

The Bribery Act 2010: action points for employers

What you (and your boss) need to know...

- The Bribery Act 2010 comes into effect on 1 July 2011.
- There is a potentially wide concept of bribery that captures "facilitation payments" and could capture more lavish forms of hospitality.
- There is a new corporate offence of "failing to prevent bribery" which means that organisations carrying out business in the UK will be liable for the conduct of their employees, consultants and contractors across the world.
- An 'employer' will, however have a defence to this charge if it can prove it had in place adequate procedures to prevent persons associated with it from carrying out such conduct.
- Government guidance suggests "top down" implementation of anti-bribery policies and procedures and that in larger organisations Boards should be responsible for setting and monitoring these policies and procedures.

Bribery prevention measures: action points

Prior to 1 July 2011 employers should consider the extent to which current policies and procedures are adequate to prevent bribery by their employees, consultants or agents.

- Does the organisation have a clear "*ethics/anti-bribery*" policy?
- Does the Staff Handbook/Staff Intranet require revision to reflect expected standards of behaviour?
- Who within the organisation should be allocated responsibility for implementing and maintaining anti-bribery policy and strategies?
- What strategy should be adopted for communicating new/revised policies to staff (including directors, employees, consultants, contractors and JV partners)?
- Do disciplinary procedures require amending?
- Should staff (and in particular senior managers) be provided with training on the Bribery Act; bribery training could cover the bribery risks the organisation is exposed to as well as the organisation's anti-bribery policies and procedures.
- Do employment contracts require new clauses to address the company anti-bribery policy and/or reporting of wrongdoing?

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If you would like to know more about the subjects covered in this publication or our services, please contact:

Chris Goodwill
Imogen Clark
Mike Crossan
Alistair Woodland

Tel: +44 (0) 20 7006 1000
Fax: +44 (0) 20 7006 5555

Editor: **Tania Stevenson**

To email one of the above, please use
firstname.lastname@cliffordchance.com

Clifford Chance LLP, 10 Upper Bank Street,
London, E14 5JJ, UK
www.cliffordchance.com

- Is there a standardised process for carrying out sufficient due diligence on staff/agents?
- Is there a "hotline" for staff to report concerns regarding the activity of other staff members and/or is this incorporated into existing whistleblowing procedures.
- Are staff able to seek guidance and advice on what actions should be taken when faced with blackmail or extortion?
- Are policies on corporate entertainment, charitable giving and political donations clear as to permissible levels of expenditure and how staff are required to document such activity?
- Who is responsible for routinely reviewing and re-circulating policies and procedures to staff?

Clearly the procedures an employer will need to put in place in order to provide it with a defence against a charge of "failure to prevent bribery" will vary according to the size and nature of the organisation, where it conducts business and the roles of individual employees. Your usual employment contact at Clifford Chance can advise you further on what steps might be appropriate for your organisation.

Further information

The MOJ Guidance on the Bribery Act can be accessed [here](#).

The MOJ Quick Start Guide can be accessed [here](#).

The Clifford Chance Client Briefing on Bribery on the wider implications of the Bribery Act can be accessed [here](#).

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