

A photograph of several Euro banknotes (10 and 20 Euro) fanned out and placed inside a brown paper bag. The 20 Euro note is the most prominent, showing the portrait of Queen Elizabeth II.

Corporate Criminal Offences (CCO) Policy

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The Company is committed to ensuring adherence to the highest legal and ethical standards. This must be reflected in every aspect of the way in which we operate. We as a company are committed to the prevention, deterrence and detection of tax evasion.

This policy sets out our zero tolerance to tax evasion and the facilitation of tax evasion. The Criminal Finances Act 2017 introduced two Corporate Criminal Offences ('CCO'):

- The failure to prevent facilitation of UK tax evasion,
- The failure to prevent facilitation of foreign tax evasion.

The legislation took effect on 30 September 2017.

This policy applies to all our employees, agents, contractors and any third party who provides services for or on behalf of our business (defined as 'associated persons under this legislation').

This policy sets out the background of this legislation and expectations of all our people and other 'associated persons' in meeting the requirements of this legislation.

Background

The Corporate Criminal Offences, enacted as Sections 45 and 46 of the Criminal Finances Act 2017, addresses the perceived gap in the law that made it difficult to hold a corporation to account when its representatives committed the criminal offence of facilitating tax evasion.

In summary, the legislation is all about businesses such as ours being able to demonstrate we can prevent the facilitation of tax evasion as part of our day-to-day operations. Specifically, the legislation means that if an “associated person” of a business does criminally facilitate tax evasion, and the business is unable to demonstrate “that it had reasonable procedures in place to prevent such facilitation, the business is guilty of a criminal offence. “Associated person” is defined very widely and includes any person (individual or corporate) who represents (or provides a service for or on behalf of) the business - employees, contractors, agents, and in certain circumstances external suppliers.

The consequences of a prosecution for the business include unlimited fines, reputational damage and the likelihood of regulatory sanction. Tax evasion and facilitation of tax evasion are also punishable for individuals with fines and custodial sentences. We therefore take our legal responsibilities very seriously.

Any individual who breaches this policy may face disciplinary action, potentially resulting in dismissal for misconduct or gross misconduct. Similarly, we may terminate our relationship with other individuals, organisations and other associated persons working on our behalf if they breach this policy.

The HMRC Guidance in respect of the CCO legislation states:

“The Government believes that [businesses] should be criminally liable where they fail to prevent those who act for, or on their behalf from criminally facilitating tax evasion. The offences will be committed where a relevant body fails to prevent an associated person criminally facilitating the evasion of a tax, and this will be the case whether the tax evaded is owed in the UK or in a foreign country.”

The legislation applies to all taxes – personal and corporate tax – and includes other taxes such as VAT, Customs Duties, National Insurance Contributions etc.

Criminal prosecution of the business, unlimited financial penalties and reputational damage to the business can result if we fail to comply with this law (and individuals can be prosecuted for tax fraud or facilitating tax fraud under preexisting criminal legislation).

Scope

It is important to make sure we understand what we mean by 'tax evasion' and 'facilitation of tax evasion'.

What is Tax Evasion?

Tax evasion involves the deliberate and dishonest use of illegal practices in order not to pay the right amount of tax. This could include not reporting all of your income, deliberately not filing an accurate tax return, hiding beneficial ownership and taxable assets from HMRC or diverting funds to hide income from local taxation authorities.

What is criminal Facilitation of tax evasion?

Tax evasion was already a criminal offence at the time this legislation was introduced.

Similarly, it was already (and continues to be) a crime to facilitate tax fraud deliberately and dishonestly for or on behalf of another person.

Real life examples of facilitation of tax evasion could include deliberately and dishonestly changing invoices for customers that could impact the VAT amount, or assisting a supplier in not disclosing income (e.g. through making a payment into an undeclared overseas bank account) or deliberately overstating group cross-border inter-company charges where this may impact the Corporation Tax due either in the UK or overseas.

This legislation creates a responsibility at the company level such that, if an associated person were to facilitate tax evasion, we may be criminally prosecuted for failing to prevent the facilitation offence.

