to try and address.
- 4.4 We also constructively raised our concerns about potential weaknesses in the updated regulatory regime that could undermine its aims, for example, third parties will be able to verify individuals on behalf of Companies House but would not be subject to fines if they took a lax approach to this verification – meaning companies willing to bend the rules have a potential competitive advantage. We have also expressed concern that based on our experience of the pace of the HMRC and NCA investigations, the new powers they and Companies House are being provided with to investigate entries into companies have come with no additional funding to enable these investigations to take place.
- 4.5 A key trigger for this engagement was our Dirty Money Charter, which is the first of its kind among Local Authorities in the UK, based on three principles: Transparency and Accountability; Supporting Fair Taxation; and Constructive Challenge. We launched this in partnership with the New West End Company (NVEC) and HOLBA, to show that not only were there international factors that demanded Government intervention – but also that businesses and Local Authorities wanted change.
- 4.6 Through the charter, we committed to:
- Develop a list of properties where the ultimate beneficial owner is unclear or appears to be inconsistent with other records, mapping these across the City and sharing these with relevant enforcement bodies;
 - Continue to disrupt businesses with a track record of selling unsafe goods, and other practices commonly associated with suspicious financial activity;
 - Continue to invest in encouraging positive growth in Westminster, including innovating with business rates reliefs schemes such as our pop-up scheme;

- Work with the Government and the Opposition to promote reform of the business rates system to ensure that our high streets across the city remain vibrant and competitive.
- 4.7 This piece of work was noticed by officials, and gave us a platform to share our concerns, influence the Bill and ensure we were using every possible avenue to address Candy stores and related issues. We continue to pursue all these commitments, which are all ongoing.
- 4.8 As well as the positive campaign, we have ramped up the pressure on Candy stores, souvenir and vape shops, to make clear the status quo is not acceptable. Following multiple attempts to engage with each freeholder and long leaseholder, requesting that they do all they can stop letting agents leasing empty properties to candy stores or souvenir shops, we then carried out a transparency release of those who failed to engage positively with the council.
- 4.9 This exercise triggered a number of conversations with freeholders and long leaseholders on the specific actions that could help to remove candy stores in their particular contractual situations, and those conversations are ongoing, with some parties even inviting trading standards action to enable them to begin legal action against their tenants. There has been a fall since this exercise, from 26 candy stores to 21.
- 4.10 As a wider part of this work, there has been a constant drumbeat of media attention around the ownership of properties in Westminster – which we have been working with the Centre for Public Data to better understand. Westminster has seen a 300% rise in properties registered to owners in Jersey since 2010, and a rise of 1200% in the number of properties registered to owners in Russia.
- 4.11 While Westminster is home to a cosmopolitan population, this rapid growth while the percentage of residents who have a non-UK identity has fallen suggests that there is another reason that Westminster property ownership is expanding. This is while private sector rents increased by over 21% in Westminster in 2023 compared to the year before, as demand for property massively outstrips supply.
- 4.12 This work with the Centre for Public Data is ongoing, as we now have the register of beneficial ownership to reveal the true levels of overseas ownership (previously we could not determine when a UK company owned a property but the beneficiary was overseas) and understand how this interacts with empty properties, short-term lets and other non-primary residential uses. There is currently an issue with the data on some older properties where the council tax and land registry identification data does not align, and 18,000 offshore companies (almost half of those required to declare) which between them hold almost 52,000 properties in England and Wales, have either ignored their legal obligations altogether or submitted information which makes it impossible for the public to find out who owns them.

5 Councils for Fair Tax Declaration

- 5.1 Signing the Councils for Fair Tax Declaration was to send our contractors a clear signal about Westminster City Council's values and level of commitment to responsible tax conduct. The original key aims under the declaration were to:
- a) raise awareness amongst existing and future suppliers about the extent and impact of tax avoidance
 - b) leverage our relationships with our supply chain to encourage good tax conduct
 - c) influence the Government Commercial Function's development of the 'Transforming Public Procurement Bill' by highlighting public authority appetite to be able to use tax conduct as a criterion within our procurement exercises.
- 5.2 Procurement and Commercial Services took into account specialist legal advice provided to the Fair Tax Foundation and in addition, worked closely with the council's internal Legal team to explore exactly what could be permitted under existing Public Contracts Regulations (PCR) 2015 around this issue. Would it contravene the Regulations if we were to include unscored, survey-style fair tax questions as part of the supplier selection process, if it were made clear to bidders that their responses would have no impact on the outcome of the tender? In summary, it was found that this approach would imply unreasonable risk in terms of legal challenge under PCR, the potential impacts on levels of competition to secure value for money for tax-payers and the creation of artificial barriers to competition for smaller enterprises with fewer resources.
- 5.3 Questions were therefore developed for use with existing suppliers, and potentially for bidders to new tenders, but they would be optional to respond to and the survey would be undertaken totally separately to the tender exercise itself. The final three questions were consulted with the Executive Director of Finance and Resources, Gerald Almeroth, the Cabinet Lead Cllr David Boothroyd and the Fair Tax Foundation. All three require a yes/no answer, but open text responses are also provided for:
- 1) Would your organisation be willing to make a public declaration, via a tax policy or similar, signed by the relevant Board member or equivalent person, that it shuns artificial tax avoidance, and *(for Multinational Corporations (MNCs) only)* the use of tax havens *(other than for legitimate trading purposes)* and profit shifting, right across its operations?
 - 2) Would your organisation be able to evidence its tax practices i.e. public reporting of income, profits and taxes paid at a group level in the UK and *(for MNCs only)* each country of operation? *NOTE: small and micro entities will soon be required to file a profit and loss account at Companies House and such a statement will meet this threshold for evidence.*
 - 3) Would your organisation be in favour of suppliers being selected or assessed on the basis of forward-looking 'responsible tax conduct' criteria

