

# ANTI-CORRUPTION APPG INFO PACK

## UK ANTI-CORRUPTION ARRANGEMENTS

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**Anti-Corruption APPG**

The All-Party Parliamentary Group on Anti-Corruption  
[www.anticorruptionappg.org](http://www.anticorruptionappg.org)

working  
together  
with

**tearfund**

# INTRODUCTION

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## PURPOSE

The purpose of the Anti-Corruption Info Pack is to provide:

- a summary of the **types of corruption** addressed by UK law, in line with the UK's commitments to implement the UN Convention Against Corruption (2003) and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997),
- a summary of the **administrative arrangements and mechanisms to prevent, detect and prosecute** corruption in the UK and abroad, and
- a summary of **current issues** raised by organisations active in the anti-corruption policy arena, and forthcoming legislative and policy processes relating to the UK's anti-corruption framework that are scheduled or anticipated in the timeframe to 2015.

# INTRODUCTION

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## NAVIGATION

The Info Pack has three levels, with increasing detail:

- **Corruption Framework Map:** this provides an at-a-glance overview of the UK's main corruption offences and the associated prevention and enforcement measures, including the key legislative instruments and administrative arrangements. Hyperlinked to Explanatory notes.
- **Explanatory notes:** for those who are interested in more detail on each crime or prevention/enforcement measure, the explanatory notes contain information on the international instruments, the relevant legislative and policy instruments, and set out details of the current administrative arrangements and relationships. There are also brief notes on the current policy challenges noted by NGOs and known legislative and policy processes to 2015. Hyperlinked to Information briefings.
- **Information briefings:** for those who are interested in more detail on the policy challenges and the known legislative and policy processes relevant to each crime or prevention/enforcement measure, the information briefings provide further detail on the current policy challenges and known legislative and policy processes, and hyperlinks to relevant organisations, documents and research.

**NOTE:** *These Information briefings were drafted by Tearfund in November 2012 in their role as clerk to the APPG. They were written to provide background information only and do not necessarily represent Tearfund's official policy positions, the policy of the Anti-Corruption APPG or the policy of the APPG members.*

# CORRUPTION FRAMEWORK MAP 1

[CLICK HERE TO GO TO GLOSSARY](#)

The UK has adopted and implemented a number of corruption offences which correspond and comply with the requirements of Articles 15-19, 21 and 23 of the UN Convention against Corruption (2003) and the OECD Anti-Bribery Convention (1997).

## BRIBERY

giving or receiving something of value in exchange for acting or refraining from acting, in performance of duties, official or otherwise (incl. foreign officials)\*

**UK law and guidance:** Bribery Act 2010, Public Bodies Corrupt Practices Act 1889, Prevention of Corruption Act 1906 and Anti-terrorism, Crime and Security Act 2001 (UNCAC Arts. 15-16, 21)

**Prevention & Regulation:** BIS, DFID, UKTI, FCO, MoJ

**Enforcement:** SFO, City of London Police (OACU), SOCA, CPS  
In Scotland – The Crown Office & Procurator Fiscal Service (“COPFS”)

## ABUSE OF FUNCTION

giving or receiving something of value in exchange for improperly performing a public duty\*

**UK law and guidance:** Fraud Act 2006, Serious Crime Act 2007, Parliamentary Standards Act 2009, Bribery Act 2010, Const. Reform and Governance Act 2010, Civil Service Code, Special Advisers’ Code, Ministerial Code, MPs’ Codes of Conduct (UNCAC Art. 19)

**Prevention & Regulation:** Cabinet Off, Plmt Omb, House of Commons and House of Lords Committees & Registers of Interests, Home Off, MoJ

**Enforcement:** Met Police, City of London Police, CPS, SFO, COPFS

## EMBEZZELMENT/ FRAUD

theft of entrusted funds (e.g. personal use of government resources)\*

**UK law and guidance:** Theft Act 1968, Natl Audit Act 1983, Audit Comm Act 1983, Proceeds of Crime Act 2002, Fraud Act 2006, Serious Crime Act 2007, Const. Reform and Governance Act 2010, Civil Service Code, Special Advisers’ Code, Ministerial Code, MPs’ Codes of Conduct (UNCAC Art 17)

**Prevention & Regulation:** FSA, Cabinet Off, NAO, Audit Comm, Home Off, Agencies, MoJ

**Enforcement:** SFO, City of London Police (OACU & Fraud), SOCA, Met Police, CPS, COPFS

## MONEY LAUNDERING

the process of concealing the source of money obtained by illicit means\*

**UK law and guidance:** Proceeds of Crime Act 2002, Serious Organised Crime and Police Act 2005, Serious Crime Act 2007, Money Laundering Regs 2007, Money Laundering (Amdt) Regs 2012 (UNCAC Art. 23)

