



**INTERNAL AUDIT FINAL REPORT
CHIEF EXECUTIVE'S DEPARTMENT**

TAX AND NATIONAL INSURANCE CONTRIBUTION ISSUES ARISING FROM THE AUDIT OF PROCUREMENT CARDS

Issued to: Charles Obazuaye, Director of Human Resources and Customer Services
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Reviewed by: Head of Audit and Assurance

Date of Issue: 10 December 2019

Report No.: CEX/11/2019/AU/TAX

TAX AND NATIONAL INSURANCE CONTRIBUTION ISSUES ARISING FROM AUDIT OF PROCUREMENT CARDS

INTRODUCTION AND SCOPE

1. This report sets out the tax and National Insurance Contributions (NIC) issues arising from our audit of procurement cards. They are reported here separately, prior to the issue of the procurement card audit report, to enable them to be addressed by management as a matter of urgency.
2. We have not given an Audit Opinion because we have not assessed the full range of controls in this area. As a result of our findings however we have made recommendations in the table at Appendix A to address the risks identified. Controls we expect to see in place are designed to minimise the Council’s exposure to a range of risks. Weaknesses in controls that have been highlighted will increase the associated risks and should therefore be addressed by management.
3. We would like to thank all staff contacted for their help and co-operation.

AUDIT OPINION	
Not given because we have not assessed the full range of controls in this area	(Definitions of the recommendation ratings are shown in Appendix B)

Number of recommendations by risk rating		
Priority 1	Priority 2	Priority 3
2	1	0

SUMMARY OF FINDINGS

4. Our audit of procurement cards has identified instances where procurement cards have been used to purchase a ‘thank you’ meal for officers at the end of a project, gifts for individuals to celebrate long service, team meals and a gift card as part of the merit award scheme. We identified that there was tax and NIC payable on these but we also found that it had not been paid. We recognise that the tax and NIC implications are not widely known by officers of the Council, but it does however leave the Council subject to a penalty charge and interest payable to HMRC for late disclosure. The PAYE

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Settlement Agreement (PSA) which the Council has arranged with HMRC only includes merit award scheme payments. Therefore other gifts and meals will have to be declared by the individuals who received the 'benefit in kind' or alternatively the Council may have to seek permission from HMRC to pay the tax and NIC due, together with any penalty charge arising.

5. When reviewing documentation relating to the PSA for merit awards we also identified merit awards made to individuals who are not permanent employees of the Council eg agency staff and contractors. No tax or NIC had been paid on these. Our research concluded that tax and NIC is payable on these awards and this has now been confirmed by the Council's tax advisors. Advice should be sought from the Council's tax advisors to determine if tax and NIC is payable for previous years' awards which have been made to non-permanent employees and contractors.
6. Our findings indicate that there is a lack of awareness of the implications of tax and NIC for staff who are purchasing items or meals which may fall within the 'benefits in kind' regulations set out by HMRC. Management/The Leadership Team should consider whether it is appropriate for managers to be purchasing "small item gifts" or/and meals for their staff which may fall within the 'benefits in kind' HMRC regulations, using the Council's Purchasing card or any other means.

DETAILED FINDINGS / MANAGEMENT ACTION PLAN

7. The findings of this report, together with an assessment of the risk associated with any control weaknesses identified, are detailed in Appendix A. Any recommendations to management are raised and prioritised, together with management's responses and timescales for implementation. Appendix B gives the definition of the recommendation ratings.

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DETAILED FINDINGS AND ACTION PLAN

APPENDIX A

No	Finding and risk	Recommendation and Priority *Raised in previous Audit	Management Response	Agreed timescale and responsible manager
1	<p>Our audit of procurement cards identified instances where procurement cards had been used to purchase gifts and meals for individuals and teams. These included :</p> <p><u>End of project 'thank you' meal</u></p> <p>We identified two transactions which had been made by the same card holder on the same day (28 Nov 2018) at a restaurant in Bromley. They were for a meal attended by 12 people with a total cost of £675.34, split into two transactions of £400.00 and £275.34.</p> <p>The purpose of the meal was described on the procurement card system as an end of project thank you. We understand from the authorising officer that the principle of a 'thank you' meal had received approval from the previous Chief Executive. The card holder had left the Council prior to the audit so we were unable to ask them for more information about this, including who had attended the meal. We have now identified who attended the function and have passed these details to HR.</p> <p><u>Leaving lunches</u></p> <p>We identified two instances of 'leaving lunches' purchased using a procurement card. These were described on the procurement card system as 'Leaving</p>	<p>Management should seek advice from the Council's tax advisors and decide whether the Council or the individuals concerned should pay the tax and NIC due on these gifts and meals purchased, together with any subsequent penalty charge and interest payable to HMRC for late disclosure.</p> <p style="text-align: center;">Priority 1</p>	<p>The Council's tax advisor's advice is that the 'Thank you Meal' is a taxable benefit. Having obtained that guidance we will refer this matter to COE to discuss at its meeting on 3 December and decide the action to be taken. It is being recommended that the Council accepts the tax liability on behalf of the "Thank you meal" beneficiaries on this occasion, partly because they were not aware of or told about the tax implications.</p> <p><u>Audit update:</u></p> <p>At the meeting of COE on 3 December, it was agreed that the Council would pay to HMRC the tax and NIC due on these gifts and meals purchased.</p> <p>As above, but for the other instances listed here, management need to determine</p>	<p>31 December 2019</p> <p>COE/CLT</p> <p>COE/CLT</p>

