



Field Fisher Waterhouse



Integrity

Bribery Act Procedures

The risk of criminal liability for your business

The Bribery Act 2010 which comes into force on 1 July 2011 creates the most onerous anti-corruption regime in the world. Businesses operating in the UK face criminal liability for bribes paid by their employees or paid by their business partners, wherever in the world the bribe is paid. The Act raises the prospect that businesses will face prosecution in relation to bribes they do not know about, paid by individuals overseas. The penalty will be an unlimited fine.

The Act provides that it will be a defence for a business to show that it had in place "adequate procedures" to prevent bribery taking place. The UK government has published guidance on what measures are likely to constitute "adequate procedures".

In light of the specific defence in the Act, businesses would be well advised to implement "adequate procedures". Those businesses that do not implement the recommended procedures will not be able to defend themselves properly if faced with a corruption prosecution and they will run a greater risk of conviction and penalties.

Our service

Our service addresses all of the 6 principles which the government guidance requires a business to adopt to demonstrate "adequate procedures", namely:

- Proportionate procedures
- Top level commitment
- Risk Assessment
- Due diligence
- Communication (including training)
- Monitoring and review

At the outset we brief you on the provisions of the Act and obtain relevant information from you about your business in a focussed and efficient manner. We work with you to identify general risk areas and the existing controls and procedures you have in place.

Galileo and Newton are just two of the enquiring minds who have been instrumental in the development of the telescope. Being empowered by a passion to see further and know more leads to the most inspirational achievements.



Magnifying glasses have been used in countless endeavours, from studying cells to gazing at stars. Sometimes, it's only by scrutinising details that you can search out the most appropriate solution.



Thereafter our service includes the following stages:

- **Detailed risk assessment.** We review your current controls and procedures, gather information from across the business, speak to your key personnel and consider the areas of your business that may be particularly exposed to corruption risk.
- **Due Diligence.** We advise you on the levels of due diligence you need to conduct on your business partners and market operations. The advice is tailored to the corruption risk each business target or market poses to your business. We provide a tiered due diligence service so that due diligence can be completed to the appropriate level in a cost effective manner.
- **Policies and Procedures.** We advise you on the policies and procedures that need to be implemented if your business is to avail itself of an adequate procedures defence. We can assist you with drafting policy documents and work with you to tailor procedures to your business.
- **Communicating and Monitoring.** Finally we provide you with a detailed and practical action plan for communicating your commitment and procedures, and monitoring the ongoing adequacy of your procedures across the business.

Our recent experience

- We advised a leading international retailer on their anti-corruption procedures.
- We advised an international oil company with headquarters in the UK on its compliance procedures in light of the Bribery Act 2010.
- We advised a Middle Eastern corporate on an internal investigation following the discovery of irregular payments.
- We advised a services company in relation to “self-reporting” to the Serious Fraud Office in light of the acquisition of a business with operations in Nigeria.
- Our lawyers advised a major UK corporate, which had been fined through its US operations for a breach of the US Foreign Corrupt Practices Act 1977, on issues arising from its contractual arrangements in Iran.

Why choose us

We provide a one-stop shop for your "adequate procedures" solution. We recognise that the implementation of "adequate procedures" requires specialist skills which are not available from one source, and that you may already possess some of these skills within your business. We can work with your existing professional advisors and in house compliance personnel, or can introduce you to experts in other fields that we have partnered with, to provide a package which offers you an adaptable turn key solution. We believe this is unique.

We provide a cost effective service, with certainty as to legal fees based on an assessment of the scope of the work.

As lawyers we can advise you on the Bribery Act in a manner which attracts legal advice privilege thereby helping you to maintain confidentiality.

We are acknowledged leaders in the field, and you also have the reassurance of working with our selected partners, who are experts.

We are recognised experts in dealing with fraud and corruption issues, from conducting internal investigations, through to interfacing with prosecutorial and regulatory authorities around the world. We can help you achieve the best possible outcome should a potential bribery or corruption issue arise in your business.

Key Contacts



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