

HUMAN RESOURCES CONTROLS

Anti-Bribery Guidance
Chapter 7

Transparency International (TI) is the world's leading non-governmental anti-corruption organisation. With more than 100 chapters worldwide, TI has extensive global expertise and understanding of corruption.

Transparency International UK (TI-UK) is the UK chapter of TI. We raise awareness about corruption; advocate legal and regulatory reform at national and international levels; design practical tools for institutions, individuals and companies wishing to combat corruption; and act as a leading centre of anti-corruption expertise in the UK.

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Transparency International UK's Global Anti-Bribery Guidance

Best practice for companies operating internationally

This is a guidance section from Transparency International UK's Global Anti-Bribery Guidance. The full guidance is available at www.antibriberyguidance.org.

About the Guidance

This flagship guidance presents anti-bribery and corruption best practice for companies, drawing upon expertise from over 120 leading compliance and legal practitioners and Transparency International's extensive global experience.

This free-to-use online portal expands and updates all of TI-UK's Business Integrity guidance over the last decade. This includes our original Adequate Procedures Guidance to the UK Bribery Act; a leading resource for compliance and legal professionals, which has been downloaded over 45,000 times from TI-UK's website. The guidance has been kindly supported by FTI Consulting and DLA Piper.

For each area of practice, we provide a summary, best practice tips, full guidance, and links to further resources. This is a dynamic resource and we will continue to update it with new content and features. If you have anything you would like further guidance on, or other suggestions, please do contact us at businessintegrity@transparency.org.uk

Many companies are facing increased bribery risks as they continue to expand internationally and become increasingly reliant on diffuse supply chains and complex third-party networks. There are also additional risks around stakeholder expectations, a global strengthening of anti-bribery legislation – requiring better internal mechanisms to ensure compliance – and enhanced enforcement.

Companies will always design their own bribery programme according to their particular circumstances but those following this guidance can take reasonable assurance that they are well positioned to counter risks of bribery, comply with anti-bribery legislation in jurisdictions across the world and to act ethically and positively in the markets in which they operate.

Transparency International UK's Business Integrity Programme

The goal of our Business Integrity Programme is to raise anti-corruption standards in the private sector. We aim to ensure that individuals and organisations do not participate in, enable or endorse corruption. Our approach is to engage positively with the private sector, governments and leading anti-corruption initiatives to identify and advocate best practice.

For more information, please visit <http://www.transparency.org.uk/our-work/business-integrity/business-integrity-forum/>

QUICK READ

A company's culture of integrity and the quality of its anti-bribery risk management are only as good as its employees who, in turn, need to be motivated to uphold the company's values and trained to recognise and appropriately respond to bribery risks. The human resources function has a critical role to play here, and can work with other functions to design and implement key elements of the anti-bribery programme such as communications, training, and advice and speak up channels. A company's HR team also has a key role to play in recruiting the right people and ensuring that only those who demonstrate the right behaviours and values are promoted.

Key elements of best practice

- **Recruitment:** Recruit and appoint the right people. Build ethics and integrity factors into the recruitment process including enhancing due diligence and discussion on ethical decision-making and judgment. Make sure new recruits are fully trained in the anti-bribery programme.
- **Anti-bribery programme design:** Human resources should advise on the design and implementation of policies and procedures to ensure that they align to personnel practices, are workable and appropriate across the company's operations.
- **Incentivise, appraise and recognise:** Design remuneration and incentives so that they do not lead to misaligned compensation. Demonstrate to employees through appraisal that they will be rewarded for positive support of the anti-bribery programme e.g. recommendations for improving checks and controls, promotion of the anti-bribery commitment in external activities and communications. This moves the employee focus from compliance with the programme to the active implementation and improvement of the programme.
- **Discipline:** Apply sanctions fairly, consistently and, where appropriate, openly for violations of the anti-bribery programme.

BEST PRACTICE

- **Assess:** Review how the human resources policies support the anti-bribery programme.
- **Role of human resources:** Regularly review the integration of human resources in the design, implementation and review of the anti-bribery programme.
- **Anti-bribery programme design:** Human resources advises on the design and implementation of policies and procedures to ensure that they align to personnel practices, are workable and appropriate across the company's operations.
- **Employee input:** Employees and their representative bodies are consulted in the design, communication and monitoring of the anti-bribery programme.
- **Integrate:** Embed anti-bribery commitment in human resource spheres of influence including employee recruitment, induction / orientation, training, performance review and appraisal, promotion and recognition systems.
- **Monitor:** Regularly check human resource policies and procedures to determine how they need to be changed to actively support ethical and integrity behaviours of employees.
- **Protect:** Ensure employees will not be penalised, disciplined or dismissed for refusing to undertake business deals where bribes are solicited or demanded.
- **Recruitment:** Recruit and appoint the right people. Include assessment of ethical decision-making and judgment as part of the recruitment process. Where necessary used enhanced due diligence on senior hires or those in a high risk position.
- **Due diligence:** Appropriate due diligence is applied when appointing board members and selecting recruits for functions, particularly senior management and employees who are likely to be placed in high risk positions.
- **Revolving door policy:** Working with the company's government and public affairs functions to provide a policy to address personnel movements between the company and the public sector, in either direction.
- **Integrity in recruitment and appointment:** The recruitment processes should be transparent, objective and should itself have anti-bribery controls. If the local environment is prone to corruption, it may be important to demonstrate publically that recruitment is systematic and untainted by bribery, conflicts of interest, favouritism or nepotism.
- **Induction and orientation:** Make sure new recruits are fully trained in the anti-bribery programme.
- **Contractual requirement:** Make compliance with the employee Code of Conduct, and ideally to the anti-bribery programme, a term of the contract of employment
- **Train:** Ensure there is regular training tailored to assessed risks and relevant to the relevant category of employee.

