

Achieving a step change in compensation for the victims of corruption:

Five recommendations for the new Anti-Corruption Strategy

Summary

There is broad consensus that the UK's current framework for compensating the victims of corruption is failing to deliver meaningful compensation for the broad harms caused by corruption. The development of a new Anti-Corruption Strategy presents the ideal opportunity to drive reforms that will champion best practice on victim compensation and help realise the UK's ambition to be the anti-corruption capital of the world.

The following five recommendations set out how the government can deliver a step change in compensation for the overseas victims of corruption:

1. Upgrade and embed a clear policy framework for compensation in investigative and prosecutorial strategies for tackling foreign bribery;
2. Initiate reforms to the sentencing guidelines for bribery offences that use the "harm figure" as the basis for calculating the amount to be awarded as compensation;
3. Update the Code of Practice and guidance for Deferred Prosecution Agreements to strengthen the conditions relating to the payment of compensation and incentivise companies to promptly identify, quantify and evidence harms caused by their offending;
4. Expand the civil routes for claiming compensation by introducing a follow-on procedure for civil claims and broadening legal standing for civil recovery and compensation claims under Part V of the Proceeds of Crime Act;
5. Appoint a victims coordinator for economic crime and corruption within the office of the Victims Commissioner who can serve as the dedicate point of contact for overseas victims throughout criminal enforcement processes, and ensure compensation is disbursed in a transparent and accountable manner for the benefit of victims.

Consensus that the time is ripe for reform

In November 2024, Spotlight on Corruption convened a roundtable to explore reforms to enhance the UK's framework for compensating the overseas victims of corruption.¹ The Chatham House-style discussion brought together legal experts, civil servants, law enforcement officials, and civil society stakeholders to explore potential reforms to ensure victims of foreign bribery are better represented and compensated in UK cases.

As reflected in our summary report following the roundtable,² there was wide acknowledgment among participants that the current compensation framework in the UK is failing to adequately recognise the overseas victims of foreign bribery or deliver meaningful compensation for the broad harms caused by corruption. Despite the commitments made in the government's last Anti-Corruption Strategy 2017-2022³ and the introduction of the Compensation Principles in 2018,⁴ concern was raised that the UK has actually moved backwards in its compensation efforts.

¹ Spotlight on Corruption, (13 December 2024), "[Spotlight convenes roundtable on compensation for overseas victims of corruption](#)".

² Spotlight on Corruption, (13 December 2024), "[Compensating the overseas victims of corruption: Summary report](#)".

³ HM Government (11 December 2017), [UK Anti-Corruption Strategy](#), para. 6.10.

⁴ Serious Fraud Office and others (1 June 2018), [General Principles to compensate overseas victims \(including affected States\) in bribery, corruption and economic crime cases](#).

Recent foreign bribery cases demonstrate that compensation is rare and the amounts paltry:⁵

- Of the fifteen companies investigated by the SFO for international corruption and bribery since 2014, only four cases saw money returned to affected countries.
- Of the £1.9 billion worth of financial penalties resulting from these SFO enforcement actions, only £16.3 million – or less than 1% – was paid to affected countries.

Recent cases have also highlighted the dangers to the UK's international reputation when HM Treasury reaps the rewards of financial penalties while those most harmed by foreign bribery are left empty-handed:

- The Indonesian government reportedly refused to provide assistance for the SFO's recently dropped bribery probe into Bombardier after it did not receive any share of the record fine against aerospace giant, Airbus.⁶
- The Federal Government of Nigeria applied to intervene in criminal proceedings against the commodities giant Glencore after the SFO's refusal to seek a compensation order.⁷

The current obstacles that constrain the award of compensation

There was remarkable agreement among roundtable participants about the reasons why the current framework is failing to deliver meaningful compensation for the harms of corruption. This is because any ambition to hear and compensate victims in foreign bribery cases runs up against legal and practical barriers that preclude the award of compensation, including:

- The lack of legal standing for third parties, including victims, in criminal proceedings;
- The practical and procedural constraints that limit the suitability of criminal proceedings as a forum for resolving complex and contested issues relating to compensation;
- The well-established case law that compensation will only be awarded in “clear and simple”⁸ cases where the questions of loss and causation are straightforward;
- A narrow definition of harm which limits compensation to direct financial loss, rather than recognising and repairing the broader human rights harms caused by corruption;
- The resource constraints and practical challenges for law enforcement to identify overseas victims and gather evidence to quantify the harms caused by corruption.

