

The Bribery Act

A study conducted by the [UK government in July 2015](#) found that a third of UK SMEs had not heard of the Bribery Act, or the potential liabilities their companies face under the legislation.

The Bribery Act 2010 came into force on 1 July 2011, clarifying what was seen as an old and confusing set of bribery laws. It was aimed primarily at tackling commercial bribery, with coverage applying to any commercial activity undertaken by a UK registered business (and its employees, whether UK resident or normally resident), extending internationally. The Act created a number of new offences:

- Bribing a foreign official
- Giving or promising an advantage
- Receiving, requesting, or agreeing to receive an advantage
- Failure of a company to stop a bribe being paid on its behalf

The full text of the Act is available online

<http://www.legislation.gov.uk/ukpga/2010/23/contents>

The Bribery Act Guidance

Implementation of the Act was delayed until 2011 due to criticism that the initial guidance produced by the government was too vague.

The [Bribery Act Guidance](#), published by the Ministry of Justice on 30 March 2011, makes it clear that a proportionate approach will be taken to the enforcement of the Act. It sets out six principles that are intended to help businesses formulate procedures in line with their specific needs:

- **Proportionate procedures:** The commercial organisation's procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces. For example, a small business may be able to rely on periodic oral briefings to communicate its policies, while a large one may need to rely on extensive written communication.
- **Top-level commitment:** Top-level management must foster a culture within the organisation which makes it clear that bribery is never acceptable.
- **Risk assessment:** The commercial organisation must assess the nature and extent of its exposure to potential risks of bribery on its behalf by persons associated with it on a periodic basis.
- **Due diligence:** The commercial organisation applies due diligence procedures, taking a proportionate and risk-based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate the risk of bribery.
- **Communication and training:** Bribery prevention policies should be embedded and understood throughout the organisation using channels of communication, including training, and should be proportionate to the risks it faces.



- Monitoring and review: The organisation monitors and reviews procedures designed to prevent bribery by persons associated with it and makes improvements where necessary.
- Additionally, in section 7 of the Guidance it is stated that businesses could be liable for the corporate offence of failing to prevent bribery by reason of third party actions – if the third party could be deemed “an associated person” under the Act. However commercial organisations will only be liable if that third party performs services for the business.

The Act should not be used to stop companies from entertaining customers and contacts, the Guidance says:

"Bona fide hospitality and promotional, or other business expenditure which seeks to improve the image of a commercial organisation, better to present products and services, or establish cordial relations, is recognised as an established and important part of doing business and it is not the intention of the Act to criminalise such behaviour"

Sources of further information

The UK Government website has two documents in pdf format - [Bribery Act 2010: Guidance to help commercial organisations prevent bribery](#) and a [Quick start guide](#). Also to be found in the same location are videos designed to be used by companies as part of ongoing internal training for their staff.

An [8 May 2015 update](#) on the policy paper '2010 to 2015 government policy: reducing corruption in international trade' was produced by the government to give practical advice and guidance on bribery overseas for UK companies.

[Out-Law.com](#) is a linked site from international law firm Pinsent Masons which has free to access articles on the Act.

For reference, the [Serious Fraud Office \(SFO\)](#) and [Director of Public Prosecutions \(DPP\)](#) have created guidelines on how they would prosecute cases.



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