
UK Bribery Act 2010: Publication of Guidance on Adequate Procedures

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Earlier this year, implementation of the UK Bribery Act 2010 (the Act)—originally scheduled for April 2011—was delayed pending publication of Ministry of Justice (MoJ) guidance on the "adequate procedures" that businesses should put in place to prevent bribery and to provide a defence to the new section 7 offence under the Act of failure of a commercial organisation to prevent bribery. The MoJ undertook to make the guidance as "practical and comprehensive" as possible.

The MoJ today published its final guidance, and businesses have three months before the Act comes into force on 1 July 2011 to review and implement anti-corruption procedures to ensure that they do not fall foul of the new section 7 offence. It has also published a short "Quick start guide" specifically aimed at smaller businesses.

In the introduction to the guidance, UK Secretary of State for Justice Ken Clarke says: "*the UK wants to play a leading role in stamping out corruption and supporting trade-led international development.*" However he also emphasises that "*combating the risks of bribery is largely about common sense, not burdensome procedures. The core principle [the guidance] sets out is proportionality.*"

The guidance is based on six guiding principles, each followed by commentary and examples. The guidance is not prescriptive and is not a one-size-fits-all document. It makes clear that commercial organisations should adopt a risk-based approach, and procedures should be proportionate to the size of, and risks faced by, the organisation.

Links to the full text of the guidance and Quick start guide are below:

www.justice.gov.uk/guidance/docs/bribery-act-2010-guidance.pdf

www.justice.gov.uk/guidance/docs/bribery-act-2010-quick-start-guide.pdf

In a further development, which was expected, the UK Serious Fraud Office has also today issued Joint Prosecution Guidance in conjunction with the Director of Public Prosecutions, which sets out the approach of these two departments to any decisions they make to prosecute under the Act.

We will soon be publishing on wilmerhale.com our detailed analysis of the guidance and practical advice to assist you in compliance.

Authors



Roger M. Witten

SENIOR COUNSEL

✉ roger.witten@wilmerhale.com

☎ +1 212 230 8850



Kimberly A. Parker

PARTNER

Vice Chair,
Litigation/Controversy
Department

Co-Chair, White Collar Defense
and Investigations Practice

✉ kimberly.parker@wilmerhale.com

☎ +1 202 663 6987



Jay Holtmeier

PARTNER

✉ jay.holtmeier@wilmerhale.com

☎ +1 212 295 6413