

KPMG's top 10 tips for preparing your charity for the Bribery Act

The UK Bribery Act came into force on 1 July 2011. In March 2011, the Ministry of Justice and the Serious Fraud Office released accompanying guidance notes on how organisations should prepare themselves for the implications of the Act and how bribery and corruption investigations and prosecutions will be approached. Alongside this, Bond for International Development convened a working group and has published Anti-Bribery Principles and Guidance for NGOs.

The new UK Bribery Act is finally here. However, a recent survey by Thomson Reuters showed that almost 40 percent of the respondents across all sectors felt that they did not have the framework in place to be above reproach. It is also clear that charities with activities in the UK will be subject to the Act, no matter where in the world the bribery occurs.

In preparation, here are KPMG's top ten tips for charities to consider in the development of your anti-bribery procedures:

1) Take a clear anti-bribery stance

Set a tone throughout the organisation which communicates and enforces an anti-bribery and corruption ethos. Share the anti-bribery message in a written code of business conduct or ethics.

2) Assess where risks might lie

Knowledge of where operations might be exposed to risks of bribery and corruption enable for a targeted response to risk. Management can develop compliance measures to mitigate dangers unique to high risk operations and put in place the necessary support mechanisms for those representatives operating in these areas. Risks will change so this should be regularly reviewed and should form part of the charities regular and ongoing risk management process.

3) Trustee and Management responsibility

Trustees and Senior management should take responsibility for anti-

bribery and corruption compliance within the charity and ensure that the tone is appropriate throughout its operations.

4) Have clear policies

Do your charity's existing policies cover anti-bribery and corruption? Developing a specific policy is better practice, but ensuring existing policies (such as gifts and entertainment, procurement, fundraising or expenses) are up to date is also necessary.

5) Spread awareness and record it

Disseminate anti-bribery policies and procedures through communications and training to all "at risk" employees and third parties who conduct activities on the organisation's behalf (eg partners, agents and contractors). Make sure that your charity keeps a record of recipients.

6) Due-diligence

Conduct due diligence on key employees, partners, agents and contractors who could be "at risk". Charities need to consider the steps they need to take to get assurance from partners that they have appropriate procedures in place.

7) Monitor and audit

Implement proportionate measures to monitor and audit "at risk" functions, contracts and transactions and ensure mechanisms are in place to record any instances of bribery. Assess how well existing accounting and other controls can be used to monitor for compliance.



In the case of facilitation payments, the Guidance makes it clear that facilitation payments are still illegal, as they were under the previous legal regime, but admits that eliminating them is a long-term objective. On a related note, the Prosecutors Guidance takes into account the vulnerability of the person who makes the payment in regard to a prosecution decision.

8) Encourage reporting of misconduct

Consider whether the charity has effective whistleblowing and other reporting procedures which are open - and clearly publicised - to employees and relevant third parties. Ensure processes are in place that will protect those who report from retaliation.

9) Consistent and robust disciplinary processes

Ensure that misconduct is dealt with consistently and proportionately, such that employees - and others acting on the charity's behalf - are aware that the consequences of breaches are severe. Reconsider termination clauses in contracts.

10) Investigation procedures

Establish appropriate investigation procedures and standards with agreed methods for capturing, protecting and evaluating evidence. Devise procedures for liaising with police and prosecutors.

Key responsibilities

Trustees	Senior management	Internal audit
<ul style="list-style-type: none"> Commit to and oversee the implementation of a policy of zero tolerance Review the risk assessment – should form part of each organisations overall and ongoing risk management process 	<ul style="list-style-type: none"> Undertake the risk assessment – pinpoint areas of high likelihood, low control for prioritised response Devise, implement and maintain robust procedures, which are proportionate to the risks and the size, resources and complexity of the organisation Establish effective communication of policy and procedures to staff, partners, contractors and agents Ensure appropriate training and support systems in place 	<ul style="list-style-type: none"> Undertake due diligence assessment of partners, agents and contractors Assess adequacy of anti-bribery procedures Monitoring and evaluation – periodic review of anti-bribery procedures should be made and reported as part of governance and accountability processes Investigate any instances of actual or potential bribery

Compliance Programme

Based on our work with numerous organisations from across sectors and geographies, we have developed the following detailed framework for Anti-Bribery and Corruption compliance. Whilst these principles apply across organisations, it is important to note that any compliance programme must be risk based and proportionate taking into account where, who, and with whom an organisation conducts business.



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RR Donnelley | RRD-257177 | July 2011 | Printed on recycled material