**Prevention & Regulation:** HMRC, FSA, HMT, MoJ, OFT

**Enforcement:** Met Police (PoCU), SOCA, HMT, HMRC, CPS, SFO, FSA, OFT, COPFS

## TRADING IN INFLUENCE

giving or receiving something of value, in acknowledgment of influence over a third party’s decision or action\*

**UK law and guidance:** Parliamentary Standards Act 2009, Bribery Act 2010, Const. Reform and Governance Act 2010, Civil Service Code, Special Advisers’ Code, Ministerial Code, MPs’ Codes of Conduct (UNCAC Art. 18)

**Prevention & Regulation:** Cabinet Off, Plmt Omb, House of Commons & House of Lords Committees & Registers of Interests, Agencies, MoJ

**Enforcement:** Met Police (PoCU), SFO, CPS, COPFS

# CORRUPTION FRAMEWORK MAP 2

[CLICK HERE TO GO TO GLOSSARY](#)

Prevention, detection and enforcement of the UK's corruption offences are facilitated by a number of key supporting measures, which enable the UK to meet its obligations under Art 20, 26, 32, 33 and 46 of the UN Convention against Corruption (2003) and the OECD Anti-Bribery Convention (1997).

## OFFENCE OF ILLICIT ENRICHMENT

a significant increase in the assets of a public official that cannot be explained in relation to their lawful income\*

### UK law and guidance:

Proceeds of Crime Act 2002, Serious Organised Crime and Police Act 2005, Money Laundering Regulations 2007, Serious Crime Act 2007, Const. Reform and Governance Act 2010, Money Laundering (Amdt) Regulations 2012, Civil Service Code, Special Advisers' Code, Ministerial Code, MPs' Codes of Conduct and registers of interests (UNCAC Art. 20)

### Relevant agencies & organisations:

Met Police (PoCU), SOCA (UKFIU), HMRC, HoC & HoL Standards Ctees, Parl Commissioner for Standards, IPSA

## LIABILITY OF LEGAL PERSONS

companies and other bodies corporate are treated as persons under anti-corruption laws and may be prosecuted as such\*

### UK law and guidance:

Companies Act 2006, Money Laundering Regulations 2007, Bribery Act 2010, common law (UNCAC Art. 26)

### Relevant agencies & organisations:

SFO, BIS, law enforcement agencies

## PROTECTION OF WITNESSES

police protection of witnesses, experts and victims, before, during and after a trial\*

### UK law and guidance:

Contempt of Court Act 1981, Youth Justice and Criminal Evidence Act 1999, Serious Organised Crime and Police Act 2005, Coroners and Justice Act 2009, Criminal Procedure Rules 2010 (UNCAC Art. 32)

### Relevant agencies & organisations:

CPS, CoFL Police, Met Police, other police agencies

## PROTECTION OF WHISTLEBLOWERS

protection of persons who report suspicion of corruption, whether or not a prosecution follows\*

### UK law and guidance:

Public Interest Disclosure Act 1998, Serious Organised Crime and Police Act 2005 (UNCAC Art. 33)

### Relevant agencies & organisations:

BIS, law enforcement agencies

## MUTUAL LEGAL ASSISTANCE

an agreement between two countries to collect and share information to help enforce criminal laws \*

### UK law and guidance:

Criminal Justice (International Co-operation) Act 1990, Proceeds of Crime Act 2002, Extradition Act 2003, Crime (International Co-operation) Act 2003, multilateral conventions, bilateral treaties (UNCAC Art. 46)

### Relevant agencies & organisations:

FCO, Home Off (UKCA), Met Police, SFO, HMRC, CPS, FSA

# EXPLANATORY NOTE: Bribery

[CLICK HERE TO GO TO GLOSSARY](#)

