

Checklist: Bribery Act 2010: what it means for your business

This checklist outlines the new offences introduced by the Bribery Act 2010 and the penalties for committing them. It also highlights practical steps that your business can take to help avoid breaching the legislation.

What is bribery?

Transparency International (a non-governmental anti-corruption organisation) defines bribery as "the offering, promising, giving, accepting or soliciting of an advantage as an inducement for an action which is illegal or a breach of trust."

Why has the Bribery Act 2010 been introduced?

The Bribery Act 2010 was introduced to strengthen the existing bribery and corruption laws in the UK. The Organisation of Economic Co-operation and Development (OECD) has repeatedly criticised the UK system for being weak and ineffective compared with the more robust regimes in other countries, such as the US Foreign and Corrupt Practices Act.

What are the new offences?

Bribing another person

- A person will be guilty of this offence if they offer, promise or give a financial advantage or other advantage, to another person:
 - to bring about improper performance of a relevant function or an activity; or
 - to reward a person for the improper performance of a relevant function or an activity.
- The types of function or activity that can be improperly performed include:
 - all functions of a public nature;
 - all activities connected with a business;
 - any activity performed in the course of a person's employment; and
 - any activity performed by or on behalf of a body of persons.

This is where the person performing the function is expected to perform it in good faith or impartially or is in a position of trust by virtue of performing it. The function will be covered even if it has no connection with the UK or is performed outside the UK.

- It may not matter whether the person offered the bribe is the same person that actually performs or performed the function or activity concerned.
- The advantage can be offered, promised or given by the person themselves or by a third party.

Being bribed

- The recipient or potential recipient of the bribe will be guilty of this offence if they request, agree to receive, or accept a financial or other advantage to perform a relevant function or activity improperly.
- It does not matter whether it is the recipient, or someone else through whom the recipient acts, who requests, agrees to receive or accepts the advantage. In addition, the advantage can be for the benefit of the recipient or another person.

Bribing a foreign public official

- A person will be guilty of this offence if they intend to influence an official in their capacity as a foreign public official. The offence does not cover accepting bribes, only offering, promising or giving bribes. It does not matter whether the offer, promise or gift is made directly to the official or by a third party.