

New fraud offence to be introduced in the new Economic Crime and Corporate Transparency Bill

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The UK Home Office has confirmed in a [press release](#) that a new offence for failing to prevent fraud will be introduced in the forthcoming Economic Crime and Corporate Transparency Bill. This Bill will make provision on economic crime and corporate transparency, including the registration of overseas entities.

The new offence intends to hold organisations accountable if they profit from fraud committed by their employees. The offence will make it easier to prosecute large organisations if an employee commits fraud for the organisation's benefit and the organisation did not have reasonable fraud prevention procedures in place. There will be no need to prove that any consent or connivance existed.

The Home Office has published a [factsheet](#) that details how the offence will be applied. Here are some of the key elements:

- The offence will apply to all large companies, including not-for-profit organisations such as charities, as well as incorporated public bodies. Large companies are defined in the Companies Act 2006 as those that meet two out of the three following criteria: more than 250 employees, more than £36 million turnover and more than £18 million in total assets.
- Organisations can avoid prosecution if they have reasonable procedures in place to prevent fraud or where there are circumstances where it is reasonable to have no fraud prevention procedures in place (i.e. where the risk is extremely low). The government will also be under a statutory duty to publish guidance setting out reasonable fraud prevention procedures before the offence comes into force.
- Organisations and employees that are based overseas can still be prosecuted if an employee commits fraud under UK law and/or targets UK victims.
- The offence will predominantly capture fraud and false accounting offences that fall under the Fraud Act 2006 and the Theft Act 1968. Money laundering offences will not be included.
- If convicted, an organisation can receive an unlimited fine.
- Small and medium sized enterprises will be exempt from the new offence but will remain accountable under the existing legal framework.

Andrew Penhale, Chief Crown Prosecutor for the CPS, commented:

"The scale of fraud in the UK – now comprising 41% of all criminal activity – is so significant that extra measures to help prevent it and protect people from falling victim to this crime is welcome.

The new corporate offence of failing to prevent fraud is another important measure to drive better corporate behaviours and will complement existing measures for prosecutors.

Larger corporate enterprises, which fail to put in place reasonable measures to prevent fraud being committed by their employees, may be held criminally liable for that failure."

If you have any questions about how your business can prepare for the incoming legislation, please do get in touch.

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