A strong policy commitment is needed to drive reform

Given these constraints on the award of compensation, it is clear that reforms need to be driven by a clear policy choice that the broader harms of corruption should be recognised and compensated following UK enforcement action. The development of a new Anti-Corruption Strategy provides the ideal opportunity to set this new policy direction on compensation.

This policy commitment should seek to achieve the following two broad outcomes:

1. The broad harms caused by corruption and those who suffer its consequences are more explicitly recognised and meaningfully compensated by law enforcement agencies and the courts in England and Wales.

⁵ Spotlight on Corruption, “[Compensating the overseas victims of corruption: background briefing](#)”, Annex 1.

⁶ Financial Times (26 September 2023), [Indonesia vows to sue UK over Airbus corruption probe settlement](#); Financial Times (26 February 2023), [Indonesia presses UK over corruption probe into Bombardier](#).

⁷ *Federal Republic of Nigeria v Serious Fraud Office and Glencore Energy UK Limited* [2022] EWCR 2, para 11.

⁸ *R v Michael Brian Kneeshaw* (1974) 58 Cr App R 439.

2. A fairer share of the financial penalties from foreign bribery enforcement actions is paid to affected countries in a transparent and accountable manner to be used for the benefit of overseas victims.

A policy commitment to achieving these outcomes will need to be backed by strong political will that makes delivering on compensation a priority, together with a practical roadmap for how reforms will be operationalised through the justice system.

Five recommendations to deliver a step change in compensation

Given the variety of ways in which corruption investigations may be resolved – including Deferred Prosecution Agreements (DPAs), corporate pleas and convictions, as well as civil settlements and asset forfeiture orders – a suite of measures is needed to secure reform.

The following five recommendations set out how the government can deliver a step change in compensation for the overseas victims of corruption.

1. Upgrade and embed a clear policy framework for compensation

A clear policy framework for compensation is needed to set out the UK’s commitments to victims of corruption and provide direction for reforms that will give effect to these ambitions. While the 2018 Compensation Principles offer a useful starting point for this task, these commitments need to be upgraded and fleshed out into a comprehensive policy framework for compensation.

The UK is well positioned to show global leadership on this issue, after becoming the first country to publish its policy for returning stolen assets.⁹ A new framework for compensating the victims of corruption would complement the 2022 Framework for Transparent and Accountable Asset Return, building on these fundamental principles of transparency, accountability and civil society participation.¹⁰ Championing these principles and best practice on victim compensation would help realise the UK’s ambition to be the anti-corruption capital of the world.¹¹

Crucially, this enhanced policy framework needs to be effectively embedded into investigative and prosecutorial strategies across relevant enforcement agencies, including the SFO, NCA and CPS, as well as the victims coordinator proposed in recommendation 5 below. This should include the government:

- taking concrete measures to explore with law enforcement partners and civil society organisations how the harm caused by corruption can be more effectively quantified and evidenced for purposes of providing reparations in affected countries;
- working with enforcement agencies and the proposed victims coordinator to put in place clearer processes and strong support for foreign states, affected communities and individuals, and civil society organisations seeking compensation for corruption.

This policy framework would lay the foundation for the legal reforms recommended below.

2. Initiate reforms to the sentencing guidelines for bribery offences

Under the current sentencing guidelines for offences under the Bribery Act 2010, compensation must be considered and, where the offender has limited means, priority must be given to paying

⁹ Spotlight on Corruption, (21 January 2022), “[The UK’s new framework for transparent and accountable asset return: putting this global precedent into perspective and into practice](#)”.

¹⁰ HMG guidance, (13 January 2022), “[Framework for transparent and accountable asset return](#)”.

