

Rubax Lifts Limited Wilson House Cinnamon Park Warrington WA2 0XP		Human Resources Bribery Act Policy & Guidance Issue 2 Originated: April 2012 (reviewed Dec 2018 – no changes) Authorised By: Alan Brown
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Bribery Act 2010 Guidance

Below are the key elements of the Bribery Act 2010 (The Act), which came into force on 1 July 2011 in the United Kingdom. Although the Act applies to acts committed outside the UK, it is essential that every person and business with a connection to the UK is aware of its operation and scope.

Offences

Bribing and being bribed (Sections 1 and 2)

The Act consolidates the common law and UK bribery related legislation into two general offences:

Bribing: It is an offence to offer, promise or give a financial or other advantage for the purpose of bringing about an improper performance of a function or activity.

Being bribed: It is an offence to request, to agree to, or to receive a financial, or other advantages for the purpose of bringing about the improper performance of a function or activity or to request, agree to or receive a reward for having done so.

Definition: - "Improper performance" is one which is in breach of an expectation of good faith or impartiality, or is in breach of a position of trust. The test of whether an activity has been performed improperly is what a reasonable person in the UK would expect in relation to the activity. If the activity takes place overseas, then any local customs are disregarded unless permitted by the country's written law.

In each case, it is the intention to bring about the improper performance that is the key to the offence.

Section 6: - Bribing foreign public officials (Lower risk as we only provide services within the UK)

- The Act also introduces a new offence of offering, promising or giving a financial or other advantage to a foreign public official where such advantage is not permitted under the written law applicable to that foreign official.
- The briber must intend that the advantage given or offered would influence the foreign official in the performance of his duties as a public official and must intend to secure business or to obtain a business advantage.
- The definition of "foreign public officials" is very broad and includes those working for international organisations.

Section 7: - Failing to prevent bribery (Potentially higher risk)

- **A commercial organisation commits an offence under the Act if a person associated with it bribes another person with an intention of obtaining or retaining either business or a business advantage for that organisation.**
- **"Persons associated" with the organisation are defined as any person who performs services on behalf of the organisation; they can be individuals or business entities, and include employees, agents and subsidiaries.**
- **The commercial organizations will have an absolute defense to liability if they can show that they have put in place "adequate procedures" to prevent bribery (discussed further below).**

Jurisdiction

The Act covers both private and public activities.

- UK courts have jurisdiction over bribery outside the UK where the person committing the offence is a British National or are ordinarily resident in the UK, a body incorporated in the UK or a Scottish partnership.
- Any company that carries on business in the UK will be subject to the failure to prevent bribery offence in relation to conduct that occurs outside the UK, even where that conduct is unrelated to the UK aspect of its business. In this regard the reach of the Act goes beyond the US Foreign Corrupt Practices Act (FCPA).

Bribes vs Hospitality

While the Act is designed to punish bribery, it is clear that genuine acts of hospitality could easily appear to fall within the Act.

- The key difference between genuine hospitality allowed by the Act and a bribe dressed up as hospitality is the intention to obtain an advantage.

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- A person's intention behind an act is very difficult to determine. In the absence of direct evidence, the prosecution will consider a number of factors but will chiefly consider the reasonableness and proportionality of the hospitality provided together with industry norms to help decide whether the requisite intention is present.

Facilitation payments

Unlike the FCPA, there is no exemption for facilitation payments (small bribes paid to "get things done").

Penalties

- For individuals, the maximum penalty is '10 years' imprisonment and an unlimited fine.
- For commercial organisations the penalty is an unlimited fine.

Adequate procedures to prevent bribery

The UK Ministry of Justice has published a guide on UK compliance with the Act including six principles of adequate procedures to prevent bribery:

- Proportionate procedures – the procedures adopted should be proportionate to the risk faced.
- Top-level commitment – the company should adopt a culture of zero tolerance through a commitment by senior management.
- Risk assessment – the company should identify its bribery risks and prioritise its actions in high risk areas.
- Due diligence – the company should take appropriate care when entering into relationships or markets with a risk of bribery.
- Communication – the company's policy should be clearly communicated to all relevant parties, supported by appropriate training and "speak up" procedures.
- Monitoring and review – the procedures put in place should be reviewed and updated as the company's risks change over time.

POLICY

Our policy is not to be involved in bribery and not contravene any part of the Bribery Act.

- **Clearly there are moral, legal and financial ramifications to being involved in bribery, it is critical that persons employed by the company do not get involved in bribery or contravene the Bribery Act exposing themselves or the company to potential legal action or prosecution.**
- Any person offered bribes or inducements that would contravene the act must not accept such inducements and report such incidents to the Directors in writing (email will suffice).
- Any employee found to be involved in Bribery, any illegal acts or in contravention of company rules shall be subject to disciplinary and/or potential legal action by the company.
- The Directors shall review the incident/evidence and if deemed necessary, contact our legal representatives for advice / action to ensure the business is not the subject of legal action.

A handwritten signature in blue ink, appearing to read "Dave Verey".

Dave Verey
Managing Director
11/12/2018