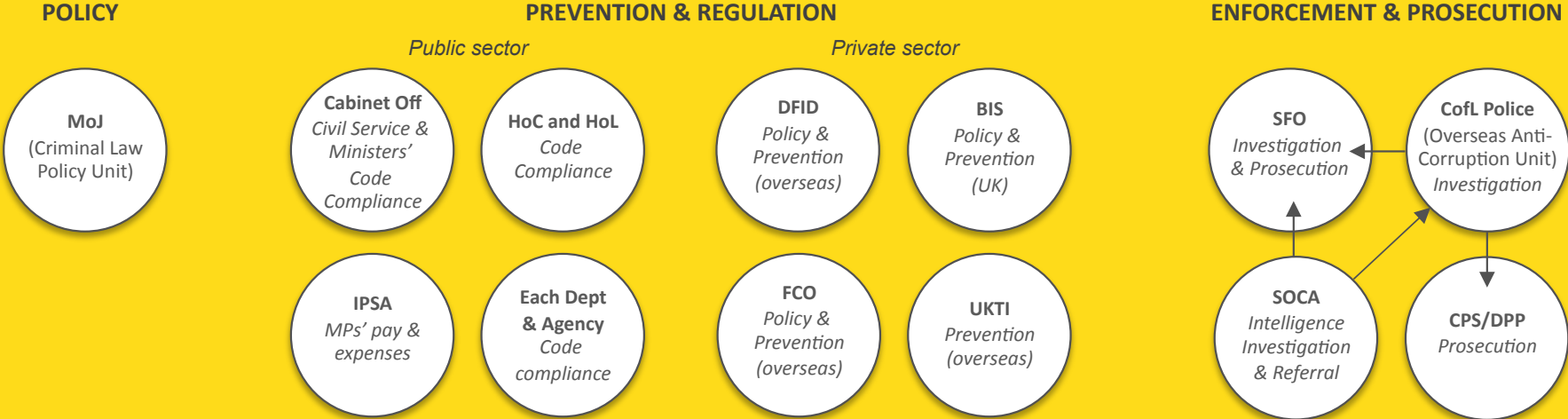
[CLICK HERE TO GO TO CORRUPTION MAPS](#)

*Bribery is giving or receiving something of value in exchange for acting or refraining from acting, in performance of a duty, whether official or not (including foreign officials).*

**International Conventions:** OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997); UNCAC Arts. 15-16, 21; CoE Criminal Law Convention on Corruption (2009), Art. 2-11; CoE Civil Law Convention on Corruption (2009)

**UK legal instruments:** Serious Crime Act 2007, Bribery Act 2010, Bribery Act 2010 Guidance (for companies), CPS/SFO Joint Prosecution Guidance, Anti Terror Crime & Security Act MoU on Bribery and Corruption

**UK administrative framework:**



**Policy challenges:** [CLICK HERE TO VIEW BRIBERY INFO BRIEFING](#)

- Expanding the territorial reach of the Bribery Act to the UK's Overseas Territories and Crown Dependencies
- Managing risk that bribes sourced through certain intermediaries may not be caught
- Ensuring adequate funding of key prevention and enforcement agencies
- Ensuring appropriate penalties awarded on conviction
- Resolving overlapping agency remits; likelihood of duplication of roles, especially with regard to private sector
- Ensuring collection and publication of crime-specific data on prosecutions, convictions, penalties

**Current legislative and policy processes:**

Crime and Courts Bill 2012; forthcoming post-legislative scrutiny of the Bribery Act 2010; FCO White Paper (2012): *The Overseas Territories: Security, Success and Sustainability*; forthcoming Government response to OECD review of UK implementation of anti-bribery convention

# EXPLANATORY NOTE: Embezzlement/Fraud

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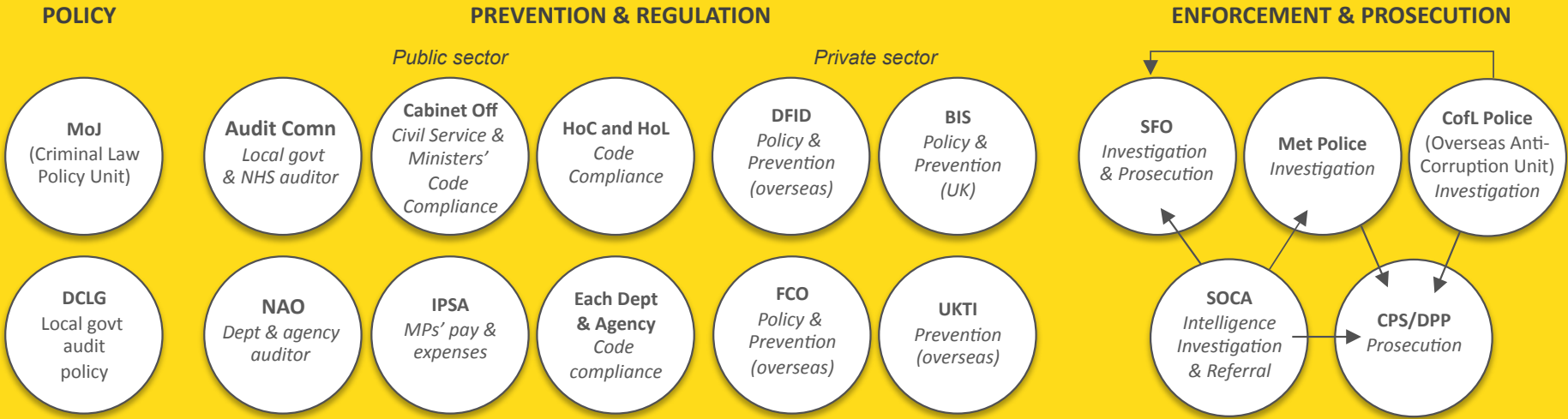
[CLICK HERE TO GO TO CORRUPTION MAPS](#)

