

The UK's Global Anti-Corruption Sanctions Regime



A Briefing from the UKACC Sanctions Working Group

Introduction

The announcement of a stand-alone Global Anti-Corruption Sanctions regime, much trailed by the Foreign Secretary, will be a very welcome addition to the UK's independent sanctions landscape. An active sanctions regime is a powerful tool to tackle egregious behaviour that undermines democracy, the rule of law and good governance. It is absolutely essential that the UK has strong powers to stop kleptocrats travelling to the UK and using the British economy and its offshore financial centres.

While human rights abuses and corruption are often linked, with corruption frequently underpinning rights abuses, the UK must be able to sanction seriously corrupt behaviour that is not directly linked to human rights abuse. In other jurisdictions such as the US and Canada, corruption has been its own grounds for designation from the start of their Magnitsky style regime. The introduction of the UK regime will allow far better coordination with its allies.

What a corruption sanctions regime will help the UK to achieve

If used effectively, the government's creation of a corruption sanctions regime should help raise standards globally, encouraging other governments to develop policies aimed at denying visas and freezing assets of corrupt individuals, businesses and their enablers, and facilitating greater coordinated action against kleptocrats.

Effective and ambitious use of corruption sanctions would also enable the UK to:

- raise the reputational costs for corrupt actors, by signalling strong condemnation of corrupt behaviour, particularly where there is extensive domestic impunity and corrupt leaders or entities are effectively beyond the reach of the law;
- take swift action against corruption including freezing assets in the UK to support law enforcement investigations, and prevent corrupt actors from gaining access to the financial systems of the UK and its offshore financial centres;
- target and disrupt the financial support networks of corrupt actors, and change the behaviour of those who enable these individuals to loot public funds and enjoy their ill-gotten gains abroad;
- create diplomatic pressure on corrupt actors' home countries, international institutions, and regional bodies to conduct credible and independent investigations of their activities;
- prevent jurisdiction shopping by kleptocrats, and build global consensus on targeting corrupt behaviour; and
- show global leadership on fighting corruption while protecting the integrity of the UK financial system.

The introduction of a corruption sanctions regime will give substance to the commitment made in the 2016 Anti-Corruption Summit Communiqué that the corrupt "*will face consequences internationally ... [by making] it harder for them to travel and do business in our countries.*"

It will also implement a 2017 UNCAC Conference of State Parties Resolution 7/1 (article 1) which urges State Parties to take "*concrete measures and to strengthen cooperation to hold any legal or natural person who has committed or is liable for an act of corruption accountable and recover the proceeds of crime by denying safe haven to such legal or natural persons and the proceeds of their crimes.*"

What kind of corruption needs to be targeted?

The UKACC corruption sanctions working group has made recommendations to government that the regime should:

1. **target serious or significant corruption.** We have urged the government to ensure the UK regime focussed on those responsible for ordering or directing this type of offending, and those who profit from it, in line with the US and Canadian sanctions regimes. We have urged the government to be ambitious in targeting heads of state and those who hold high positions and those with considerable assets in the UK as well as those without; and to assess the seriousness of corruption by damage done to democracy, the rule of law and good governance rather than any financial or other thresholds.
2. **include the full range of corruption offences.** We have urged the government to include the full list of offences outlined in the UN Convention Against Corruption including theft, bribery, abuse of function and money laundering, and include similar language to that in the US and Canadian regimes about misappropriation of assets to help standardise their use globally.
3. **be broad and comprehensive in its scope of who it covers.** We have urged the government to ensure the regime covers all those who are or have been entrusted with a public function, including politicians, judiciaries, regional leaders, officials in state-owned enterprises and state media, without time limit. The regime should also cover their associates, including family members where the latter benefit from the corruption, and the professional and corporate enablers who assist corruption, including their subsidiaries.

Corruption sanctions in our view will be particularly impactful where the corrupt actor has or is seeking to hold assets in the UK or its related jurisdictions, where the sanction could help law enforcement either here or abroad gain more time to conduct a criminal or civil investigation, and where imposed jointly and in coordinated fashion with allies to prevent jurisdiction shopping by kleptocrats.

How can the regime be most effective?

Our key recommendations for the regime going forward to ensure it is as effective as possible are that the government should:

- Ensure the corruption and human rights sanctions regimes are properly resourced, including by providing significant additional resources to law enforcement for criminal enforcement and to OFSI, and ensuring the team within the FCDO is adequately resourced.
- Give serious consideration to the establishment of an independent expert advisory council to advise the Foreign Secretary on implementation of corruption and human rights sanctions, with the power to make recommendations about who should be sanctioned, to develop objective criteria for when sanctions should apply, to review delisting decisions and to provide oversight about the consistency of sanction application.
- Ensure effective coordination across government and with law enforcement on the implementation of the corruption sanctions regime.
- Keep the scope of the regime under review with a particular focus on whether abuse of functions, as defined by Article 19 of the UN Convention Against Corruption, should be included in the definition of serious corruption in the sanctions regulations in future.
- Continue to work closely with trusted international allies to develop multilateral sanctions, giving serious
- consideration to those already sanctioned by these allies, and promoting the adoption of corruption as a ground for sanctions with allies who have adopted or are considering Magnitsky style regimes.
- Implement a system whereby non-governmental actors, whether from civil society, the private sector, Parliament or beyond can submit information about potential listing targets for consideration including by creating a secure portal, and introducing adequate safeguards to mitigate any risk to sources, which will allow such actors to submit evidence directly to the relevant government office.
- Commit to full transparency in the corruption sanction regime, by providing quarterly reports to Parliament on implementation, including detailed statistics on amounts frozen, and numbers of



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requests for delisting in line with terrorist asset freezing reporting requirements; to conduct a review on effectiveness of the regime; and to continue working with local partners to effectively communicate the reasons behind sanctions and the behaviour change expected.

- Commit to speedy implementation of an Economic Crime Act, which would get the UK's own house in order by bolstering Companies House and introduce the register of foreign property ownership.
- Commit to review the impact of aid cuts on the local implementation and effectiveness of the corruption and human rights sanctions regimes.

This briefing was prepared by UKACC's Sanctions Working Group (Global Witness, International Lawyers Project, RAID-UK, Redress, Spotlight on Corruption, The Sentry, and Transparency International UK).

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