

United Kingdom

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International anti-corruption conventions

- 1** To which international anti-corruption conventions is your country a signatory?

The United Nations International Convention against Corruption, signed on 9 December 2003 and ratified on 9 February 2006. UK ratification extended to the British Virgin Islands in 2006.

The United Nations Convention against Transnational Organised Crime, signed on 14 December 2000 and ratified on 9 February 2006.

The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Anti-Bribery Convention), signed on 17 December 1997 and ratified 14 December 1998. UK ratification extended to the Isle of Man in 2001.

The Council of Europe Criminal Law Convention on Corruption (Criminal Convention), signed on 27 January 1999 and subsequently ratified on 9 December 2003.

Section 109 of the Anti-Terrorism, Crime and Security Act 2001 (and section 69 of the Criminal Justice (Scotland) Act 2003) extend the normal jurisdiction of the UK courts over any offence of bribery at common law or under the Public Bodies Corrupt Practices Act 1889 or the Prevention of Corruption Act 1906 to cover offences by UK nationals which take place outside the UK. The UK, therefore, applies the jurisdictional rule laid down in article 17, paragraph 1(b), except that UK jurisdiction is limited to UK nationals and accordingly does not cover public officials or members of domestic public assemblies except where they are UK nationals. The UK, therefore, makes a declaration under article 17, paragraph 2 that it reserves the right to apply the jurisdictional rule laid down in paragraph 1(b) only where the offender is a UK national. In addition, the UK makes a declaration under article 17, paragraph 2 that it reserves the right not to apply the jurisdictional rule laid down in paragraph 1(c) at all. Since the UK law places no bar on the extradition of UK nationals, the UK does not need to change the law to meet the requirements of article 17, paragraph 3.

The conduct referred to in article 7 is largely covered by section 1 of the 1906 Act. The 1906 Act does not, however, cover the case where the undue advantage is not given directly to the agent but is given to a third party. The UK accepts that this aspect of the law is in need of amendment, however, for the time being the UK reserves the right not to establish as a criminal offence all of the conduct referred to in article 7.

The conduct referred to in article 12 is covered by UK law in so far as an agency relationship exists between the person who trades his or her influence and the person he or she influences.

Not all of the conduct referred to in article 12 is criminal under UK law. Accordingly, the UK reserves the right not to establish as a criminal offence all of the conduct referred to in article 12.

The additional protocol to the Criminal Convention was opened for signature in May 2003. The protocol entered into force on 1 February 2005 and has been ratified by the UK. The Group of States Against Corruption (GRECO) is responsible for monitoring the implementation of the Convention and the additional protocol.

The Council of Europe Civil Law Convention on Corruption (Civil Law Convention) was signed on 8 June 2000 but is yet to be ratified.

The EU Convention on the Protection of the Financial Interests of the Communities and Protocols entered into force on 17 October 2002, having been ratified by all member states.

The Convention on the Fight against Corruption involving Officials of the European Communities or Officials of Member States of the European Union (Convention on EU Officials) was adopted by the member states on 26 May 1997 and ratified by the UK in April 1999.

Foreign and domestic bribery laws

On 29 November 2007, the UK's Law Commission published a consultation paper setting out provisional proposals for reform of the law of bribery. Consultation on the Law Commission's proposals closed on 20 March 2008. The Commission's intention is to publish a final report and draft bill in autumn 2008.

- 2** Identify and describe your national laws and regulations prohibiting bribery of foreign public officials (foreign bribery laws) and domestic public officials (domestic bribery laws).

The criminal law relating to bribery in the UK encompasses a common law bribery offence and a series of statutory offences. The key offences relating to bribery of public officials are outlined below.

Common law

There is a common law offence of bribery that is generally quoted and accepted to be:

The receiving or offering [of] any undue reward by or to any person whatsoever, in a public office, in order to influence his behaviour in office, and incline him to act contrary to the known rules of honesty and integrity.

(Russell on Crime, 1964, p381)

The Public Bodies Corrupt Practices Act 1889

The UK has prosecuted the crime of bribery under the common law (unwritten) for many centuries. The crime of corruption only entered statute law (written) in 1889 when Lord Randolph Churchill MP introduced a private members’ bill outlawing bribery of public officials.

