RED LION CHAMBERS

BUSINESS CRIME & FRAUD TEAM

Corporate Criminal Liability: Navigating Section 250 of the Crime and Policing Act 2026, and its implications for companies, directors, senior managers, and compliance teams

The Business Crime and Fraud team at Red Lion Chambers hosted a breakfast on 14th July 2026 at which the potential practical effects of this important new legislation were debated by an audience of in-house and private practice lawyers. Tom Forster KC chaired the discussion, which was informed by introductory remarks from Victoria Fitzpatrick of the Serious Fraud Office, and Francis Bond of Macfarlanes. Contributions from other guests were made under the Chatham House Rule.

A new chapter in corporate criminal liability

Section 250 of the Crime and Policing Act 2026 follows reforms introduced by s.196 of the Economic Crime and Corporate Transparency Act 2023 (ECCTA) which reformed the rules governing attribution of criminal liability to corporates for economic crimes. The new provision replaces the s.196 ECCTA regime and expands corporate criminal liability to all criminal offences for actions by senior managers (taking effect from 29 June 2026); this is a significant further step. Reform is linked to a broader policy objective of improving corporate culture, governance and accountability. Discussion therefore centred on whether the reform represents a technical expansion or a more fundamental shift in the way corporate responsibility is viewed, investigated and prosecuted.

The SFO perspective – culture and compliance

Victoria Fitzpatrick noted the SFO's strong support for a statutory attribution rule and failure to prevent fraud offence. Enforcement of the failure to prevent bribery offence has returned over £1bn to HM Treasury since 2015 via a series of Deferred Prosecution Agreements, so we can expect to see them making full use of s.250 insofar as there is overlap with the offences listed in Schedule 17 of the Crime and Courts Act 2013.

The statutory attribution rule provides a more realistic reflection of the operation of modern businesses, which may often operate across borders, by focusing on those with genuine operational control and decision-making authority. Victoria emphasised the point of principle that the law should reflect modern corporate structures. The SFO supported reform in part to seek to shift corporate culture towards preventing economic crime at source, rather than intervening only when it is too late. The new regime is anticipated to strengthen compliance frameworks and improve training for senior managers to assist the prevention of misconduct.

The breadth of section 250

Francis Bond raised the potentially extremely broad scope of s.250, expanding a test of attribution to now thousands of offences. Breadth is also a consequence of the scope of authority test, including acts beyond what the individual was given permission to do, and acts within both the actual and *apparent* scope of their authority.

Francis highlighted the absence of limitations in the new regime ("the four no's"), in contrast to other provisions (e.g. failure to prevent, s.199 ECCTA). There is no requirement that misconduct is strictly business-related, no requirement that the corporate benefits from the misconduct, no adequate procedures defence, and no restriction to offences requiring intent.

One limiting factor, however, is s.250(2) which excludes liability where all the relevant conduct occurs outside the UK and the organisation would not commit the offence if that conduct were the organisation's, rather than the senior manager's. This was raised as having alleviated some of the concerns of multinational corporates.

The consequence of the breadth of the provision is that more will turn on the exercise of prosecutorial discretion in the application of the Full Code Test.

Some attendees raised concern about the weight now placed on this discretion which historically has been exercised variably.

The scope for more 'activist' prosecutions (private or otherwise) arising from this greater breadth of the regime is a related concern.

Potential scope in practice

Discussion centred on where the legislation is most likely to have an impact in practice. Tom Forster KC raised the fact that comparatively few offences are covered by the DPA regime and this would likely impact the appetite of prosecuting agencies such as the SFO to use s.250 more widely. Environmental protection, health and safety and other regulatory sectors have established statutory regimes which means that there may be less prosecutorial use of s.250

in these areas. Surrounding commentary has considered the potential for s.250 to address non-financial misconduct that is alleged to have formed part of the way in which a business was managed, rather than isolated instances of individual wrongdoing. Cultural developments like the #MeToo movement may impact the type of offending being pursued, recognising that corporate culture goes beyond purely business decisions. Not every prosecuting agency would be able to investigate such conduct, and it is unclear at this stage if they may start adopting this broader approach.

