



# CORPORATE FAILURE TO PREVENT FRAUD

Economic Crime and Corporate Transparency Act 2023 (ECCTA)

## BACKGROUND

The new corporate 'Failure to Prevent Fraud' offence under the Economic Crime and Corporate Transparency Act 2023 (ECCTA) will come into effect on 1 September 2025. This impacts UK and non-UK based organisations (where there is a link to the UK) and represents a significant expansion of corporate criminal liability. General Counsel, Chief Legal Officers and senior compliance professionals should be taking steps now to assess risk exposure and readiness.

## OFFENCE AND DEFENCE

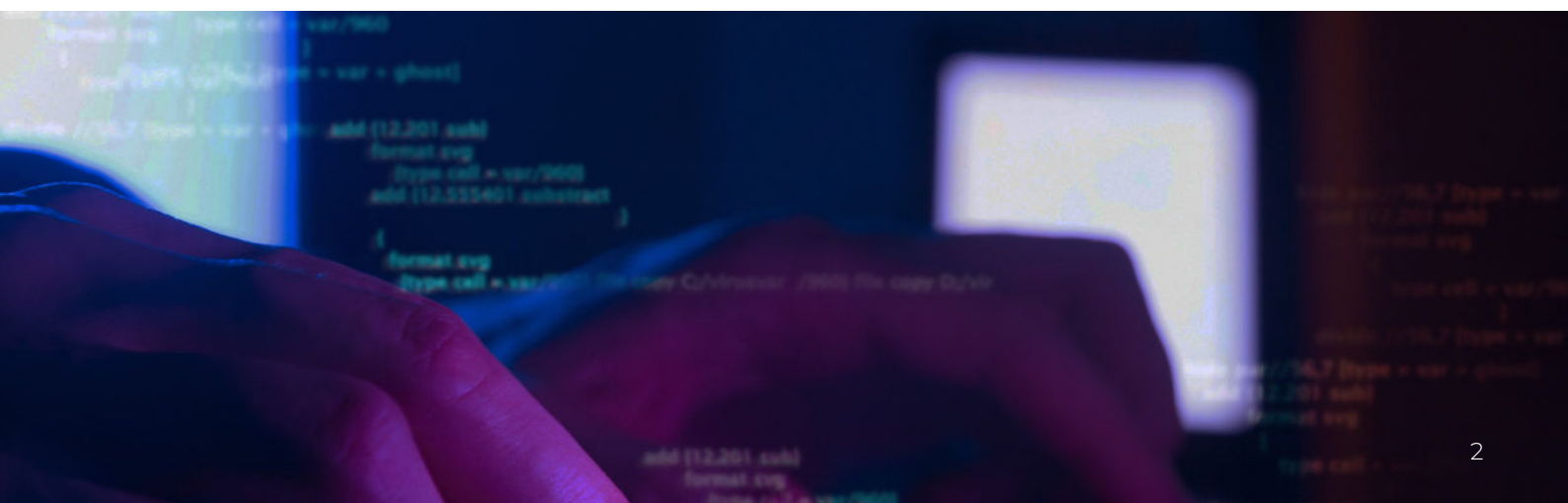
Comparable to Corporate failure to prevent offences under the UK Bribery Act 2010 (UKBA) and Criminal Finances Act 2017 (CFA), a "large organisation" commits an offence if an associated person (employee, agent, subsidiary, etc.) commits a specified fraud offence for the organisation's benefit. This is a strict liability offence and there is no need to prove senior management knowledge or involvement. Organisations face punitive financial penalties and reputational damage if the offence is proven. The only defence is to demonstrate "reasonable prevention procedures".

## WHO IS CAUGHT?

The offence applies to companies, partnerships and LLPs meeting two of the following:

- ✱ £36 million+ turnover
- ✱ £18 million+ balance sheet
- ✱ 250+ employees

This includes UK subsidiaries of overseas parent entities.



## CONSIDERATIONS FOR 'OUT-OF-SCOPE' COMPANIES

Even if your organisation is not directly caught by the offence, you may still be indirectly impacted:

- \* As part of the supply chain of a large company
- \* Subject to new contractual anti-fraud provisions
- \* Required to demonstrate adequate anti-fraud procedures
- \* At risk of reputational or commercial fallout from associated fraud

ECCTA will therefore drive compliance standards across the market and not just within large corporates.

