

Submission to Business and Trade Select Committee inquiry into the implementation of the Economic Crime and Corporate Transparency Act

Background

Spotlight on Corruption is an anti-corruption charity that shines a light on the UK's role in corruption at home and abroad. We want to see a society with strong, transparent and accountable institutions which ensure corruption is not tolerated and democracy flourishes both in the UK and globally. To achieve this we highlight corruption and the harm it causes, and campaign to improve the UK's legal systems and enforcement of the law.

Summary

The UK's ability to tackle economic crimes - including corruption - has been strengthened by the Economic Crime and Corporate Transparency Act 2024 (ECCTA) and the preceding Economic Crime (Transparency and Enforcement Act) 2022 (ECTEA). The major task for the government and law enforcement is ensuring the new powers are implemented effectively.

In addition, key areas missing from the new legislation and the Economic Crime Plan 2023-26 (ECP2) - including the ongoing failure to properly resource economic crime enforcement and hold senior executives to account for economic crime that happens on their watch - will limit the UK's ability to make the most of the new capabilities. This submission covers the following:

1. **Key areas missing from recent economic crime legislation**
 - a. The senior executive accountability gap.
 - b. Protecting law enforcement agencies from prohibitive costs
 - c. A 'failure to prevent' money laundering offence
 - d. A whistleblower compensation scheme
2. **The extent to which the ECCTA successfully challenges economic crime**
 - a. New laws to hold corporates to account for economic crime
 - b. Companies House reform
 - c. Empowering legal sector regulators to stop economic crime
 - d. New anti-SLAPP law
 - e. New powers for law enforcement bodies
3. **An assessment of wider efforts to tackle economic crime in the Second Economic Crime Plan (ECP2)**
 - a. Actions to reduce money laundering and recover more criminal assets
 - b. Actions to combat kleptocracy and drive down sanctions evasion
 - c. Actions to reduce the international illicit finance threat
 - d. Cross cutting reforms to the the systems and capabilities in the UK's economic crime response

- i. Recruitment and retention
- ii. Funding commitments for economic crime vs what is needed
- iii. Boosting resources by reinvesting more recovered assets and fines
- iv. Ticketed judges for economic crime
- v. Economic crime governance

Recommendations for the government:

1. Close a major enforcement gap to **ensure senior executives are effectively held criminally liable for economic crime** by undertaking a full review of the legislative and enforcement barriers to holding senior executives to account for economic crime.
2. Deliver a **long-term training, recruitment and retention strategy** for the National Crime Agency (NCA) Serious Fraud Office (SFO) and other economic crime enforcement bodies.
3. **Enable more economic crime fines and seized assets to be reinvested back into law enforcement** to boost their resources for investment in transformative technologies by:
 - a. As a first step, **letting the Home Office keep asset recovery receipts that currently go to the Treasury**, and ring-fencing these funds for strategic, long-term investment in the UK's economic crime fighting capabilities.
 - b. Commissioning a report into the merits of **establishing a pooled fund of at least 50% of these fines and seized assets**, ring-fenced for providing a significant multi-year increase in funding for economic crime fighting agencies like the SFO and NCA.
4. **Protect law enforcement agencies from prohibitive costs** when they pursue suspected criminal proceeds from deep-pocketed individuals by giving courts discretion to consider the possible chilling effect of costs orders against law enforcement agencies in serious economic crime related civil recovery cases.
5. **Improve the detection, investigation and prosecution of economic crime** by:
 - a. Extending the new **failure to prevent fraud** offence to all companies.
 - b. **Overhauling anti-money laundering supervision** by establishing a properly resourced, fully independent new **Single Professional Services Supervisor**.
 - c. Introducing a **failure to prevent money laundering** offence.
 - d. Commissioning a review of the options, based on extensive public consultation, on a UK **whistleblower compensation scheme**.
 - e. Working with the judiciary to ensure there are **ticketed judges in complex economic crime cases**.
6. Appoint an **Economic Crime Commissioner** with statutory powers to ensure greater prioritisation of economic crime and complement this by appointing an **Economic Crime Minister** at Cabinet-level.

