



2011 BRIBERY ACT INTERPRETED

Gordon Kerr



The Bribery Act 2010 comes into force on 1st July 2011. For the first time, a company is liable for any **failures to prevent bribery which has been carried out on its behalf**. This liability extends to any illegal acts by company employees and also to contractors, suppliers and agents acting on behalf of the company, in the UK or internationally.

In contrast with US foreign bribery law, the UK definition of bribery includes small bribes paid to facilitate routine Government action – often called “facilitation payments”.

Reasonable hospitality is not prohibited by the Act, but as noted below, this should be properly approved and recorded.

It is a full defence for an organisation to prove that despite a particular case of bribery, it nevertheless had adequate procedures in place to prevent persons associated with it from bribing.

Procedures in relocation organisations to prevent bribery

Many relocation businesses will already have a published policy on Corporate Social Responsibility, including a commitment to the prevention of bribery. This should include a very clear prohibition on offering or receiving bribes, in any circumstances, and a statement that any involvement in bribery is a serious disciplinary offence, which will also be reported to the police.

To minimise the risk of bribery being carried out unintentionally or by agents or other intermediaries purporting to act on a relocation company’s behalf, it is helpful to highlight to your staff the most common “risk situations”. For example:-

“Employees are expected to be particularly vigilant in the following circumstances:-

- ***When offering gifts or hospitality, or making charitable donations: these need the approval of senior management and clear disclosure in our accounting records;***
- ***When receiving demands for facilitation payments, which may take the form of “inspection fees” (e.g. to facilitate the clearance of goods by import inspectors): be suspicious about requests for such fees and consult with your manager;***
- ***When appointing a new agent or intermediary to act on behalf of our organisation, particularly in locations where corruption levels are perceived to be high: all agents must be briefed on our bribery policies prior to undertaking any work on our behalf;***
- ***When involved in the pursuit or implementation of a new contract, again particularly in locations where corruption levels are high: discuss with your manager the legitimacy of any payment requests received from a local agent or prospective new customer.***



If you are suspicious that bribery, in any form, may have taken place within the company or on our behalf, please report your suspicions to senior management. Any such report will be treated in absolute confidence."

Induction procedures for new employees should include reference to company policies on bribery, particularly where the employee will be working in areas such as sales, contracts and supplier relationships.

Senior management are expected to actively monitor how well their anti-bribery processes are working and to regularly review and update their guidelines for staff.

This commentary is for general guidance only and you are strongly advised to read the Guidance Notes issued by the Ministry of Justice: www.justice.gov.uk/guidance/docs/bribery-act-2010-guidance.pdf - before the 1st of July!

Gordon Kerr
Managing Director
TEAM Relocations

Gordon.kerr@teamrelocations.com