

# Criminal Finances Act 2017 Compliance Policy

## Purpose and scope

Swansea University, including its' subsidiary companies (the University), is committed to conducting its academic, administrative and commercial operations in a law-abiding and ethical manner and will not tolerate acts of criminal facilitation of tax evasion by its employees, subcontractors or any other of its associates anywhere in the world.

The purpose of this policy is to set out the responsibilities of the University and of those working for it, whether as an officer, employee, worker, subcontractor, agent or in any other capacity, in observing and upholding the University's position on criminal facilitation of tax evasion.

## Criminal Finances Act 2017 (CFA 2017)

Part 3 of the CFA 2017, introduces a new corporate criminal offence of failure to prevent the facilitation of tax evasion.

This is applicable to the University and applies to situations where the University fails to prevent 'Associated Persons' from assisting in the evasion of tax by another party.

'Associated Persons' includes the University's officers, employees, workers, agents, sub-contractors or other people or organisations that provide services for or on the University's behalf.

It is of course, in any case, a criminal offence for anyone to evade paying tax of any kind, and for helping someone 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 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 situations where Associates could be considered to be assisting third parties to commit criminal tax evasion can be found in Annex 1 attached to this document.

## Obligations of employees and other associated persons

Employees and associates are reminded that they are required at all times to abide by the University's policies and procedures so should ensure that they are familiar with the content and examples.

All employees must complete the online essential training, failure to do so puts employees and the University at risk.

Failure to comply with these policies and the obligations detailed in this Policy may result in disciplinary action for employees and termination of contract for 'Associated Persons'.

Should employees and associates become concerned that a fellow employee or associate is facilitating a third party's tax evasion, they should immediately contact the Registrar and Chief Operating Officer.

Employees may also raise concerns under the whistleblowing procedures as set out in the University's Public Interest Disclosure Policy.

### Responsible Officer

The University has nominated the Registrar and Chief Operating Officer as the Responsible Officer and has overall responsibility for information, training and queries on CFA 2017 within our organisation. General queries regarding this Act, or any concerns about the facilitation of tax evasion should be directed to the Director of Finance.

### Risk Assessment

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

### Publication of guidance

The University regularly reviews guidance and legislation in relation to CFA 2017 to ensure it is maintaining an appropriate CFA 2017 policy. This review will also consider appropriate training for employees.

## Annex 1 – Examples of aiding and abetting criminal tax evasion

For illustrative purposes, examples are given below of when an Employee or Associate of the University might themselves be guilty of committing an offence of criminal tax evasion, and thus also the University itself:

1. Deliberately entering false or misleading information on the Employment Status 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 University employee helps the Supplier to evade tax by providing false information on the Employment Status Questionnaire used by the University to assess whether such a Supplier may be considered as self-employed for tax purposes.

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

2. Colluding with another University to artificially document services supplied to that University as outside the scope of VAT:

University X has asked a Research Team based at the University to supply data analysis services to them in respect of some grant funding they are receiving, where the grant funding is outside the scope of VAT. As such University X is unable to recover any VAT the University might charge them for the data analysis service. University X asks the University to state falsely in the Agreement between them, that the 2 Universities are acting as Collaborators on the project, (when this is contrary to what is actually happening in practice). The University team conclude that University X is asking this to evade paying VAT but go ahead and sign the document regardless without making any further enquiries or seeking help internally.

The University research employees are committing a criminal offence as they have agreed to sign an Agreement, where they know the information provided is false and was done so that University X could evade paying the associated VAT liability on their services.

3. Helping an overseas education establishment avoid overseas tax on payments they make to UoR:

There is an Agreement in place between the University and an education establishment overseas-, whereby the University is supplying teaching staff to the overseas establishment for a particular programme. The Agreement between the parties states that the overseas establishment should bear the cost of any local withholding taxes that may be due on payments made for this service. The overseas establishment tells a University employee, that if instead of describing the services correctly as 'teaching services' on the invoice, they are described as something else, (for example marketing services), they won't have to pay the withholding tax to their own overseas tax authority. The University employee agrees to do this.

The University employee has committed a criminal act by putting false information on the sales invoice, albeit that the tax evaded is not UK tax but overseas tax.

4. 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 University Director agrees to allow an employee to claim home to University (place of work) mileage through an expense form. However, knowing that is against University policy and to help their employee evade paying tax which is properly due on the claim, they allow the employee to describe the travel as being for fictitious journeys away from the office.

The Head of School is knowingly allowing the employee to provide false information on their expense claim to evade tax and is committing a criminal offence of assisting criminal tax evasion.

## Version control

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| Version    | 2.0   |
| Amendments | Annual review, reformatted and update to include training under obligations of employees. |
| Dated      | 18 <sup>th</sup> May 2021   |
| Owner      | Director of Finance   |

This policy is to be reviewed and updated on an annual basis.