*Embezzlement is the theft of entrusted funds (e.g. personal use of government resources).*

**International Conventions:** UNCAC Art. 17

**UK legal and administrative instruments:** Theft Act 1968, National Audit Act 1983, Audit Commission Act 1983, Proceeds of Crime Act 2002, Fraud Act 2006, Serious Crime Act 2007, Parliamentary Standards Act 2009, Const. Reform and Governance Act 2010, Civil Service Code, Special Advisers' Code, Ministerial Code, MPs' Codes of Conduct, CPS legal guidance on fraud and theft offences

**UK administrative framework:**



**Policy challenges:** [CLICK HERE TO VIEW EMBEZZLEMENT/FRAUD INFO BRIEFING](#)

- Monitoring the outsourcing of the Audit Commission's functions to four private audit firms for the 2012-13 audit
- Enhancing the efficiency and effectiveness of parliamentary accountability and integrity institutions, including the IPSA
- Acknowledging the links between overseas corruption, organised crime, and corruption within the UK, including Government sectors
- Ensuring adequate collaboration and cooperation across prevention, regulation and enforcement bodies
- Ensuring collection and publication of crime-specific data on prosecutions, convictions, penalties

**Current legislative and policy processes:**

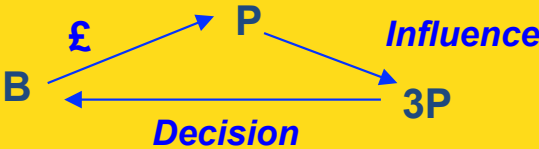
Crime and Courts Bill 2012; Local Audit Bill 2011; Triennial review of the Committee on Standards in Public Life; forthcoming post-legislative scrutiny of the Parliamentary Standards Act 2009 and the Constitutional Reform and Governance Act 2010

# EXPLANATORY NOTE: Trading in Influence - 1

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Trading in influence occurs where B gives something of value to a public official or private individual (P), or where P solicits something of value from B, in acknowledgment of P's influence over a third party's decision or action affecting B, where that third party is a public official or public administrative body (3P).



**International Conventions:** OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997); UNCAC Art. 18; CoE Criminal Law Convention on Corruption (2009), Art. 12; CoE Civil Law Convention on Corruption (2009)

**UK legal and administrative instruments:** The UK's anti-corruption framework addresses trading in influence by UK public officials only. Private individuals and organisations, such as lobbyists, consultants or public relations firms, are not covered. See: Parliamentary Standards Act 2009, Bribery Act 2010, Constitutional Reform and Governance Act 2010, Civil Service Code, Special Advisers' Code, Ministerial Code, MPs' Codes of Conduct, CPS legal guidance on misconduct in public office.

**UK administrative framework:**



Policy challenges and Current legislative and policy processes: see next slide.



# EXPLANATORY NOTE: Trading in Influence - 2

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**Policy challenges:** [CLICK HERE TO VIEW TRADING IN INFLUENCE INFO BRIEFING](#)

- Enhancing the efficiency and effectiveness of UK Parliamentary accountability and integrity institutions
- Ensuring transparency and accountability in interactions between lobbyists and public officials, including by ensuring effective implementation of the ban on lobbying for reward or gain that applies to MPs (Code of Conduct)
- Managing the risks in sectors where organised crime and corruption have been found to be linked (e.g. prisons, social housing)
- Adequately regulating the consultancy services maintained by MPs and Peers
- Managing the corruption risks inherent in the “revolving door” of public officials moving out of office into private sector, and back into public office again; currently no post-public employment rules for MPs

**Current legislative and policy processes:**

Government proposal for statutory register of lobbyists; Triennial review of the Committee on Standards in Public Life; forthcoming post-legislative scrutiny of the Parliamentary Standards Act 2009, the Constitutional Reform and Governance Act 2010, and the Localism Act 2011; current IPSA consultation on ways to remunerate MPs (2012).