¹¹ Rt Hon David Lammy MP, Keynote speech at IPPR conference (21 May 2024) “[The anti-corruption capital of the world?](#)”.

compensation over any other financial penalty.¹² Reasons must be given where no order for compensation is made.¹³

Despite this principled prioritisation of compensation, the practical reality is that compensation is typically glossed over at sentencing in foreign bribery cases. A familiar rehearsal of the reasons for declining to order compensation is given, reflecting the well-established case law that a sentencing court will not engage with factually complex questions of causation and loss.

While recognising the constraints of criminal proceedings, these barriers to compensation in complex corruption cases can be overcome through fairly straightforward changes to the sentencing guidelines for bribery offences. We urge the government, and the Lord Chancellor in particular, to propose that the Sentencing Council review the sentencing guidelines for bribery offences to give effect to the government's commitment to compensating victims of corruption.

Drawing on a proposal developed by Lord Garnier KC and Sam Tate (RPC),¹⁴ we recommend that the so-called "harm figure" be used as the basis for calculating compensation payable by corporate defendants. This figure normally reflects the gross profit from the contract obtained, retained or sought as a result of the offending, or the cost avoided by failing to put in place measures to prevent bribery. Given the harm figure is already subject to detailed assessment by the parties and careful consideration by the sentencing judge, it offers a simple and efficient yet principled basis for calculating compensation that moves beyond an assessment of direct financial loss and instead reflects a recognition of the broader harms of corruption.

Where a defendant has voluntarily undertaken to pay compensation, this could be advanced as a mitigating factor at sentencing. This would likely reduce the level of culpability of the defendant and in turn contribute to a reduction in the harm figure multiplier and thus result in a lower fine.

While the amount of compensation to be paid would be determined by the sentencing court, we recommend that the funds be disbursed according to procedures set out in HMG's policy framework for compensating the victims of corruption.

3. Update the Code of Practice and guidance for Deferred Prosecution Agreements

While DPAs can currently include conditions relating to the payment of compensation, the current approach taken by prosecutors and courts in foreign bribery DPAs has mirrored the case law on compensation following criminal prosecutions. We therefore recommend that the DPA Code of Practice issued pursuant to the Crime and Courts Act 2013 be updated to make stronger provision in the terms of DPAs for the payment of compensation.¹⁵

More specifically, the Code of Practice should be updated to reflect the proposed changes to the Sentencing Guidelines set out above. This would similarly use the harm figure as the basis for agreeing the amount of compensation that should be paid, while prompt cooperation by the company in identifying victims and evidencing the harms of its offending may be advanced as a mitigating factor.

The Canadian model of remediation agreements, for example, requires "best efforts"¹⁶ by companies to identify "victims", which is defined as covering those who have "suffered physical

¹² Sentencing Council sentencing guidelines, (1 October 2014), "[Corporate offenders: fraud, bribery and money laundering](#)".

¹³ Sections 55 and 133-135 of the [Sentencing Code](#).

¹⁴ Lord Garnier KC and Sam Tate (7 September 2023), "[UK must act to compensate foreign states in fight against corruption](#)".

¹⁵ Serious Fraud Office and CPS, (11 February 2014), "[Deferred Prosecution Agreements Code of Practice](#)".

¹⁶ §715.34(1)(g) of the [Canadian Federal Criminal Code](#).

or emotional harm, property damage or economic loss”, including persons outside of Canada.¹⁷ To ensure this kind of requirement is embedded in practice, prosecutors should be required to report to the court, and reflect in the DPA, what steps were taken by the company to remediate these harms.

We also recommend that internal guidance issued by prosecutors, such as the SFO’s Operational Handbook, be updated to set out more detailed expectations to incentivise companies to promptly and proactively identify, quantify and gather evidence of the harms caused by their offending.

As in the case of compensation ordered following criminal conviction, we recommend that the payment of compensation agreement in terms of a DPA should be disbursed according to procedures set out in HMG’s policy framework for compensating the victims of corruption.

4. Expand the civil routes for claiming compensation

Where compensation is not ordered in criminal proceedings or approved as part of a DPA, it is essential (as required under Article 35 of the UN Convention Against Corruption) that alternative mechanisms are available for compensation to be claimed by or on behalf of the victims of corruption. To ensure effective avenues for redress, we therefore recommend that the government explore legislative reforms to expand the civil routes for claiming compensation.

