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Fact Sheet: Anti-Bribery Regulations – the United Kingdom (2012, November)

<p>1. What types of bribery & corruption offences exist under domestic law?</p>	<p>The Bribery Act 2010 (the Act) (came into force 1 July 2011) replaced a body of anti-bribery law which was described as inconsistent. There are four offences under the Act: i) Bribing another person, ii) Being bribed, iii) Bribing a foreign public official and iv) a corporate offence of failing to prevent bribery. Other corruption offences exist under different statutes relating to more specific act of corruption such as vote-vigging and seeking to buy honours.</p>
<p>2. Do such offences concern only payments or gifts to officials or also to other persons?</p>	<p>Offence iii) above applies to bribing public officials.</p>
<p>3. Who (including what entities) can be held liable for such offences?</p>	<p>(a) Any UK national, UK company, UK partnership, director of UK company, foreign national and company partnership can be liable under the Act if the bribe is committed in England or Wales. (b) Any foreign national domiciled or ordinarily resident in UK can be liable if the bribe is committed outside UK. (c) All UK and foreign Companies doing business in the UK and all UK business trading overseas can be held liable for offences under the Act. (d) A UK company cannot be liable if the bribe is committed abroad if the bribe is committed by its foreign subsidiary and a foreign subsidiary of a UK company cannot be liable if the bribe is committed abroad.</p>
<p>4. Is prosecution possible for any offences committed outside the jurisdiction?</p>	<p>The Act has near-universal jurisdiction, allowing for prosecutions of an individual or company with links to the UK, regardless of where the crime occurred.</p>
<p>5. Are there any special rules concerning gifts and corporate hospitality?</p>	<p>A gift of any value could in theory be considered as a bribe if the motive behind it was to encourage someone to act improperly. The best advice is to follow the words of the Justice Secretary and use “common sense”. Corporate Hospitality is acceptable: a. for legitimate commercial purposes; b. if it is proportionate and reasonable; and c. if it does not exceed costs for standard transportation and accommodation. Corporate Hospitality is unacceptable: a. if disproportionate and lavish; and b. where there is no technical content or any business discussion in the meeting.</p>
<p>6. What procedures or policies should be implemented by individuals and/or corporations? How can such persons mitigate their potential exposure?</p>	<p>“Adequate procedure” designed to prevent bribery will establish a culture where bribery is never acceptable, update risk assessments, and carry out thorough due diligence. Possible measures can include a Code of conduct with a clear anti-corruption element; written guidance on gifts, corporate hospitality and facilitation payments; to carry out internal controls and implementation of whistleblowing procedures to prevent bribery; as well as standard clauses in commercial contracts prohibiting bribery and corruption.</p>
<p>6. What kind of penalties are provided for bribery and/or similar offences?</p>	<p>Possible penalties for individuals are up to ten years imprisonment and for an unlimited fine. For companies it is an unlimited fine.</p>
<p>7. Are there any other relevant requirements/provisions?</p>	<p>Corruption offences exist under different statutes relating to more specific act of corruption, e.g. vote-vigging & seeking to buy honours.</p>

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