# EXPLANATORY NOTE: Abuse of function

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*Abuse of function is giving or receiving something of value in exchange for performing or failing to perform a public duty, in violation of law. Unlike bribery, this is limited to domestic public officials.*

**International Conventions:** UNCAC Art. 19

**UK legal instruments:** Fraud Act 2006 (“fraud by abuse of position”), Serious Crime Act 2007, Parliamentary Standards Act 2009, Bribery Act 2010, Const. Reform and Governance Act 2010, Civil Service Code, Special Advisers’ Code, Ministerial Code, MPs’ Codes of Conduct, CPS legal guidance on misconduct in public office.

**UK administrative arrangements:**



**Policy challenges:** [CLICK HERE TO VIEW ABUSE OF FUNCTION INFO BRIEFING](#)

- Enhancing awareness of whistle-blowing laws within the public sector and the wider community
- Ensuring effective implementation of the ban on lobbying for reward or gain that applies to MPs (Code of Conduct)
- Enhancing the efficiency and effectiveness of parliamentary accountability and integrity institutions; facilitating collaboration and cooperation across prevention, regulation and enforcement bodies
- Managing the risks in sectors where organised crime and corruption have been found to be linked (e.g. prisons, social housing)
- Monitoring whether the new legislative basis for the Civil Service Code is achieving the intended integrity gains
- Monitoring whether the new standards regime for local authorities (under the Localism Act 2011) is maintaining integrity and high standards of ethical behaviour

**Current legislative and policy processes:**

Government proposal for statutory register of lobbyists; Crime and Courts Bill 2012; Triennial review of the Committee on Standards in Public Life; current IPSA consultation on ways to remunerate MPs (2012); forthcoming post-legislative scrutiny of the Parliamentary Standards Act 2009, the Constitutional Reform and Governance Act 2010, and the Localism Act 2011

# EXPLANATORY NOTE: Money Laundering

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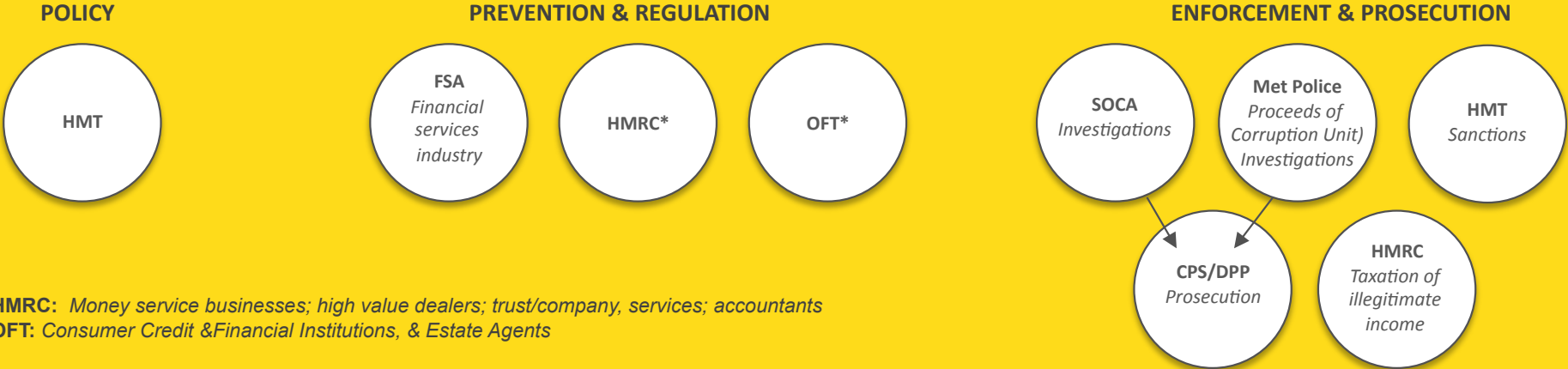
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*Money laundering is the process of, inter alia, concealing the source of money obtained by illicit means.*

**International Conventions:** UNCAC Art. 23; CoE Convention on Laundering, Search, Seizure and Confiscation of the Products from Crime (2005); EU Third Anti-Money Laundering Directive (2005/60/EC); CoE Criminal Law Convention on Corruption (2009), Art. 13

**UK legal instruments:** Proceeds of Crime Act 2002, Serious Organised Crime and Police Act 2005 (Ch 6), Serious Crime Act 2007, Money Laundering Regulations 2007, Money Laundering (Amendment) Regulations 2012, CPS Legal Guidance on Money Laundering

### UK administrative framework:



\* **HMRC:** Money service businesses; high value dealers; trust/company, services; accountants  
\* **OFT:** Consumer Credit & Financial Institutions, & Estate Agents

