

Corporate & Financial Weekly Digest

Posted at 12:53 PM on April 1, 2011 by [Edward Black](#)

Ministry of Justice Publishes Bribery Act 2010 Guidance

On March 30, the UK Ministry of Justice published detailed guidance on "adequate procedures" for companies to put in place to prevent infringement of the Bribery Act 2010. It also published a shorter "quick start guide" aimed at smaller businesses.

The Bribery Act, which will come into force on July 1, creates four criminal offenses: (1) bribing another; (2) being bribed; (3) bribing a foreign official; and (4) (for commercial organizations) failing to prevent bribery. If a commercial organization can show that it has adequate procedures in place, this can form the basis of a defense to the offense of failing to prevent bribery.

The Ministry of Justice guidance sets out six principles that are intended to give commercial organizations a starting point for planning, implementing, monitoring and reviewing a bribery-free business regime. The six principles as set out in the guidance are:

1. Proportionate procedures
2. Top level commitment
3. Risk assessment
4. Due diligence
5. Communication
6. Monitoring and review

In connection with each of the principles, the guidance indicates procedures designed to assist organizations to address the relevant issues.

The guidance points towards a risk-based approach to adopting adequate procedures, proportionate to the risks faced by each organization. Different procedures will be appropriate depending on the size of the organization, the industry sectors and jurisdictions in which it does business, as well as the nature of its business partners and transactions.

[Read more.](#)

In addition, on March 30 the Director of Public Prosecutions and the Director of the Serious Fraud Office issued joint guidance for prosecutors setting out the Directors' approach to deciding whether to bring a prosecution under the Bribery Act.

[Read more.](#)

Katten Muchin Rosenman LLP

Charlotte Chicago Irving London Los Angeles New York Washington, DC