

## **Criminal Finance Act Policy**

### **Background**

The Criminal Finance Act 2017 includes the Corporate Criminal Offence of failure to prevent the facilitation of tax evasion. The legislation applies to all business and all taxes.

A Corporate Criminal Offence occurs if:

- criminal tax evasion has occurred (in respect of UK or foreign taxes); and
- an associated person, whilst acting in that capacity, has criminally facilitated the tax evasion; and
- the College failed to prevent the associated person from committing the facilitation.

An associated person includes fellows, staff, sub-contractors, agents, or those that provide services for or on the College's behalf. The associated person can be an individual or an incorporated body.

### **Policy Statement**

The College operates to the highest legal and ethical standards and will not tolerate acts of criminal facilitation of tax evasion anywhere in the world. The College is therefore committed to ensuring that our employees and other associated persons acting on the College's behalf are not facilitating tax evasion by a third party, which is an offence under the Criminal Finances Act 2017. The College will ensure that reasonable prevention measures are in place to prevent any such facilitation of tax evasion and will review those procedures periodically. Any concerns about wrongdoing can be reported to the Bursar of the College.

### **Prevention Procedures**

The College has nominated the Bursar as the key officer responsible for information, training, and queries on the Criminal Finance Act 2017.

College management has undertaken a risk assessment to identify where exposures to tax evasion could occur and ensured reasonable controls are in place proportionate to the risks identified to help eliminate opportunities for facilitating tax fraud.

The College regularly reviews its risks and associated processes and procedures to ensure that all steps are taken to prevent facilitation of tax evasion.

*Approved by College Council, 23 January 2023 (CC06/23(a))*

<b>DRAFT</b> <b>Failure to prevent the facilitation of tax evasion</b>	<b>Current Risk Status</b>	
	<b>Connected risks</b>	
The risk that the College fails to prevent someone acting in their capacity as an associated person from fraudulently facilitating criminal tax evasion.		
<b>Raw assessment of the risk (i.e. <u>without</u> controls in place)</b>		
<p>The College may be criminally liable where there is a failure to prevent those who act for, or on its behalf, from criminally facilitating tax evasion. If the College were prosecuted this could lead to:</p> <ul style="list-style-type: none"> <li>• An unlimited fine;</li> <li>• A public record of conviction; and</li> <li>• Significant reputational damage and adverse publicity.</li> </ul> <p>Specific risks include:</p> <ul style="list-style-type: none"> <li>• <u>Employment Tax</u></li> <li>• Categorisation of a payment to an individual who should be deemed an employee as self-employed knowing that the individual will use the gross payment to evade tax</li> <li>• <u>VAT</u></li> <li>• Collusion to incorrectly classify goods and services provided as either outside or within the scope of VAT either because VAT cannot be recovered or to facilitate a VAT reclaim.</li> </ul>	Impact	Very high (4)
	Likelihood	Medium (2)
	<b>Raw Risk score</b>	<b>High (8)</b>
<b>Current Mitigating Actions (Controls)</b>		
<p><b>Control measures or actions already in place to minimise the impact of the risk or the likelihood of the risk occurring</b></p> <p>There is a top-level commitment within the College to embed processes which will help eliminate opportunities for facilitating tax fraud and this is followed through to the areas where decisions are made and actions are taken.</p> <p><u>Controls</u></p> <ul style="list-style-type: none"> <li>• Financial controls are reviewed annually by external auditors and anti-bribery and money laundering policies are in place. The Bursar and Finance Manager are alert to the dangers of fraud, and Finance Office staff receive regular training.</li> <li>• Heads of Departments take reasonable care to determine the tax status of workers by preparing status assessments using HMRC's Check Employment Status for Tax (CEST) tool where necessary.</li> <li>• Supervisions and any other academic related activities that are not paid via the payroll are recorded in the Colleges' Administration Software Consortium Payment Preparation System which is used to generate annual returns to HMRC.</li> <li>• Commercial customers complete a VAT Exemption Declaration if appropriate. Sales order and sales invoice duties are separated, and invoices are checked against contract terms.</li> </ul>		
<b>Current assessment of the risk (i.e. with controls in place)</b>		
<p><b>What we consider the remaining risk to be once mitigating actions are taken into account (i.e. have we managed to reduce the impact or likelihood of that risk occurring?)</b></p>	Impact	Very high (4)
	Likelihood	Low (1)

	<b>Current Risk score (Risk Status)</b>	<b>Medium (4)</b>
<b>Further Mitigating Actions</b>		
Further actions we could take to minimise the impact of the risk or the likelihood of the risk occurring, in order to reduce the risk status. These should be specific and deliverable.		
<ul style="list-style-type: none"> <li>• Include a public statement of our commitment to the Criminal Finance Act, Anti-Money Laundering regulations, and Anti-Bribery law principles on our website with communication to all fellows and staff.</li> <li>• Ensure new fellows and staff are made aware of all College policies.</li> <li>• Include an anti-tax evasion clause in supplier contracts.</li> </ul>	<ul style="list-style-type: none"> <li>• Review guidance for managers about off-payroll working requirements and ensure they are regularly communicated and understood.</li> <li>• Review clients' VAT Exemption Declaration form and ensure clearly understood by the Conference Department.</li> </ul>	
<b>Delegated Lead</b>	<b>Committee(s)</b>	
Bursar	Finance Committee Council	
<b>Monitoring Process</b>		
<ul style="list-style-type: none"> <li>• The Bursar and Finance Manager keep up to date with relevant legislation and update policies and procedures as required.</li> </ul>		
<b>Date of Review:</b>		