### Policy challenges: [CLICK HERE TO VIEW MONEY LAUNDERING INFO BRIEFING](#)

- Ensuring prosecution of money laundering facilitators (lawyers, bankers, accountants)
- Managing risk of UK shell companies being used to hide corruptly-acquired assets
- Ensuring adequate identification by banking and financial institutions of corrupt foreign-sourced money
- Ensuring adequate implementation by banking and financial institutions of systems to detect politically exposed persons (customer due diligence requirements)
- Clarifying current legal uncertainty with regard to key provisions of EU Third Directive
- Managing the HSBC money laundering scandal and US Senate investigation; maintaining the reputation of British banking system and institutions

### Current legislative and policy processes:

Financial Services Bill 2012; Crime and Courts Bill 2012; Money Laundering (Amendment) Regulations 2012; EU 3<sup>rd</sup> Anti-Money-laundering Directive consultation process 2012

# EXPLANATORY NOTE: Illicit Enrichment - 1

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*Illicit enrichment is a significant increase in the assets of a public official that cannot be explained in relation to their lawful income. This mechanism facilitates prosecution and recovery of assets where there is insufficient evidence to prosecute or convict a public official of more serious corruption offences, such as bribery or abuse of function.*

**International Conventions:** UNCAC Art. 20, EU Third Anti-Money Laundering Directive (2005/60/EC)

**UK legal instruments:** The UK's anti-corruption framework addresses illicit enrichment within the public sector through multiple accountability and integrity instruments, which work together with proceeds-of-crime-type enforcement instruments.

- *Accountability and integrity instruments:* Parliamentary Standards Act 2009, Const. Reform and Governance Act 2010, Civil Service Code, Special Advisers' Code, Ministerial Code, MPs' Codes of Conduct, House of Commons Register of Financial Interests, House of Lords Register of Financial Interests, Register of Interests for Members' Secretaries and Research Assistants.
- *Enforcement instruments:* Proceeds of Crime Act 2002, Serious Organised Crime and Police Act 2005 (Ch 6), Serious Crime Act 2007, Money Laundering Regulations 2007, Money Laundering (Amendment) Regulations 2012, CPS legal guidance on proceeds of crime and money laundering.

**Relevant agencies and organisations:** Parliamentary Commissioner for Standards, Independent Parliamentary Standards Authority (IPSA), House of Commons Standards and Privileges Committee, Commissioner for Standards in the House of Lords, House of Lords Committee for Privileges and Conduct, SOCA (UKFIU), HMRC

## **Monitoring of changes in financial assets by the UKFIU:**

- The **UK Financial Intelligence Unit** has national responsibility for receiving, analysing and disseminating financial intelligence submitted through the Suspicious Activity Reports (SARs) Regime. A SAR is a piece of information which alerts law enforcement that certain client or customer activity - e.g. a series of large out of character deposits - is in some way suspicious and might indicate a corruption crime. The UKFIU receives over 200,000 SARs each year from various financial institutions.

## **Recovery mechanisms:**

- A person does not have to be convicted of a corruption crime for the recovery mechanisms in the Proceeds of Crime Act 2002 to take effect; recovery may be by means of a civil recovery order. When SOCA has **reasonable grounds** to believe that an increase of assets has occurred due to criminal conduct then it can seek a Civil Recovery Order, whilst HMRC is empowered to issue tax assessments.

**Policy challenges and Current legislative and policy processes:** *see next slide.*

# EXPLANATORY NOTE: Illicit Enrichment - 2

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[CLICK HERE TO GO TO CORRUPTION MAPS](#)

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**Policy challenges:** [CLICK HERE TO VIEW ILLICIT ENRICHMENT INFO BRIEFING](#)

- Need to ensure that banking and financial institutions implement systems to detect politically exposed persons (customer due diligence requirements)
- Ensuring adequate identification by banking and financial institutions of corrupt foreign-sourced money
- Managing the risks in sectors where organised crime and corruption have been found to be linked (e.g. prisons, social housing)
- Need to secure prosecution of money laundering facilitators (lawyers, bankers, accountants)
- Adequately regulating the consultancy services provided by MPs and Peers
- Clarifying legal uncertainty in the EU 3<sup>rd</sup> Anti-Money Laundering Directive
- Ensuring that the public are aware of how to report corruption crimes

**Current legislative and policy processes:**

Triennial Review of the Committee on Standards and Public Life; Crime and Courts Bill 2012; IPSA consultation on ways to remunerate MPs; Financial Services Bill 2012; EU Third Anti-Money Laundering Directive consultation process 2012; forthcoming post-legislative scrutiny processes for the Parliamentary Standards Act 2009, the Constitutional Reform and Governance Act 2010 and the Localism Act 2011