(a) Introduce a follow-on procedure for civil compensation claims

Civil claims for damages arising from complex corruption schemes are very expensive to bring and can take years to progress in the courts of England and Wales. The cost and time of this civil litigation could be much reduced by introducing a follow-on regime for claiming compensation in corruption cases. Drawing inspiration from the follow-on procedure in competition law, this would allow a civil claim for damages to be brought for bribery offences covered by a criminal prosecution or DPA.

By avoiding the need for claimants to prove the underlying conduct, the focus of a follow-on claim would be limited to quantifying the damages. It could therefore offer an efficient route to compensation for harms beyond the direct financial loss caused by corruption without this burden falling on prosecutors. The rules against double compensation already set out in the Sentencing Code¹⁸ mean that this mechanism would only provide for compensation where either no compensation or insufficient compensation was paid following a prosecution or pursuant to a DPA.

(b) Broaden legal standing for civil recovery and compensation claims under POCA

It is currently only open to enforcement agencies to initiate civil recovery proceedings under Part V of the Proceeds of Crime Act 2002 (POCA). This is not only out of step with criminal proceedings, which can be brought by private parties, but also limits the avenues for victims (or others acting on their behalf) to pursue the proceeds of corruption – including as compensation. Given compensation should take precedence over other financial penalties, including confiscation or forfeiture, this shortcoming in Part V of POCA should be addressed.

An amendment to POCA introduced through the Economic Crime and Corporate Transparency Act 2023 reflects an encouraging shift in this direction. Under section 303Z17A of POCA, “victims and other others” who claim that funds subject to freezing and forfeiture proceedings belong to

¹⁷ §715.3(1) of the [Canadian Federal Criminal Code](#).

¹⁸ Section 144 of the [Sentencing Code](#).

them can now apply for their release. This new mechanism was relied on for the first time in November 2024 to lift an Account Freezing Order worth £1.2 million by Nigerian senator Ned Nwoko after providing evidence that he was the victim of a sophisticated fraud.¹⁹

We recommend that victims, and civil society organisations acting on their behalf, be given standing to not only intervene in, but also initiate, civil recovery proceedings to both recover the proceeds of corruption and claim compensation for losses resulting from that corruption. Civil society organisations can play an important role in bringing claims on behalf of victims, particularly in representing diffuse interests or claiming compensation for collective harms. In some corruption cases, representative standing by civil society may in fact be the best way of representing the interests of victims, such as where victims may face threats of retaliation.

This new mechanism should be subject to appropriate safeguards, including:

- eligibility requirements for civil society standing (such as UK-registered charities);
- referral to enforcement agencies for consideration before initiating action;
- the ability for enforcement agencies to “take over” or be joined to proceedings;
- court-approved agreement for the disbursement of recovered assets or compensation to victims where representative claims are brought by civil society organisations.

5. Appoint a victims coordinator for the oversight and disbursement of compensation

Finally, we recommend the appointment of a victims coordinator for economic crime and corruption within the office of the Victims Commissioner who can serve as the dedicated point of contact for overseas victims of corruption (and economic crimes more broadly) throughout enforcement processes that result in criminal prosecution or DPAs. The victims coordinator would be responsible for coordinating and promoting the interests of victims, liaising with law enforcement agencies and other relevant stakeholders, and overseeing the disbursement of compensation in accordance with HMG’s policy framework.

As a member of the Victims Commissioner’s team, the victims coordinator would be a specialist, independent body whose role is distinct from any internal victims unit within law enforcement. Under this proposal, law enforcement agencies could assign foreign bribery cases to the victims coordinator to pursue compensation as part of an independent, but complementary and concurrent, process alongside criminal investigations. Where compensation is not awarded following a criminal conviction or DPA, the victims coordinator should liaise with relevant UK government departments and enforcement agencies to secure the voluntary repurposing of a significant portion of corporate fines as compensation.

The victims coordinator would play a crucial role in operationalising and delivering HMG’s policy commitments to ensure the overseas victims of corruption are more explicitly recognised and meaningfully compensated through UK enforcement action, and that compensation is disbursed in a transparent and accountable manner to be used for the benefit of victims.

¹⁹ ABV Solicitors, (20 November 2024), [LinkedIn post](#).