

# Tackling Tax Evasion Statement (Criminal Finances Act 2017)

## Introduction

Tax evasion is when individuals or businesses deliberately omit, conceal or misrepresent information to reduce their tax liabilities. Organisations can be used by associated individuals or businesses to facilitate taxpayer evasion in the UK or overseas.

The University is committed to preventing the facilitation of tax evasion by associated individuals or businesses anywhere within its operations. We do this through the development of reasonable prevention procedures, carrying out regular due diligence and risk assessments of our activities and creating awareness and a culture of compliance throughout the University. We also use our strategic planning processes to identify possible risks for future activity, possible changes in legislation and through efficient and effective contract management.

The Criminal Finances Act 2017 has parallels with the UK Bribery Act and this policy should be read in conjunction with the University's anti-bribery and corruption policy and related governance documents

## Criminal Finances Act 2017 (CFA 2017)

The Criminal Finances Act 2017 (CFA 2017) came into effect from 30<sup>th</sup> September 2017. Part 3 of the CFA 2017 introduces a new Corporate Criminal Offence (CCO) of failure to prevent the facilitation of tax evasion.

Whilst it has always been a criminal offence to evade tax, and for anyone to help someone else evade tax, the new Act means that if a person 'associated' to the University, anywhere in the world - is found to have assisted a third-party in evading tax in the course of their duties, then the University itself could be deemed to have committed a corporate offence.

The scope of 'Associated Persons' includes the University's officers, employees, workers, agents, sub-contractors and other people/organisations that provide services for, or on behalf of, the University. The new CCO relates to situations where the University fails to prevent 'Associated Persons' from assisting in the evasion of tax by another party.

Under the Act in the event of there being both:

- Criminal tax evasion by either a UK or overseas taxpayer (as an individual or an entity) under existing law and
- Criminal Facilitation of this offence by an 'associated person' of the University

the University will automatically be charged with the offence of failing to prevent its representatives from committing the criminal act of facilitation unless it can demonstrate that it had reasonable procedures in place to prevent that facilitation. The University, if found guilty, could face an unlimited fine, exclusion from tendering for public contracts, and damage to its reputation.

## Examples of facilitating tax evasion in the context of the University

The following are common university risks that could be expected to feature in a typical risk assessment document and/or risk register:

- Making a payment overseas e.g. to an overseas agent in the knowledge that the agent intends to use the method of payment to evade tax. Typically, this could apply where a payment is made into a bank account which is not in the name of the agent or their company but in the name of a different individual or company, or to a jurisdiction where the individual does not live or work.
- Categorisation of a payment to an individual - who should be deemed an employee or treated as such under IR35 - as self-employed knowing that the individual will use the gross payment to evade tax.
- Assisting an academic to facilitate his/her personal use of department research accounts (or 'personal earning accounts') or the backdating of a waiver, resulting in a loss of income tax to HMRC.
- Making a royalty payment e.g. to an overseas academic/former academic in the knowledge that the academic intends to use the method of payment to evade tax. Again, this could be where a payment is made into a bank account which is not in the name of the academic but in the name of a different individual or company, or to a jurisdiction where the individual does not live or work.
- Employee colludes with another university/third-party to mis-describe services as outside the scope, pass through or grant funding rather than a taxable supply of research services where VAT cannot be recovered.
- Employee agrees to mis-describe services provided to a third-party in order to facilitate a VAT reclaim by them.
- Employee agrees to mis-describe goods being exported so that a lower rate of Customs duty becomes payable on import by customer.
- Employee accepts request to pay one entity knowing that the goods/services have been provided by another entity and that the purpose of the change is to evade tax.
- Employee allows a payment for goods/services to be described as a donation so that the donor can claim tax relief.
- Employee authorises a VAT invoice from a supplier knowing that they are not VAT registered.
- Employee authorises an expense claim with photocopied receipts knowing that the claimant will use the original receipts to support a tax reclaim.
- Employee agrees to mis-description of an income stream to take the payment outside a with-holding tax obligation.

- Employee buys goods for personal use through a university account and issues a certificate for charitable relief.
- Academics not employed by the university perform work in return for a payment in kind e.g. travel to a conference or use of facilities, knowing that no tax will be paid on the payment.
- Overseas agents mis-describe services to facilitate the evasion of local indirect taxes.
- Using a third-party to pay in-country workers on the university's behalf, where you know that there is a withholding obligation, and that the third-party will not comply with that obligation.

### Responsibilities of Staff and other Associated persons

Staff and associates should abide at all times by the University policies - including this CFA 2017 policy, the anti-bribery and corruption policy and related governance documents. Failure to comply with these policies and the obligations detailed in this policy may result in disciplinary action for staff (up to and including dismissal) and termination of contract for associated persons.

Should staff and associates become concerned that a fellow employee or associate is facilitating tax evasion by a third-party then they should immediately alert the responsible office or use the University's whistle-blowing procedure.

### Responsible Officer

The Chief Resources Offices and University Secretary is the nominated responsible officer for this policy.

### Risk Assessment

The University has commenced a review of its risks and associated processes and procedures to ensure that all appropriate steps are taken to prevent facilitation of tax evasion. It will maintain a register of possible risks of the facilitation of tax evasion by its staff and associates, as well as listing controls to mitigate those risks, and any actions required to improve those controls. This register will be regularly reviewed and updated, as and when required.