as part of public procurement processes, with proportionate requirements for type and size of organisation?

- 5.4 Officers shared their proposed approach with public sector counterparts as part of a best practice group set up by the council and the Fair Tax Foundation. In March this year, we presented the draft questions for feedback to the group, which is now comprised of 5 other London boroughs, 14 English city and county councils and 4 Scottish councils. The next officer group will take place in November, where representatives will give updates on the effectiveness of their approaches.
- 5.5 In April, the Fair Tax Foundation attended the council's Responsible Procurement & Commissioning Strategy launch. They hosted a stall alongside other partners such as the Living Wage Foundation and One Westminster, providing them the opportunity to engage with a significant number of suppliers to the council.
- 5.6 As part of Fair Tax Week in June, Officers and the Leader took the opportunity to network with likeminded organisations in a celebration of responsible tax conduct organised by the Fair Tax Foundation – with the Leader providing a speech on our work in this area. The event was hosted in Westminster and attended by a significant number of businesses large and small.
- 5.7 At the time of writing, the Transforming Public Procurement Bill is undergoing final amendments before Royal Assent. During the development of the Bill, interest groups called for changes to the procurement regulations to permit the use of criteria to de-select businesses from public sector tenders on the basis of poor tax conduct i.e. tax avoidance, and the use of award criteria to reward bidders for evidencing responsible tax conduct. Although some positive changes have been introduced relating to beneficial ownership transparency, it is currently unknown whether the quality and integrity of data bidders will be required to share will be sufficient to ensure public authorities are contracting with businesses who pay the right amount of tax, at the right time and in the right place.
- 5.8 After this most recent iteration of the Bill was released, our focus has altered slightly. Our main goal is awareness raising and influencing our suppliers. Our proposed approach to gathering data has shifted from broad, transactional surveying, to more considered conversations with a smaller group of existing contractors, both larger organisations and SMEs.
- 5.9 As part of the implementation of the Responsible Procurement and Commissioning Strategy, a series of 'deep dive' contractor meetings will take place, starting in October, exploring all aspects of RPC including such as carbon reduction, social value delivery, community wealth building opportunities etc., and this is seen as a useful opportunity to initiate conversations with suppliers on tax practices. An initial target of 40 strategic suppliers has been set, but the Responsible Procurement & Supplier Relationship Management team with Procurement will engage with as many suppliers as resources allow, including our SME community. As part of this,

we will test supplier appetite for pledging their commitment to fair tax conduct, e.g. through committing to accreditations such as the Fair Tax Mark.

- 5.10 The deep dives will also consider other ethical conduct aspects of responsible procurement, including supply chain modern slavery due diligence, and pay and conditions of supply chain staff including union representation. This will help ensure that the council's Ethical Procurement Policy is being adhered to, and the human and labour rights elements of the Responsible Procurement and Commissioning Strategy are being delivered and evidenced by suppliers.
- 5.11 When information has been gathered from our supply chain, we will feedback our findings in terms of the appetite for transparency on tax conduct, with perspectives being collated according to size and sector. Our proposed approach will raise awareness and influencing behaviour and will also inform the optimum balance that the council can strike in terms of ensuring healthy levels of competition and associated value for money services, and a robust approach to applying fair tax criteria in tenders, if it were to be permitted under any future changes to the UK procurement regulations.

If you have any queries about this Report, please contact Natalie Evans
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APPENDICES:

None

BACKGROUND PAPERS

None

ⁱ <https://www.gov.uk/government/statistics/measuring-tax-gaps/7-tax-gaps-illustrative-tax-gap-by-behaviour>

ⁱⁱ [Frontpage - Economists without borders \(missingprofits.world\)](#)