Key areas missing from new economic crime legislation

1. The government claims that ECCTA introduces “*world-leading powers*” allowing the UK to “*proactively target organised criminals and others seeking to abuse the UK’s open economy*”.¹ The reforms in ECCTA are certainly welcome and potentially significant. A newly empowered Companies House and a major overhaul of laws for holding big companies to account gives law enforcement agencies powerful new tools to tackle economic crime. But their success will largely depend on the ability of these under-resourced law enforcement agencies to robustly implement and enforce them. In addition, the Act overlooked key reforms that would further strengthen the UK’s response to economic crime.

The senior executive accountability gap

2. Firstly, **the ECCTA failed to address a fundamental factor behind the UK’s permissive environment for economic crime: the lack of accountability for senior executives in large firms when wrongdoing or regulatory breaches happen on their watch.** Just 13% of SFO individual convictions,² and 6% of Financial Conduct Authority (FCA) individual convictions involve directors in large firms for example.³ The fact that senior executives of large firms rarely face any consequence at all leads to poorer corporate governance standards, and greater risks that the huge costs of corporate failure and misconduct are borne by ordinary people. The IMF has urged the UK to address this in relation to money laundering by ensuring “*full resort*” to enforcement “*particularly criminal penalties against corporations and senior managing officials.*”⁴
3. The case of Petrofac illustrates how company directors evade accountability for corporate crime and leave lower-level managers on the hook. Following an SFO investigation, in October 2021 oil and gas company Petrofac pleaded guilty to failing to prevent former senior executives from using agents to pay £32 million in bribes to win £2.6 billion worth of contracts in the Middle East, and paid £77 million in financial penalties.⁵ However, only the company’s former Global Head of Sales, David Lufkin, who pleaded guilty to bribery, was convicted, despite the fact that he acted as a cooperating witness for the SFO – providing the evidence base for the corporate conviction.⁶ Although Lufkin received a suspended sentence, neither of the two former senior executives whose bribery the company failed to prevent alongside Lufkin have yet been charged, nor have any directors faced any consequence for their role in overseeing those who engaged in this bribery. There has been no update on the investigation against individuals for two years.
4. In another major case, in December 2021, the FCA secured its first ever criminal conviction against a company when NatWest was convicted of three money laundering breaches for failing to prevent its accounts from being used for money

laundering purposes.⁷ NatWest was fined £264.7 million by the judge after it pleaded guilty. The breaches involved NatWest receiving £365 million (£264 million in cash) from Fowler Oldfield, a jewellery business based in Bradford, into one of its bank accounts between 2012 and 2016 without adequately scrutinising the transactions.⁸ Despite the “particularly egregious failures” in this case,⁹ the FCA did not bring any criminal or regulatory action against any NatWest employees. Elsewhere, since 2013 the FCA has taken just one regulatory action against an individual in response to fines for money laundering failures imposed on 17 banks which resulted in £777 million of fines. This is despite failures continuing after the Senior Managers and Certification Regime (SM&CR) came into effect in 7 of these cases.

