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## **FOIL Update 19<sup>th</sup> June 2026**



# **The Crime and Policing Act 2026 and the New Landscape of Corporate Criminal Liability**

Seen by many as long overdue, the Crime and Policing Act 2026 (CPA) will come into effect on 29<sup>th</sup> June and bring wide-reaching provisions that carry significant implications across society that will resonate for years to come. Seeking to address gaps in the UK justice system, the Act introduces enhanced legal protections in many areas and among its key elements is the expansion of the circumstances in which businesses can be held liable for the criminal actions of their senior staff, covered in Section 250 of the Act. The CPA moves away from previous limitations and introduces changes to corporate criminal liability that carry important legal, governance, and compliance risk.

### **The Road to Reform**

An understanding of the historical legal context the CPA has transformed gives an appreciation of its significance. It amends several pieces of legislation, some dating back over a hundred years, with the attribution of criminal liability to a company for the actions of its individuals previously resting on the outdated common law identification principle, sometimes called the 'directing mind and will' doctrine. Under this test, a company could only be held criminally liable for a person's actions where they were found to be so senior and central to decision-making that they could be said to represent the company itself.

In post-war corporate UK, this would have made sense, but modern businesses feature multi-layered management structures, international operations, and distributed decision-making authority, making this approach a potential barrier to prosecution. High-profile cases

ranging from corporate manslaughter to large-scale financial fraud have collapsed because prosecutors were unable to satisfy the threshold, so the doctrine had in effect become a structural protection for large organisations.

The Government's response has been gradual, with several landmark legislations introduced to close historical loopholes and broaden accountability. The Corporate Manslaughter and Corporate Homicide Act 2007 introduced a targeted offence that replaced the traditional identification test for the most serious workplace fatalities. The Bribery Act 2010 established a 'failure to prevent' model, which held organisations liable for bribery offences unless they could demonstrate adequate procedures. Then, in 2023, the Economic Crime and Corporate Transparency Act (ECCTA) represented a more significant step by launching a statutory 'senior manager' attribution model, extending corporate liability beyond the board and applying it to a defined list of economic crimes including fraud, money laundering, bribery, and sanctions violations.

Although the ECCTA represented a meaningful improvement, it remained confined to economic crime. The CPA has now removed that limitation and extends corporate criminal liability to cover any criminal offence committed by a senior manager acting within their scope of authority.

### **Details of Section 250**

The key Section 250 provision of the CPA is simple and has extraordinary reach in providing that if a senior manager of a company or partnership commits any criminal offence while acting within the actual or apparent scope of their authority, the organisation itself is also guilty of that offence. Replacing Sections 196 to 198 of ECCTA, which had established the statutory attribution mechanism for economic crimes, Section 50 applies the same 'senior manager' model to the full range of criminal conduct, significantly extending corporate liability risk.

The definition of 'senior manager' is deliberately broader than the old 'directing mind and will' test and captures any person who plays a significant role in making decisions about how the whole or a substantial part of the company's activities are managed or organised, or in the management or organisation of those activities. This extends well beyond the board to include divisional and regional leaders and senior executives.

The 'actual or apparent authority' test does not require the senior manager to have been authorised to commit a criminal act, only that the act must be of a type that would ordinarily be carried out by a person in that role. For example, a Chief Financial Officer is expected to make statements about a company's financial accounts, and should those statements be false, the company would be held liable.

### **The Importance to Insurance and Legal Professionals**

The CPA framework no longer limits liability to fraud or financial misconduct, creating implications for regulated industries and those who advise and insure them. For lawyers, the

new regime captures offences originating from a wide range of legal contexts, including environmental, data protection, competition, modern slavery, sanctions, health and safety, and ESG-related conduct.

For insurers, the implications extend to several areas of liability, such as D&O, corporate, and professional indemnity, meaning products will require careful review given the broader exposure corporate clients now face. Premiums, policy terms, and exclusions that were drafted at a time of narrower corporate liability may need a reassessment as they will no longer reflect the risk landscape clients now operate in.

Insurers and brokers advising corporate policyholders should pay particular attention to the critical distinction between the CPA and ECCTA in that the 'failure to prevent fraud' offence now contains no statutory 'reasonable procedures' defence. Under the ECCTA's failure to prevent framework, an organisation could avoid liability by demonstrating that it had robust compliance procedures in place, in essence insuring itself from liability through internal procedural diligence. Under the CPA, however, there is no equivalent statutory provision and, whilst a comprehensive compliance programme may influence discretion from prosecutors, it will not prevent liability from arising.

Section 250 states that liability attaches because the senior manager's conduct is directly assigned to the organisation, rather than due to any failings by the organisation in preventing the conduct occurring. The organisation is treated as having committed the offence itself, with a criminal conviction and a fine for the company separate from any action taken against the individual. This necessitates a meaningful change in how risk is assessed at board-level and the levels of investment made in governance and compliance.

The CPA applies to organisations of all sizes, removing the large company thresholds that apply to the failure to prevent fraud offence under ECCTA. Companies across all sectors will now need to revisit their governance structures, senior management accountability frameworks, escalation and whistleblowing procedures, and the protocols for internal investigations.

### **Extraterritorial Scope**

A significant limitation on the scope of the CPA is that a company cannot be held liable where the criminal conduct occurs wholly outside the UK, and where the company would not be deemed to have committed the offence under local or extraterritorial jurisdiction, even if the conduct were its own rather than that of a senior manager.

This provision is designed to ensure that an overseas-based organisation is not held liable for the conduct of a senior manager simply because they hold British citizenship or are subject to UK extraterritorial jurisdiction. However, this limitation is not a broad defence for UK-incorporated entities with overseas operations, as many offences attract prosecution where there is deemed to be a sufficient UK relationship, regardless of where the underlying conduct took place.

## **A Significant Shift in Enforcement**

Organisations yet to complete a formal review of their governance frameworks need to act. A priority should be to establish which individuals fall within the 'senior manager' definition, as the category is wider than many businesses appreciate, and clarity in this area is necessary for any meaningful risk assessment.

Companies should also consider the scope of non-financial criminal risks that may now be attributable to them through their senior management. Compliance programmes primarily built around financial crime may now need to be extended to cover environmental, data protection, modern slavery, and other areas of criminal exposure. In addition, whistleblowing policies and internal escalation procedures merit careful attention, and early identification of potential misconduct by senior managers will be a key practical safety measure where there is no longer a statutory 'reasonable procedures' defence.

Finally, insurers should review the terms and limits of corporate liability products, and legal practitioners should ensure that clients fully understand that the absence of a compliance defence under the CPA represents an important difference from the ECCTA regime many will have based their internal policies around.

Section 250 of the CPA 2026 passed through Parliament completely unchanged and attracted barely any headlines, but it represents one of the most significant changes to corporate criminal liability in years. Extending the senior manager attribution model to all criminal offences removes many of the structural protections many large and complex organisations have historically relied upon and has signalled a new era of corporate accountability in the UK

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