

ECCTA - The Failure to Prevent Fraud Offence

Agenda

- Break down the key provisions of the changes to ECCTA covering the Failure to Prevent Fraud Offence and what it means for food and drink manufacturers.
- Discussion around real-world fraud risks for businesses in the Food & Drink Sector—from supplier fraud to financial misrepresentation.
- Provide practical guidance to help you prepare, including risk assessments, governance measures, and compliance strategies.
- Activity to consider undertaking to support compliance

What is the failure to prevent fraud offence?

Introduction

- Extends the requirements to fraudulent activity that is intended to benefit the organisation or its clients, holding businesses accountable for relevant crimes committed by 'associated persons'.
- The Act increases corporate responsibility, making it easier to hold organisations criminally liable for fraudulent activity if an 'associated person' commits an offence
- It is imperative that businesses have a strong anti-fraud culture and implement robust controls to mitigate the risk of fraud occurring anywhere in the business.
- The definition of fraud is very broad and consequently these changes will be far-reaching, likely affecting a number of teams and other parties such as suppliers and subcontractors.
- Organisations therefore need to consider the full impact on their business.
- **The only defence would be that the organisation had reasonable fraud prevention procedures in place or could demonstrate that it was reasonable not to have such procedures in place.**
- **The offence would lead to the firm being prosecuted for failing to prevent the fraud, resulting in financial penalties of a potentially unlimited fine**



Deadline is 1
Sept 2025

Who does it apply to?

Firms across all sectors will be impacted

- Businesses in all sectors who meet **at least two** of the following criteria in the year preceding the base fraud offence:



- Smaller organisations who supply larger firms - understanding where you fit in the wider supply chain and what will be expected of you
- Fast-growing SMEs - best be ready before it's too late

What is fraud?

It can impact many elements of your business including the following



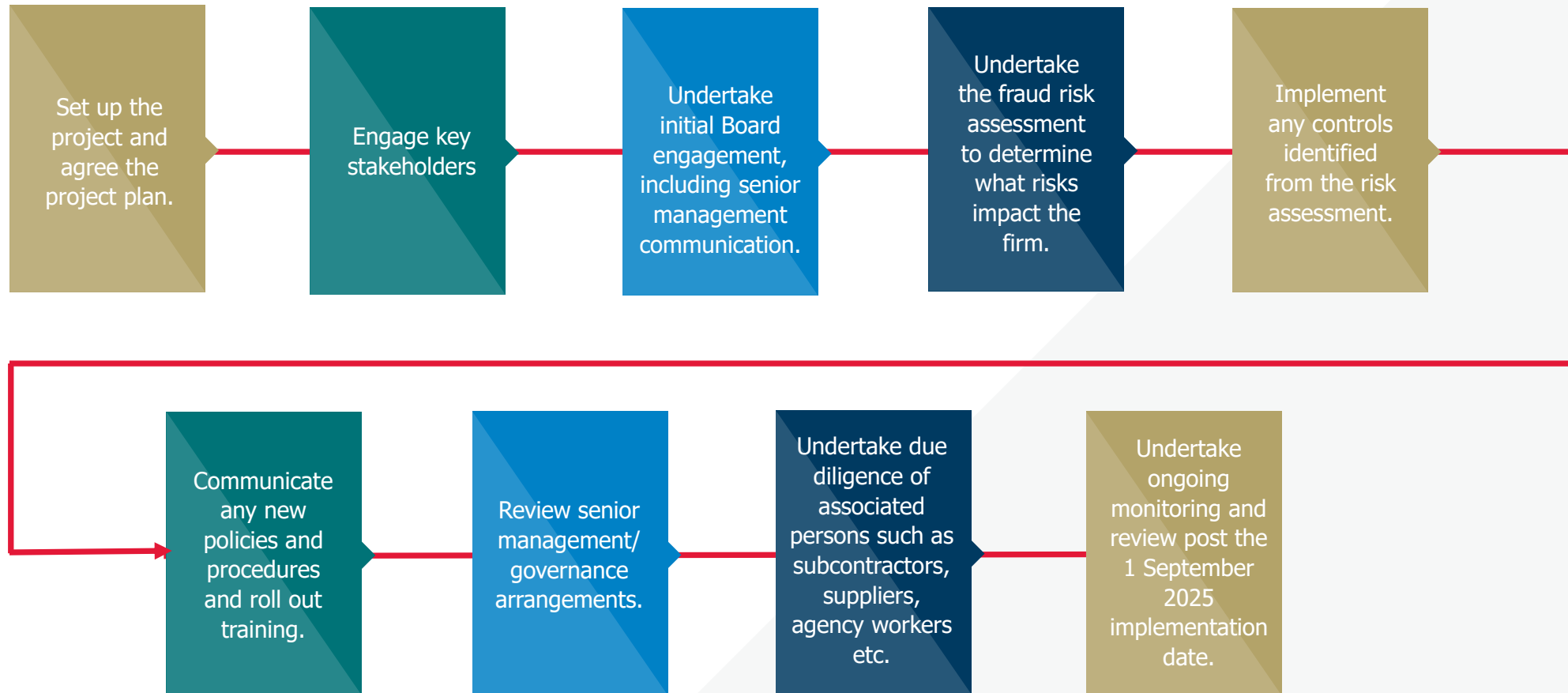
The six principles

Businesses should ensure they have relevant arrangements in place to support the following six principles identified in the ECCTA:



What do firms need to do now?

There are a number of key activities to undertake



Supporting activity

Consideration should be given to carrying out the following activities

Fraud Risk assessment, gap analysis, controls testing and ongoing feedback

Fraud Risk Assessment: Review the end-to-end fraud risk assessment undertaken to determine if key risks have been identified.

Gap Analysis: Conduct a fraud controls gap analysis to identify areas of the business where fraud controls may be strengthened. Identify material fraud controls in line with the new Corporate Governance Code.

Controls Testing: Test the design and operating effectiveness of identified preventative and detective fraud controls to determine if they are robust and fit for purpose.

Obtain ongoing feedback: Obtain 'real time' feedback to internal teams as the firm builds fraud processes and controls to comply with relevant sections of the ECCTA.

Due diligence and departmental fraud reviews

Due diligence: Review the arrangements in place for undertaking due diligence on relevant associated persons and provide feedback.

Specific department reviews: Review relevant processes and controls implemented by specific departments such as HR, Finance and Procurement. Senior management may want comfort over the robustness of fraud controls in a particular part of the business.

Communication, governance and ongoing monitoring

Communication: Review communication undertaken by the firm covering senior management/Board and how it is disseminated through the organisation. Consider external messaging, the detail contained in fraud policies and procedures and consideration of the quality of relevant training.

Governance arrangements: Assess governance arrangements to determine if the firm has appropriate senior management oversight to support implementation of the changes to the ECCTA. This can also include reviewing the organisation's whistleblowing arrangements.

Supporting ongoing monitoring and review: Have a plan to undertake post implementation assurance to support the requirement for ongoing monitoring and review.

Any Questions?