5. The SM&CR, introduced in 2016 as a result of the 2008 financial crisis, was meant to address this lack of individual liability. However, just 6% of FCA investigations under the SM&CR have resulted in any enforcement action. And despite the SM&CR's introduction, the FCA issued half as many individual fines in 2022 than it did in 2013, and the average value of those fines (with two notable exceptions) fell by 32%.¹⁰
6. **The UK appears to be heading towards even weaker senior executive accountability,** including when it comes to the rules over withholding or recovering directors' pay and bonuses (known as malus and clawback) in cases of corporate misconduct. The UK has dropped proposals to set minimum conditions for malus and clawback, while financial regulators are consulting on removing any such requirements for smaller banks.¹¹ The removal of clawback requirements for smaller banks would appear to leave many fintech challenger banks out of scope¹² despite the International Monetary Fund (IMF) warning of real risks from this sector to financial stability.¹³ This leaves the UK dangerously out of step with the US, which has gone in the opposite direction by introducing mandatory clawback provisions,¹⁴ greater incentives from prosecutors to use clawback,¹⁵ and robustly enforces strong powers by regulators to impose clawback.¹⁶
7. The UK has introduced recent measures to toughen up the UK's corporate liability laws, including in the ECCTA and Criminal Justice Bill, but has taken no corresponding action to ensure senior managers face accountability. **Without this individual accountability, corporate fines risk becoming a cost of doing business,** and deterrence against corporate crime is weakened. In order to address the large accountability gap for senior executives for corporate misconduct - including but not limited to economic crime - **the government should undertake a full review of the barriers to holding senior executives to account for economic crime.** This review should be broad in scope and cover legislative barriers such as whether key economic crime offences should contain provision to hold directors to account for their involvement in corporate crime. The review should also address regulatory barriers, as well as director disqualification, executive remuneration and clawback.

Protecting law enforcement agencies from prohibitive costs when they pursue the suspected criminal proceeds of deep-pocketed individuals

8. **Another crucial measure not included in the ECCTA was to enhance the work of enforcement agencies like the SFO and NCA by protecting them from high costs in civil proceedings involving economic crime** (as long as they act reasonably). Law enforcement agencies currently run the risk of incurring high costs when they bring entirely reasonable, but unsuccessful, civil recovery cases (where no criminal conviction is needed and the case is against property obtained through unlawful conduct like corruption, not against individuals). This acts as a serious disincentive to pursuing ambitious targets with deep pockets. As a result, enforcement efforts are skewed towards low-hanging fruit and to assets belonging to “the fled and the dead” – i.e., targets that cannot contest such cases, rather than deep-pocketed individuals who may have corruptly obtained assets and will do all they can to protect them if law enforcement brings civil recovery cases.
9. So far the government has rejected calls for wider reform but has left the door open for future reforms. Although versions of an amendment to ECCTA to extend the new costs regime for Unexplained Wealth Orders (introduced in the ECTEA) across civil recovery under Part 5 of POCA were voted through three times in the House of Lords with support from all parties, the government rejected it each time in the Commons in the face of more strong cross-party support.
10. As a compromise the government included provision in the Act to publish a report in which the Secretary of State will assess whether the court’s power to order law enforcement to pay the costs of proceedings in civil recovery cases could be restricted.¹⁷ An engagement exercise is now underway and it is crucial that the government come forward speedily with options to reform the incoherent costs regime for civil recovery.

Failure to prevent money laundering

11. Peers in the House of Lords also voted through an amendment to the ECCTA (rejected by the Commons) to introduce a new offence of **failure to prevent money laundering** (alongside the equivalent offence for fraud included in the final Act). The government did appear to accept the merits of such an offence as ECCTA contains a provision permitting the introduction of such an offence via secondary legislation. **Such an offence would require potentially high-risk entities (not regulated for money laundering) such as universities, PR firms, private schools and large parts of legal practice to have in place proper procedures to prevent it.**

12. **Not introducing this offence leaves the UK out of step with partners in the EU and its own Crown Dependencies.** The 6th EU Anti-Money Laundering Directive introduced in early December 2020 requires member states to ensure corporate bodies can be criminally liable where there is a lack of supervision or control to prevent money laundering offences.¹⁸ The UK's Crown Dependencies have brought their rules in line with the Directive, with both Jersey (in 2022) and Guernsey (in 2023) introducing a failure to prevent money laundering offence.¹⁹
13. The UK opted out of the EU Directive and has rejected the need for this offence, arguing that there is already a similar one under the Money Laundering Regulations (MLRs).²⁰ But such a failure to prevent money laundering offence would put the onus on the regulated sector to prove they have the right corporate governance procedures in place to prevent it - rather than prosecutors currently having to prove that a corporate body did not have these procedures in place if they want to bring a prosecution under the MLRs. In addition, it would require sectors not currently regulated for - but still at high risk from - money laundering to play their part in preventing it.

