

# UK FOREIGN BRIBERY STRATEGY



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Presented to Parliament  
by the Lord Chancellor and Secretary of State for Justice  
by Command of Her Majesty  
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## 1 INTRODUCTION

1.1 In December 1999, the OECD Anti-Bribery Convention came into force as the first international agreement to outlaw foreign bribery. Subsequently, the Government has invested in a sustained programme of work to develop our capacity to tackle foreign bribery. In 2006 the UK ratified the UN Convention Against Corruption (UNCAC), appointed Hilary Benn, then International Development Secretary, as the first International Anti-Corruption Champion and published the first Anti-Corruption Action Plan. Work under this and a following Action Plan included the establishment of dedicated investigative resource for foreign bribery in England and Wales, through the Overseas Anti-Corruption Unit (OACU) of the City of London Police. This work has also provided new legal powers for the Serious Fraud Office (SFO) to confiscate the proceeds of crime and require documents in advance of the decision to open a foreign bribery investigation. This programme of work has contributed to a dramatic increase in foreign bribery investigations, which in 2008 started to feed through into multi-million pound confiscations, fines and criminal prosecutions. The Government has also taken forward independent Law Commission recommendations for the reform of UK bribery law with a new Bribery Bill introduced to Parliament in November 2009. It is intended that this will apply throughout the whole of the UK, and the Scottish Parliament has been asked to consent to it applying in Scotland.

1.2 Notwithstanding the substantial progress the UK has made in tackling foreign bribery, there are still areas that should be developed further. International corruption remains a world-wide problem that comes at both a human and business cost, and the fight against bribery can not be an optional extra or a luxury to be dispensed with in testing economic times. Globalisation and advances in technology have made corruption easier to commit and harder to detect, with payments often channelled through multiple entities and jurisdictions. In addition, the requirement for legal cooperation and collective action has been complicated by the emergence of new trading patterns and the rise of emerging market economies such as India and China. As the challenges evolve, we need to develop new tools to tackle them effectively.

1.3 The following strategy has been developed through soundings with a spectrum of UK stakeholders and through Ministerial meetings of enforcers, business associations, leading UK companies and civil society representatives. Officials have also drawn upon the experience of our international partners, including the OECD Working Group on Bribery and the UN Global Compact.

1.4 The strategy sets out how we will address and manage the evolving challenges and establish a clear legal, regulatory and policy framework for action against foreign bribery. Law reform through the new Bribery Bill will be the keystone of this approach but the strategy also reinforces links to the wider international anti-corruption agenda – reflecting our commitment to focus on the causal drivers of foreign bribery and deepen our collaboration with international partners.

1.5 The Foreign Bribery Strategy complements other UK efforts to combat international corruption. The UK has an agreed plan to tackle money laundering by politically exposed persons (PEPs) and to recover stolen assets. Delivery of the objectives of the plan is overseen by the cross-departmental Politically Exposed Persons Strategic Group and supported by dedicated capacity within the Serious Organised Crime Agency, Metropolitan Police Service and Crown Prosecution Service. The PEPs Strategic Group reports to the Anti-Corruption Champion through his Secretariat, ensuring coordination with the activities of the Foreign Bribery Strategy Board.

1.6 We are broadening our efforts to address the full range of harm caused by foreign bribery. Our work will be grouped under four strategic objectives:

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|--------------------------|--|
| ▪ <b>Objective One</b>   | <b>Strengthening the law</b>                           |
| ▪ <b>Objective Two</b>   | <b>Supporting ethical business</b>                     |
| ▪ <b>Objective Three</b> | <b>Enforcing the law</b>                               |
| ▪ <b>Objective Four</b>  | <b>International cooperation and capacity building</b> |

1.7 Looking ahead, we will:

- Implement and monitor this strategy through the Foreign Bribery Strategy Board made up of officials from across Whitehall departments, devolved administrations, law enforcement, prosecution authorities and regulatory agencies;
- Measure success through the delivery of specific pieces of work and our performance in international anti-corruption surveys and corporate studies;
- Inform our work by ongoing dialogue with domestic stakeholders and international partners, and by analysis of trends from overseas corruption assessments and research; and
- Review this Strategy in 2012 in the light of our next OECD evaluation, and provide annual progress updates to Parliament.

## 2 Strengthening the law

### Objective One – To modernise and strengthen the UK law on bribery

2.1 A clearer bribery law will support the investigation and prosecution of serious criminal offending. Law reform will ensure that business operates in a clear legal framework that targets improper conduct and supports good-faith efforts to avoid corruption. By reinforcing legal, regulatory and policy instruments we will provide investigators and prosecutors with the tools they need to tackle evolving forms of bribery. A strong international reputation will support UK trade, development and diplomatic interests.

