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Specification for an anti-bribery management system (ABMS)

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Foreword

Publishing information

This British Standard is published by BSI and came into effect on 30 November 2011. It was prepared under the authority of Technical Committee CG/1/1, *Anti-bribery*. A list of organizations represented on this committee can be obtained from <http://standardsdevelopment.bsigroup.com/Home/Committee/50223652> and on request to the committee secretary.

Information about this document

The objective of this British Standard is to help an organization to implement an effective anti-bribery management system and thereby comply with relevant legislation and good practice.

Presentational conventions

The provisions of this standard are presented in roman (i.e. upright) type. Its requirements are expressed in sentences in which the principal auxiliary verb is "shall".

Commentary, explanation and general informative material is presented in smaller italic type, and does not constitute a normative element.

Legal considerations

This publication does not purport to include all provisions necessary to prevent bribery. Users are responsible for implementing necessary procedures.

Compliance with a British Standard cannot confer immunity from legal obligations.

Introduction

A commitment to ethical behaviour is a vital part of the corporate governance of a well-managed organization. An anti-bribery policy is an essential component of an organization's business ethics. This ethical commitment helps an organization to enhance its corporate reputation and to avoid potentially corrupt business and the high cost and reputational damage which can result from involvement in corruption.

Bribery is a significant business risk in many countries and sectors. In many cases it has been tolerated as a "necessary" part of doing business. However, increasing awareness of the damage caused by bribery to countries, organizations and individuals has resulted in calls both at international and national level for effective action to be taken to prevent bribery.

Several international conventions have been passed which require signatory countries to criminalize bribery and to take effective steps to prevent and deal with it. Of particular international significance are the United Nations Convention against Corruption [1] and the Organization for Economic Co-operation and Development (OECD) Convention on the Bribery of Foreign Public Officials in International Business Transactions [2].

Most countries have introduced or strengthened anti-bribery legislation which makes it an offence for organizations and individuals to pay or receive bribes. All OECD countries have made it an offence for organizations and individuals from those countries to pay bribes to public officials in other countries.

In the UK, the Bribery Act 2010 [3] has replaced the existing UK bribery laws, and has introduced a new offence of "failure of commercial organizations to prevent bribery". It is a defence to this new offence for the organization to prove that it had in place "adequate procedures" designed to prevent bribery, and this has led to a significant increase in the number of organizations which are implementing anti-bribery management systems.

The implementation of anti-bribery management systems is also taking place within organizations based in other countries which are committed to the enforcement of anti-bribery laws.

This British Standard is intended to help an organization to implement an effective anti-bribery management system. It can be used both in the UK and internationally. The requirements of the Bribery Act 2010 [3] and internationally recognized good practice are taken into account. This standard is applicable to small, medium and large organizations in the public, private and voluntary sectors. The bribery risk facing an organization varies according to factors such as the size of the organization, the countries and sectors in which the organization operates, and the nature, scale and complexity of the organization's operations. Therefore, this standard specifies the implementation by the organization of risk-based policies, procedures and controls.

Compliance with this standard cannot provide assurance that no bribery has occurred or will take place in relation to the organization. However, the standard can help establish that the organization has implemented reasonable and proportionate measures designed to prevent bribery.

1 Scope

1.1 This British Standard specifies requirements for implementing an anti-bribery management system (ABMS), or the anti-bribery element of an overall management system, which addresses the following bribery risks in relation to the organization's activities.

- a) Bribery in the public, private and voluntary sectors.

- b) Bribery by the organization, or by its personnel or others acting on its behalf or for its benefit.
- c) Bribery of the organization, or of its personnel or others acting on its behalf or for its benefit.
- d) Direct and indirect bribery (e.g. a bribe paid or received through or by a third party).
- e) Bribery within the country in which the organization is based, and bribery in other countries in which the organization operates.
- f) Bribery of any value, whether large or small (including facilitation payments).
- g) Bribery involving both cash and non-cash advantages.

1.2 This British Standard is applicable only to bribery, as defined by the laws applicable to the countries in which the organization is based and/or operating. It is not applicable to other criminal offences such as fraud, anti-trust/competition offences and money laundering, although the organization may choose to extend the scope of its ABMS to include these other offences.

NOTE 1 Most countries' laws define bribery in slightly different ways. This Standard therefore does not provide its own definition of bribery, but requires that the organization's ABMS is targeted at preventing all types of bribery as defined by laws applicable to the organization.

NOTE 2 Annex A gives guidance on the actions an organization can take in implementing an ABMS, while Annex B describes the Plan-Do-Check-Act cycle followed by this and other management system standards.