# EXPLANATORY NOTE: Liability of Legal Persons

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*Companies and other bodies corporate, including registered associations and charities, are treated as persons under anti-corruption laws and may be prosecuted as such.*

**International Conventions:** UNCAC Art. 26; CoE Criminal Law Convention on Corruption, Art. 18; OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997)

**UK legal instruments:** Theft Act 1968, Fraud Act 2006, Companies Act 2006, Money Laundering Regulations 2007, Bribery Act 2010 and Bribery Act 2010 Guidance (for companies), common law

**Relevant agencies and organisations:** Companies House, BIS, UKTI, DFID, FCO, FSA, HMRC, CPS/DPP, SFO, COPFS, Global Advice Network ([www.globaladvicenet.com](http://www.globaladvicenet.com)), Business Anti-Corruption Portal (<http://www.business-anti-corruption.com/>)

## How companies may be liable:

Some laws expressly provide for criminal liability for companies for corruption crimes committed in the UK, including the Bribery Act 2010, Fraud Act 2006, Theft Act 1968, and the Money Laundering Regulations 2007.

If no criminal liability is established under a relevant corruption law, then:

- Corporate liability may be established by making a company **vicariously liable** for the actions of its employees/agents. Many statutory/regulatory offences impose vicarious liability upon employers (corporate and human) to ensure compliance with the relevant law; or
- Corporate liability may be established if the offender was a **directing mind and will** of the company (the identification principle). This applies to all types of offences, including certain offences which require criminal intent.

**Policy challenges:** [CLICK HERE TO VIEW LIABILITY OF LEGAL PERSONS INFO BRIEFING](#)

- Ensuring appropriate penalties with deterrent effect are awarded on conviction (corporate liability under Bribery Act 2010 is untested)
- Managing risk that bribes sourced through certain intermediaries (e.g. foreign subsidiaries or subcontractors) or paid by non-UK companies listed on the LSE may not be caught
- Encouraging UK crown dependencies and overseas territories to become compliant with the 1997 OECD Anti-Bribery Convention

## Current legislative and policy processes:

Financial Services Bill 2012; Crime and Courts Bill 2012; forthcoming post-legislative scrutiny of the Bribery Act 2010; FCO White Paper (2012): *The Overseas Territories: Security, Success and Stability*

# EXPLANATORY NOTE: Protection of Witnesses

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CORRUPTION MAPS

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*The provision of physical protection to witnesses, experts and victims, before, during and after a trial, usually by the police.*

**International Conventions:** UNCAC Art. 32; UN Convention against Transnational Organised Crime Arts. 24-25

**UK legal instruments:** Contempt of Court Act 1981, Youth Justice and Criminal Evidence Act 1999, Serious Organised Crime and Police Act 2005, Coroners and Justice Act 2009, Criminal Procedure Rules 2010, CPS legal guidance on witness protection

**Relevant agencies and organisations:** Ministry of Justice, Met Police, City of London Police, local police authorities, SOCA, SFO, CPS/DPP, Association of Chief Police Officers ([www.acpo.police.uk](http://www.acpo.police.uk))

## Extent of protection offered:

- Option for witness **anonymity** during trial (Coroners and Justice Act 2009)
- Option for witnesses to give **evidence by special means**, due to intimidation. Examples include screening the witness from the accused; evidence by live link; evidence given in private (Youth Justice and Criminal Evidence Act 1999)
- Option for a trial to be held **in camera**, i.e. closed rather than open court (Criminal Procedure Rules 2010)
- Prosecutor's application for a **reporting direction** to ensure name of witness is withheld from publication (Youth Justice and Criminal Evidence Act 1999; Contempt of Court Act 1981)
- For persons who have provided crucial evidence and against whom there is a substantial threat, the police may provide various protection measures, including **relocation** to another part of the UK and **change of identity** (Serious Organised Crime and Police Act 2005)

## Policy challenges: [CLICK HERE TO VIEW PROTECTION OF WITNESSES INFO BRIEFING](#)

- Ensuring consistent and fair treatment of people under witness protection orders within UK; currently managed by local police authorities
- Addressing protected witnesses' concerns about feeling isolated and abandoned; no means of complaint or review
- Managing risk of conflict of interest or collusion when witness protection is managed by the same police authorities responsible for investigating the crime

## Forthcoming Government policy change:

Crime and Courts Bill 2012

# EXPLANATORY NOTE: Protection of Whistleblowers

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[CLICK HERE TO GO TO CORRUPTION MAPS](#)

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*Protection of whistle-blowers refers to the protection of persons who report suspicion of corruption, whether or not a prosecution follows.*

**International conventions:** UNCAC Art. 33

**UK legal instruments:** Public Interest Disclosure Act 1998; Bribery Act 2010 Guidance (for companies), Serious Organised Crime and Police Act 2005