There was consensus that the shape of the new regime in practice is going to take time to understand. As such, it has caused confusion amongst some corporates about what may happen and what steps businesses should take, with instinctive actions like identifying and listing the functions of senior managers perhaps not being the most productive approach for now, although such an exercise might help highlight areas of potential future risk. Attendees anticipate that enforcement bodies are likely to 'stay in their lane' and focus on their traditional areas of expertise, an approach endorsed by Victoria Fitzpatrick, though the scope for a greater number of referrals to other agencies was noted (e.g. for offences related to insolvency, data, pensions, or for non-economic offences). The theoretical expansion also has to be seen in the context of the existing resources of prosecuting agencies and the impact this will have on their ability to explore new areas of corporate liability.

Compliance and reporting

In considering the impact on compliance functions, attendees ventilated the potential effect on money laundering reporting officers. Tom Forster KC raised whether individuals may be concerned by failing to disclose offences now being in scope. Victoria Fitzpatrick considered that s.250 may actually bolster the position of the MLRO who may now become more important in the organisation, helping to shift culture.

It was highlighted that as the number of potential criminal offences is going to increase, reporting obligations (e.g. principle 11) and material which could fall to be disclosed in M&A deals is likely to increase. The potential to have to report offences which are unlikely to be prosecuted heightens the concern around prosecutorial discretion.

Potential unintended consequences

It was raised that s.250 may increase the complexity of investigations and potentially create tensions within organisations with greater scope for competing interests between the individual employee and the company. This may impact internal decision-making, investigations and disclosure with organisations potentially becoming more guarded and less transparent.

Related to this, Francis Bond raised the consent and connivance offences and potentially the counterintuitive impact this may have. Questions remain as to whether the risk of prosecution will, in reality, increase.

Not a silver bullet

Tom Forster KC and Victoria Fitzpatrick acknowledged that it is not going to be simple for prosecutors to prove the elements required for criminal liability as the concepts of 'senior manager' and 'actual or apparent scope of authority' are not straightforward, and the same job title will mean different things in different organisations. To identify a senior manager, it is likely the same volume of material will need be considered as was done under the common law identification doctrine. These concepts will also present difficulties for judges who will be required to provide clear directions for a jury.

Conclusion

All were agreed that s.250 marks a significant development in the extension of corporate liability for criminal offences. Its impact in practice remains to be seen, and will depend on enforcement priorities, market response, departmental budgets and, in time, judicial interpretation. Our guests considered s.250 less as a trigger for panic and more as an opportunity to re-examine governance structures, reporting mechanisms, and corporate culture. A significant new wave of prosecutions is not expected, but conversations about accountability and compliance, and what support clients are likely to need from their legal advisers, will no doubt increase in number.

CONTACT US

For more information on Red Lion Chambers, our Business Crime and Fraud Team, or to discuss how our barristers might be able to help you and your clients, please contact Maurice MacSweeney, our Client and Business Development Director, who will be pleased to speak with you.

Notes:

1) *Guests were reminded of the development of the regulatory landscape in recent years, which led to the introduction of Section 250:*
    - ***Law Commission**: Corporate Criminal Liability – an options paper (10 June 2022)*
    - ***Economic Crime and Corporate Transparency Act 2023 (ECCTA): s.199 – failure to prevent fraud** offences as listed in **Schedule 13** (1 September 2025)*
    - ***Home Office Guidance** on s.199 offence (November 2024)*
    - ***ECCTA 2023: s.196 – attribution** of criminal liability to **body corporate** for economic crimes as listed in **Schedule 12** committed by senior managers (26 December 2023) – overlaps with the **DPA Regime** in Sch 17 of the Crime and Courts Act 2013*

- ***Crime and Policing Act 2026: s.250*** *replacing s.196 ECCTA and expanding corporate criminal liability for actions by senior managers (in force from **29 June 2026**)*

2) The conversation was shaped to explore a number of questions:

(i) Is the lower culpability of the failure to prevent offence for eligible corporates proving effective? Has the SFO successfully prosecuted, or otherwise deterred offending, in such a way as to close the enforcement gap between major corporates and small businesses?

(ii) Following SFO v Barclays, has the reform of corporate attribution for economic crime resulted in a change of culture? Or should there, in addition, be more of an emphasis on companies to disclose policies and procedures, similar to the regime in the Modern Slavery Act s.54?

(iii) What is the point of extending the new attribution rules to ALL criminal offences in s.250 CPA? Don't companies tend to commit economic crimes? And public policy usually ensures corporates in industries requiring regulation (for health and safety or environmental protection reasons) are subject to some kind of licensing regime, or other statutory duty backed by criminal sanctions.

