

TEDI-LONDON

Criminal Finance Act (CFA) Policy

Summary	The purpose of this document is to outline TEDI-London's approach to complying with the Criminal Finance Act 2017.		
Policy Owner	Chief Finance Officer		
Policy Sponsor	Director of Resources		
Policy applies to	All TEDI-London staff and students		
Relevant Legislation/ Policies	<i>-Money Laundering, Terrorist Financing & Transfer of Funds Regulations 2017 (MLR 2017)</i> <i>-Criminal Finances Act 2017</i> <i>-Proceeds of Crime Act 2002</i> <i>-Anti Bribery and Corruption Policy</i> <i>-Gifts & Donations Policy</i>		
Equality impact assessment completed	[date]		
Version	1.0		
Approved by	Exec	Approval date	
Date of implementation		Date of next formal review	21/02/2022

DOCUMENT CONTROL

Date	Version	Action	Amendments
21.02.2021	1.0	K Jenkins	Policy Drafted following guidelines set out by the British University's Finance Director Group (BUFDG)

Contents

1.	INTRODUCTION	3
2.	POLICY STATEMENT	3
3.	SCOPE OF THIS POLICY	4
4.	DEFINITIONS	4
5.	EXAMPLES OF FACILITATING TAX EVASION IN THE CONTEXT WITHIN WHICH TEDI-LONDON OPERATES	4
6.	ROLES AND RESPONSIBILITIES.....	5
7.	RISK ASSESSMENT OF THE CRIMINAL FINANCES ACT	6
8.	TRAINING, DISSEMINATION AND IMPLEMENTATION	6
9.	MONITORING AND REVIEW	6

1. INTRODUCTION

- 1.1. The purpose of this document is to ensure all staff, and associates of TEDI-London are aware of and understand the key aspects of the *Criminal Finances Act (CFA) 2017* and the implications for TEDI-London if the legislation is not followed.
- 1.2. The *Criminal Finances Act 2017* (CFA 2017) came into effect from 30th September 2017 and introduced a new Corporate Criminal Offence (CCO) of failure to prevent the facilitation of tax evasion. The Act means that if a person 'associated' with TEDI-London, anywhere in the world - is found to have assisted a third-party in evading tax in the course of their duties, then TEDI-London itself could be deemed to have committed a corporate offence.
- 1.3. The CCO is not about TEDI-London itself avoiding, evading or underpaying tax, but about TEDI-London failing to prevent its employees / agents / associates from facilitating the evasion of tax by another party.

2. POLICY STATEMENT

- 2.1. TEDI-London 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 TEDI-London and of those working for it, whether as an officer, employee, worker, subcontractor, agent or in any other capacity.
- 2.2. The CFA 2017 has parallels with the *UK Bribery Act* and this policy should be read in conjunction with TEDI-London's Anti-bribery and Corruption Policy and related governance documents.
- 2.3. 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 guilty of this could be subject to personal criminal proceedings under existing legislation.
- 2.4. 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 TEDI-London,then TEDI-London will also automatically be charged with the corporate offence of failing to prevent its representatives from committing the criminal act of facilitation unless we can demonstrate that we had 'adequate' or 'reasonable procedures' in place to prevent that facilitation. If found guilty, the typical consequences for TEDI-London could be a substantial fine, reputational damage and the potential disbarment from public/governmental contracts.

3. **SCOPE OF THIS POLICY**

- 3.1. This policy applies to all employees, whether temporary, fixed-term, or permanent, consultants, contractors, trainees, seconded staff, home workers, casual workers, agency staff, volunteers, interns, agents, sponsors, or any other person or persons associated with us - including third parties, or any of our subsidiaries or their employees, no matter where they are located (within or outside of the UK). This policy also applies to Board, and/or Committee members at any level.
- 3.2. In the context of this policy, third-party refers to any individual or organisation our company meets and works with. It refers to actual and potential clients, customers, suppliers, distributors, business contacts, agents, advisers, and government and public bodies – this includes their advisors, representatives and officials, politicians, and public parties.

4. **DEFINITIONS**

- 4.1. Associated Person: 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.
- 4.2. Relevant Body: An incorporated body or partnership.