The 1889 Act makes the active or passive bribery of a member, officer or servant of a public body a criminal offence. The Act prohibits a person covered by the Act, whether by him or herself, or in conjunction with any other person, from corruptly soliciting or receiving, or agreeing to receive, for him or herself, or any other person, any gift, loan, fee, reward or advantage whatsoever as an inducement to, or reward for, doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which the public body is concerned. A person may also not corruptly promise or offer any gift, loan, fee, reward or advantage whatsoever to any person, whether for the benefit of that person or of another person, as an inducement to or reward for doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed; in which the public body is concerned.

The Prevention of Corruption Act 1906

A report published in 1898 by the Secret Commissions Committee of the London Chamber of Commerce called for the law of corruption to be extended into the private sector. In 1906 a new act was introduced making it a crime to bribe any ‘agent’. An agent is anybody employed by or acting for another, whether in the public or private sector. This act makes it an offence for:

- an agent to obtain a consideration as an inducement or reward for doing any act, or showing favour or disfavour to any person, in relation to his or her principal’s affairs;
- any person to give a consideration to an agent to induce him or her to do an act in relation to his or her principal’s affairs; or
- any person or agent to knowingly falsify receipts, accounts or other documents with the intent to deceive the principal.

The Prevention of Corruption Act 1916

Under the provisions of the 1916 Act, if any person, or agent of a person, holding or seeking to obtain a contract gives a gift to a public official, that gift shall be presumed to be corrupt unless the accused person can prove otherwise. The Law Commission recommended the abolition of the presumption and its use has been abandoned by the CPS given concerns about its compliance with the Human Rights Act 1998. The government has previously stated it would repeal this law soon. In its most recent Consultation, the Law Commission also questioned whether such a presumption is necessary or desirable.

The definition of a public body was amended by the 1916 Act to include: ‘local and public authorities of all descriptions’ (section 4(2)).

The Anti-Terrorism, Crime and Security Act 2001

The Anti-Terrorism, Crime and Security Act 2001 introduced new provisions to give UK courts jurisdiction over crimes committed abroad by UK nationals and UK companies. Part 12 extended the laws against bribery to cases where the ‘functions of the person who receives or is offered a reward have no connection with the United Kingdom and are carried out in a country or territory outside the United Kingdom’. It extended the laws against corruption to make prosecutions possible for: ‘acts [that]

would, if done in the United Kingdom, constitute a corruption offence’. In summary:

- section 108 renders it immaterial for the purposes of any common law offence of bribery if the functions of the person who receives or is offered a reward have no connection with the UK and are carried out in a country or territory outside the UK; and
- section 109 applies where a UK national or a body incorporated under the law of any part of the UK does anything in a country or territory outside the UK, and the act would, if done in the UK, constitute a corruption offence (whether by virtue of the common law, or by statute). In such a case the act constitutes the offence concerned and proceedings for the offence may be taken in the UK.

Foreign bribery

- 3** Describe the individual elements of the law prohibiting bribery of a foreign public official.

Please see question 2.

Part 12 of the Anti-Terrorism, Crime and Security Act 2001 extends the scope of the UK law on bribery to ‘foreign’ bribery. It does this by providing that the existing bribery offences are also offences if they are committed outside the UK or if they involve either foreign agents or principals having no connection to the UK or holders of a foreign public office or officials of foreign bodies or authorities which are the equivalent in the country concerned of those covered by the domestic offence. In other respects the elements of the offences remain unchanged; the act makes it clear, however, that the existing presumption of corruption in respect of the statutory offences is not correspondingly extended. Part 12 of the act also provides for jurisdiction over UK nationals or bodies incorporated in the UK who commit one of the offences as now redefined, no matter where outside the UK the offence is committed.

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- 4** How does your law define a foreign public official?

In the UK when the corruption law was extended in 2001 to criminalise the bribery of foreign public officials (on the basis of nationality jurisdiction) the legislation added a ‘foreign’ component to existing definitions of ‘agent’, ‘principal’, ‘public office’, ‘public body’ and ‘public authorities’.