(iv) The regime governing breaches of money laundering regulations (outwith the substantive Proceeds of Crime Act offences) works well. So is corporate attribution for s.330 and s.331 (disclosure and money laundering reporting officers) – now brought about by s.250 CPA but which was not included in ECCTA – really necessary?

(v) What are the practical risks to businesses from s.250 CPA and how should our clients address them?

(vi) Will s.250 CPA prove to be a popular new tool kit for activist prosecutions, private or otherwise?

ARTICLE: Corporate Criminal Liability - Clarity or Confusion?

By Leo Seelig and Katie Bacon

The Business Crime and Fraud Team at Red Lion Chambers publishes a monthly newsletter, comprising updates on new legislation, policy, case law, and other white collar news, as well as a deep-dive article on a current topic. One such article appears below. If you would like to be added to the mailing list for our newsletter, or see past issues, you can do so by clicking this link.

With the coming into effect of s250 Crime and Policing Act 2026 on 29th June, Leo Seelig and Katie Bacon analyse the provisions, the likely direction of travel of prosecuting authorities and the implications for corporates and their legal advisers.

INTRODUCTION

Section 250 of the Crime and Policing Act 2026 came into force on 29 June 2026, marking a significant expansion in corporate criminal liability. Where a senior manager of a body corporate or partnership acting within the actual or apparent scope of their authority commits *any* criminal offence, the organisation also commits the offence (s250(1)). Liability is excluded where the relevant conduct occurs wholly overseas (s250(2(a)) and the organisation would not itself commit the offence if the conduct were attributed to it rather than to the senior manager (s250(2)(b)). Subsection 2 therefore ensures that the territorial reach provided by s250 does not extend beyond that of the underlying offence.

'Senior manager' is defined (s250(3)) as an individual who plays a significant role in –

a) The making of decisions about how the whole or a substantial part of the activities of the body corporate or partnership are to be managed or organised, or

b) The managing or organising of the whole or a substantial part of those activities.

Section 250 largely mirrors its precursor, ss196-198 of the Economic Crime and Corporate Transparency Act 'ECCTA' 2023 which extended liability for the acts of senior managers in relation to certain economic crimes only. The relevant parts of ECCTA have now been repealed (s196-198, s217(5)(f)), parts of s217(8)(9), Schedule 12), although they will remain relevant to conduct occurring in the relatively narrow window between their coming into force and repeal.

The road to reform

Dissatisfaction with the identification doctrine led to calls for reform. The first definitive statement of the doctrine came from the House of Lords in *Tesco v Nattrass* [1972]

A.C.153. The HOL held that the actions of store managers in making misleading statements about special offers on washing powder when only full-price packs were available could not be attributed to the company because they had not been made by someone who represented the company's directing mind and will. Even then, the precise scope of the doctrine was unclear.

Frustration peaked as a result of *SFO v Barclays* [2018] EWHC 3055 (QB) which concerned arrangements with Qatari entities, alleged by the SFO to be a sham/dishonest service. Statements by staff at Barclays such as, *'we don't have any of this shit, none of us is going to jail'*, did not assist perception of the arrangements. The Court found that it was not enough to look at an individual's status within a company, the focus was also on the authority bestowed by the company to the person with regard to performing the function said to give rise to criminal culpability. Ultimately, the Court found that the individuals concerned, who included the CEO and Group Finance Director, did not have full discretion to act independently and could not be regarded as the directing mind and will for the purpose of performing the functions in question. In short, it had not been shown that they had entire authority 'to do the deal'.

The decision came as a surprise and growing concern led to the Law Commission producing the 'Corporate Criminal Liability Options Paper' in 2022. As identified in the paper, on a strict legal analysis the decision in *Barclays* was in line with *Nattrass* but had subverted expectations of what would happen, resulting in a perception of the doctrine having been narrowed.

Concerns identified by the Law Commission included:

a) Unfairness of application – the doctrine operates more easily in relation to small companies where the directing mind and will are more simply identified.

b) Uncertainty of application – shown by the disconnect between expectation and reality in Barclays.

c) Perverse impact on governance – a saving grace for the Barclays Board was that on the prosecution case they were in the dark about the alleged true nature of the arrangements. An odd consequence of the doctrine was that more complex structures and less involved Boards had reduced prospects of liability.

The paper found that the identification doctrine as applied was an obstacle to large companies being held criminally responsible for offences committed in their interests by employees.