- **Recognise:** Demonstrate to employees that they will be rewarded for positive support of the anti-bribery programme e.g. recommendations for improving checks and controls, promotion of the anti-bribery commitment in external activities and communications. This moves the employee focus from compliance to active implementation and improvement of the programme.
- **Remuneration:** Design remuneration and incentives so that they are aligned with the company's anti-bribery programme.
- **Bonuses:** Link executive bonuses to anti-bribery performance in functions under their responsibility.
- **Discipline:** Apply sanctions for violations appropriate to the offence in a consistent and open fashion.
- **Promote:** Promote only staff that exhibit the right behaviours and attitudes and decline promotion to those that do not, even if they meet or exceed financial targets.

GUIDANCE

7.1 Introduction

A company's culture of integrity and its reputation as an ethical organisation depend on the behaviour of its directors and employees. As such, the human resources function has a vital role in building an embedded culture of integrity. Human resources should also contribute to the design and implementation of the anti-bribery programme and work closely with other anti-bribery support functions and operational functions such as marketing, purchasing and procurement.

Human resources should be consulted when the anti-bribery program is being designed and implemented across the company, particularly when there is a need to consider complex organisational structures, varying business units and the diversity of employees and cultures across the company's operations. The anti-bribery requirements for contractors carrying out outsourced functions such as procurement and financial administration will also need to be aligned to those for employees.

The goal must be that a company's directors and employees conduct themselves with the highest levels of ethical integrity and are given the knowledge, skills and support required to achieve this. A strong reputation for ethics and integrity will also give companies a positive reputation in their market and can assist the company in attracting employees who emphasise ethical conduct.

This section describes the various areas in which human resources can either support or lead in the design and implementation of the anti-bribery programme.

7.2 The supporting role of human resources

7.2.1 Corporate commitment to ethics, integrity and values

Human resources can support the board and senior management in embedding a culture of integrity across the company. This will include shaping corporate messages and incorporating these in personnel policies, communications and training.

Human resources can also contribute to the development of relevant corporate policies and the company Code of Conduct as these govern and influence the behaviour of employees and directors. Integrity and commitment to anti-bribery should be incorporated in the Code of Conduct and business conduct guidelines for directors, employees and third parties. Compliance with the Code of Conduct should form part of the employee employment contract and board member contract. The requirements and expectations in the Code of Conduct and employment contracts should be relevant, achievable, clearly worded and, where necessary, copies of these documents should be provided in local languages.

7.2.2 Design, implementation and improvement of the anti-bribery programme

Human resources has a central part to play in the design and implementation of the anti-bribery programme as they will have insights about the practical application of the programme to all employees and board members. Human resources should consider whether the programme:

- Is balanced with employee's objectives
- Is not undermined by current incentive structures
- Should be referenced in employee's appraisals
- Includes appropriate sanctions for violations

7.2.3 Organisational structures and human resources planning:

Organisational structures vary from company to company but, whatever the structure and its components, human resources should contribute to the following aspects:

- **Responsibilities defined:** Responsibilities for implementing the anti-bribery programme should be clearly allocated and job descriptions at all levels specify responsibilities and performance activities.
- **Equal treatment:** Care should be taken that the anti-bribery programme does not discriminate (and could not be seen to discriminate) against gender, nationalities, cultures or sectors of the workforce.
- **Managing employee concerns:** Specific controls may need to be applied to some transaction areas or markets and employees may have concerns about the requirements and implications. Consultation with the employees and representative employee bodies may be needed in such situations to explain the case for the controls and to address any concerns raised.

7.2.4 Communications

Anti-bribery communications should be developed through cross-working with HR, legal, compliance and business unit managers and also consultation with employees to ensure the messages are understood and communicated in an accessible way. These communications can take multiple forms, including printed documents, posters, information on the company intranet and website, and posts on social media.

7.2.5 Training

Human resources may well have overall responsibility for ensuring adequate anti-bribery training for employees. If so, the provision and content of anti-bribery training should be planned with input from Compliance and other support functions.

