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The Bribery Act 2010

The Bribery Act 2010 came into force on 1 July 2011. It creates a new requirement that all organisations have in place “adequate procedures” to prevent and detect bribery within the organisation.

In addition, corrupt practices committed by anyone who performs services for or on behalf your organisation (“associated persons”) can potentially create a criminal liability for your business. That includes staff, agents, subcontractors, business partners etc.

Companies convicted under the Act face unlimited fines, potentially irreparable reputation damage and possible exclusion from tendering for certain contracts. The Act creates (as least) three practical compliance issues for almost all businesses:

1. Your business must ensure that adequate procedures are in place to prevent staff and associated persons partaking in any form of bribery or corruption.
2. Part of those adequate procedures must involve checking that associated persons also have adequate procedures in place, as their conduct could create a liability for your business.
3. Where another organisation, for example a contractor, regards your business as an associated person, that contractor may ask you to produce certain documentation to demonstrate that you have adequate procedures in place to ensure your own people do not create a liability for that contractor. If you cannot supply the documentation, certain organisations (particularly in the public sector) may be unwilling to deal with you.

Adequate procedures should include:

1. **Risk Assessments.** This is about knowing and keeping up to date with bribery risks you face in your sector and market.
2. **Top level commitment.** This concerns establishing a culture across the organisation in which bribery is unacceptable.
3. **Due diligence.** This is about knowing who you do business with and knowing why, when and to whom you are releasing funds. It also includes seeking reciprocal anti-bribery agreements from your associated persons. It even extends to a review of certain contracts you have in place with third parties.
4. **Proportionate policies and procedures.** This means creating an anti-bribery policy that is right for your business and ensuring it is understood by all associated persons. Ideally the policy should cover all relevant risk areas, such as gifts and corporate hospitality, political and charitable donations, promotional expenses, procedures for responding to demands for bribes and details of how to report suspected breaches.
5. **Effective implementation.** This is about going beyond ‘paper compliance’ and embedding anti-bribery in your internal controls, recruitment and remuneration policies, operations, communications and training on practical business issues.
6. **Monitoring and review.** This relates to auditing and financial controls that are capable of being exploited for corruption (such as corporate hospitality, gifts, expenses, invoicing etc.) and considering how regularly you need to review your policies and procedures, and whether external verification would help.

Achieving compliance

The starting point for compliance is a robust anti-corruption policy, which we can draft for you. This involves a discussion about the nature of your business and its risk areas. We can then prepare a draft policy for you to review, before attending to any revisions that may be necessary.

This will be useful in addressing points 2 and 4 opposite.

We can also prepare an advice note detailing the internal procedures, checks and controls you should consider adopting, to ensure compliance with the other points above.

The cost of this exercise can vary depending on the nature of your business and the level of assistance you require from us, but as a guide, the costs are typically in the region of £1,200 to £1,800 plus VAT.

If you require assistance with any aspect of your preparation for the Bribery Act, please contact:



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