The expression ‘public body’ means any council of a county or city or town, any council of a municipal borough, also any board, commissioners, select vestry or other body which has power to act under and for the purposes of any Act relating to local government or the public health or to poor law or otherwise to administer money raised by rates in pursuance of any public general Act and includes any body which exists in a country or territory outside the UK and is equivalent to any body described above. In the 1916 Act and in the Public Bodies Corrupt Practices Act 1889, the expression ‘public body’ includes, in addition to the bodies mentioned in the last-mentioned Act, local and public authorities of all descriptions, including authorities existing in a country or territory outside the UK.

The expression ‘public office’ means any office or employment of a person as a member, officer or servant of such public body.

The expression ‘agent’ includes any person employed by or acting for another; and the expression ‘principal’ includes an employer. Further, a person serving under the Crown or under any corporation or any borough, county or district council or

any board of guardians is an agent within the meaning of the 1906 Act.

It has been queried whether all the categories set out in the OECD Anti-Bribery Convention as being required to be covered are in fact provided for.

When the draft of section 108 of the 2001 Act was debated in the House of Lords on 4 December 2001, however, the Attorney General gave an assurance that the new statutory legislation, taken together with the common law would 'cover all the categories of public officials that the OECD Convention requires to be covered'.

5 To what extent do your anti-bribery laws restrict providing foreign officials with gifts, travel expenses, meals or entertainment?

We have no specific legislation or rules regarding the giving of gifts, travel expenses, meals or entertainment to foreign officials. Most UK companies would have a zero-tolerance policy or a policy restricted to no gifts, modest and necessary travel expenses for the official only (ie, no family or entourage), modest shared meals and no entertainment.

6 Do the laws and regulations permit facilitating or 'grease' payments?

Facilitation payments are not exempt under UK law; common law and UK legislation have never distinguished 'facilitation payments' from other bribes. The UK government has publicly stated that it is difficult to envisage circumstances in which the making of a small facilitation payment, extorted by a foreign official in countries where this is normal practice, would of itself give rise to a prosecution in the UK. It is reiterated in the Law Commission's latest consultation that the government has made clear that, although committed to facilitation payments remaining criminal, it is unlikely that the making of such payments would result in prosecution.

7 In what circumstances do the laws prohibit payments through intermediaries or third parties to foreign public officials?

Concern was raised in the report of the OECD Working Group on Bribery on the UK's Implementation of the OECD Anti-Bribery Convention as to whether bribes paid through an intermediary are covered. Certainly the 1906 Act and the body of case law creating the common law offence do not expressly refer to an offer, et cetera, being made through an intermediary.

Under the offence in the 1906 Act, a person who gives or offers, et cetera, a bribe to a foreign public official with the assistance of an intermediary would be guilty of an offence as well as the intermediary because the offence is aimed at any person who corruptly 'gives or agrees to give or offers any gift or consideration to any agent'.

The use of an agent (innocent or otherwise) by an offender will not allow the offender to escape criminal liability. The wide ambit of section 1 of the 1906 Act is demonstrated by the passive provisions, which explicitly state 'for himself or for any other person'.

8 What are the penalties for individuals and companies violating the foreign bribery laws and regulations?

The penalties for foreign and domestic bribery are the same. Under the 1889 Act and the 1906 Act they are as follows: on summary conviction, a maximum of six months' imprisonment

or a fine to the statutory maximum, currently £5,000; on indictment, seven years' imprisonment, an unlimited fine or both. The common law bribery offences have no prescribed or maximum penalties, although generally sanctions for comparable statutory offences can guide the courts. Penalties for attempt and conspiracy are the same as for the related offence. There is no mandatory minimum sentence for any bribery offence.

Generally, the UK courts may not impose any administrative or civil sanctions on persons convicted of bribery; however, the Company Directors Disqualification Act 1986 allows the application of a civil or administrative sanction in the form of disqualification of directors for general misconduct in connection with companies.

The Proceeds of Crime Act 2002 (POCA) entered into force on 24 March 2003. It punishes money laundering, including the proceeds of corruption, and establishes a hierarchical regime of 'asset recovery' (extending through criminal confiscation, civil forfeiture and taxation).

9 Can both individuals and companies be held liable for bribery of a foreign official?

Both companies and individuals may be liable for bribery of a foreign official.

The Queen, foreign sovereigns or heads of state, their families and their private servants are all immune from criminal jurisdiction by virtue of the State Immunity Act 1978. Furthermore, the Diplomatic Privileges Act 1964 gives immunity to diplomatic agents, members of the staff of a diplomatic mission and their families.