## GOVERNMENT GUIDANCE: REASONABLE PROCEDURES

The UK Government issued guidance for Corporate offences for failure to prevent bribery and failure to prevent facilitation of tax evasion provides a foundation for failure to prevent fraud guidance, which outlines the same six key principles to guide what “reasonable prevention procedures” looks like in practice:

- 
1. Top level commitment
  2. Risk assessment
  3. Proportionate risk-based prevention procedures
  4. Due diligence
  5. Communication (including training)
  6. Monitoring and review
-

## OUR EXPERTISE

Spencer West supports clients across fraud, bribery, tax evasion and broader corporate crime risk management. We offer a 1-hour briefing session on relevant 'corporate risk and response' in order help legal and compliance teams focus on immediate priorities and where we can offer most value within your budget. Our advice is practical, and client focused with a suite of 'key principles led' services including:

- \* Commitment and communication planning
- \* Tailored impact and risk assessments
- \* Gap analysis of existing risk controls
- \* Designing and updating protocols, procedures and governance frameworks
- \* Due diligence on "associated persons" and other relevant parties
- \* Requisite training (in person, remotely and via e-learning) and refresher sessions
- \* Monitoring plan and review timelines
- \* Undertaking broader compliance reviews and internal investigations where required
- \* Self-reporting, resisting enforcement action and executing crisis and defence strategies Proactively managing and resolving connected commercial disputes risk

## NEXT STEPS

Our objective is to provide proactive prevention support before reactive defence services are necessary. Whether directly or indirectly impacted, organisations should consider their exposure and prepare before the offence comes into effect on 1 September 2025.

## CONTACT US



Nabeel Osman (Author)  
Partner - Legal Risk and Disputes

T +44 (0)7925 8080  
M +44 (0)7376 655761  
E [nabeel.osman@spencer-west.com](mailto:nabeel.osman@spencer-west.com)



Lisa McKinnon-Lower  
Partner - Criminal Defence Litigation

T +44 (0)7925 8080  
M +44 (0)7809 868439  
E [lisamckinnon.lower@spencer-west.com](mailto:lisamckinnon.lower@spencer-west.com)



Robert Foote  
Partner - Commercial Dispute Resolution

T +44 (0)7925 8080  
M +44 (0)7340 013521  
E [robert.foote@spencer-west.com](mailto:robert.foote@spencer-west.com)



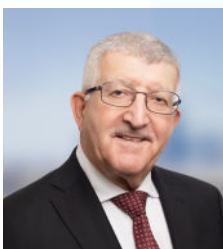
Gerallt Owen  
Partner - Investigations and Corporate Crime

T +44 (0)7925 8080  
E [gerallt.owen@spencer-west.com](mailto:gerallt.owen@spencer-west.com)



Jeremy Berg  
Partner - Dispute Resolution

T +44 (0)7925 8080  
M +44 (0)7843 484201  
E [jeremy.berg@spencer-west.com](mailto:jeremy.berg@spencer-west.com)



Joseph Kosky  
Partner - Dispute Resolution

T +44 (0)7925 8080  
E [joseph.kosky@spencer-west.com](mailto:joseph.kosky@spencer-west.com)

---

## SPENCER WEST

Spencer West is a full-service international law firm with over 360 partners globally, in 20 jurisdictions. Known for its innovative, collaborative, and partner-led approach, Spencer West combines global reach with local expertise – delivering exceptional legal solutions across corporate, commercial, real estate, litigation, dispute resolution, and private client matters and supporting communities worldwide through grants from its Foundation. Founder funded and lawyer-led, Spencer West is built on trust, integrity, and a commitment to empowering lawyers to restore their positivity and enjoyment of the practice.

The purpose of this communication is to provide information as to developments in the law. It has been prepared by Spencer West LLP for marketing and general information purposes, and is not intended to be regarded as legal or tax advice. It does not contain a full analysis of the law, nor does it constitute an opinion of any Spencer West LLP entity on the points of law discussed. You must take specific legal advice on any particular matter which concerns you.

© Spencer West

Longbow House  
20 Chiswell Street  
London EC1Y 4TW

+44 (0)20 7925 8080  
[info@spencer-west.com](mailto:info@spencer-west.com)  
[www.spencer-west.com](http://www.spencer-west.com)

[twitter.com/SpencerWestUK](https://twitter.com/SpencerWestUK)  
[linkedin.com/company/spencer-west](https://www.linkedin.com/company/spencer-west)