**Relevant agencies and organisations:** BIS, Met Police, City of London Police, local police authorities, SOCA, SFO, CPS/DPP; Public Concern at Work ([www.pcaw.org.uk](http://www.pcaw.org.uk))

## **Extent of protection offered under the PID Act:**

- Employees are **protected from “detriment”** in the event that they raise an issue of public concern that they have found out about through their workplace, either internally or to an external regulator
  - Employees have a **right to complain** to an employment tribunal in the event that they are dismissed or victimised for raising an issue of public concern regarding their workplace
  - **Gagging clauses** in employment contracts and severance agreements are void to the extent that they conflict with PID Act protection
- BIS provides advice to employers and employees on employment policy and legislation, including the PID Act.

## **Extent of protection offered under SOCPA:**

- the Director of, *inter alia*, the SFO has power to grant immunity from prosecution, give undertakings as to the use of evidence and enter into agreements that can result in a reduction in sentence for whistleblowers who are also suspects

**Policy challenges:** [CLICK HERE TO VIEW PROTECTION OF WHISTLEBLOWERS INFO BRIEFING](#)

- Ensuring promotion of anti-corruption measures and whistleblowing protection under the PID Act, in the public and private sectors
- Engaging citizens in the fight against corruption. Some 77% of all UK adults are not aware of the PID Act and the protections it offers (2011 YouGov poll for Public Concern at Work)
- Publishing details of legal claims taken under the PID Act, including settled claims, to improve transparency and accountability
- Certain sectors face unique or persistent public interest concerns (care of vulnerable people, health, prisons, social housing)
- Ensuring that companies are promoting sound internal whistle-blowing practices in their compliance with the Bribery Act 2010

## **Forthcoming Government policy change:**

Enterprise and Regulatory Reform Bill 2012; forthcoming post-legislative scrutiny of the Bribery Act 2010



# EXPLANATORY NOTE: Mutual Legal Assistance

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*Mutual legal assistance refers to an agreement between two (or more) countries to collect and share information to help enforce criminal laws. This may include seizure of property, issuing arrest warrants, or extradition.*

**International conventions:** UNCAC Art. 46; EU Mutual Legal Assistance Convention (2000)

**UK legal instruments:** Criminal Justice (International Co-operation) Act 1990, Proceeds of Crime Act 2002, Extradition Act 2003, Crime (International Co-operation) Act 2003, CPS legal guidance on international evidence; Home Office (UKCA) Mutual Legal Assistance Guidelines; European Arrest Warrant. The UK is party to more than 35 multilateral conventions, bilateral treaties and MoUs regarding mutual legal assistance (MLA).

**Relevant agencies and organisations:** FCO; Home Office (UKCA); relevant investigative authorities (SFO, SOCA, Met Police, CofL Police); HMRC; International Centre for Asset Recovery ([www.assetrecovery.org](http://www.assetrecovery.org)); Fair Trials International ([www.fairtrials.net](http://www.fairtrials.net)); Amnesty International ([www.amnesty.org.uk](http://www.amnesty.org.uk))

## UK administrative arrangements:

- FCO manages the UK's relations with other countries, including the establishment of treaties.
- **Incoming MLA requests:** the Home Office (UKCA) handles all requests from other countries through a central office. Cases are then referred to relevant authorities, including SFO, Met Police, and CPS. HMRC handles directly any requests for UK MLA in smuggling and other fiscal matters and FSA does likewise for financial regulatory matters.
- **Outgoing MLA requests:** UK investigative and prosecutorial authorities send their own requests for MLA to overseas states, and the procedure will depend on the state involved.

## Policy challenges: [CLICK HERE TO VIEW MUTUAL LEGAL ASSISTANCE INFO BRIEFING](#)

- Managing risks associated with timeframes in processing MLA requests, both within the UK and in respect of UK requests overseas
- Managing risks associated with the spread of MLA responsibilities across multiple departments and agencies within the UK
- Recognising the potential for diplomatic risk between the overseas state and the UK; attitudes and opinions of local overseas staff to whom a MLA request is made
- Ensuring the existence of applicable legal instruments to facilitate the jurisdictional reach of the Bribery Act 2010
- Ensuring that UK responses to overseas requests for MLA adequately protect human rights of UK citizens
- Publishing data on requests made within the UK and requests made by the UK abroad, to facilitate scrutiny and provide transparency

## Current legislative and policy processes:

Crime and Courts Bill 2012; Home Secretary's proposed reform of extradition laws and opt-out from European Arrest Warrants and Investigation Orders (Oct 2012)