

Module	<b>ANTI-BRIBERY &amp; CORRUPTION</b>
Jurisdictions	<b>UK</b>
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## Module Application

Is your organisation (and all relevant senior staff) familiar with the reach of the UK Bribery Act and how it may affect your operations?

Do those within your organisation understand how to recognise and respond appropriately to agent and intermediary risk?

Does your organisation have systems in place to assist with internal and external investigations into bribery?

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## Module Scope

The UK Bribery Act 2010, with its wide jurisdictional reach, impacts on every organisation (irrespective of size) that conducts business, or part of its business, in the UK (irrespective of where it is located). The Act addresses both private sector and public sector bribery (including bribery of foreign public officials). The Act was the first globally to introduce an offence of failing to prevent bribery. Although it is a relatively short statute, it is complex in its application and has led to some misunderstanding as to both its reach and its criminalisation provisions.

The ANTI-BRIBERY & CORRUPTION module addresses the technicalities of the Act, explains its terms of art and sets out those factors and issues that an organisation should consider when conducting its bribery and corruption risk assessment, including red flags.

As the Act requires an organisation to put in place preventive measures, Obligation 2 is dedicated to the 'adequate procedures' defence and discusses each of the six key principles that underpin it.

Each of the obligations sets out the required actions and both the individual and organisational consequences of breach. The core legal and regulatory obligations are based on the following considerations:

- Decision making;
- Accountability
- Stewardship by senior management and/or the Board;
- Direction; and
- Control.

An organisation is required to ensure that its staff, agents and intermediaries are fully conversant with their legal obligations and responsibilities, the organisation's anti-bribery policies and the risk of individual criminal responsibility (in addition to the legal criminal liability of the organisation).

The aim of the module is to equip the subscriber with a practical and clear understanding of its obligations when operating within (or outside) UK and to provide an answer to the following questions:

- What are our legal obligations?
- What is the source of those legal obligations?
- How may we best ensure that we are complying with our legal obligations?
- What are the consequences of non-compliance?

The ANTI-BRIBERY & CORRUPTION module recognises the serious consequences an organisation (and individual with it) may face in the event it is found to have committed an offence under the Act and failed to put in place preventive measures in line with its risk exposure. The module encompasses the Ministry of Justice Guidance, as well as any sector or industry-specific guidance or handbook, such as the FCA Senior Management Arrangements, Systems and Controls Sourcebook.

A successful prosecution may potentially result in imprisonment (for individuals), disqualification from holding a director position, debarment, confiscation, civil recovery orders, serious crime prevention orders, debarment from competing for public contracts and disgorgement of profits. With that in mind, the module has also incorporated deferred prosecution agreements and how they operate in practice, self-reporting considerations, the effective management of an internal investigation and the role of the regulator/prosecuting authority.

The module seeks to provide practical assistance in the implementation and maintenance of best practice processes throughout the organisation.

The module is divided into 4 core obligations and sub-obligations, which examine:

- Liability for bribery (domestic and foreign; public and private sector etc.)
- Implementing adequate procedures to prevent bribery
- Specific bribery risks: policies and procedures
- Managing internal and external investigations (including whistleblower protection) and enforcement

Given the seriousness of the consequences where a breach of the Act does occur, the ANTI-BRIBERY & CORRUPTION module sets out the effect of the legislation in non-technical language, so that all staff (irrespective of position or seniority) are able to understand the risks and their consequences.

Equally, from an organisation's perspective, it is vital that all staff are fully trained and equipped to discharge their duties, which includes having an understanding of their individual and the organisation's legal risk and exposure. The ANTI-BRIBERY & CORRUPTION module is a ready reference source that has been written with an appreciation of the challenges faced by non-legal staff and the importance of helping them understand the obligations in clear, non-jargonistic language.

The Bribery Act (and the responsibilities and obligations under it) is not affected by Brexit. The module does not, however, address the rights or entitlements of individuals who have suffered damages or losses due to breach of the Act, nor does it cover the process that an entity or an individual would follow to report or seek compensation for the breach and any loss (as that may be dealt during any sentencing hearing).

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