Whistleblower compensation

14. **There is broad consensus that current UK whistleblowing protections are unfit for purpose;** efforts to change this include parliamentarians campaigning (including through proposed amendments to the ECCTA) for the creation of an Office of the Whistleblower and updating the current legal framework to create better protections for whistleblowers.²¹ There have been growing calls for whistleblower compensation for financial and economic crime to be seriously considered and for existing schemes such as that run by HMRC for tax fraud to be considerably expanded.²² The FCA's whistleblowing regime meanwhile was strongly criticised by whistleblowers in a recent assessment conducted by the FCA.²³ Recent academic research has shown that compensation or incentivisation works not just to detect crime and improve enforcement outcomes but also to deter it.²⁴ **The government should commission a review of the options, based on extensive public consultation, for what a UK whistleblower compensation scheme could look like.**
15. In the US, whistleblowers can receive rewards of between 10-30% of fines and penalties imposed by US enforcement bodies where they provide credible intelligence that leads to successful enforcement actions. From 1986 to 2022, 69% (\$50.4 billion) of the \$72.6 billion the US Department of Justice recovered through civil fraud cases involving government funds resulted from whistleblower tip offs.²⁵ The US Securities and Exchange Commission has imposed penalties of \$6.3 billion as a result of whistleblower information over the past 10 years,²⁶ while the US tax authority, the Internal Revenue Service has collected \$6.39 billion of "non-compliant"

tax since 2007 on the basis of whistleblower information.²⁷ The US also has an open door policy to attract foreign whistleblowers, with UK whistleblowers the second biggest users of US whistleblower programmes - 774 UK nationals have given tips to US authorities since 2012.

The extent to which the ECCTA successfully challenges economic crime

New laws to hold corporates to account for economic crime

16. While the ECCTA missed opportunities to address the aforementioned areas, **it did introduce urgently needed reforms**. One of the most significant and transformative is the historic **reform of the “identification doctrine”** – the underlying rule for how companies are prosecuted in the UK – for cases involving economic crime.²⁸ This makes it far easier for UK law enforcement to bring prosecutions when large companies have engaged in wrongdoing such as bribery, fraud and money laundering. Prosecutors will no longer have to prove that a director both had the intention to commit the crime and the authority from the board to do so – an impossibly high bar that put many large companies beyond the reach of the law.²⁹ This new legislation will soon be replaced by more wide-ranging changes to corporate liability (not limited to economic crime) being introduced in the Criminal Justice Bill (CJB). However any offending that takes place after 26 December 2023 but before the CJB gains Royal Assent could be prosecuted under ECCTA.
17. The ECCTA also introduced a new **failure to prevent (FTP) fraud** criminal offence which means large companies can be prosecuted for failing to prevent fraud, unless they have reasonable procedures in place to prevent it. This reform will be a useful tool for holding companies which engage in fraud to account. However, **prominent legal commentators and parliamentarians have called for the government to go further** by applying the new FTP fraud offence to all companies, not just large ones.³⁰ The new offence will not cover over 99% of companies and only 50% of commercial activity.³¹ This exemption deprives small and medium sized businesses of a defence that they had reasonable procedures in place to prevent fraud (which for small companies could mean they did not need to have any at all). Government committed to keeping the threshold “*under review*” and says it will make changes “*if there is evidence to suggest that they are required*”.³²

Companies House reform

18. A third major change in the ECCTA was to the UK’s corporate register: **Companies House**, which will now have more investigative and enforcement powers and be able to verify the information it receives. **Transparency International notes the reforms**

are **“a major step forward in the fight against corruption”** but also point out ongoing **loopholes**.³³ These include that bad actors can still hide their ownership of UK companies, including companies which own property, through the use of opaque trusts (concerns which must be addressed in the ongoing consultation).³⁴ Ensuring robust implementation of the new Companies House powers is critical, but the government must keep under review whether Companies House is properly resourced to play its new role, and how remaining loopholes affect the integrity of the UK’s corporate register. Additionally, the ECCTA introduced tighter rules for some limited partnerships - long used for money laundering schemes such as the *“Azerbaijan laundromat”*.³⁵ However, the reforms did not address loopholes allowing other abuses of UK companies such as English Limited Partnerships, which have been used by criminals and oligarchs including members of Putin’s inner circle.³⁶

