



<i>Paper Title:</i>	<b>Terrorism Financing and Financial Crime Policy Principles</b>				
<i>Date:</i>	20 March 2018	<i>Addressed To:</i>	Executive Board		
<i>Paper Reference No.</i>	0318EBMar/K.a	<i>Author email: For queries</i>	jsaunders@oxfam.org.uk		
<i>Purpose:</i>	Assurance <i>To note</i>	Strategy <i>To approve</i>	x	Discussion <i>No resolution</i>	
<i>Proposed resolution: If relevant</i>	<p><b>1. To approve the attached Policy</b></p> <p><b>2. To appoint EBOC as the Board Committee referred to in the Policy, noting that EBOC will consult with DEVKIF as appropriate</b></p> <p><b>3. To note that this Policy will be phased in as the Protocols in it are approved by the Board Committee. Until those Protocols are phased in, the relevant parts of the 2014 Aid Diversion Policy shall continue to apply.</b></p>				
<i>Risk:</i>	These principles make up an essential component of the management of the risk of aid diversion to terrorists.				
<i>Resource Implications:</i>	OI aspects are within OI budget.				
<i>Gender impact considerations</i>	Direct because commentators consider women are disproportionately impacted by terrorism and crime, and above all indirectly because failure to manage this risk will mean we are not able to operate many programmes in conflict affected areas.				
<i>Prior Review / Approval</i>	<i>BoS Committee(s)</i>				
	<i>Executive Board</i>				
	<i>EB Committee(s)</i>	EBOC in January and March 2018			
	<i>OI Director(s)</i>	Esha van der Hulst			
	<i>Platform(s)</i>				
	<i>Sub-platform(s)</i>	HR Directors, Risk Group, EA Working Group			
<i>Summary</i>	<p>The strategic role of these principles is to:</p> <ol style="list-style-type: none"> <li>1. prevent aid diversion through Oxfam's programmes;</li> <li>2. Undertake the due diligence expected of us by key stakeholders; and</li> <li>3. Provide a first line of defence in the event of allegations or reportable incidents occurring</li> <li>4. The protocols resulting from these principles will enable us to continue meet regulatory, donor and necessary banking standards to keep our programmes functioning</li> </ol>				

## Executive Summary:

This Policy (see separate document, Draft v5) replaces the 2014 Aid Diversion Policy, which was extended in 2017 to March 2018. Since 2014 the external environment has transformed, with near extinction event for GOAL, and huge disruption for World Vision Australia as a result of allegations of terrorism financing in Gaza, with arrest of staff. DfID and other donors under intense pressure. Our donors and banks are demanding increasingly strict standards with regard to screening plus more monitoring and oversight of partners and programme delivery to ensure their funds are accounted for and managed effectively. Accounting for the proper application of funds de facto means that funds have not been misused or diverted. How this is achieved will be dealt with in the development of protocols in support of the principles set out in the policy.

The new Policy enables us to continue to meet regulatory, donor and necessary banking standards to keep our programmes functioning. Furthermore, it introduces a minimum standard for Affiliates. Affiliates can choose to adopt a higher standard, and will normally do so where donors require it.

## The context

The risk profile of Aid Diversion has changed significantly since the current Aid Diversion policy was drafted and approved in 2014. The risk is long term and structural:

- Donor focus is on fragile states, many of which are subject to sanctions and or terrorist threats
- Donors make no exemptions for humanitarian actions in Terrorism Financing regulations
- Oxfam has long-term programs in many countries subject to sanctions and/or terrorist threats:

Syria	Gaza	Lebanon	Yemen
Jordan	Iraq	Afghanistan	Pakistan
Philippines	Indonesia	Nigeria	Mali
DRC	Somalia	.....The range is ever increasing...	

## The cost of getting it wrong

- In 2016 World Vision Australia were accused of directing aid funds to Hamas in Gaza. The cost to date to WV's is reported as over AUD 10m (£6.2m).
- In 2016 Goal were accused by the US of procurement fraud in Turkey with significant on-going compliance costs in €millions
- In 2015 ex FD of an Oxfam partner in Somalia alleged systematic fraud involving of Oxfam funds with allegations of payments to Al Shabaab. The cost of the investigation was over £400k (fraud in the partner was detected but no aid diversion found)
- In 2014 Islamic Relief was subject to media allegations of aid diversion ("the terror charity"). IRW now spends approximately £250k a year on due diligence and compliance systems

## **Implications for Oxfam**

As part of the Integrated Risk Management Framework, both EB and BoS expressed zero tolerance for aid diversion and criminal activities. The Risk Appetite for Fraud and Corruption risks was thus set at Very Low.