#### What we have already done

- The Anti-Terrorism, Crime and Security Act 2001 extended jurisdiction for courts in England, Wales and Northern Ireland to bribery by UK nationals and companies taking place wholly outside the UK, while putting beyond doubt that domestic bribery law applies to the bribery of foreign public officials. In Scotland equivalent changes were introduced by the Criminal Justice (Scotland) Act 2003.
- The Fraud Act 2006 strengthens the response to fraud which often goes hand in hand with corruption. Courts in England, Wales and Northern Ireland have jurisdiction to prosecute frauds committed abroad by anyone provided that some of gain (or loss) created by the fraud occurs here.
- In 2007 we commissioned the independent Law Commission to review bribery law, resulting in the publication of their report 'Reforming Bribery' in November 2008. The Government built on this report to produce a draft Bill for pre-legislative scrutiny in March of this year, followed by introduction of the Bribery Bill to Parliament on 19 November 2009. In Scotland, following public consultation, it has been decided that the Bill should apply throughout the UK.
- Investigative powers were extended in July 2008 to all prosecutors in England and Wales to compel the production of documents and explanations of them (under Section 2 of the Criminal Justice Act 1987) to the vetting stage of investigations, including foreign bribery cases. These powers are important because bribery cases by their nature are often referred without any evidence. These powers allow prosecutors to require relevant documents in advance of the decision to commence a formal investigation, facilitating prompt assessment and resolution of foreign bribery allegations.
- In July 2008 the Government extended to prosecutors non-conviction based civil asset recovery powers previously only exercised by the Assets Recovery Agency (now SOCA). These were first used by the SFO to settle a case which began on the basis of foreign bribery allegations against an English company in October 2008, resulting in the recovery of £2.25m for inaccurate accounting of irregular payments by an overseas subsidiary of the company.
- Since the Serious Crime Act 2007 came into force in October 2008 UK nationals and registered companies encouraging or assisting bribery committed wholly overseas by foreign nationals or companies will also be liable to prosecution for committing bribery.

#### What we intend to do

- Legislative passage of the new Bribery Act;
- Assisting business to avoid committing any of the new offences and to understand the economic and reputational costs to them of corrupt conduct through the development of Government guidance on the Act and the 'adequate procedures' defence, with the aim that the guidance be published three months before the Bribery Act comes into force;
- Coordinated implementation of the Act by law enforcement and prosecuting authorities;
- Keep the new Bribery Act and Government guidance under review.

**Next key deliverables** – The Government will pursue Royal Assent for a new Bribery Act in the final session of this Parliament.

### 3 Supporting ethical business

#### **Objective Two – To encourage and support UK companies to establish and apply appropriate standards of ethical business conduct to combat foreign bribery.**

3.1 Appropriate standards of ethical business conduct will reduce the involvement of UK business in foreign bribery through better internal communication, management control and training. This will lead to increased identification of foreign bribery issues and will support remedial action, self-referral and negotiated settlements. A broader understanding of the economic and reputational costs of engaging in bribery will support a professional and proactive approach to bribery risk management. Government support for transparent companies with robust anti-corruption procedures will ensure that ethical business will not be undercut by unscrupulous competitors or disadvantaged in access to HMG support. UK companies will be more readily able to demonstrate robust anti-corruption standards if challenged by international partners or development banks and will engage with greater confidence in overseas business opportunities.

#### **What we have already done**

- The Government are working to equip UK exporters and overseas investors with practical advice and tools to manage the risks of international corruption such as providing free guidance on UK bribery law and overseas corruption issues through the UK Trade & Investment service. We also co-sponsor the Business Anti-Corruption Portal alongside Austria, Denmark, Germany, Netherlands, Norway and Sweden.
- The Government actively promotes international anti-corruption standards such as set out in the OECD Guidelines for Multinational Enterprises and the UN Global Compact, including through signposting through mainstream trade promotion websites. We are supporting the development of more practical tools for implementing these standards, such as the OECD Risk Analysis Tool for Weak Governance Zones.
- Our Overseas Missions routinely inform local British companies of their obligations under UK law and provide practical advice on anti-corruption risk management. To support this work we provide preparatory foreign bribery briefings for all outgoing commercial officers.
- The Government also supports business anti-corruption initiatives and the development of industry sector codes of conduct. For example, the Government has encouraged all UK aerospace and defence companies to participate in the Common Industry Standards, an anti-corruption code of conduct for the Aerospace and Defence Industries Association of Europe (ASD). The Common Industry Standards were initially developed through Chatham House discussions in London chaired by Lord Robertson and have led to an agreement between UK and US aerospace and defence leaders, the Global Principles of Business Ethics, which was formally launched on 13 January 2010.

#### **What we intend to do -**

- Legal awareness-raising targeted at key industry sectors and small firms
- Practical guidance on country and sector-specific corruption risks
- Strengthened in-country advice through Overseas Missions
- Review of knock-on effects for companies convicted of bribery to encourage self-reporting and remedial action

**Next key deliverables** – The Government will provide detailed on-line training for all staff in Overseas Missions and supplement this through face-to-face preparatory briefing for outgoing commercial and diplomatic officers. We will build on existing UKTI advice with a series of more detailed anti-corruption primers on selected markets and sectors. We will develop new guidelines for officials providing overseas trade and investment support for UK companies convicted of foreign bribery and will publish new OGC guidance on corporate convictions and EU procurement rules, alongside guidance on the new Bribery Act.

