Glendinning House
6 Murray Street Belfast,
BT1 6DN
T: 02890249222
E: info@sumerni.co.uk

www.sumerni.co.uk

SUMER
NORTHERN IRELAND

Understanding the New Offence of Failure to Prevent Fraud



SUMER
NORTHERN IRELAND

Understanding the New Offence of Failure to Prevent Fraud

SUMER
NORTHERN IRELAND

The Economic Crime and Corporate Transparency Act 2023 has introduced a significant change to UK corporate law: the offence of 'failure to prevent fraud'. This legislation, which came into effect on 1 September 2025, places a legal obligation on large organisations to actively prevent fraud within their operations.

At Sumer NI, we're here to guide you through these changes and help you prepare effectively.

Understanding the New Offence

The failure to prevent fraud offence applies to large organisations across all sectors of the UK economy. Your organisation may be affected if it meets at least two of the following criteria:

- More than 250 employees
- More than £36 million in turnover
- More than £18 million in total assets

The legislation encompasses a broad range of fraudulent activities as defined in the Fraud Act 2006, including:

- Fraud by false representation (Section 2)
- Fraud by failing to disclose information (Section 3)
- Fraud by abuse of position (Section 4)

It also includes offences under the Theft Act 1968, common law, and other statutes, such as:

- False accounting
- Participation in a fraudulent business
- Obtaining services dishonestly
- False statements by company directors
- Cheating the public revenue
- Fraudulent trading

Importantly, the offence applies when the underlying fraud is committed by associated persons—including employees, agents, and subsidiaries—with the intention of benefiting the organisation or its clients.

Additionally, the offence applies where any part of the fraudulent activity occurred in the UK, or where the gain or loss was realised here. This is referred to as a UK nexus.

Your Defence and Penalties for Non-Compliance

Organisations can defend themselves by demonstrating that they had reasonable fraud prevention procedures in place, or that it was not reasonable to expect such procedures given the circumstances.

Chapter 3 of the legislation outlines six guiding principles for a robust fraud prevention framework:

- Top-level commitment
- Risk assessment
- Proportionate, risk-based prevention procedures
- Due diligence
- Communication and training
- Monitoring and review

The Act provides detailed guidance and examples of what constitutes reasonable procedures, which can be found here.

If convicted, organisations may face substantial fines, assessed on a case-by-base basis.

Understanding the New Offence of Failure to Prevent Fraud

SUMER
NORTHERN IRELAND

How Sumer NI Can Help You Protect Your Organisation

As Internal Audit and Counter-Fraud specialists, we understand that navigating this new legislation can be complex. That's why we're committed to supporting you every step of the way. Our team of experts can assist with:

- **Comprehensive Risk Assessments:** Identifying fraud risks specific to your organisation before they escalate.
- **Internal Control Framework Reviews:** Evaluating your internal controls and recommending improvements to close any gaps.
- **Due Diligence Process Reviews:** Assessing the adequacy of your due diligence procedures for employees, agents, and third-party providers.
- **Training Support:** Designing and delivering tailored fraud awareness training programmes for your staff.
- **Reporting Mechanism Advice:** Helping you implement secure and effective channels for reporting suspected fraud.
- **Compliance Monitoring:** Reviewing your current compliance levels and advising on areas for enhancement.

How to Prepare for the Future

With the legislation now in force, it's essential to ensure your organisation is compliant and protected against the financial and reputational risks associated with fraud.

At Sumer NI, we're dedicated to helping you navigate these changes with confidence. Our approachable team is ready to provide tailored advice and practical support to ensure your organisation is well-prepared for this significant shift in corporate accountability.

Get in Touch

Don't let the new offence of failure to prevent fraud catch you off guard. Contact Christine Hagan today on 028 9024 9222 or email Christine.Hagan@sumerni.co.uk to discuss how we can help you build a robust fraud prevention framework and safeguard your organisation's future.

Disclaimer - for information of users: This publication is published for the information of clients. It provides only an overview of the regulations in force at the date of publication and no action should be taken without consulting the detailed legislation or seeking professional advice. Therefore no responsibility for loss occasioned by any person acting or refraining from action as a result of the material contained in this publication can be accepted by the authors or the firm.

September 2025