



University of
Salford
MANCHESTER

Criminal Finances Act Policy

Version Number 1.5

Effective from July 2018

Author: Deputy Chief Executive and Chief Finance Officer

Finance Department

Document Control Information			
Revision History incl. Authorisation: (most recent first)			
Author	Summary of changes	Version	Authorised & Date
J. Charge & I Dempsey	New policy outlining University approach to comply with the Criminal Finances Act 2017. Reflects comments of ARC on 7 June 2018.	V1.1	Council, 6 July 2018
I Dempsey	Inclusion of Appendix 1 <i>detailing examples of breaches of the Criminal Finance Act</i>	V1.2	ARC briefed 3 March 2020
I Dempsey	Reviewed policy in the light of existing guidance as part of the cyclical 2- year review policy. Emphasised that this applies to all members of the University Community. Referenced the requirement for managers to make agents / connected persons aware of their responsibilities.	V1.3	ARC reviewed 14 July 2020 and September 2020
I Dempsey & J Carrigan	Cyclical 2-Year policy review. Reminders distributed to the relevant stakeholders in finance and the wider University, regarding risks and ongoing responsibilities.	V1.4	ARC reviewed 8 June 2022
I Dempsey	Cyclical 2 year policy review. Reminder continue to be distributed to relevant stakeholders in finance & wider university regarding risks and responsibilities.	V1.5	ARC to review & approve Sept 25 2024
Policy Management and Responsibilities			
Owner:	This Policy is issued by the Deputy Chief Executive and Chief Finance Officer who has the authority to issue and communicate policy on financial matters of the University. The Deputy Chief Executive and Chief Finance Officer has delegated day to day management and communication of the policy to the Director of Finance and Head of Financial Accounting.		
Others with responsibilities (please specify):	All subjects of the Policy will be responsible for engaging with and adhering to this policy.		
Author to complete formal assessment with the following advisory teams:			
Equality Analysis (E&D, HR)	1. <i>This is mandatory. Specify date completed and brief outcome. Email the completed EA to equity@salford.ac.uk</i>		
Legal implications (LPG)	N/A		
Information governance (LPG)	N/A		
Student facing procedures (QEO)	N/A		
UKVI compliance (Student Admin)	N/A		
Consultation:			
Staff Trades Unions via HR Students via USSU Any relevant external bodies (specify)	N/A		
Review:			
Review due:	Every three years by July 2027		
Document location:	University policy and procedures pages		
The owner and author are responsible for publicising this policy document.			

1.0 Scope and Introduction

The University of Salford ("the University") is committed to ensuring that high legal, ethical and moral standards are in place across the organisation.

The Criminal Finances Act (CFA) 2017 came into force on 30th September 2017. Part 3 of the Act introduces a new 'corporate criminal offence of failure to prevent the facilitation of tax evasion'. The legislation applies to all business and all taxes. This particular offence is not about the University itself avoiding, evading or underpaying tax, *but about the University failing to prevent its employees/ agents/ associates from facilitating the evasion of tax by another party.*

All UK corporates (including universities) are affected and can be subject to prosecution for the facilitation of tax evasion by "associated persons"

There are two corporate offences - a domestic tax fraud offence and an overseas fraud offence. A UK incorporated body can be prosecuted for either offence. While the overseas offence is slightly narrower in scope, it still essentially means that universities need to consider the potential for overseas tax evasion as well as UK tax evasion.

The UK Offence:

This requires three stages:

1. The criminal tax evasion by a taxpayer under existing law
2. The criminal facilitation of the tax evasion by "an associated person" of the relevant body who is acting in that capacity (as defined by the Accessories and Abettors Act 1861)
3. The relevant body failed to prevent its representative from committing the criminal facilities action (legislation from the 30th September 2017)

The Overseas Offence:

This requires the same three stages, but there are additional questions to consider determining whether it is an offence under CFA;

1. The criminal tax evasion by a taxpayer (either an individual or legal entity) under existing law
2. The criminal facilitation of the tax evasion by an "associated person" of the relevant body who is acting in the capacity (as defined by the Accessories and Abettors Act 1861)
 - a. Stage a - Would this be a crime if carried out in the UK?
 - b. Stage b - Does the overseas jurisdiction have the equivalent laws at stage 1 & 2?
3. The relevant body failed to prevent its representative from committing the criminal facilities act.