## 4 Enforcing the law

### **Objective Three –To support effective law enforcement against foreign bribery and take proportionate action against those benefiting from foreign bribery.**

4.1 Law enforcement authorities will be equipped to identify and take effective action against corporate bribery, disrupting major foreign bribery and deterring unethical corporate behaviour. Successful prosecutions will punish those responsible for corrupt conduct and support legal awareness-raising of the economic and reputational costs to business of engaging in such conduct. It will also encourage internal whistle-blowing while new guidance on corporate prosecution and faster resolution of allegations will increase self-reporting of foreign bribery by companies. The Government will also provide support for international partners by effective execution of requests to gather evidence and disseminate actionable intelligence.

#### **What we have already done**

- Since 2006 the Government has funded dedicated enforcement resource through the City of London Police, Overseas Anti-corruption Unit (OACU). There are now 12 police officers committed to foreign bribery investigations. The SFO has also increased their resource dedicated to international corruption.
- OACU has conducted an initial Overseas Corruption Assessment, pooling intelligence on foreign bribery risks from across UK business, Government, Overseas Missions and law enforcement. OACU are using this analysis to prioritise their interventions and support legal awareness-raising.
- CPS prosecutors obtained the first UK conviction for foreign bribery in international business in September 2008 following an OACU investigation. The SFO obtained the first UK corporate conviction for foreign bribery in September 2009 following self-reporting and a guilty plea by the company.
- New guidelines for England and Wales. The Attorney General published new guidelines on Plea Discussions in Cases of Serious and Complex Fraud in April and Statutory Guidelines on (non conviction-based civil) Asset Recovery in November 2009. The SFO published their approach to corporate self-reporting for consultation in July 2009.
- The Government sends annual instructions to officials in UK Overseas Posts requiring them to report allegations of UK involvement in foreign bribery directly to the SFO. These instructions have been supplemented through regular briefings for outgoing officers and have resulted in over a dozen reports.

#### **What we intend to do**

- Enhanced mechanisms for intelligence gathering and detection
- More effective structures for case allocation and cross-agency working

**Next key deliverables** – OACU will build on their initial Overseas Corruption Assessment through follow-on work with international partners. We will work to ensure a clear framework for UK-wide cooperation on foreign bribery cases, and support the development of closer foreign bribery liaison with regulatory and law enforcement authorities in the Crown Dependencies and Overseas Territories.

## **5 International cooperation and capacity building**

### **Objective Four – To reduce the demand for foreign bribery by strengthening international anti-corruption efforts**

5.1 International cooperation and capacity building initiatives contribute to level the playing field for ethical business and reduce the opportunities for official corruption. Improved overseas anti-corruption capacity increases the flow of intelligence and evidence to assist UK investigations and prosecutions.

#### **What we have already done**

- The UK has supported key international instruments on corruption and participated in their systems of review, including OECD Working Group on Bribery evaluations and negotiations for an effective review mechanism for the UN Convention against Corruption.
- The UK has funded an independent review of anti-corruption legislation and procedures in the Overseas Territories and Crown Dependencies. This ongoing work has resulted in extensions of both UNCAC and the OECD bribery convention to all three Crown Dependencies and extension of UNCAC to the British Virgin Islands.
- The UK has contributed to the establishment of international transparency mechanisms such as the Extractive Industry Transparency Initiative, Medicines Transparency Alliance and Construction Sector Transparency Initiative.
- UK law enforcement departments and agencies have provided training and technical assistance to a wide range of overseas law enforcement and anti-corruption agencies, including the Afghan Attorney General's Office and Bangladeshi prosecutors.
- The SFO and OACU have participated in a number of joint investigations with overseas law enforcement bodies.
- DFID through its governance programmes is also working with a number of developing countries to strengthen transparency and accountability mechanisms.
- The UK has used visa bans to stop those considered to be involved in corruption travelling to the UK, including a range of Kenyan parliamentarians, senior government officials and high profile members of the business community.

#### **What we intend to do**

- Support ongoing monitoring and development of OECD, UN, Council of Europe and EU international anti-corruption instruments to level the playing field
- Increasingly target our ongoing support for overseas anti-bribery work through better coordination, deeper understanding of priorities and learning from best practice
- Work with donor country partners to identify and challenge zones of weak governance and persistent bribe solicitation

**Next key deliverables** – Increased inter-agency coordination on overseas capacity building and technical assistance to prioritise credible partner countries. Work towards closer cooperation and collective action by Overseas Missions of OECD Anti-Bribery Convention signatories to address reports of bribe solicitation by foreign public officials. Further work to strengthen African anti-corruption initiatives and mechanisms, such as through the African Union Convention on Corruption and the Regional Economic Communities.



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