


Failure to prevent fraud: The new law

22 May 2025  Helen Simm and Paul Wainwright

The Economic Crime and Corporate Transparency Act 2023 (ECCTA) introduced a new offence of failure to prevent fraud, which comes into force on 1 September 2025.

An in-scope organisation is liable for failure to prevent fraud if:

One of its “associated persons” (including employees, agents, and suppliers) commits a specified fraud offence intending to benefit the organisation, directly or indirectly.

Incorporated bodies and partnerships are in scope if they meet two of three criteria:

1. More than 250 employees
2. More than £36 million turnover
3. More than £18 million in total assets.

Guilty organisations face an unlimited fine and debarment from public contracts

Smaller organisations are currently outside scope, but this could change. Out-of-scope organisations might need to enhance their fraud prevention procedures to comply with standards set by larger organisations they do business with.

Some examples

- **Mis-selling:** A UK salesperson remunerated partly by commission engages in mis-selling. This increases their commission as well as the company's sales. Because there has been a fraud and the company has benefitted, the company may be prosecuted for failure to prevent fraud.
- **Overstating profits:** The head of finance in a large company that is looking for investors deliberately overstates its profits. The company could be liable for failure to prevent fraud unless it has reasonable prevention procedures in place. This would be the case, whether or not investment was actually received.

Compliance and best practice

An organisation has a defence if it has reasonable “prevention procedures” in place, even if a fraud occurs. The government has produced guidance to help organisations understand what good practice looks like, and how reasonable prevention procedures should be established.

In-scope organisations must evaluate their current policies and procedures against the guidance, to identify risks and vulnerabilities. If additional controls are necessary, these should be implemented promptly, before the offence comes into force. Organisations outside the current scope who are looking to mitigate fraud risks may also refer to the guidance to enhance their own counter-fraud measures.

How we can help

Our specialists are well placed to support organisations looking to review and improve their fraud prevention procedures. We can assist with:

- The conduct of a risk assessment to determine risks from fraud;

- A review of current systems and controls, including fraud prevention policies and procedures;
- A comparison of those controls with government guidance and development of a gap analysis;
- The development or revision of policies and procedures to mitigate identified risks;
- Due diligence on associated persons, including suppliers, agents, clients, and targets;
- The drafting of appropriate contractual provisions;
- The preparation of fraud prevention training; either face-to-face or online; and
- When fraud is alleged, providing crisis response and ongoing support, including the conduct of privileged investigations and representation during regulatory investigations and proceedings.

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