A successful prosecution could lead to:

- An unlimited fine
- A public record of conviction
- Significant reputation damage and adverse publicity.

There is a defence of having reasonable prevention procedures in place.

This Policy applies to all members of the University Community including subsidiary companies and associated persons. University community includes employees and independent members of Council and its Committees.

Examples of situations where University employees, agents and associates could be considered to be assisting third parties to evade tax can be found in Appendix 1 to this document.

1.1 Definitions

A Relevant Body – an incorporated body or partnership

An Associated Person is an employee, agent or other person who performs services for or on behalf of the relevant body. The offence is committed where the facilitation offences are committed by someone acting in the capacity of an associated person. The associated person can be an individual or incorporated body.

2.0 University Commitment

The University Leadership Team have endorsed the following statement:

‘At the University of Salford, we do not condone and have a zero-tolerance approach to the facilitation of tax evasion. Tax evasion occurs where employees, agents or businesses providing services for or on behalf of the University omit, conceal or misrepresent information to reduce their tax liabilities.

As part of our commitment to enforcing Criminal Finances Act 2017 the University, including subsidiary companies, will maintain reasonable and proportionate processes and procedures to prevent fraudulent activity by its staff and anyone acting on its behalf from criminally facilitating tax evasion in the UK and/or overseas.’

All employees of the University and its subsidiaries have a duty and responsibility to support this approach

3.0 Policy Statements

- 3.1 The University of Salford has nominated key officers responsible for the information and queries on CFA within our organisation – the key officers for CFA 2017 are the Director of Finance and Head of Financial Accounting.
- 3.2 The University’s Head of Procurement is responsible for supply chain transparency and initiatives.
- 3.3 Training and awareness sessions will be undertaken for all Finance staff and where the University identifies CFA2017 specific risks it will undertake bespoke training and awareness sessions.
- 3.4 The University of Salford regularly reviews its risks and associated processes and procedures to ensure all steps are taken to prevent facilitation of tax evasion.
- 3.5 The University of Salford regularly review guidance and legislation (annually) in relations to CFA 2017 to ensure it is maintaining an appropriate CFA 2017 policy.
- 3.6 The University of Salford maintains a register of possible risks of the facilitation of tax evasion by its staff and associates (including agents, contractors, suppliers and intermediaries), as well as listing controls to mitigate those risks, and any actions required to improve these controls.

The register is regularly reviewed and updated, as and when required in relation to the nature of the specific risks.

- 3.7 Appropriate due diligence will be undertaken on both customers of and suppliers to the University and its subsidiary companies. This due diligence will be proportionate to the level of perceived risk of the interaction being used to engage in the criminal facilitation of tax evasion.

4.0 Roles & Responsibilities

4.1 University Council

The Council are ultimately responsible for:

- Approving the policy that University of Salford does not condone and has a zero-tolerance approach to the facilitation of tax evasion;
- Adopting and approving a formal policy and response plan for alleged breaches.

On the recommendation of the Audit and Risk Committee, Council are responsible for:

- Ensuring that an adequate and effective control environment is in place.
- Ensuring that adequate audit arrangements are in place to investigate suspected concerns.

4.2 Line Managers

Line managers are responsible for implementing this Policy. In particular, this involves ensuring that the zero-tolerance approach to the facilitation of tax evasion is adhered to in their School or Professional Service area. The practical requirements of line managers are to:

- Have an understanding of the potential risks in their areas and to consider whether processes under their control might be at risk.
- Ensuring that agents and associated persons are aware of their responsibilities under the CFA.
- Have adequate processes and controls in place to prevent, deter and detect breaches of policy
- Be diligent in their responsibilities as managers,
- Deal effectively with issues and concerns raised by staff including taking appropriate action to deal with reported or suspected breaches.
- Report suspected breaches according to Counter Fraud Policy & Response Plan.
- Provide support / resource as required to investigations.

4.3 All Employees

The University expects all employees to be responsible for:

- Adhering to the policies and procedures of the University including having a zero-tolerance approach to the facilitation of tax evasion.
- Alerting management and / or other contacts should they have concerns or suspect that the possibility of a breach exists.
- Being aware of the University policies and procedures to the extent they are applicable to their role.

