



PROPERTY  
SOURCING  
COMPLIANCE

## **THE BRIBERY ACT 2010: WHAT EVERY PROPERTY SOURCER SHOULD KNOW**

### **THE BRIBERY ACT 2010 (L)**

This act came into effect on 1st July 2011 and made it a criminal offence for commercial organisations including partnerships, which fail to prevent bribery by anyone working on behalf of a business that intends to obtain or retain business or business advantage as a result of the bribe.

### **DEFINITION**

A bribe is a: 'financial or other advantage' offered, promised or given to another person with the intention of inducing them to 'perform improperly' a function or activity in the course of their business or employment, or of rewarding them having done so.'

The phrase 'financial or other advantage' includes not just money or other obvious benefit types such as gifts and entertainment, but also preferential treatment in any context.

The phrase 'perform improperly' is most simply understood as a person not carrying out their profession or employment in the way that should be expected of them, their employees or those responsible for their employment.

When liaising with other estate agents, letting agents or sourcers who provide you with property leads, you may end up working with only one particular person within that company, but if you give a gift just to that individual, purchased just for them and not for the office as a whole, then that could be perceived as a 'bribe', an enticement for them to continue to provide deals just to you.

You must also consider the value of any gift given in relation to the value of the service that had been provided. For example an agent sends you a property deal, which leads to a £3,000 sourcing fee, so as a thank you, you buy them a 3-day trip to New York costing £2,000. I think you would agree, in this case, the value of the gift given is excessive in comparison to the value of the original service. Perhaps a moderately priced bottle of wine would have been more appropriate.



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## GOVERNING BODY: HMRC

### WHAT IS EXPECTED OF YOU?

There are 6 principles to follow in deciding the level of policies and procedures that your company might need to implement:

- **Proportionality:** Action taken should be proportionate to the risk posed e.g. a small company operating in markets where bribery is not prevalent against a larger company working in overseas or sectors where bribery may be widespread.
- **Top Level Commitment:** Those people at the 'top' (Directors) need to show that they make sure that ALL staff are aware of the company's bribery procedures and will not tolerate such behaviour within their workplace.
- **Risk Assessment:** Carry out research into the markets that you operate in and the types of people that you deal with. Use this information to carry out a risk assessment and develop company procedures to mitigate any risk.
- **Due Diligence:** Know your client and your staff.
- **Communication:** It is essential that those at the 'top' (Directors) effectively communicate the companies' policies and procedures to ALL staff members. Additional training may be required for those staff that are supplier or customer facing.
- **Monitoring and Review:** With an increase in the size of your business, the number of staff employed or a change to the sector that you work in may alter the day-to-day risks that you face. On-going monitoring of your bribery policies and procedures are therefore essential.

### WHAT ARE THE PENALTIES FOR FAILURE TO COMPLY?

1. Maximum fine of up to £10,000 in England & Wales
2. Up to 10 years in prison



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