

Anti Bribery Policies

The Bribery Act 2010 was given Royal Assent in April 2010 and should have come into force in the UK in April 2011. The implementation of the Act has been delayed but as yet, no new date of implementation has yet been given. Prior to the The Bribery Act (2010), the law relating to bribery was contained in a number of different pieces of legislation, resulting in a rather confusing approach.

For the purposes of this Act, bribery is defined as the giving or taking of a reward in return for acting dishonestly and/or in breach of the law. There are 4 possible offences set out within this act:-

1. Bribing another person
2. Being bribed
3. Bribing a foreign public official
4. Failure to prevent bribery

The last offence, the 'corporate offence' - occurs when an organisation fails to stop people who are operating on its behalf from being involved in bribery. In our opinion, it is the 'corporate offence' that organisations need to pay particular attention to. This offence could occur as a result of the activities of a range of people working on behalf of the organisation – an employee, consultant or agent, for example – if those individuals were involved in accepting or receiving a bribe which resulted in the organisation gaining or retaining business. This is a change to the current approach to the law which only sees bribery involving senior managers likely to result in legal action. The new legislation states that if the 'corporate offence' is committed, then both the organisation and its directors could receive unlimited fines. There are however a number of measures you can put in place as an organisation to ensure that you always have the ability to demonstrate that you had put measures in place to prevent bribery. Therefore, the suggestion is that all companies should have an anti-bribery policy which covers at least the following:-

1. Review of standing orders and signing authorities
2. Training of all employees on how to act when bribery is attempted
3. Review of Whistleblowing policy to cover the anti-bribery act
4. Review of gifts and hospitality procedures
5. Listing of acts of bribery as gross misconduct in employment contracts
6. Undertaking of risk assessments
7. Full anti-bribery policy in place

It is anticipated that anti bribery policies will feature in procurement checks in the very near future and it is therefore worth investigating what steps you as an organisation are going to take to ensure that you have taken every reasonable measure to protect yourself and your organisation.