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	<p>lunch for (name of officer leaving)’. One was on 25 February 2019 and totalled £118.93. The other was on 18 April 2019 and totalled £64.29. The card holder told us that they had been agreed each time by the Head of Service. We noted that for the February 2019 lunch the Head of Service who agreed it was also the officer leaving.</p> <p><u>Team lunch</u></p> <p>We identified a payment of £120.10 made by a procurement card holder on 15 May 2019 for a ‘team lunch’.</p> <p><u>Department Store gift card</u></p> <p>We identified one transaction of a Department Store gift card costing £99.99 for a long serving employee who was retiring.</p> <p><u>Gift of engraved pen</u></p> <p>An engraved pen costing £58.64 had been purchased for an employee to commemorate his long service.</p> <p>Under the HMRC guidance setting out the conditions for statutory exemption for ‘trivial benefits’ it states:</p> <ul style="list-style-type: none"> • The cost of the benefit does not exceed £50. 		<p>whether managers should be allowed to use Council resources be it via the purchasing card or any other means.</p>	

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	<ul style="list-style-type: none"> • “Trivial benefits include benefits provided solely for staff welfare purposes such as a bunch of flowers on the birth of a child or a bereavement” are exempt. • Benefits provided in recognition of services provided such as long service awards and social events as a team-building event or as a thank-you for good results in the year will not qualify as trivial benefits. • If an employer provides their employees with benefits on a regular or frequent basis, HMRC will consider whether they are linked to the employee’s services. <p><u>The PAYE Settlement Agreement (PSA)</u></p> <p>The PAYE Settlement Agreement (PSA) which the Council has arranged with HMRC includes merit award scheme payments for permanent staff only. Therefore the meal and gifts highlighted above will have to be declared by the individuals who received the ‘benefit in kind’ or alternatively the Council will have to seek permission from HMRC to pay the tax and NIC due, together with any penalty charge and interest arising due to late payment.</p> <p><u>Risk</u></p> <p>There is a risk that individuals or the Council could be charged and/or investigated for late disclosure of tax</p>			

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	<p>and NIC payable on benefits in kind received.</p> <p>There is a risk to the Council's reputation resulting from not paying tax and NIC timely, accurately and complete.</p>			
2	<p><u>Purchase of a 'Company A' gift card and tax implication of merited reward vouchers to agency staff/staff of contractors</u></p> <p>One of the transactions in our testing sample was a payment of £1,000 on 23 November 2018 for a 'Company A' gift card. The transaction had been made by the procurement card holder and approved by the Head of Service.</p> <p>We ascertained that this was for an officer who had been given a mini merit award of a £1,000 Shopping Mall gift card by the former Chief Executive who, we were informed, agreed to the Shopping Mall gift card being voided and a 'Company A' gift card for £1,000 being purchased using the procurement card.</p> <p>We were informed by the Head of Service that, prior to December 2018, vouchers were purchased either from the Council's gift card reward provider, which offered a wide choice of retail vouchers, or the flex-e-card portal where the individual preferred a Shopping Mall voucher. The Head of Service also informed us that the</p>	<p>Management should arrange to :</p> <p>(i) facilitate payments to HMRC for the tax and NIC which is due on merit awards paid to individuals who are not permanent employees of the Council eg agency staff and contractors and</p> <p>(ii) seek advice from the Council's tax advisors on declaring to HMRC merit award payments made in previous years to these individuals. If their advice is to declare these payments to HMRC then that should be done.</p> <p>Priority 1</p>	<p>Agreed.</p> <p>(i) We (HR) will contact HMRC via the Council's payroll provider to sort out the tax and NIC liability for these payments.</p> <p>(ii) We will also seek advice from the Council's tax advisors on declaring payments made in previous years to agency staff and contractors. This will then be referred to COE to discuss at its meeting on 3 December.</p> <p>As far as the tax due on the £1,000 'Company A' gift card-merited reward is concerned, the tax and NIC have now been paid/sorted out. It was a few weeks late. The deadline was 19 October 2019. The Council's payroll provider raised the payment on 19 November 2019.</p>	<p>31 December 2019</p> <p>Director of HR and CS.</p>