Empowering legal sector regulators to stop economic crime

19. The ECCTA also made significant **changes to how the legal sector is regulated for economic crime**. This includes lifting the statutory cap on fines for the Solicitors Regulation Authority (SRA) for economic crime related wrongdoing, and giving legal sector regulators a new regulatory objective to promote the prevention and detection of economic crime. In addition, the SRA now has powers to demand information from regulated firms for the purposes of detecting and preventing economic crime. **These changes are urgently needed to help improve the poor regulation of the legal sector for money laundering**. More than one in four law firms (27%) were not compliant with money laundering rules in 2023 (up from 16% of firms in 2021/22) while the value of SRA fines for AML failures went down 79% in 2022/23 compared to the previous year, from almost £287k in 2021/22 to just £61,600 in 2022/23. The number of fines went down as well, from 29 to 23.³⁷

New anti-SLAPP law

20. The ECCTA will also make it **easier for judges to strike out abusive SLAPP** (strategic lawsuit against public participation) **lawsuits**, which have been used to silence journalists, civil society actors and others when they try to expose wrongdoing, including corruption.³⁸ The new law also provides cost protections for SLAPP defendants if they lose the case. **Experts and campaigners welcomed this reform but have called for its scope to be expanded beyond cases involving economic crime**.³⁹

New powers for law enforcement bodies

21. Finally, the ECCTA gives important **new powers to law enforcement bodies**, including a highly significant change allowing the SFO to use pre-investigative Section 2A powers (which allow them to make individuals and companies provide information at

a pre-investigation phase) in all cases, not just international bribery ones. **This means the SFO will be able to use these powers for fraud cases as well as domestic corruption cases.**⁴⁰ The SFO's Chief Capability Officer has said this change will help the agency: do "*better assessments more quickly*" thus speeding up their investigations.⁴¹ The NCA meanwhile will have new powers to obtain information from businesses relating to money laundering and terrorist financing without needing a pre-existing Suspicious Activity Report (SAR) to have been submitted before an Information Order can be made. This will enhance the UK's Financial Intelligence Unit's (housed in the NCA) analytical functions and align it with international standards.⁴² Additionally, the Act gives authorities new powers to confiscate, seize, and recover crypto assets.

Efforts to tackle economic crime in ECP2

22. Published in March 2023, the ECP2 contained welcome commitments to: "*Reduce money laundering and recover more criminal assets*"; "*Combat kleptocracy and drive down sanctions evasion*"; "*Reduce the threat international illicit finance poses to the UK and UK interests*" as well a range of reforms "*cross cutting*" the systems and capabilities in the UK's economic crime response.⁴³ It is essential that the government urgently makes progress on these commitments. Below we highlight and analyse some of the key commitments, noting areas where the government could show greater ambition.

Actions to reduce money laundering and recover more criminal assets

23. In 2027, the UK will face its **next Evaluation by the Financial Action Task Force (FATF)** - the global standards setter for money laundering.⁴⁴ This review will be a crucial opportunity to demonstrate the UK's ability to effectively tackle money laundering; a negative review could seriously damage the UK's international reputation for financial integrity and as a place where law-abiding businesses can safely and successfully operate.

24. In June 2023 the Treasury launched a **consultation on options for overhauling anti-money laundering and counter-terrorism financing (CTF) supervision**, an ECP2 commitment.⁴⁵ In their responses, civil society organisations and private sector bodies such as the influential Wolfsberg Group recommended that the government establish a **new Single Professional Services Supervisor (SPSS)**.⁴⁶ This should be implemented in good time before the next FATF review.

