



Criminal Facilitation of Tax Evasion Policy – Criminal Finances Act 2017 (Part 3)

Introduction

Tax evasion and its facilitation are already criminal offences for individuals. The Criminal Finances Act (“CFA”) 2017 introduced two new corporate criminal offences comprising the failure of a Relevant Body to prevent

1. the facilitation of UK tax evasion
2. the facilitation of foreign tax evasion offences.

The CFA provides for a defence where the organisation can show that it had implemented reasonable prevention procedures, or where it can show that in the circumstances it would have been unreasonable or unrealistic to have expected it to have had procedures in place. The failure of the organisation to take steps which are considered to be “reasonable in all the circumstances” to prevent persons associated with it from committing the criminal act would render the Organisation liable under the legislation.

Associated person means a person who is an employee, agent or other person who performs services for or on behalf of the organisation. The associated person can be an individual or an incorporated body.

The University sector has not been identified as high risk but it is acknowledged that it may involve high risk activities.

Scope of Policy

Part 3 of the CFA 2017, introduced the new corporate criminal offences of failure to prevent the facilitation of tax evasion. This applies to situations where Cranfield (“the Relevant Body”) fails to prevent “Associated Persons” from assisting in the evasion of tax by another party.

“Associated Persons” means any persons working for Cranfield and on behalf of Cranfield in any capacity, including employees at all levels, agency workers, seconded workers, volunteers, interns, agents, contractors, external consultants, third-party representatives and business partners. The Associated Person can be an individual or an incorporated body.

Three elements are required in order for the offences of either UK or Foreign tax evasion to apply:

1. Criminal tax evasion by either a UK or overseas tax payer (either an individual or a legal entity) under existing law, and
2. Criminal facilitation of this offence by an Associated Person of the University, and
3. The University failed to prevent the Associated Person from facilitation of the tax evasion.

Cranfield will be automatically charged with the corporate offence of failing to prevent its Associated Persons from committing the criminal act of facilitation unless it can demonstrate that it had reasonable procedures in place to prevent that facilitation.

If found guilty, along with a public record of conviction, Cranfield could:

- face an unlimited fine;
- exclusion from tendering for public contracts,
- significant reputational damage and adverse publicity.

Responsibilities of employees and other Associated Persons

It is the responsibility of everyone associated with Cranfield (including members of staff, students, contractors and other third parties) to report any suspicions of facilitating tax evasion. In line with the Public Interest Disclosure Act 1998, Cranfield has a “no retaliation“ policy for people reporting reasonably-held suspicions, and concerns can be raised if necessary under Cranfield’s Whistle-blowing policy, (see associated policies, below).

Associated Persons to Cranfield are reminded that they are required to abide by Cranfield’s policies and procedures as set out in Associated Policies below.

If an Associated Person becomes concerned that a fellow Associated Person is facilitating a third party’s tax evasion, they should immediately contact either:

- the Director of Finance, or
- Internal Audit

Breaches of Policy

Cranfield’s Chief Operating Officer is responsible for conducting investigations and due diligence into known or suspected instances of facilitation of Fraud under the CFA 2017.

Any Cranfield employee who breaches this policy will face disciplinary action, which may result in dismissal for misconduct or gross misconduct.

Cranfield may terminate its relationship with other Associated Persons working on its behalf if they breach this policy.

Responsible Officer

The Director of Finance is the Executive Sponsor for Cranfield compliance with the legislation. General queries on the Act, facilitation of tax evasion, information and training should be directed to the Financial Controller.

Risk Assessment

Cranfield has prepared a risk register and reviews the risks, associated processes and mitigating controls to ensure that all steps are taken to prevent facilitation of tax evasion. The register lists any actions required to improve controls arising from the review. The risks on the register will be regularly reviewed and updated as required and along with the associated processes and controls will be periodically reviewed by Internal Audit.

Associated Policies

Employee Code of Conduct Policy:

Ethical principles (cranfield.ac.uk)

Professional Conduct Policies and Procedures (cranfield.ac.uk) (intranet only)

Policies, regulations and information compliance

Anti-Bribery Policy

Whistleblowing policy and procedure

Counter-Fraud Policy

Anti-Slavery and Human Trafficking Policy

Procurement policy and Terms and Conditions of Purchase

Annex 1

University list of appropriate persons and their contact details

- | Title/Role | Name | Phone | E-mail |
|-------------------------|-----------------|-----------------|--|
| Finance Director | Ian Sibbald | 01234
754013 | I.Sibbald@cranfield.ac.uk |
| Chief Operating Officer | Philip Aspinall | 01234
754001 | Jo.Hampshire@cranfield.ac.uk |
| Internal Audit | Sitha Khanam | | Sitha.Khanam@cranfield.ac.uk |
| Financial Controller | Suzanne Rose | 01234
758397 | S.J.Rose@cranfield.ac.uk |

Annex 2 Examples of aiding and abetting criminal tax evasion

Deliberately entering false or misleading information on the New Supplier set up documentation or Engager questionnaire

A Supplier wishes to be treated as a self-employed contractor so that payments made to them by the University are gross, and they can evade paying appropriate income tax and national insurance liabilities.

Knowing this, a Cranfield employee helps the Supplier to evade tax by providing false information on the Questionnaire's used by the Payroll team to assess whether such a Supplier may be considered as self-employed for tax purposes.

By supplying false information in this way, the Cranfield employee is committing a criminal offence as they have assisted a third party in criminal tax evasion.

Helping another employee or third party claim a payment due to them as an expense rather than another type of payment which would be subject to tax.

A line manager agrees to allow one of their members of staff to claim home to University (place of work) mileage through an expense form. However, this is done in the knowledge that it is against University policy and to help their member of staff evade paying tax, which is properly due on the claim, they allow the staff member to describe the travel as being for fictitious journeys away from the office.

The line manager is knowingly allowing member of staff to provide false information on their expense claim to evade tax and is committing a criminal offence of assisting criminal tax evasion.

Helping an overseas agent avoid paying tax on a payment that it would be due on.

An Associated Person facilitates making a payment to an overseas agent in the knowledge that the agent intends to use the method of payment to evade tax. Typically, this could be to request payment to a bank account which is not in the name of the agent that the agreement is with or to a jurisdiction where the individual does not live or work.

The Associated Person has knowingly facilitated the payment being made gross to the overseas agent and is committing a criminal offence of assisting criminal tax evasion for which Cranfield will be liable.

Helping an overseas customer to pay a lower rate of Customs duty.

An employee agrees to mis-describe goods being exported so that a lower rate of Customs duty becomes payable on import by the customer.

The employee has knowingly facilitated the payment of lower Custom duty by the customer and is committing a criminal offence of assisting criminal tax evasion

Deliberately assisting a third party to reclaim expenses more than once.

An employee authorises an expense claim with photocopied receipts to reimburse travel or other costs incurred on behalf of a third person knowing that the third person will use the original receipts to support a tax claim or claim the same costs from another organisation.

The employee has committed a criminal offence as they have knowingly assisted the third person to commit tax evasion (and fraud).

Helping an overseas customer to pay a lower rate of Customs duty.

An employee agrees to pay one entity knowing that the goods and services have been supplied by another entity and that the purpose of the change is to evade tax.

Document Control

Document title	Criminal Facilitation of Tax Evasion Policy – Criminal Finances Act 2017 (Part 3)
Document number	
Originator name/document owner	Director of Finance
Professional Service Unit/Department	Finance
Implementation/effective date	December 2017
Approval by and date	Executive 30 April 2024 v3
Date of last review and version number	January 2021 V2
Date of next review	April 2027