5. **EXAMPLES OF FACILITATING TAX EVASION IN THE CONTEXT WITHIN WHICH TEDI-LONDON OPERATES**

- 5.1. The following are common risks that are faced by organisations such as TEDI-London and could be expected to feature in a risk assessment document and/or risk register:
- Making a payment overseas, for example, to an overseas agent 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.
 - Categorisation of a payment to an individual - who should be deemed an employee or treated as such under IR35 (legislation around the determination of contractor's payroll status for the purposes of employment tax) - as self-employed, knowing that the individual will use the gross payment to evade tax.
 - Making a royalty payment, for example, to an overseas academic/former academic in the knowledge that the academic intends to use the method of payment to evade tax. This could be where a payment is made into a bank account which is not in the name of

the academic but in the name of a different individual or company, or to a jurisdiction where the individual does not live or work.

- An employee agrees to mis-describe services provided to a third-party in order to facilitate a VAT reclaim by them.
- An employee agrees to mis-describe goods being exported so that a lower rate of Customs duty becomes payable on import by customer.
- An employee accepts 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.
- An employee allows a payment for goods/services to be described as a donation so that the donor can claim tax relief.
- An employee authorises a VAT invoice from a supplier knowing that they are not VAT registered.
- An employee authorises an expense claim with photocopied receipts knowing that the claimant will use the original receipts to support a tax reclaim.
- An employee agrees to the mis-description of an income stream to take the payment outside a with-holding tax obligation.
- An employee buys goods for personal use through a TEDI-London account and issues a certificate for charitable relief.
- Academics not employed by TEDI-London perform work in return for a payment in kind, for example, travel to a conference or use of facilities, knowing that no tax will be paid on the payment.
- Overseas agents mis-describe services to facilitate the evasion of local indirect taxes.
- Using a third-party to pay in-country workers on TEDI-London's behalf, where you know that there is a withholding obligation (in relation to the payment of tax), and that the third-party will not comply with that obligation.

5.2. These examples are not exhaustive, and any concerns should be brought to the attention of the Chief Finance Officer (CFO) or a member of the Executive at TEDI-London.

6. **ROLES AND RESPONSIBILITIES**

6.1. The CFO has overall responsibility for this Policy which will be reviewed by the Audit and Risk Committee.

6.2. The CFO is also the primary contact for any further information or to report any suspicious activity. The CFO is responsible for:

- Information and queries on the CFA 2017 within TEDI-London;

- Supply chain transparency through the procurement process;
 - Due diligence being undertaken on both customers and suppliers to TEDI-London. The 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;
- 6.3. Budget managers are responsible for ensuring there is a zero-tolerance approach to the facilitation of tax evasion in their area. This includes understanding the potential risks in their areas and to consider whether processes under their control might be at risk.
- 6.4. If any employee breaches this Policy (this includes suspecting/ discovering activity which could be deemed to be facilitating tax evasion and not reporting it), they will face disciplinary action and could face dismissal for gross misconduct.

7. RISK ASSESSMENT OF THE CRIMINAL FINANCES ACT

- 7.1. The risk assessment in relation to the CFA 2017 forms part of the wider work required to support the adherence to Anti-Money Laundering legislation. This work is intended to ensure that all appropriate steps are taken to prevent facilitation of tax evasion.
- 7.2. A register of possible risks related to the facilitation of tax evasion by staff and/or associates will be prepared and maintained as part of the wider TEDI-London Risk Register. The register will also list the controls to mitigate those risks and actions required to improve the controls. This register will be periodically reviewed and updated.

8. TRAINING, DISSEMINATION AND IMPLEMENTATION

- 8.1. In line with the Regulations, all relevant members of staff will receive training in this Policy and the wider aspects of Anti-Money Laundering. This will include new staff members, where the training will first be completed as part of their induction.
- 8.2. The Policy will be available on the AskFinance pages in the TEDI-London teams pages. This contains all the relevant finance policies, along with training materials.
- 8.3. This Policy will be available on the TEDI-London website for students, potential students and other third parties to read and be aware of.

9. MONITORING AND REVIEW

- 9.1. The CFO will review this policy on an annual basis to ensure it is reflective of any updates to current legislation with revisions to be approved by Audit & Risk Committee.