25. The government also committed to **consult on changes to the Money Laundering Regulations** by the end of 2023; this is now expected to begin soon in 2024.⁴⁷ This is a

key opportunity to review whether there are key industries currently unregulated for money laundering that should be brought into the regulated sector, whether the regulations are working as effectively as possible, and whether a failure to prevent money laundering offence could complement and strengthen efforts to stop money laundering.

Actions to combat kleptocracy and drive down sanctions evasion

26. Despite commitments in the ECP2 to drive down sanctions evasion, **we are concerned that a lack of enforcement is undermining the sanctions' effectiveness.** The Office for Financial Sanctions Implementation (OFSI) for example has issued zero fines for Russia sanctions breaches since the full-invasion in February 2022 despite recording 473 suspected breaches in the 2022-23 financial year.⁴⁸ The two fines it did issue in 2022/23 related to breaches of sanctions on Syria and on Russia for its first 2014 invasion of Ukraine.⁴⁹
27. Regarding criminal enforcement for violations of financial sanctions, the NCA reports that its new Combatting Kleptocracy Cell (CKC) has “*secured almost 100 disruptions*” against “*Putin-linked elites and their enablers*”, but **almost nothing is known publicly about the nature of the CKC's disruptions, their effectiveness, or the CKC itself.**⁵⁰ The two cases that have come to public attention through the courts (against Mikhail Fridman and Petr Aven) have struggled to progress, while government has refused to give details to MPs about the CKC, limiting their ability to scrutinise its work.⁵¹ The US by contrast is far ahead of the UK when it comes to criminal enforcement. As of February 2023 it had indicted over 30 individuals and two corporate entities accused of sanctions evasion, export control violations, money laundering, and other crimes. The authorities have seized, forfeited, or restrained over \$500 million in assets belonging to Russian oligarchs and others.⁵²
28. Another anti-kleptocracy measure in the ECP2 regards the International Corruption Unit (ICU) in the NCA taking action to **recover and return assets stolen from developing countries.** Current UK **efforts on asset recovery are nowhere near enough to represent meaningful implementation of Sustainable Development Goal 16.4**, or to meet the government's wider commitments to recover and return more assets. By our estimates, between 2006 and 2023, of the £1.2 billion of corrupt funds frozen in the UK only around £307 million (25%) has actually been recovered and returned. By comparison, of the \$3.4bn kleptocratic assets frozen by the US between 2010 and 2022, \$1.6bn have been returned (47%).⁵³
29. **The benefits of stepping up the UK's efforts cover the cost of doing so many times over.** For example, the ICU has recovered assets worth £211 million over the last seven years, a 7 times return on approximately £30 million of spending. With no

commitments to increase resourcing on a sustained and long-term basis, or to ambitiously implement the UK's Framework for Transparency and Accountable Asset Return, government and law enforcement will be hard pressed to combat kleptocracy by delivering a substantial uplift to the recovery and return of corrupt funds.⁵⁴

Actions to reduce the threat international illicit finance poses to the UK and UK interests.

30. If the UK is to credibly push for action to tackle international illicit finance, it must first **tackle financial secrecy in our Crown Dependencies and Overseas Territories** (CDOTs) which is facilitating economic crime for criminals from around the world, including kleptocrats, money launderers and tax abusers. The end of 2023 delivery date in ECP2 for the CDOTs to have publicly accessible beneficial ownership registers has already been missed. Research by Transparency International UK has identified hundreds of global corruption and money laundering schemes enabled by shell companies registered in these jurisdictions. Together, these cases amount to over £250 billion in economic damage – more than the whole of the UK's foreign aid budget over the last two decades.⁵⁵
31. Another missing piece relates to the UK helping to develop an **ambitious agenda for the FATF's next 10-year programme** - including a greater focus on kleptocracy - and push for greater transparency and fairness in how the FATF operates (including working more closely with civil society). The ECP2 does contain references to strengthening FATF standards but only regarding asset recovery. In addition, the commitment to **expand membership of the International Anti-Corruption Coordination Centre** to include an additional five financial centres is welcome and should include a review of how high-risk jurisdictions for money laundering such as the UAE and Turkey can be more effectively engaged.

