

BRIBERY AND CORRUPTION POLICY

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Policy Statement

The Bribery Act 2010 is concerned only with bribery within the context of commercial corporate governance. This organisation sets out below its understanding of the scope of the act and its response in terms of management responsibilities and reporting duties.

The Policy

Through this policy, registered managers and the senior management team will be aware of their role in mitigating any corporate risk to the company by failing to adhere to the guidance below.

Definition(s) of Bribery

“Giving someone a financial or other advantages to encourage that person to perform their functions or activities improperly or to reward that person for having already done so.”

“A form of corruption, an act of implying money or gift given that alters the behaviour of the recipient.”

“The offering, giving, receiving, or soliciting of any item of value to influence the action of an official or other person in charge of a public or legal duty.”

The bribe is the gift bestowed to influence the recipient's conduct. It may be any money, goods, property, preferment, privilege, emolument, an object of value, advantage, or merely a promise or undertaking to induce or influence the action, vote, or influence of a person in an official or public capacity.

Principles

- Proportionate procedures
- Top-level commitment
- Risk assessment

- Due diligence
- Communication (including training)
- Monitoring and review

Proportionate Procedures

The actions undertaken must be proportionate to the size and scope and aligned to the commercial activity of the business, e.g. foreign contractual arrangements where it could be that bribery is known to be commonplace. Such foreign contracts would greatly increase the risk of the company to exposure to the Bribery Act 2010.

Top-level Commitment

This organisation is fully committed to a zero-tolerance response to bribery in any form. The board of directors and the senior management team, including all registered managers, have the responsibility to ensure that a culture of integrity is fostered to make bribery unacceptable. A firm anti-bribery stance is expected from management, including adherence to the formal statement on anti-bribery culture.

Risk Assessment

Any anti-bribery risk assessment should take account of the following factors, categorised as internal or external:

External

Country risk
Sectional risk
Transactional risk
Business opportunity risk
Business partnership risk

Internal

Employee training
Bonus culture
Absence of audit/financial controls
Management/leadership

Due Diligence

This is a well-established element within the corporate governance overview of the senior management team. It is particularly relevant where third-party intermediaries are used, e.g. where local law or convention dictates the use of local agents.

Communication (including Training)

Internal and external communication may vary in tone and content, dependent on the relationships and the bribery risks involved. Internal communications should convey a 'tone from the top' regarding financial control, hospitality, promotional expenditure, charitable or political donations, and penalties for breach of rules. An important aspect is the establishment of a secure, confidential, and accessible means for internal or external stakeholders to raise concerns about bribery on the part of the associated parties. All staff must be made aware of the above via training, and it should be incorporated into the whistleblowing policy.

Monitoring and Review

The importance of a good monitoring and review system within the organisation is vital. These already exist, but the act may change the reporting of such audits or reviews.

The Future

Senior managers will undertake a risk assessment, and procedures, including a formal statement, will then be agreed upon and communicated to all staff. The legislation is complex. The Serious Fraud Office (SFO) will be responsible for any criminal investigations and, like all legislation, the press reporting and interpretation of what the act could mean has focussed on hospitality and dining. The SFO and the Ministry of Justice are remaining unclear on this part of the act.

The SFO gave the following guidance in April 2011:

Let me start by talking about hospitality. I have to say that I found some of the coverage over the last few months about this issue to be difficult to understand. The notion that the SFO would be interested in the extra bottle of wine or the opportunity to watch a match at Twickenham seemed to me to be greatly exaggerated. It was significant though that these views were genuinely held. There was much misapprehension about the effect of the act and what the SFO might do in implementing it. By and large, I think this issue has now died down as a result of the sensible guidance that has been given.

Normal corporate hospitality is a part of business and is a part of building up relationships that are needed to make the business work. This is not a problem. Buying meals and putting foreign public officials up for reasonable accommodation is not a problem. Nor is flying a group of foreign public officials across the world to see one of your sites, so that they can get the best possible view of what you are doing and whether they should offer you a contract. Normal business. This is to be encouraged. Companies in my view are generally comfortable with this because, after all, they need to justify this in terms of shareholder funds. They know as well that the all-expenses-paid holiday at the company's private island for a foreign public official and their family with lots of expenses for one month is unacceptable. In my view, therefore, we seemed to have reached a balance.

This sets the 'proportionate' response in context. As a care sector provider, there will be very few identified risks, except perhaps in the contractual relationship between our local authority or NHS partners. Our Gifts and Legacies Policy should be robust enough but will be reviewed as part of our assessment of risk principles and actions.