As experienced with the recent safeguarding crisis, donors and public also have a very low risk appetite for non-compliance – a single breach could have catastrophic consequences.

The principled approach of this revised policy will allow for timely adjustments to the policy and the related protocols so that we can adapt to a changing compliance landscape.

You will find the revised policy in a separate document, but here is a list of the principles:

### **1. Governance**

Governance and accountability amongst affiliates and OI

### **2. Prevention**

1. Screening
2. Proportional approach
3. Down-streaming
4. Transparency of financial flows
5. Awareness and training

### **3. Responding**

6. Incident Reporting
7. Incident Response and Investigation

### **4. Money Laundering**

8. Steps to take to ensure prevention of involvement in money laundering

### **5. Export Controls**

9. Compliance with all relevant export controls

### **6. Advocacy**

10. Help develop a clearer and safer operating environment

**DRAFT v5**  
**Terrorism Financing and Financial Crime Policy**  
**(Terrorist Financing, Money Laundering, Sanctions and Export Control)**

### **Policy Statement<sup>1</sup>**

Oxfam is determined that all its funds and resources should only be used to further its mission and shall not be subject to illicit use by any third party nor used or abused for any illicit purpose. In order to achieve this objective, Oxfam will not knowingly or recklessly provide funds, economic goods or material support to any entity or individual designated as “terrorist” by the international community or Affiliate domestic governments<sup>2</sup>, and will take all reasonable steps to safeguard and protect its assets from such illicit use and to comply with host government laws.

Oxfam respects its contracts with its donors and puts in place procedures for compliance with these contracts.<sup>3</sup>

“Illicit use” refers to terrorist financing, sanctions, money laundering and export control regulations as they apply to Oxfam International and to Affiliate Members of Oxfam International.

### **Scope and Purpose of Policy**

This policy, and the implementing Protocols, establishes Confederation wide minimum standards to ensure consistent practice across the Confederation. The policy replaces the Aid Diversion Policy of 2014 and has been expanded to include Money Laundering and Export Controls.

### **Role of Executive Board Committee**

Where this Policy refers to a Board Committee, the reference is to the relevant Committee appointed by the Executive Board.<sup>4</sup>

### **Definitions**

“designated terrorist group” – means any individual, group or entity formally listed or designated as “terrorist” by the United Nations, a Relevant State, or the European Union and “designated” means so designated.

“implementing Protocols” or “Protocols”- means the Protocols approved by the Executive Board, or under its delegated authority by the relevant Committee, which provide the procedures for implementation of this Policy.

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<sup>1</sup> This Policy statement is an adapted version of the 2014 policy

<sup>2</sup> The Policy needs to protect Oxfam from breaching all regulations which apply to its area of operation, and also contractual obligations imposed by donors. Breaches of any regulations may also have an impact on business relationships e.g. loss of banking services or invalidation of insurance etc.

<sup>3</sup> New wording in square brackets suggested to show our donors our commitment

<sup>4</sup> EB to decide which Committee. We recommend EBOC, subject to some consultation with DEVKIF. EBOC for risk management, DEVKIF for programme focus. Note that the Policy reaches into Affiliate HQs so is not just a programme policy. We expect FRAC will want oversight of the risks, but that is outside the scope of the Policy, and is subject to Governance considerations.

“Relevant State” means the home State of Oxfam International (the Netherlands), and the home State of any of the Affiliate members of Oxfam International.

“Sanctioned” individual or entity means an individual or entity subject to financial sanctions by the international community (UN), the European Union or Relevant State or any entity beneficially owned (>50%) by an individual or entity subject to such sanctions.

A “High Risk” country is a country where known “designated terrorist groups” operate and as is notified by the Oxfam International Program Director to the Executive Board Committee.<sup>5</sup>

### **Application across Affiliates**

This Policy is an Oxfam International Policy but it also sets minimum standards for the Affiliate members of Oxfam International. Since no single policy can document or anticipate the full range of regulations, due diligence, monitoring or reporting requirements that an Affiliate domestic government or donor may impose on its citizens or in their funding contracts, individual Affiliates may supplement this Policy to meet the regulatory requirements of their domestic governments. Any such supplementary requirements must be communicated to and agreed by Oxfam International<sup>6</sup> and any relevant EA implementing projects funded by such Affiliate<sup>7</sup>.

