

A Guide to the Bribery Act



The Bribery Act came into force on 1st July 2011 and all businesses should ensure that they are compliant with the Act. This requires a review of internal policies and it is recommended that a risk assessment is undertaken and the results documented. This should then be reviewed on a regular basis.

Key Points

- The Act only deals with bribery and not other forms of white collar crime.
- You can be liable for failing to prevent a person from bribing on your behalf but only if that person performs services for you in business.
- Hospitality is not prohibited by the Act.
- Facilitation payments are bribes.

What should you do first?

Visit the GOV.UK website and download the Guidance document and Quick Start Guide.

This guide sets out the six overarching principles for bribery prevention and has been described as being “largely

about common sense, not burdensome procedures”. Using the guide you should be able to assess the areas of your business (if any) that need attention and the Act does not require your risk analysis to be externally verified, nor should you need the services of a solicitor or a consultant.

Suppliers

Suppliers will need due diligence when they provide services for you or on your behalf. There is a greater risk with overseas companies; however the guide sets out steps to assess risks to your company. These are mainly the sort of steps that most companies undertake and are necessary to trust the company that you wish to work with.

Statement

It is advisable to incorporate a short statement into any contracts to set out your company policy on bribery and clearly state that any engagement with bribes in any form is completely unacceptable. All staff should be made aware of this company policy.

Advice and Information

The Association is here to help you in any way it can. Whilst BIFA members of staff do not have legal training, they can often assist with commercial questions and source appropriate advice for you. However, any such assistance given and flowing from this Guide will be subject to the disclaimer appearing at the end of this Guide.

To summarise the Key Points:

To prevent bribery - and have a defence in case a charge of bribery is made against you - you should:

- assess whether your business is at risk and, if so, the level of that risk
- have an anti-bribery policy in place containing procedures proportionate to the risk that you have identified, the scope and size of your business, and the country/ countries in which you do business
- use due diligence to assess who you are dealing with and who you appoint to represent you

- communicate, train and raise awareness among employees and business partners
- monitor and review your procedures.

Your anti-bribery policy should:

- include a clear prohibition of the offer, gift or acceptance of bribes
- give guidance on the provision of gifts, hospitality, or expenses that may influence the outcome of business transactions
- detail the procedures that should be followed during business transactions

- provide guidance on political and charitable donations, including a prohibition of the payment of donations to political parties or charities that are directly linked to obtaining new business or gaining a business advantage
- require that any donations made in good faith are publicly disclosed.

Note that the following are not considered acts of bribery:

- providing genuine business hospitality
- carrying out proportionate and reasonable promotional activities.