

# Can I Still Offer You Lunch?

May 2011



## Bribery Act 2010

Despite earlier delays, the Bribery Act 2010 comes into force on 1 July 2011.

This piece of legislation will affect all UK businesses wherever they operate in the world, and any international business operating here in the UK. It is a very broad piece of legislation and applies to all employees, agents and contractors. This new Act leaves businesses potentially vulnerable to prosecution.

Bribes can come in many forms, including cash payments, expenses-paid trips, lavish hospitality or a promise of some form of reward in the future. If construed as being provided in return for some type of commercial or contractual advantage, this may be seen as being a bribe.

The Act sets out 4 offences: making or offering a bribe, receiving or asking for a bribe, bribing a Foreign Public Official, and failure to prevent bribery. Cash does not have to change hands; the prospect of offering an inducement in itself is regarded as an illegal act.

The penalties for individuals can include a fine and prison sentence for up to 10 years and unlimited fines for corporate bodies, along with the possibility of your organisation being barred from tendering for public contracts.

## Contact Us

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**Offices in Romford, London (City & West End), St Albans, Hayes and Redhill.**

## The end of corporate hospitality?

The Government has issued practical guidance which states that the legislation is not intended to criminalise reasonable bona fide marketing activities although there are questions about what is reasonable and proportionate.

It is clear from the guidance however that lavish offers of entertainment before a contract is agreed is more likely to be seen as an illegal inducement.

## Protecting your organisation

If an organisation can demonstrate that it has taken the appropriate actions to prevent bribery, then it is in a position to defend itself against claims of bribery.

We recommend that you assess the specific bribery risks in your organisation. Look at the scale and complexity of your operations; where you conduct business; whether you tender for government contracts, and utilise agents or contractors; and how can you control their actions.

Secondly, draft a specific bribery policy. Senior management need to be seen to support the policy and to foster a culture where bribery is seen as unacceptable, as they will have potential individual liability as well as the business.

Thirdly, communicate the policy across your organisation, training key personnel to deal with potential situations. It is important to set the standards for acceptable behaviour as well as advising people what they should do if they are unsure of a gift that is offered.

Review your contracts of employment and handbooks to make reference to the bribery policy. Ensure you can prove that you have delivered the message!

Introduce a system that allows you to record the type and value of gift or hospitality offered, provided or received.

Finally, regularly monitor and review your systems and policies to ensure they remain relevant to your organisation.

## Need a policy template?

All clients who formally retain our services can access the standard policy we have drafted and which will be included in your next documentation update. If you do not have a formal arrangement with us, please contact us on **01708 758958**, we're always happy to help.

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