## **SECTION 1: GOVERNANCE**

**Principle: Governance and accountability for compliance with Terrorist Financing and Sanctions regulations is a mutual obligation between Affiliates and Oxfam International. Responsibilities are shared at country and regional level (depending on the modalities of the programme), and individual Affiliates retain their own responsibility in their home states.**

The relevant Committee of the board (to be appointed/designated by the Board) will:

- Produce protocols referenced in this Policy (for approval by the Executive Board or relevant Committee);
- Support the implementation of the Policy;
- Monitor the management and reporting of incidents of actual or suspected breach of Policy;
- Coordinate variations of the Policy decided by individual Affiliates and approved by the Oxfam International Program Director; and
- Report annually to the Executive Board on the implementation of this Policy and matters arising.

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<sup>5</sup> The alternative is for the Board Committee not the OIPD to decide on the high-risk designation. Please let us know if you prefer this. However, designation is a question of fact, so we suggest that the first option is preferable. ie the OI PD notifies the Committee.

<sup>6</sup> Normally acting by the Oxfam International Program Director

<sup>7</sup> The EA agreement could either be provided for here, or addressed in the OPA.

## **Section 2: Prevention**

### **1. Principle: Oxfam will screen Partners, Staff and Suppliers on a proportionate basis to prevent the direct transfer of funds etc. to “designated” or sanctioned individuals or entities.**

- 1.1. Protocols will be developed for the screening Partners, Staff and Suppliers. The Protocol will specify the role of the Executing Affiliates in the screening.

#### **Affiliate Discretion**

- 1.2 Where additional checks may be needed to comply with Affiliate requirements these may be undertaken on an ad hoc basis provided the screening does not breach principles set out in Section 3 below or the Screening Protocol.

#### **Reporting**

- 1.3 The OI Programme Director will report progress on screening and positive matches found to the Executive Board (or the relevant Committee as a standing item on a regular basis, or as provided in the Screening Protocol).

#### **Screening Beneficiaries**

- 1.4 Oxfam will generally only check the names of beneficiaries against any list of “designated” terrorist in the following circumstances.<sup>8</sup>
- It is an explicit term in a donor or supplier contract and the terms of the contract have been approved by the relevant Affiliates and the Country Director;
  - The beneficiaries are informed as to the use made of their personal data prior to that information being collected; or
  - Where substantial grants to beneficiaries are involved (e.g. funding above levels required for humanitarian assistance for example grants for business start-up schemes in “high risk” countries)<sup>9</sup>.

### **2. Principle: Oxfam will take a proportional approach to identifying and managing risk in Country programmes by:**

- 2.1 Differentiating between “high” and “low” risk countries in the Screening Protocol.
- 2.2 In “high risk” countries identifying a) the general nature of the threat or risk posed by “designated terrorist” groups or financial sanctions to Oxfam’s work in that country and b) identifying any specific threat to specific programmes or areas of operation.
- 2.3 providing support and training for Country Directors [in high risk countries].

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<sup>8</sup> There is no “de-minimis” amount below which Terrorist Financing or Sanctions regulation do not apply, so there is an element of risk in not screening beneficiaries against lists. However, the cost of screening beneficiaries is substantial and in addition some donors have indicated that beneficiary screening is not a requirement of funding. While donor departments do not have the authority to dis-apply the regulations their acquiescence in the non-checking of beneficiaries may form a defence if Oxfam were to be challenged.

<sup>9</sup> For example, a cash distribution in a humanitarian response might be USD200 and not qualify for screening whereas a grant or loan of USD2,000 to an individual for non-humanitarian purposes would qualify for screening as the level of funding might breach the risk appetite of donors, regulators etc. Protocols for grant making will be developed and approved by the relevant Committee of the Executive Board.

