



The 2010 Bribery Act

The UK Bribery Act 2011 came in to force on 1st July 2011. It applies to all UK incorporated entities and UK registered partnerships as well as any overseas entity carrying on business in the UK. It is designed to replace various pieces of out dated anti-bribery legislation and to bring the UK into line with the Organisation for Economic Co-operation and Development (OECD) Anti-Bribery convention.

What is Bribery?

The Act defines Bribery as: the giving, offering or promising and/or receiving, requesting or accepting of money, gifts or other inducements to do something dishonest, illegal or in breach of trust in the course of a business. Bribery can include:

1. Hospitality
2. Entertainment or tickets to events, particularly where these are not hosted by the giver
3. Commission or gifts

...if these are too generous, induce improper behaviour or are intended to bribe someone else in order to obtain or retain business.

"Too generous" gifts or hospitality would be those out of line with usual practice in an equivalent commercial situation. The level of any commission payment also needs to reflect services provided. Bribery does not need to be intentional for it to be illegal.

What Offences are covered by the Act

There are 4 main offences:

1. Offering, promising or giving a bribe to another person
2. Requesting, agreeing to receive or accepting a bribe from another person
3. Bribing a foreign public official
4. A corporate offence of failing to prevent bribery

Offences 1-3 are punishable by up to 10 years imprisonment while 4 could attract unlimited fines, damage to reputation, disqualification of directors and company disbarment.

How to minimise risk to your organisation:

There is a defence for an organisation to prove it had 'adequate procedures' in place to prevent persons associated with it from bribing. The Secretary of State is required by the Act to provide guidance on 'adequate procedures'. This draft guidance was issued in September 2010 for an eight week consultation period. It is based on the following 'Six Principles for Bribery Prevention'.

- **Risk Assessment** – regular and comprehensive assessment of the nature and extent of bribery risks to which the company is exposed.
- **Top Level Commitment** – top level management commitment to establishing a no-bribery culture and communicating anti-bribery policies to all levels of management, staff and external suppliers.
- **Due Diligence** – due diligence policies covering all external contract parties in all markets including the implementation of reciprocal anti-bribery agreements.
- **Clear, Practical and Accessible Policies and Procedures** – appropriate policies and procedures to prevent bribery being committed on a company's behalf, which apply to all people and entities over which a business has effective control.
- **Effective Implementation** – policies which are embedded within the business and reflect the particular bribery risks it faces.
- **Monitoring and Review** – mechanisms to ensure compliance and deal with issues, and which are updated when appropriate.

You can find out more information [about the legislation on the ministry of Justice's website](#)