Cross cutting reforms to the systems and capabilities in the UK's economic crime response

Recruitment and retention

32. The ECP2 features a commitment to finalise a **people and skills strategy** by the end of 2025 (with short term fixes by Q2 2024). With UK law enforcement capacity for fighting money laundering chronically under-resourced, this strategy is essential to ensuring the long-term viability of the UK's plans to tackle economic crime. **Serious issues with recruitment and retention are preventing agencies such as the NCA from leading the UK's fight against economic crime effectively.** Around a fifth of roles remain unfilled at any one time, with key areas like forensics rising to a third.⁵⁶

This poses an additional cost on the public purse as vacancies have to be filled by contractors, which cost £20k per post more than permanent employees.⁵⁷ Low pay and lack of pay progression are also real problems, with salaries benchmarked at 90% of police pay making recruits with crucial policing skills less likely to join the NCA.⁵⁸ Strong performers with years of experience receive the same pay as trainees, leaving staff demotivated and more likely to leave.⁵⁹ The NCA lacks a robust and credible training path for recruits, leaving the NCA to run cases with recruits straight out of university sometimes with just a few days or a week's training.

33. Meanwhile **the SFO faces similar challenges with recruitment and retention.**

Vacancy rates are between 20-25%, with the most recent Annual Report noting “*growing challenges with the recruitment and retention of staff*”, and “*a high vacancy rate*” that has forced the agency to plug gaps with temporary staff, a position it describes as “*not sustainable*”.⁶⁰ The struggle to retain expertise in the face of much higher private sector pay has seen the SFO lose dozens of SFO officers, mostly investigators and prosecutors, to corporate law firms in recent years.⁶¹ The SFO is seeking to recruit 100 to 150 new investigators in order to boost staffing by up to a third, but without long-term, realistic resourcing it will struggle to recruit and retain staff on a sustainable basis, and perform its vital service in prosecuting serious fraud and corruption.⁶²

Funding commitments for economic crime vs what is needed

34. The government’s recent **resourcing commitments fall far short of what is urgently needed to address the widening enforcement gap and protect the UK from economic crime.**

No new funding accompanied the launch of the ECP2, which is funded by £400m (equal to £133m a year, or 0.038% of the annual estimated £350bn cost of economic crime to the UK).⁶³ This consists of £200m from the new £100m a year Economic Crime Levy (ECL) on the private sector beginning in 2023/24,⁶⁴ and £200m of existing government investment from the 2020 and 2021 spending reviews.

35. The government also announced a recruitment drive to tackle economic crime in the ECP2 and Fraud Strategy. This includes: 475 new officials for tackling money laundering and asset recovery; an unspecified expansion of the NCA’s Combatting Kleptocracy Cell;⁶⁵ and 400 specialist fraud investigators for the new National Fraud Squad (although it is not clear how many of these will be new recruits or drafted in from other parts of the enforcement landscape).⁶⁶

36. **These commitments are far less than what experts and law enforcement have called for.**

In 2019 former NCA Director Lynne Owens said the law enforcement system needed £2.7 billion a year – including £1bn a year for the NCA (around a 50%

increase on its current budget) – to tackle serious and organised crime, of which economic crime is a significant part.⁶⁷ In 2022, the Social Market Foundation estimated that the UK needs 30,000 more police officers and civilian staff for fraud alone to tackle the scale of the problem.⁶⁸ The Royal United Services Institute (RUSI) meanwhile has argued for an annual investment of £250 million to fund a minimum of 2,000 additional new police officers working on economic crime by 2030.⁶⁹ RUSI has also called for a fraud levy on the tech sector – a key facilitator of fraud.⁷⁰ The City of London Law Society has called for a 50% increase to the SFO’s budget, stating that a failure to properly resource the UK’s ability to prosecute complex frauds could “*call into question the UK’s reliability and capacity as a state*”.⁷¹

Boosting resources for economic crime enforcement by reinvesting more recovered assets and fines

