

# Government considering reform to hold companies more accountable for economic crime

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The Ministry of Justice has announced that it has commenced a consultation with businesses on the introduction of legislation aimed at tackling corporate economic crime and is seeking views on the extent to which reform is required. This follows on from the Prime Minister's anti-corruption summit on 12 May 2016 and the Attorney General's 5 September 2016 announcement of the commencement of such discussions.

Currently, in order to establish criminal liability on the part of a corporate body, prosecutors in the UK must show that the individuals involved in the wrongdoing represent the "directing mind" of the company. It has, however, been argued that this high hurdle has prevented the successful prosecution of companies, particularly in the financial sector, and the Government is asking for views on potential alternatives. The proposals under consideration (as set out in a [Consultation Paper](#) published with the Call for Evidence) include a 'vicarious liability' offence under which the corporate entity could be liable for the acts of its employees irrespective of whether it was complicit in them and a 'failure to prevent' approach, so that companies which cannot prove they have taken steps to prevent offences such as fraud, money laundering and false accounting will be held liable. This initiative follows on from The Section 7 Bribery Act 'failure to prevent' offence, and the UK Government's more recent [initiatives to consult on a 'failure to prevent fraud' offence](#) and the launch of the 'failure to prevent tax evasion' offence under the [Criminal Finances Bill](#).

The implications are potentially very significant for corporations as the reverse burden of proof and increased risk of being found liable for the acts of individuals will result in the need to incur further expense on corporate governance. The Call for Evidence will remain open until 24 March 2017 and views can be submitted [here](#). Unsurprisingly, there is a range of opinions on this issue but we will continue to monitor developments in this area as the Government appears committed to strengthening the UK regulatory regime in its efforts to repair trust in businesses and improve corporate accountability.

## Contributors

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