1.3 The requirements of this British Standard are generic and are intended to be applicable to all organizations (or parts thereof), regardless of type, size and nature of business, and whether in the public, private or voluntary sectors. The extent of application of these requirements depends on the factors specified in 3.2.

2 Terms and definitions

For the purposes of this British Standard the following terms and definitions apply.

2.1 anti-bribery management system (ABMS)

management system, or part of an overall management system, designed to help an organization:

- a) to prevent bribery; and
- b) to detect, report and deal with any bribery which does occur

2.2 anti-bribery policy

policy which:

- a) prohibits bribery; and
- b) requires reasonable and proportionate measures to be taken:
 - 1) to prevent bribery; and
 - 2) to detect, report and deal with any bribery which does occur

2.3 business associate

any party with whom the organization contracts, including but not limited to clients, customers, joint venture partners, consortium partners, contractors, consultants, sub-contractors, suppliers, vendors, advisors, agents, distributors, representatives and intermediaries (but excluding personnel)

NOTE Different types of business associate pose different types and degrees of risk, and may therefore be treated differently by the organization's risk assessment and procedures.

2.4 compliance declaration

record of acknowledgement by personnel that they have read the anti-bribery policy and agree to comply with it [see 4.2.3a)]

2.5 compliance manager

manager of the organization responsible for implementing the ABMS (see 4.4.2)

2.6 conflict of interest

situation where outside business or family connections could interfere with the judgement of personnel in carrying out their duties for the organization

2.7 facilitation payment

illegal or unofficial payment made in return for services which the payer is legally entitled to receive without making such payment

NOTE It is normally a relatively minor payment made to a public official or person with a certifying function in order to secure or expedite the performance of a routine or necessary action, such as a visa, work permit or customs clearance.

2.8 implement

design, develop, introduce, operate, maintain, monitor and continually improve

2.9 management system

system to establish policy and objectives and to achieve those objectives
[BS EN ISO 9000:2005]

2.10 organization

corporation, company, firm, partnership, enterprise, authority or institution, or part or combination thereof, whether incorporated or not, public, private or voluntary, that has its own functions and administration

NOTE For organizations with more than one operating unit, a single operating unit may be defined as an organization.

2.11 personnel

organization's directors, officers, employees and temporary staff or workers

2.12 top management

person or group of people who direct and control the organization at the highest level

[BS EN ISO 9000:2005]

3 Planning

3.1 Planning

The organization shall plan for the adoption of an anti-bribery policy and the implementation of an ABMS by ensuring that the following steps are taken.

a) Allocating responsibility for planning to personnel of appropriate seniority.

- b) Appointing appropriately qualified personnel to conduct a risk assessment to identify what activities or other aspects of the organization's business have bribery risks.
- c) Assessing in what manner and to what extent the ABMS should be implemented by the organization, taking into account the factors in 3.2.
- d) Writing the anti-bribery policy.
- e) Designing or modifying the necessary policies, procedures and controls for the ABMS.
- f) Determining the necessary resources (including funding, personnel, equipment and materials) needed to implement the ABMS.
- g) Preparing an implementation timetable with clearly identified responsibilities and timelines.

3.2 Scope of the ABMS

The ABMS to be implemented by the organization shall be reasonable and proportionate having regard to the nature and extent of bribery risks which the organization faces and taking into account the:

- a) size of the organization;
- b) countries and sectors in which the organization operates;
- c) nature, scale and complexity of the organization's activities and operations;
- d) organization's existing and potential business associates; and
- e) applicable statutory, regulatory, contractual and/or professional obligations and duties.

4 Adopting an anti-bribery policy and implementing the ABMS

4.1 Anti-bribery policy and ABMS

4.1.1 The organization shall adopt and record an anti-bribery policy.

NOTE The policy need not be a complex document which lists all the organization's anti-bribery procedures. It may be a brief, simple statement by the organization that it:

- a) *prohibits bribery; and*
- b) *will implement measures to:*
 - 1) *prevent bribery; and*
 - 2) *detect, report and deal with any bribery which does occur.*

The detailed policies, procedures and controls designed to achieve b) are contained in the ABMS (see 4.1.2).

The policy may be a separate document, or may form part of the organization's policy which deals with other ethical issues.

4.1.2 The organization shall implement an ABMS comprising the appropriate policies, procedures and controls specified in 4.2 to 4.18 and Clauses 5 and 6 in a manner which is reasonable and proportionate having regard to the nature and extent of bribery risks which the organization faces, and taking into account the factors in 3.2.