



UK Bribery Act

Adequate procedures Tool Kit

On 01 July 2011, the new UK Bribery Act comes into force. As from then, the only defence to a company which fails to prevent bribery by a third party service provider on its behalf will be if it has “adequate procedures” in place. Once bribery has been proved, the burden of proof is on the defendant to show that its procedures are adequate. A company which has no procedures will, therefore, have no defence.

Adequate procedures: how?

The Ministry of Justice (MoJ) has published guidance about adequate procedures. The guidance is designed to be of general application and is formulated around six guiding principles, each followed by commentary and examples. And, although not part of the guidance, there are eleven case studies to help illustrate the sorts of procedures companies could put in place.

However, UK companies and partnerships, as well as foreign companies with operations in the UK, must still work out how to translate the guidance into a structured framework of anti-corruption policies and procedures so as to show adequate procedures have been established. Simmons & Simmons has developed a Tool Kit to help you structure your approach.

How the Tool Kit can help you

We envisage that organisations will have been planning for the new UK Bribery Act for some time. However, there may still be gaps in your procedures and you may be looking for a more structured framework for your adequate procedures.

You can complete the Tool Kit and include dates of when you plan to take specific action forwards, so that you can demonstrate a considered plan to complete your procedures. With the requisite Board decision, you should be able to show at least a supportive anti-corruption tone from the top of your company.

The Tool Kit does not come with all the policies and procedures themselves neatly drafted and customised to your company in a risk based and proportionate way. Completing the fields in the Tool Kit alone does not guarantee adequate procedures for purposes of the Act. However, the Tool Kit will help you draw together existing policies and procedures and, if prepared on a reasonable basis, demonstrate there is a credible action plan to implement them fully.

How to use our toolkit

Before using this Tool Kit you need to have read at least the descriptions of the six principles in the MoJ guidance, and ideally the summary of the UK Bribery Act and the government policy in that publication.

The Tool Kit takes the six MoJ principles and puts them into a framework. It does not follow exactly the same order in which the MoJ sets them out. Instead, it puts them in an order which in business terms is more practical. You can adapt it according to your company or group of companies.

The UK Bribery Act itself has no grace period to implement adequate procedures after 01 July 2011. Although the Serious Fraud Office may target, as a priority, those companies that have done nothing to prepare for the Act, the greater the corruption risk in your business, the greater the urgency of putting in place adequate procedures are likely to be. It is vital that organisations see the development of adequate procedures as a business imperative. Utilising our Tool Kit will save time and focus effort to help address this business need.

The cost of purchasing the Tool Kit is £2,500 plus VAT. If you wish to purchase it, please email Martin Cowley at martin.cowley@simmons-simmons.com.

Further information

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