

UK Bribery Act 2010



The UK Bribery Act 2010, which received Royal Assent on 8 April 2010, is scheduled to be effective from 1 July 2011. It creates a modern, single piece of legislation which criminalises bribery and allows UK law enforcement agencies to tackle bribery-whether committed in the UK or abroad.

Are you:

- An Indian Company with operations in the UK?
- A company incorporated in the UK with operations in India?
- A Multi-national company with operations in UK as well as India?
- In a joint venture with an UK entity?
- Listed on UK stock exchanges?
- Evaluating potential targets in UK for acquisitions?

The safe working assumption is that if you have got a UK presence in one way or another then you are within the scope of Bribery Act.

Richard Alderman, Director of the Serious Fraud Office, UK

Highlights of the UK Bribery Act

Offences under the Act include:

- Offer, promise, and giving of a 'financial or other advantage'
- Request, agreeing to receive, or acceptance of such an advantage
- Unique provision included to tackle bribery of foreign public officials
- Corporate offences included to prevent a bribe being paid on an organisation's behalf
- Covers commercial bribery as well as bribery of public officials and no exemption provided for facilitation payments; much wider in scope in comparison to its US equivalent*
- Convictions include unlimited fines and / or maximum 10 years of imprisonment.

The Ministry of Justice has recently released 'guidance' about procedures which commercial organisations can put in place to prevent them from dealing with persons associated with bribery. It includes guidance on what might constitute 'adequate procedures'.

* Foreign Corrupt Practices Act, 1977 (FCPA)

Six principles recommended by the Ministry of Justice for commercial organisations to prevent bribery being committed on their behalf:

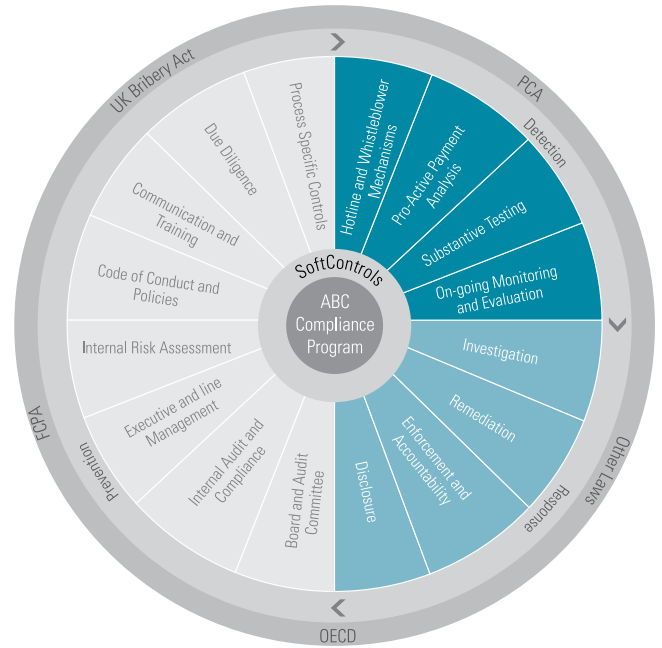
- Proportionate procedures
- Top-level commitment
- Risk assessment
- Due diligence
- Communication including training
- Monitoring and review.

Emphasis is being laid on what measure organisations have taken to prevent bribery from being committed on their behalf. This may be taken as a measure during prosecution to decide whether procedures adopted by organisations are adequate to prevent bribery on their behalf.

Compliance programme:

In light of the guidance provided by the Ministry of Justice, and the fact that companies with inadequate anti-bribery controls run the risk of reputation damage and potential enforcement action, a company’s demonstrable firm-wide commitment to preventing corruption could now be a strong defense against prosecution in the event of instances of bribery coming to light.

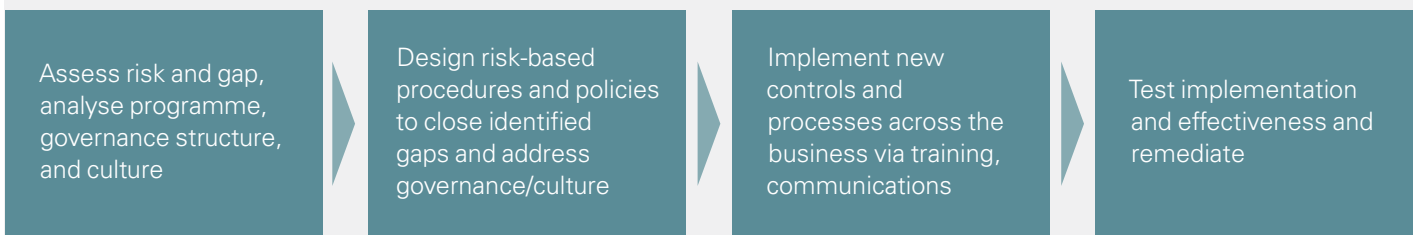
Based on our work with numerous corporates from across sectors and geographies, we have developed a detailed framework for Anti-Bribery and Corruption (AB&C) compliance (See diagram). Whilst these principles apply across organisations, it is important to note that any compliance programme must be risk-based and proportionately take into account where, who, and with whom an organisation conducts business.



PCA – Prevention of Corruption Act, 1988
 FCPA – Foreign Corrupt Practices Act, 1977
 OECD – Organization for Economic co-operation and Development

First steps in your action plan:

Our experience has shown us that there are four key steps that must be taken to initiate an anti bribery and corruption compliance programme. These can be summarised as follows:



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