Browne Jacobson

Are you prepared for the new failure to prevent fraud offence?

01 July 2025 Rachel Lyne

As the implementation date of the Economic Crime and Corporate Transparency Act draws closer, with Companies House beginning to use its powers to issue fines for relevant offences on 1 September 2025, now is an important time for food and drink businesses to be considering how the new failure to prevent fraud offence may affect them.

Liability under the New Act

By way of background, an organisation is may be liable for failure to prevent fraud if it falls within the scope of a 'large organisation,' meaning that two of the following criteria are met:

- The company has more than 250 employees,
- The company holds more than £18 million in total assets,
- The company made more than £36 million turnover in the preceding financial year.

And one of the organisation's 'associated persons' commits a fraud offence intending to (directly or indirectly) benefit the organisation.

'Associated persons' is a catch-all term which includes employees, agents, and suppliers associated with a company. It is important to recognise that the legislation intends to give consideration to the relationship between parties when deciding whether the requirements for association are made out – nevertheless, companies must take a close look at their supply chains going forward to understand which market actors will be considered to be their 'associated persons'.

Actions for food and drink businesses

There is still time to put in place the risk management process to ensure food and drink businesses have in place the controls to avoid the commission of the failure to prevent fraud. It requires a pro-active approach starting with a risk assessment, prevention procedures, leadership, a good communications plan including internally relevant training and of course a system to audit and review the effectiveness of the risk mitigation measures implemented on a regular basis.

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