There would be a defence from prosecution if we are able to demonstrate having reasonable prevention procedures in place to try and prevent this facilitation of tax evasion from happening.



What to look out for

Below are examples of risk areas and red flags that could arise during the course of your everyday working, and which should raise a concern under this policy.

Examples could include, but are not restricted to the following:

- A supplier, contractor or anyone in your role within our business asking you to do something that does not match up with official documentation – for example, paying into a different account than that which is specified on the invoice.
- You are feeling under pressure to process or approve an invoice (or make changes to our contractual terms) that you don't feel makes sense, for example in terms of changing the payment details or VAT amount.
- You receive an invoice from a third party that appears to be non-standard or customised or is different to what you expected.
- Contras where invoices are not exchanged for the face value of services/ good exchanged.
- You are aware of any short cuts in our Supplier or Customer Take On procedures (e.g., someone you know circumventing the supplier set-up and P2P process which means that there are no checks on the company/person they were purchased from or contract in place).
- Someone who works for a third-party supplier offering you what seems like a discount, e.g., because they tell you they do not need to charge you VAT - without giving a reason.
- Being concerned about the set up and/or supporting paperwork of a particular transaction that you think may not reflect the true commercial reality or fact pattern.
- Someone at work (for example an employee or a contractor) claiming to have found a 'short cut' in how much tax they pay, or you are aware that tax is not being declared.
- Someone at work (for example an employee or a contractor) claiming illegitimate expenses.
- Someone asking for a favour that is not in line with your company policy.
- Any other knowledge or suspicion that anyone in our business, either in the UK or any other country, is evading or facilitating tax evasion.

Your responsibilities

The prevention, detection and reporting of facilitation of tax evasion is the responsibility of all employees throughout the organisation.

This means that you must have read, understand and comply with all the information contained within this policy, and with any training or information relating to the Criminal Finances Act you receive.

Any individual who breaches this policy may face disciplinary action potentially resulting in dismissal for misconduct or gross misconduct. Similarly, we may terminate our relationship with other individuals, organisations and other associated person working on our behalf if they breach this policy.

What to do if you have a suspicion or concern?

If at any time you have a reasonable belief, suspicion or concern that, in any way connected to our business, someone has been engaged in facilitation of tax evasion or other wrongdoing (however insignificant it may be and whether it involves an employee of a third party) you must raise this with the Managing Director and/or the Group Finance director.

What to do if you are a party to facilitation of tax evasion?

You must tell the Managing Director and/or the Group Finance Director as soon as possible if you are asked to do something (either by someone else in the business or a third party) where you suspect there may be facilitation of tax evasion, or believe that you are a victim of another form of unlawful activity.

What to do if you feel threatened or vulnerable

If you refuse to act on a request (either by someone else in the business or a third party) that you think may result in the facilitation of tax evasion, you may feel worried about potential consequences. We take this very seriously and will support anyone who raises concerns in good faith under this policy, even if investigation finds that they were mistaken.

Ongoing monitoring

We will maintain an effective system for monitoring compliance procedure to ensure we remain committed to our zero tolerance to facilitation of tax evasion. This includes training (both face-to-face and online as appropriate) and forms part of the induction process for all new employees.

All existing employees receive regular, relevant training on how to adhere to this policy. Our zero-tolerance approach to facilitation of tax evasion must be communicated to all suppliers, contractors and business partners at the outset of our business relationship with them and as appropriate thereafter.

Raising a concern

The Company is committed to ensuring that all of us have a safe, reliable, and confidential way of reporting any suspicious activity. We want each and every member of employees to know they can raise concerns.

Concerns can be anonymous

In the event that an incident of tax evasion, corruption, or wrongdoing is reported, we will act as soon as possible to evaluate the situation. It is important to note that it is easier and quicker if concerns raised are not anonymous.

Employees who raise concerns or report wrongdoing can understandably be worried about the repercussions. We aim to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken.

If you have any questions about these procedures, please contact the Head of HR.

By order of the Board
Ogilvie Group