In 2004, a private application for an extradition warrant against President Robert Mugabe was refused by the Bow Street Magistrates' Court. That court stated that 'whilst international law evolves over a period of time, international customary law, which is embodied in our Common Law, currently provides absolute immunity to any Head of State'.

For a discussion of the application of the immunity provisions for former heads of state, see the House of Lords' decision in *Ex parte Pinochet Ugarte* (No. 3).

10 Is there civil and criminal enforcement of your country's foreign bribery laws?

Please see question 3.

Often the only practical redress for victims of corruption, particularly an overseas party, will be to bring its own civil action to recover the property of which it has been deprived.

11 Which government agencies enforce the foreign bribery laws and regulations?

The government has confirmed that the Serious Fraud Office (SFO) has a lead role in handling foreign bribery allegations. The SFO has created a special unit to vet such allegations. Where it declines to take on a case under its screening criteria the case would be prosecuted, if at all, by other agencies.

The Crown Prosecution Service (CPS) is the main prosecutorial authority in England and Wales. A foreign bribery case not dealt with by the SFO would be dealt with by the London, Birmingham or York office of the CPS.

Other agencies have also retained prosecutorial functions, including HM Revenue & Customs and the Department of Business, Enterprise and Regulatory Reform.

With funding from the Department for International Devel-

opment, the City of London police created a new dedicated 10-person unit to increase law enforcement capacity to investigate foreign bribery allegations.

In England, Wales and Northern Ireland, a prosecution for a statutory bribery offence cannot be instituted without the consent of the attorney general or solicitor general, which is only given after consideration of the public interest in light of the factors set out in the Code for Crown Prosecutors. This requirement has been criticised by the OECD and is currently under review.

12 Describe any recent shifts in the patterns of enforcement of the foreign bribery laws and regulations.

The director of the SFO recently announced that the SFO has launched 19 foreign bribery investigations, and has referred one case to the attorney general for a final decision on whether to prosecute. Of these investigations, four relate to BAE Systems.

In February 2007, the SFO launched an investigation into allegations that a number of major UK-based firms paid bribes to Saddam Hussein's regime in Iraq. They are on a long list of international companies accused in a UN report of paying 'kickbacks' under the discredited oil-for-food sanctions regime. Ministers have agreed to fund the investigation with £22 million over three years. Enquiries have since begun, but are still at an early stage.

13 In what circumstances can foreign companies be prosecuted for foreign bribery under your legal system?

The UK does not take jurisdiction over a foreign company for actions which take place entirely in a foreign country.

If the offender is a wholly-owned foreign subsidiary of a UK company, the UK parent company will not generally be liable. To prosecute the parent company, it would be necessary to show direction or authorisation by a directing mind in the parent company.

14 Is there a mechanism for companies to disclose violations in exchange for lesser penalties?

There is no mechanism for companies to disclose violations in exchange for lesser penalties. Credit may, however, be given in considering sanctions to a company that discloses and cooperates.

15 Can enforcement matters be resolved through plea agreements, settlement agreements, prosecutorial discretion or similar means without a trial?

There is no formal plea bargaining procedure. Prosecutorial discretion is exercised in accordance with the Code for Crown Prosecutors. However, this is a very live topic and both the UK Office of Fair Trading (OFT) and the Financial Services Authority (FSA) are either contemplating, in the case of the latter, or actually operating a whistleblower/immunity/leniency programme.

16 Identify and summarise recent landmark decisions or investigations concerning violations of your laws prohibiting bribery of foreign officials.

No prosecutions have yet taken place under the 2001 law.

A criminal investigation into alleged corruption by the arms company BAE Systems and its executives was stopped in December 2006 when the prime minister and the foreign and defence secretaries all expressed the view that continuation of

the investigation would cause serious damage to UK and Saudi security, intelligence and diplomatic cooperation. This was likely to have serious negative consequences for the UK public interest in terms of both national security and highest priority foreign policy objectives in the Middle East.

After a two year investigation by the SFO, with the Ministry of Defence Police (MDP), the attorney general appeared before the House of Lords on 14 December 2006 to report the decision of the SFO to discontinue its investigations. He said that, 'it has been necessary to balance the need to maintain the rule of law against the wider public interest'.

