

Criminal Finances Act Policy



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| Approving Body | Council |
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| Related Policies and procedures and guidelines | Counter-fraud Anti-Bribery Anti-Money Laundering, Financial Regulations Procurement policies and procedures Whistleblowing |
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1. Introduction

The Criminal Finances Act 2017 (CFA 2017) came into effect from 30th 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 College, anywhere in the world, is found to have assisted a third party in evading tax in the course of their duties, then the College itself could be deemed to have committed a corporate offence.

A successful prosecution could lead to an unlimited fine and a criminal record with associated reputational damage. There is a defence of having reasonable prevention procedures in place.

The purpose of this policy is to set out the responsibilities of Royal Holloway, University of London, and those working for it in upholding the College's position on tax evasion or its facilitation.

2. Policy Statement

Royal Holloway, University of London and its subsidiary conduct their activities with integrity, transparency and fairness. They are committed to the prevention of the facilitation of tax evasion as they recognise the importance of fostering a positive culture of tax compliance and maintaining the confidence of students, staff, partner organisations, other customers and the tax authorities.

Royal Holloway, University of London and its subsidiary do not and will not knowingly work with others who do not share their commitment to preventing the facilitation of tax evasion.

The College operates to the highest legal and ethical standards and will not tolerate acts of criminal facilitation of tax evasion by its associates anywhere in the world. The purpose of this policy is to set out the responsibilities of the College and of those working for it, whether as an officer, employee, worker, subcontractor, agent or in any other capacity.

This policy statement will be published on Royal Holloway, University of London's website as a public statement of the College's commitment to CFA principles and will be communicated to all staff.

3. Scope

It is a criminal offence for anyone to evade paying tax of any kind, and also to help anyone to do so. Any individual found to be guilty of this could be subject to criminal proceedings under existing legislation.

However, under the CFA 2017 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 College

then the College will **automatically be charged** with the corporate offence of failing to prevent its representatives from committing the criminal act of facilitation **unless** it can demonstrate that it had 'adequate' or 'reasonable' procedures in place to prevent that facilitation. If found guilty, the typical consequences for the College could be an unlimited fine, reputational damage and the potential disbarment from public/governmental contracts.

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

Examples of situations where 'associates' could be considered to be assisting third parties to evade tax can be found in Appendix 1.

4. Roles and responsibilities

Staff and associates should abide at all times by College policies - including this CFA 2017 policy, the anti-bribery policy and related governance documents summarised in section 7 below. Failure to comply with these policies and the obligations detailed therein 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 their manager, the Head of Financial Control, or the Chief Financial Officer, or they may raise concerns under the Whistleblowing Policy.

The Head of Financial Control is responsible for information, training, reports and queries in relation to the CFA 2017.

5. Risk Assessment

A risk assessment and register of possible risks in relation to the CFA 2017 is maintained that considers the relevant controls, processes and procedures that should be in place, and is intended to ensure that all appropriate steps are taken to prevent tax evasion or its facilitation. The risk register will be periodically reviewed and updated by the Head of Financial Control.

6. Training

Relevant members of staff will be provided with training on the key aspects of CFA 2017, as set out in this policy, with suitable frequency, including at induction. For the purposes of the College this includes (but is not limited to) staff who work in the Finance Department (including Procurement) heads of other Professional Services teams, Academic Department Managers and Administrators.

7. Related policies and procedures

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

- Anti-bribery policy
- Counter-fraud Policy
- Anti-Money Laundering Policy
- Whistleblowing Policy
- Fee waiver policy (appended to the Consultancy Policy)
- Financial Regulations
- Financial Procedures
- Procurement Policy and Procedures

Appendix 1 - Examples of possible fraud/evasion

The following examples illustrate where criminal facilitation of tax evasion by an employee or 'Associated Person' may occur at the College:

1. Categorisation of a payment to an individual - who should be deemed an employee or treated as such under IR35 - as self-employed or a contractor, knowing that the individual will use the gross payment to evade tax. For example, this could be by deliberately entering false or misleading information on HMRC's Employment Status questionnaire.
2. Assisting an academic to facilitate personal use of department research accounts (or 'P accounts'), without proper deduction of employment taxes, resulting in a loss of income tax to HMRC.
3. Making a payment overseas e.g. to an overseas agent, or to an overseas academic, 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, or where the correct taxes for that jurisdiction have not been applied.
4. Mis-describing services provided to a third party in order to facilitate a VAT reclaim by them, or in the case of overseas agents, to facilitate the evasion of local indirect taxes.
5. Accepting a 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.
6. Allowing a payment for goods/services to be described as a donation so that the donor can claim tax relief.
7. Authorising a VAT invoice from a supplier knowing that they are not VAT registered.
8. Authorising an expense claim with photocopied receipts knowing that the claimant will use the original receipts to support a tax reclaim.
9. Academics not employed by the College 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.
10. Using a third party to pay in-country workers on the College's behalf, where you know that there is a withholding obligation, and that the third party will not comply with that obligation.
11. Collaboration with suppliers to falsify the amount paid on an invoice e.g. by disguising the true amount paid so that the supplier evades income/corporate taxes.