5.0 Response to a suspected facilitation of tax evasion

Members of staff are key to ensuring that the University's stance on facilitation of tax evasion is effective. All staff are positively encouraged to raise any concerns that they may have. All such concerns will be treated in confidence, wherever possible, and will be impartially investigated.

5.1 The response to suspected facilitations of tax evasion will be as per section 2.5 of the Counter Fraud and Response Policy – found at the following link:

5.2 <https://www.salford.ac.uk/governance-and-management/finance-policies>

6.0 Related Documentation

Related documents, taken from the University Policy & Procedure Pages, can be found at the following link:

<https://www.salford.ac.uk/governance-and-management/finance-policies>

- Financial regulations
- Counter Fraud and Response Policy
- Tax Strategy

Appendix 1 – Examples of possible Fraud / evasion

The following are examples of situations when a University of Salford employee or associated person would act in a manner to cause the University to breach of the Criminal Finance Act.

1. Deliberate mis-categorisation of an individual as a self – employed contractor rather than employed.

When the Check Employment Status for tax (CEST) tool is completed it is important that this is completed according to the **true** nature of the relationship with the University. Falsely and deliberately manipulating the answers on the tool so that a response of “Self-employed” is achieved will result in HM Revenues and Customs (HMRC) collecting less National Insurance and potentially lower income tax.

2. Collusion with an overseas agent so that the payment is made to bank account which is not in the name of the agent or company or to a jurisdiction where the agent does not live or work

Collusion could allow the overseas agent to reduce or avoid payment of tax. Supplier “inconsistencies” need to be queried during the supplier set up process and internally escalated to the Head of Financial Accounting as appropriate.

3. Payment to one third party entity knowing that the goods/services have been provided by another entity with the primary purpose of evading tax

Payments to third parties who have not provided the service, other than factoring arrangements, should be queried and internally escalated to the Head of Financial Accounting as appropriate.

4. Approving a VAT invoice for payment when it is known that the supplier is not VAT registered.

If the supplier is not VAT registered, then the University should not be paying VAT on invoices.

5. Collusion with a third party to deliberately mis-describe a supply of goods or services as a grant rather than a supply of goods or services

This would result in VAT not being charged on the supply resulting in lower VAT recovery for HMRC. Care must be taken to ensure that grants are genuine grants and not supplies of goods and services – queries should be raised with the Research and Enterprise teams as appropriate.

6. Collusion with an overseas education establishment to misdescribe the services provided by the University of Salford to the overseas establishment so that the overseas establishment avoids having to pay local withholding tax

The overseas establishment advises a University of Salford member of staff that by misdescribing the “teaching services” provided by the University of Salford, the overseas establishment can avoid paying overseas withholding tax. This would result in a breach of the Criminal Finance Act as the overseas jurisdiction would recover lower tax than it is entitled to.

7. Falsely completing zero rating certificates for medical research when the research is not of a medical nature

The University can obtain zero rating on the purchase of certain goods and drugs when undertaking grant funded medical research. Deliberately miscategorising “non-medical research” as “medical research” on zero rating certificates would result in a breach of the Criminal Finance Act as HMRC would not receive all of the VAT that is due.

8. Colluding with an individual so that a payment for goods /services is described as a donation so that the donor can claim tax relief

To be classed as a “donation” the funds must have been freely given with no obligation on the University to provide goods or services to the donor. Deliberately misdescribing the service will result in HMRC not recovering all of the Income tax that is due.

9. Colluding with a donor so that when a donor offers a donation to the University it is registered in their partners name.

By registering a donation in someone other than the actual donors name the partner may then claim gift aid tax relief on the donation despite not being entitled to the relief. This will result in HMRC not recovering all of the Income tax that is due.

10. Entering into barter arrangements with third parties

A University member of staff arranges for an academic, not employed by Salford, to undertake work at the University and in return offers the academic free use of Salford’s facilities or to pay for attendance at conferences. Bartering arrangements should, wherever possible, be avoided as they can result in HMRC not receiving income tax and VAT that may be due. If entering into agreements akin to a barter arrangement, the University must ensure that it accounts for all taxes due on the transactions within.

11. Colluding with individuals over employment status

A University member of staff colludes with an individual who is actually living and working abroad but is treated as living and working in the UK so as to reduce tax and social security payments.