- 2.4 The Protocol may provide for the designation of a country as “high risk” on Country and Regional risk registers.
- 2.5 The Steering Group through the Oxfam International Program Director will provide an annual report to the Executive Board and through it to Affiliate Boards on these risks.
- 3. Principle: Oxfam will take steps to manage Partners and “down-stream” use of funds<sup>10</sup>**
- 3.1 Oxfam, through its Country Directors, is responsible to donors and for compliance for the use made of Oxfam funds by third parties, that is suppliers, partners, banks etc.
- 3.2 A Protocol shall establish the appropriate risk assessments for high risk countries (as set out in Section 2 Principle 2).
- 3.3 A Protocol will address the details for management of “down-stream” partners having regard to donor and compliance obligations.<sup>11</sup>
- 4. Principle: Ensuring transparency in financial flows within Oxfam**
- 4.1 Protocols will enable financial transfers by Oxfam to Country programmes to meet the expectations of banking partners in particular in high risk countries through:
- the identification of the end destination of funds in payment transfer requests and
  - guidance on how to deal with any transfers blocked, returned or frozen by a bank.
- 5. Principle: Awareness Raising and Training**
- 5.1 Specialist training will be provided for staff in “high risk” countries and relevant other staff. This may be face to face or via on-line e-learning.

### **SECTION 3: RESPONDING**

- 6. Principle: Incident Reporting**
- 6.1 Protocols will provide for the reporting of breaches, allegations, incidents and suspicions of breaches of policy. The Protocols will include:
- Guidance on what to report and when
  - Internal reporting: ensuring all relevant OI parties are informed, and
  - External reporting: ensuring all relevant back donors and authorities are informed.<sup>12</sup>
- 7. Principle: Incident Response and Investigation**

<sup>10</sup> Legal liability for the use of funds extends to third party use of Oxfam funds, financial institutions used in the onward transmission of Funds and end use of funds. In addition, donors have increased their focus on third party use of their funds.

<sup>11</sup> Such protocols may include Risk analysis relating to specific programmes identified and should be shared and agreed with partners implementing those programmes as should the action plan and reporting protocols and contract clauses. Guidance notes for partners and contractors for use by country teams will be provided by the Steering Group

<sup>12</sup> Where positive matches are made through the screening process prior to payment a record will be kept of the match but such matches are not externally reportable.

- 7.1 Oxfam will investigate all credible allegations of breaches of counter terrorism regulations or the abuse of Oxfam’s assets and funds by “designated terrorist groups” or by any individual or entity for terrorist or other criminal activities.<sup>13</sup>

#### **SECTION 4: MONEY LAUNDERING**

8. **Principle: Oxfam will not knowingly engage in money laundering and will take reasonable steps to prevent Oxfam being involved in any money laundering activities<sup>14</sup>**

- 8.1 Guidance will be provided for staff on operational standards to avoid Oxfam inadvertently becoming involved in money laundering activities. The guidance will address:

- The legal provenance of sources of income;
- Managing anonymous donations; and
- Loans and Guarantees
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#### **SECTION 5: EXPORT CONTROLS**

9. **Principle: Oxfam will create standard operating procedures to ensure that it complies with all relevant export controls**

- 9.1 The Steering Group will produce guidance and standard operating procedures to provide and document that when exporting goods to countries subject to sanctions that:

- dual use products are not exported without the necessary government approval<sup>15</sup>
- goods subject to sanctions are not exported unless all relevant licences are obtained
- that transport or other agencies subject to sanctions are not employed in the export process

#### **SECTION 6: ADVOCACY**

10. **Principle: Oxfam should engage with UN, other relevant global institutions, national governments, donors and regulators to help develop a clearer and safer operating environment.**

- 10.1 Key Issues and policy change objectives will be identified on which Oxfam aims to engage with relevant institutions and will coordinate with relevant internal Oxfam teams (e.g. Humanitarian Policy, Advocacy and Campaigns) as appropriate. This does not preclude individual Affiliates undertaking advocacy where necessary and at their own discretion.

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<sup>13</sup> Consider whether to add: Incident investigation will be led by the OI Anti-Corruption Team [CHECK] and supervised by an OIMT member or person appointed by OIMT. Where incidents have been reported to external authorities Oxfam will cooperate with those authorities which may limit the scope of internal investigations as they may compromise formal investigation.

<sup>14</sup> Oxfam is not a financial services provider and will not generally be regulated by AML regulations. However, Oxfam might be used as a vehicle for money laundering purposes.

<sup>15</sup> For example, for chlorine for WASH