That decision is in the process of being judicially reviewed following an application by The Corner House and the Campaign Against Arms Trade (CAAT).

The SFO has also secured an additional £22 million to fund three years of investigations into the abuses of the UN oil-for-food programme by UK companies. The inquiry was prompted by a UN report in 2005 by a committee chaired by Paul Volcker, the former chairman of the US Federal Reserve, who listed more than 2,000 companies worldwide that could have been involved with bribes paid to the former Iraqi regime to secure contracts under the UN programme.

Financial record keeping

17 Which laws and regulations require accurate corporate books and records, effective internal company controls, periodic financial statements and external auditing?

In the UK, companies are not required to monitor and report on the effectiveness of their internal control mechanisms, although in the financial services sector there are statutory requirements as to compliance mechanisms and internal controls. Specifically, financial service providers must comply with statutory requirements for internal controls and listed companies have a 'comply or explain' duty in respect of the effectiveness of internal mechanisms under the UK Combined Code on Corporate Governance.

In the UK, the 2007 Money Laundering Regulations require each business or profession to maintain, inter alia:

- identification procedures;
- record-keeping procedures; and
- internal reporting procedures.

Section 221 of the Companies Act 1985 provides that accounting records must be kept that disclose 'with reasonable accuracy' the financial position of the company. Specifications concerning information to be presented in the accounts include 'entries from day to day of all sums of money received and expended by the company, and the matters in respect of which the receipt and expenditure takes place, and a record of the assets and liabilities of the company'. Such requirements are applicable to limited companies, public limited companies, companies limited by guarantee and unlimited companies.

The Companies Act 1985 further requires all companies with a turnover exceeding an annually increasing threshold to submit to external audit. Those falling below the threshold, but in which there is nonetheless a significant public interest, are also required to be subject to external audit.

The legal obligation, as of 1 January 2005, is for listed companies to produce accounts based on the International Accounting Standards. The Companies (Audit, Investigations and Community Enterprise) Act received Royal Assent on 28 October 2004 and expanded powers designed to ensure the reli-

ability of companies' financial statements.

The Companies Act 2006 is a major overhaul of company law. Some provisions came into force on 1 October 2007, and others will come into effect on 6 April 2008; however, these are too numerous to quote here. The company law provisions of the 2006 Act restate almost all of the provisions of the 1985 Act, together with the company law provisions of the Companies Act 1989 (the 1989 Act) and the Companies (Audit, Investigations and Community Enterprise) Act 2004.

Businesses regulated by the Financial Services Authority (FSA) are subject to disciplinary procedures where they have failed to meet the FSA's regulatory requirements, which could include a failure to have effective anti-corruption procedures in place. In February 2007, the FSA used these powers to fine Nationwide Building Society £980,000 for failing to have effective systems and controls to manage its information security risks. In May 2007, BNP Paribas Private Bank was fined £350,000 for weaknesses in its systems and controls that allowed a senior employee to fraudulently transfer £1.4 million out of clients' accounts without permission. In December 2007, Norwich Union Life was fined £1.26 million for not having effective systems and controls in place to protect consumers' confidential information and manage its financial crime risks.

18 Are such laws used to prosecute domestic or foreign bribery?

No.

The corruption offences are found in the common law and the following statutes:

- the Sale of Offices Act 1551;
- the Sale of Offices Act 1809;
- the Public Bodies Corrupt Practices Act 1889;
- the Prevention of Corruption Act 1906;
- the Prevention of Corruption Act 1916;
- the Honours (Prevention of Abuses) Act 1925;
- the Licensing Act 1964;
- the Criminal Law Act 1967;
- the Local Government Act 1972;
- the Customs and Excise Management Act 1979;
- the Representation of the People Act 1983;
- the Political Parties, Election and Referendums Act 2000 ; and
- the Anti-Terrorism, Crime and Security Act 2001.

19 To what extent must companies disclose violations of anti-bribery laws or associated accounting irregularities?

Neither company law nor accounting standards set out specific requirements in respect of the recognition, measurement, presentation or disclosure of matters relating to bribery offences. If a transaction involving a bribery offence were material to the reporting entity, it would probably fall within the definition of an 'exceptional item' as defined in the Financial Reporting Standards on Reporting Financial Performance, which is required to be disclosed separately, along with an adequate description to enable its nature to be understood.