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	<p>'Company A' gift card was an option to choose via the Council's gift reward provider and had been purchased in this way previously, although issues had been encountered with the use of the 'Company A' gift vouchers after they had been purchased from the Council's reward provider. The Council's reward provider had issued large amounts of vouchers in very small denominations, as well as issuing old style vouchers, which caused concerns to be raised when these were used.</p> <p>We confirmed that the £1,000 from the voided Shopping Mall gift card had been credited back to the merit awards account. Spreadsheets of all merit award payments are prepared by HR and sent to the Council's payroll provider, so that relevant tax and NIC can be paid to HMRC.</p> <p>This merit award payment had however been omitted from the relevant spreadsheet and had not been paid. An email with the details was sent subsequently to the Council's payroll provider so that the tax and NIC could be declared as a late payment.</p> <p>When reviewing the documentation we also identified that the spreadsheets of merit awards sent to the Council's payroll provider included details of merit awards made to individuals who are not permanent employees of the Council eg agency staff and staff of</p>			

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	<p>contractors. HR informed us that no tax or NIC was paid on these. From our research we concluded that tax and NIC is payable on these awards and this has been confirmed by the Council's tax advisors.</p> <p><u>Risk</u></p> <p>Risk that individuals or the Council could be investigated for non-disclosure of tax and NIC payable.</p> <p>There is a risk to the Council's reputation resulting from not paying tax and NIC timely, accurately and complete.</p>			
3	<p><u>Policy on gifts and benefits to staff</u></p> <p>Our findings indicate that there is a lack of awareness of the implications of tax and NIC for staff who are purchasing gift items or meals which may fall within the 'benefits in kind' regulations set out by HMRC.</p> <p>In part, this is because there was no reference in the procurement card guidelines of the tax and NIC implications when purchasing gift items of meals for staff.</p> <p><u>Risk</u></p> <p>Risk that staff are not aware of what constitutes</p>	<p>HR should put in place a policy relating to gifts and benefits to staff and ensure that all staff are made aware of it.</p> <p>Priority 2</p>	<p>The Council has a policy in place on Gifts and Hospitality with a particular focus on the relationship between Council staff and their external customers including service users, contractors and any other external agencies. This policy may be tweaked or expanded to deal with the internal relationship between managers and their staff, and whether or not the former can give gifts e.g. meals, flowers and similar small gift items to their staff, other</p>	<p>31 December 2019</p> <p>COE/CLT</p>

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	<p>'benefits in kind', leading to staff being unaware of the tax and NIC liabilities which may arise.</p>		<p>than the merited reward vouchers, using the Council's purchasing cards or any other means.</p> <p>Once agreed by COE, we will publish it on onebromley and ensure that all staff are made aware of it through relevant communication channels including the Chief Executive's monthly newsletter and managers' briefings.</p> <p>However, given the proper context here, a look or re-look at the existing LBB Purchasing Card – Cardholder Procedure should be considered by the appropriate team/service (possibly Finance and/or the Corporate Commissioning /Procurement Team), with a view to reiterating and/or strengthening the messages/wordings in the procedure where it relates to gifts and hospitality. In particular Para 2.4 states inter alia that "The Purchasing card must not be used for gifts and hospitality."</p>	

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			<p>Earlier in the same para it says “The Purchasing card must only be used for appropriate Council business ... This does not include goods or services where corporate arrangements exist...”</p> <p>The mini merited reward which is a discretionary award is a good example of an existing arrangement for the so-called “small or trivial’ gift items for staff.</p> <p>Under para 3.1 it states quite clearly, “Under no circumstances should the purchasing card be used to withdraw cash or to purchase gifts or rewards, or any items to be used as payment in kind for any employee’.</p> <p>The procurement card audit report will recommend that the procurement card guidance is reviewed.</p>	

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APPENDIX B

Recommendation ratings

Risk rating	Definition
<div data-bbox="206 592 369 643" style="background-color: red; color: white; padding: 2px; display: inline-block;">Priority 1</div>	<p>A high priority finding which indicates a fundamental weakness or failure in control which could lead to service or system objectives not being achieved. The Council is exposed to significant risk and management should address the recommendation urgently.</p>
<div data-bbox="206 727 369 778" style="background-color: yellow; padding: 2px; display: inline-block;">Priority 2</div>	<p>A medium priority finding which indicates a weakness in control that could lead to service or system objectives not being achieved. Timely management action is required to address the recommendation and mitigate the risk.</p>
<div data-bbox="206 842 369 893" style="background-color: lightgreen; padding: 2px; display: inline-block;">Priority 3</div>	<p>A low priority finding which has identified that the efficiency or effectiveness of the control environment could be improved. Management action is suggested to enhance existing controls.</p>