37. Securing more funding in the current economic climate is extremely challenging. But there is a **common-sense solution** which would help give the NCA, SFO and other agencies what they need in a **fiscally realistic way: reinvesting** more of the substantial **revenue law enforcement raises for the Exchequer through the seizure of criminal assets and fines for economic crime offences and regulatory breaches**. Agencies generated over £3.9bn in confiscation and fines between 2016-2021,⁷² but virtually no fines and just 38% of recovered assets were reinvested in the last 6 years.⁷³ In addition, the scheme for reinvesting assets - ARIS - is flawed and can create perverse incentives to focus on low hanging fruit, distorting enforcement outcomes, and must be spent in-year.⁷⁴ The NCA for example lost 45% of its 2022/23 ARIS allocation as a result of ARIS spending rules.⁷⁵ **An “invest to save” model for economic crime enforcement would lead to a virtuous cycle with agencies recovering ever greater amounts of money to be reinvested in their work in a more sustainable manner.**

38. **Enabling more seized assets to be reinvested back into law enforcement could boost their resources for investment in transformative technologies.** As a first step, the Home Office should keep asset recovery receipts that currently go to the Treasury, and ring-fence these funds for strategic, multi-year investment in the UK’s economic crime fighting capabilities. This should be considered as part of the ECP2 commitments to develop options to increase reinvestment of ARIS receipts and enable multi-year investment; the delivery date for this (the end of 2024) should be brought forward.⁷⁶ Longer term, government should commission a report into the merits of establishing a pooled fund of at least 50% of all funds raised by asset recovery, anti-money laundering supervisory fines and other economic crime fines, ring-fenced for providing a significant multi-year increase in funding for economic crime fighting agencies like the SFO and NCA.

Ticketed judges for economic crime

39. The ECP2 also affirmed the launch of the new City of London Law Court, expected in 2026. But it did not mention how to ensure judges have the necessary knowledge to effectively and fairly run complex economic crime cases. The Law Commission has proposed establishing a “ticket system” - a program of enhanced training - for judges working on complex cases involving the confiscation of the proceeds of crime.⁷⁷ This could be extended to working with the judiciary to **ensure that there are ticketed judges in complex economic crime cases across the board**. This would ensure more effective judicial management, saving the taxpayer money from extended and collapsed trials.

Economic crime governance

40. Despite efforts in the ECP2 to bring coherence to economic crime governance, the government’s patchwork approach - with responsibility diffused across various plans, strategies and departments - lacks cohesion or accountability. **Appointing an Economic Crime Commissioner** with statutory powers would provide independent oversight of the economic crime agenda, ensure greater prioritisation, improved accountability, and a more coherent response.⁷⁸ The Commissioner would work in tandem with the Anti-Corruption Champion (a role left vacant for the last 18 months), whose remit is broader but would intersect with that of the Commissioner. In addition, **the government should give an Economic Crime Minister** Cabinet level responsibility for driving forward the agenda against fraud, corruption and money laundering. The status quo of giving the Security Minister (formerly known as the Minister for Security and Economic Crime) responsibility for this agenda - alongside a host of competing priorities - means it is not paid sufficient attention.

1. <https://www.gov.uk/government/news/robust-new-laws-to-fight-corruption-money-laundering-and-fraud>
2. Spotlight on Corruption analysis: 11 of the 88 (12.5%) individual convictions obtained by the SFO related to directors of large companies or major investment funds. This included directors formerly employed by Torex Retail, Aluminium Bahrain, Innospec, JJB Sports, Weaving Capital, Afren Plc, Axiom Legal and Orb Group.
3. Spotlight on Corruption analysis: Three out of 54 individuals (6%) convicted by the FCA between 2013/14 and 2022/23 were directors in large firms. This includes the former Group Treasurer and Head of Tax at Morrison Supermarkets plc, and the CFO and finance director of Redcentric Plc.
4. <https://www.imf.org/en/Publications/CR/Issues/2022/04/07/United-Kingdom-Financial-Sector-Assessment-Program-Some-Forward-Looking-Cross-Sectoral-516282>
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