As regards internal company controls and the role of company directors, companies are not obliged to maintain or report on the effectiveness of internal controls. Directors are under no obligation to declare that the company complies with UK legal and regulatory requirements or that there are no errors or irregularities contained in the financial information.

The anti-money laundering provisions contained within sec-

tions 327 to 329 and sections 330 to 332 of the POCA provide for possible disclosure of such violations.

20 What are the penalties for violations of the accounting laws and regulations associated with the payment of bribes?

Penalties applicable to company officers for fraudulent accounting under the Companies Act 1985 carry on summary conviction a maximum term of six months' imprisonment or a £5,000 fine or both and on conviction on indictment, a maximum term of two years' imprisonment or a fine with no upper limit or both. Where a company has failed to keep books as prescribed under section 722 of the Companies Act 1985, the company and company officers are liable to a fine with no upper limit or a daily default fine.

Practitioners should refer to the various sections of the Companies Act 2006 for penalties.

Please see question 8.

21 Do your country's tax laws prohibit the deductibility of domestic or foreign bribes?

Although no specific provision exists prohibiting the deductibility of bribe payments to foreign public officials, section 577A of the Income and Corporation Taxes Act 1988 provides that tax deductibility is denied for any payment the making of which constitutes the commission of a criminal offence in the UK. Additionally, the Finance Act 2002 has further clarified this position by ensuring that the prohibition also applies to payments that take place wholly outside the jurisdiction of the UK. Although deductibility of bribe payments is clearly prohibited within the United Kingdom, most of the Crown dependencies and overseas territories are not in compliance with provisions of the OECD Council Recommendation on the Tax Deductibility of Bribes to Foreign Public Officials.

Domestic bribery

22 Describe the individual elements of the law prohibiting bribery of a domestic public official.

In practice, cases of corruption are dealt with under a variety of charges. The law as it now stands is unsatisfactory and has led to problems (notably in the *Natji* case [2002] EWCA Crim 271, where a prosecution brought against a Crown servant under the 1889 Act instead of the 1906 Act was overturned on appeal. It was held that the correct approach in that case would have been to secure leave from the attorney general to proceed with a prosecution under section 1(1) of the 1906 Act).

The current offences are:

- the common law offence of bribery;
- the two offences in section 1 of the Public Bodies Corrupt Practices Act 1889; and
- the first two offences in section 1(1) of the Prevention of Corruption Act 1906.

All these offences address the gift or receipt of bribes (or corrupt advantages) but they differ in their application depending upon who is the recipient. The common law applies where the person who receives the bribe holds any public office; the 1889 Act applies where he is a 'member, officer or servant' of any local or public authority and the 1906 Act applies where he is an 'agent' – which includes persons working in the private sector as well as persons serving under the Crown and other public authorities.

These offences were amended by the Prevention of Corruption Act 1916, which introduced the presumption of corruption. Section 2 of the 1916 Act provides that where money or any 'consideration' is received by a public official from a person seeking to obtain a public contract, it shall be presumed to have been corruptly received unless the contrary can be proved.

23 Does the law prohibit both the paying and receiving of a bribe?

Both the paying and receiving of a bribe are prohibited by law. The giving, promising or offering of any gift, loan, fee, reward or advantage whatsoever to any person, whether for the benefit of that person, or of another person, as an inducement to or reward for doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed in which the public body is concerned is also an offence, punishable with a maximum of seven years' imprisonment.

24 Are any public officials not covered or accorded different treatment under these laws?

The exclusion of members of parliament from the statutory offences of corruption rests on the legal argument that the Houses of Parliament are not public bodies under the Public Bodies Corrupt Practices Act 1889 and an MP is not an agent under the Prevention of Corruption Act 1906.

On the other hand, the assumption by the UK authorities that the common law offence of corruption covers MPs is supported by case law (*Greenway and others* (Central Criminal Court June 1992). This case did not proceed to a full trial as the prosecution was discontinued). The House of Commons has the power to punish bribery of an MP, or the acceptance of a bribe by an MP, as contempt of parliament. The relationship between the jurisdiction of the House in such matters and the courts in relation to the common law offences of bribery is not clear and, in 1995, the Committee on Standards in Public Life recommended clarification of this issue.

