

Comparison of UK “Failure to Prevent” Offences

	Failure to Prevent Bribery	Failure to Prevent the Facilitation of Tax Evasion	Failure to Prevent Fraud
Base Legislation	Section 7 UK Bribery Act 2010 (UKBA)	Sections 45-46 Criminal Finances Act 2017	Section 199 Economic Crime and Corporate Transparency Act 2023 (ECCTA)
Scope	Body corporates and partnerships of all sizes	Body corporates and partnerships of all sizes	“Large” organisations only*
Relevant Offences	Bribing another person (s 1 UKBA) Bribing a foreign official (s 2 UKBA)	Cheating the public revenue Offences consisting of the fraudulent evasion of tax (in the UK or in another country)	Wide range of fraud offences specified in Schedule 13 ECCTA
Territoriality	Applies to conduct by associated persons anywhere in the world provided the organisation is: (i) UK-incorporated; or (ii) carries on business, or part of a business, in the UK	Applies to UK tax evasion offences by all organisations Applies to foreign tax evasion offences where: (i) the organisation is UK-incorporated or carries on business, or part of a business, in the UK; or (ii) any element of the offence takes place in the UK	Applies where any element of the base fraud offence took place in the UK (including any actual loss or gain)
Defence	Adequate procedures	Reasonable procedures	Reasonable procedures
Intention / Benefit	Intention to obtain or retain business (or an advantage in the conduct of business) for the organisation.	N/A	Intention to benefit (directly or indirectly): (i) the organisation; or (ii) any person to whom (or to whose subsidiary undertaking) the associated person provides services on behalf of the organisation

**Organisations with any two of (i) more than 250 employees; (ii) more than £36 million turnover; and/or (iii) more than £18 million in total assets, assessed by reference to the financial year preceding the year of the base fraud offence.*