PricewaterhouseCoopers (PwC) has issued the following guidance as to what is acceptable, what is to be viewed with care, and what is not acceptable.

Acceptable

- Calendars.
- Mouse mats.
- Drink mats.
- Company logo branded low-cost merchandise (umbrellas, sports bags, pens, stress balls, etc.).

- Invite to a modest Christmas party or lunch.
- Reasonable socialising, such as UK sports events with the host present.

Be Careful

- Any alcohol above a bottle of wine.
- Overseas sporting events and entertainment.
- Expensive gifts, such as a gold fountain pen.
- Portable eBook reader.

Not Acceptable

- Lavish hamper.
- Case of champagne.
- Invitation to any sporting event where the host is not present.
- Anything delivered to a home address.
- Tablet computer.

This policy will be reviewed, amended, and procedures completed after the senior management team has agreed and implemented any actions arising from their recommendations.

Anti-Competitive Behaviour

Businesses that collude with their competitors are cheating consumers and other businesses by inflating prices, reducing choice, and eroding trust in markets. But make no mistake: they're also breaking laws.

No matter who you are or what business you're in, it's up to you to understand your responsibilities when dealing with wholesalers, suppliers and other businesses.

Because if you're caught doing the wrong thing, pleading ignorance simply won't cut it.

Here's what you need to know to stay on the right side of competition law.

What is a business cartel?

A business cartel exists when rival businesses agree to act together instead of competing with each other. This kind of arrangement is a form of cheating that's designed to benefit cartel members while maintaining the illusion of competition.

Cartels can be local, national or international, and specific examples of cartel activity include price fixing, market sharing and bid rigging.

- Price fixing – when rival businesses agree on what they are going to charge.
- Bid Rigging – when businesses collude with each other before logging their bid with the purchaser.
- Market Sharing - is when rival businesses agree to divide a market, so participants are sheltered from competition.

There are here are 6 'red flags' that could indicate that anti-competitive practice is taking place.

Discussing prices, rates or fees with a competitor

Businesses should never fix or discuss prices with their competitors. This is especially relevant if they're discussing potential future price changes, how different companies may react to changes in the market, and any discussions about agreeing on a common approach to pricing, or not to go below a minimum price.

Discussing customers or territories with a competitor

If there is any kind of agreement or understanding to share or restrict who can sell to whom, whether based on geographic location, type of service or type of customer being sold to, this is anti-competitive.

Discussing future plans

Competing businesses must not share competitively sensitive commercial information such as pricing intentions, business plans or marketing strategies.

Sharing other commercially sensitive information

Look out for people sharing information that's not in the public domain, such as a business's costs, profit margins, sales volumes or production capacities.

Prices fluctuating across the board

If prices offered by competing companies seem to go up and down together in circumstances where you wouldn't expect this, they could be being illegally fixed.

Unusual things on pricing documents

For example, you might see metadata showing that a document relating to price was created by someone outside the organisation.

Procedure

If anti-competitive practice is suspected, you have a duty to report it.

If a **director** suspects another director/s of such behaviour, the board must conduct an immediate rigorous investigation.

If a crime is suspected the relevant authorities must be informed

In the event that a Cartel is suspected, it must be reported to the Competition and Markets Authority (CMA)

Learning from the investigation must be embedded into new practices/procedures

If a staff member suspects another staff member of such behaviour, then it must be reported immediately to the Director so that an investigation can take place.

In the event that Anti-Competitive Behaviour is suspected prior to or following a tender/bid submission, the purchaser must be informed immediately.

All acts of fraud are considered Gross Misconduct and may result in summary dismissal.

Related Policies

Duty of Candour

Financial Irregularities

Fit and Proper Persons - Directors

Good Governance

Notifications

Premises, Environment and Access

Related Guidance

The Bribery Act 2010 Guidance:

<https://www.justice.gov.uk/downloads/legislation/bribery-act-2010-guidance.pdf>

ACAS The Bribery Act 2010: Principles of the Act

www.acas.org.uk/

Training Statement

All staff, during induction, are made aware of the organisation's policies and procedures, all of which are used for training updates. All policies and procedures are reviewed and amended where necessary, and staff are made aware of any changes. Observations are undertaken to check skills and competencies. Various methods of training are used, including one to one, online, workbook, group meetings, and individual supervisions. External courses are sourced as required.

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Person responsible for updating this policy: Hitendra sharma

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