There have been no reported cases of judicial corruption in the UK in modern times.

25 Can a public official participate in commercial activities while serving as a public official?

The development of effective codes of conduct regulating those who are involved in public life has been accepted as being essential in reducing the prevalence of corruption in society. The codes that have been developed contain detailed rules of conduct tailored to the requirements of the office holders concerned and the risks they are likely to encounter. The rules include requirements to declare and register interests and to avoid conflicts of interest and situations which may create a perception of conflict of interest.

The Committee on Standards in Public Life is an advisory non-departmental public body of the UK government. Its first general recommendation, in May 1995, was that the principles underpinning standards in public life should be restated. These principles as formulated by the Committee have come to be known as the Seven Principles of Public Life and have come to be regarded as the 'touchstone for ethical standards across the public sector generally' (Sixth Report). Their second recommendation was that all public bodies should draw up codes of conduct incorporating these seven principles.

The Principle of Selflessness states that: 'Holders of public

office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.'

The Principle of Integrity states that: 'Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.'

By way of example, the Ministerial Code states that ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests, financial or otherwise.

Ministers customarily place their family assets in blind trusts during the currency of their ministry.

26 Describe any restrictions on providing domestic officials with gifts, travel expenses, meals or entertainment. Do the restrictions apply to both the providing and receiving of such benefits?

Public officials and many company employees are subject to codes of conduct which make clear what kinds of hospitality may or may not be given and accepted, and which provide for ongoing awareness training.

It is a well-established and recognised rule that no minister or public servant should accept gifts, hospitality or services from anyone who would, or might appear to, place him or her under an obligation. The same principle applies if gifts, et cetera, are offered to a member of their family. See clauses 7.20 to 7.24 of the Ministerial Code.

In February 1997, Michael Allcock, a senior tax inspector in the Special Compliance Office, was convicted on six counts of corruptly accepting money and other benefits from taxpayers, between 1987 and 1992, in return for favourable treatment of their tax affairs. He was sentenced to five years' imprisonment.

27 Are certain types of gifts and gratuities permissible under your domestic bribery laws and, if so, what types?

Please see question 26.

28 Does your country also prohibit private commercial bribery?

The UK, in 1906, was the first country to legislate on private-to-private bribery. Our courts will also hear cases in which elements of the offence of private-to-private bribery involving UK nationals or companies have occurred abroad. This applies both to the public and private sectors. Please see question 2.

International law on bribery within the private sector is somewhat undeveloped. In essence, two Conventions (Council of Europe and UN) and a Framework Decision of the EU contain requirements for the criminalisation of the giving or receiving of undue advantages in the course of business activities for actions which represent a breach of duty. The provisions in the conventions are in effect optional: reservations may be made on articles 7 and 8 in the Council of Europe Convention and article 21 of the UN Convention only requires parties to 'consider' such an offence.

The common law offence of bribery is limited to public sector corruption.

Update and trends

The current UK bribery laws are almost universally recognised as being complex, uncertain, fragmented and out of date. In an attempt to seek a new consensus on the way forward, the government published a consultation paper in December 2005. The consultation revealed that there was broad support for reform of the existing law of bribery but no consensus as to how it could best be achieved. As a result, in March 2007

the government asked the Law Commission to take forward its earlier findings and to reconsider the options for reform. The Law Commission produced its consultation paper in November 2007 and a final report and draft bill are expected later this year. The overall aim is to redefine the offence of bribery so that its meaning is clear and consistent with the UK's international obligations.

29 What are the penalties for individuals and companies violating the domestic bribery laws and regulations?

The penalties for foreign and domestic bribery are the same.

30 Have the domestic bribery laws been enforced with respect to facilitating or 'grease' payments?

Facilitation payments are not exempt under UK law: common law and UK legislation have never distinguished 'facilitation payments' from other bribes.

31 Identify and summarise recent landmark decisions and investigations concerning violations of domestic bribery laws, including any investigations or decisions involving foreign companies.

Cases of corruption may be dealt with under a variety of charges and in recent years there have been about 25 prosecutions annually.

On 26 April 2007, Michael Hale, a senior official at the Ministry of Defence was sentenced to two years' imprisonment for receiving £217,000 from an American company for providing confidential information in connection with a contract bid.

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