It was made clear from the outset of the ECCTA 2023 that reform would be wider than the specified economic offences. During the passage of the Criminal Justice Bill, then Minister Chris Philp said, '*I am sure that all of us here want to make sure that when large corporates commit offences, they are held to account and prosecuted'*. Expansion beyond economic crime has faced little debate as to its purpose or merits.

ANALYSIS

Liability hinges on the interpretation of two key concepts, 'senior manager' and 'scope of authority'. Although both are defined in identical terms to their ECCTA precursors, as yet their meaning remains untested in the appellate courts. Practitioners must therefore look elsewhere for assistance as to the range and scope of the new legislative scheme.

Senior manager

The Court in Barclays held that considering the position of the Board was not a matter of form over substance, for in that case, '*the form is the substance*' (§122). The Act's explanatory notes draw a sharper distinction, making clear that the focus is on substance not form. C-suite executives are included, with an express statement that Board membership is not determinative. It is clear, however, that 'senior manager' extends beyond top executives. Strategic compliance roles and those with significant roles in HR are named examples. The notes go on to make clear that title, remuneration, qualifications and even employment status are neither prohibitive nor determinative. The devil will be in the detail. As such, an issue raised by the Law Commission about the volume of evidence required to make a meaningful assessment of an individual's position within a company will likely continue in cases not involving company directors.

Scope of authority

This element has received relatively limited attention and analysis. As such, there is potential for it to give rise to more difficult arguments than whether or not an individual is a senior manager. The explanatory notes cite a CFO who commits fraud by deliberately making false statements about the company's financial position as an example. This is self-evident on the language of the statute so provides limited assistance in anticipating likely interpretation. Professor Sarch and Ms Reid raised, in written evidence submitted during the passage of the Bill, the potential for company liability for purely personal crimes e.g., dangerous driving between meetings. Whilst an extreme example likely to be weeded out by investigative and prosecutorial discretion, the point that a line requires to be drawn and that it is unclear where, is a powerful one.

It is also a difficulty that could have been avoided or at least reduced. The Law Commission suggested that if the legislative aim is to equate in the criminal law the conduct of senior managers with the conduct of the company, a 'scope of authority' element is both unnecessary and contrary to this aim. The Commission suggested that it should be sufficient to show that the senior manager engaged in, authorised or permitted the relevant conduct. The rationale for departing from this is unclear and does not appear to have been ventilated in debate. Practically, the inclusion of this element in the first place, and the lack of any definition in the second, is likely to create fertile ground for argument and appeal.

The direction of travel

Given the absence of any cases at first instance, prosecuting authorities appear to have taken a cautious approach to charging offences under the old ECCTA regime. If s.250 generates more activity, its effect is unlikely to be felt anytime soon. It is clear from the road to reform and surrounding discourse that the focus will be on large companies and criminal conduct beyond financial crime with large scale impact. Regulatory and environmental offences are therefore potential first candidates.

Prosecutors can also be expected to treat the new tool in their armoury with caution. Barclays and LIBOR were both held up during debate as evidence of the need for reform. However, the acquittals of the Barclays executives and Supreme Court ruling in *R v Hayes & Palombo* [2025] UKSC 29 ought not to be forgotten. Fear of large scale defeat (in both cost and publicity) will loom large in the minds of prosecuting agencies as the new provision takes effect. Attention may therefore turn first towards medium sized corporates whilst the shape and scope of the new route to liability is explored.

The provision does not completely remove from consideration that which came before. ECCTA 2023 provisions will still fall to be considered for offending which occurred whilst it was in force (26 December 2023 – 28 June 2026) and prosecutors will need to think particularly carefully about the shape of an indictment where offending is alleged to occur across the two regimes. Similarly, as the explanatory notes make clear, the common law identification doctrine remains in play. However, in reality, the doctrine is seemingly all but extinct. Given the primacy of statutory offences (see *R v Rimmington* [2005] UKHL 63) and faults found with the identification doctrine, it is difficult to envisage prosecutors taking the old path rather than the new route for future offending.

CONCLUSION

The new provision is undoubtedly a powerful tool but the landscape of liability will not change overnight. Corporates, particularly large corporates, will be keen to know how s250 is in fact used by prosecuting authorities in practice. The most effective measures, however, in response to the expansion will be preventative. This is because reform is ultimately driving at something much more difficult to achieve: cultural change. Whilst there is no reasonable or adequate procedures defence, organisations should devote time and attention to considering what procedures and policies are in place to ensure that their members, in particular those who may fall within the definition of a senior manager, behave in accordance with best practice and company values.