

You scratch my back, I'll scratch yours...?

July 2010



The Bribery Act 2010 What and when?

This groundbreaking piece of legislation slipped under the radar almost unnoticed just prior to the General Election, with the main provisions coming into force this October.

This has been passed in response to a spate of embarrassing scandals linking UK organisations with large-scale bribery and follows years of criticism of the UK's failure to properly address corruption. It replaces a myriad of existing complex and antiquated UK anti-corruption laws.

Companies need to pay close attention to this piece of legislation, which has been described as one of the most draconian anti-corruption measures to be found anywhere in the world.

Who does it apply to?

The Act applies to any corporate entity or partnership, wherever it is incorporated, registered or conducts its activities, as long as any business or part of its business is conducted in the UK. Significantly the act covers the activities of those businesses globally. Four types of offence are covered under the Act, targeting:

- The payer of a bribe;
- The recipient of a bribe;
- Bribery of foreign public officials;
- Corporations that fail to prevent bribery.

The most controversial provision in the Act is the strict liability obligation placed on businesses for failing to prevent bribery. This means that organisations can be held liable for the actions of employees and agents who offer bribes to obtain a commercial advantage, even if the organisation is oblivious to the fact that this is taking place.

It is likely that bribes will also extend to corporate hospitality events, if they are found to be overly 'lavish'. Companies and directors that fall foul of the Act could find themselves facing an unlimited fine or up to 10 years' in jail.

How are your procedures?

The only defence available to an organisation is for it to demonstrate that it had 'adequate procedures' in place to prevent bribery. The Act does not define what is meant by 'adequate procedures' and further Government guidance is expected over the next few months. However, authorities are likely to take into account the size of the organisation, the type of business, its control over third-party agents and its involvement in tendering for foreign business.

In the meantime, every organisation doing business in the UK must start thinking about whether the controls, policies, procedures and training programmes currently in place will be adequate to comply with the new law. In the event of an alleged breach, it is the procedures that will undoubtedly come under very close scrutiny from the Serious Fraud Office.

Organisations should check their employment contracts and handbooks to ensure that employees are left in no doubt as to the disciplinary sanctions they face if they are found to have breached the rules. There are just a few short months left to ensure that policies to prevent corruption are in place.

What are we doing?

Clients that retain us to update their contracts and handbooks need not be concerned about the new Bribery Act. After the guidelines are published, we will forward a policy to you, which will then be incorporated more fully into your documents at your next review.

If you don't retain us and need help creating or updating your policies, please do let us know. We can help!

STOP PRESS – BUDGET Retirement Age

Some of the Press reported that the Retirement Age in the June Budget moved to 66. This is not correct; it is the State Pension Age that is being moved to 66. The Government will be consulting on proposals to completely remove the current default Retirement Age of 65, hoping that this will be effective from April 2011.

Can We Help?

If you have any questions about the Bribery Act, or would like to know more about our HR and Legal services, please do call us on 01708 758958.

Contact us

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