Considerations for human resources role are:

- To regularly review how responsibility for delivering anti-bribery training has been assigned, whether that training is being delivered effectively and whether those responsibilities could be better structured.
- Anti-bribery and corruption training will be included in induction training and regular refresher training, supplemented by tailored training where required by specific employees as determined by the results of risk assessments.
- Human resources will have overall responsibility for ensuring that employees receive basic training which is monitored, measured and that employee participation and performance are recorded on personnel files and forms part of annual assessments.
- For global companies, the challenge will be to ensure consistent delivery of key messages, information and standards of integrity in formats appropriate to local markets, cultures and needs.

7.2.6 Advice and whistleblowing channels

Advice and whistleblowing channels are ways in which employees can seek information or report, in confidence, suspicions or knowledge of bribery and corruption. The channels will likely cover more than bribery and corruption. Human resources may have an advisory role to play, but whatever the assignment of responsibility, human resources will wish to ensure that the channels align to personnel policies for respect for the individual, data privacy, employee contracts, ethical and line management, and disciplinary processes.

7.2.7 Incentives and remuneration

Incentive schemes are an important way of encouraging desired behaviour from directors and employees. Scandals in many sectors have shown that misaligned incentives have been one of the drivers of corrupt practices. Incentives to meet financial targets have led to corrupt behaviour including fraud, mis-selling, falsification of records, manipulation of accounts, anti-competitive practices and bribery. Extensive guidance on this topic is provided in the TI-UK publication [*Incentivising Ethics: Managing incentives to encourage good and deter bad behaviour.*](#)

Incentives will need to be aligned to job objectives and human resources should work with business functions and units on this. Employees should be incentivised, assessed and recognised using a variety of measures such as achievement of key business indicators or on less tangible measures of personal achievements assessed during the appraisal process.

Human resources should advise on setting remuneration, bonuses, commissions and benefits for all employees and board members. Good governance practice requires that a board delegates authority to a board remuneration committee. The challenge for the company is to design structures that encourage and reward employee and board member performance without incentivising improper behaviour.

7.2.8 Anti-bribery controls

Human resources should contribute to the design and implementation of the control activities, (the policies and procedures that help ensure management directives are carried out and specifically, meet the company's objectives for compliance with the anti-bribery policy). They include activities such as, carrying out due diligence, ensuring that there is a segregation of duties within the company, obtaining the correct authorisations, implementing and carrying out checks and balances for transactions, obtaining counter-signatures for purchases, the management of petty cash and management of the procedures for gifts, hospitality and expenses. As such, the control activities affect every employee to some degree and human resources should work to ensure that they are workable, reasonable and acceptable to employees. Where possible employees should be consulted during the design stages, with new activities clearly communicated to employees before and during the implementation phase.

7.2.9 Disciplinary and sanctions procedures

Human resources should design and implement, in coordination with compliance, legal functions and internal audit, the policies and procedures relating to the investigation of employees under suspicion of breaching the anti-bribery programme, as well as the disciplinary actions and sanctions arising thereafter. The policies, procedures and sanctions should be stated in the contract of employment and supporting guidance such as an employee handbook.

7.3 Where human resources leads

This section describes a range of significant areas where human resources will lead on designing and implementing anti-bribery policies and procedures.

7.3.1 Employment Contract

Employment contracts should set out the requirements and expectations of the company for the employee related to the employee's conduct, and companies may consider referencing the anti-bribery policy and programme specifically. A list of provisions to be considered is given below.

Example employment contract provisions

- **Integrity:** Observance of the company values with specific focus on requiring integrity and honesty from the employee when s/he is acting on the company's behalf and engaging with the company's third parties including customers, subcontractors, suppliers, agents and other intermediaries, and with any public official.
- **Employee rights:** What rights the employee is entitled to in relation to issues such as data protection, privacy and respect within the workplace as well as the reporting mechanisms and support structures in are in place to allow the employee to voice concerns.
- **Code:** Adherence to the Code of Conduct and specifically to the company's anti bribery programme as a condition of employment.
- **Annual attestation:** Directors and employees are required to attest when they first join the company and then annually, in writing, that they have read, understood and will observe the requirements of the Code of Conduct or business conduct guidelines and in particular, the anti-bribery policy.
- **Authority to act:** Defining the employee's remit and situations where the employee has the authority to act.
- **Remuneration:** Provision for non-payment or return of bonus or commission where bribery and corruption has taken place.
- **Reporting breaches:** Subject to local laws, a clause requiring the employee to report bribes, suspicion of bribery or other breaches of the anti-bribery programme (either in relation to themselves or other fellow employees) using the relevant channels. Alternatively the company may include this requirement in its employee handbook. The advantage of this is that it allows the company a degree of flexibility when introducing or amending an anti-bribery programme or policy can introduce changes without having to renegotiate the contracts of existing employees.
- **Protection:** The company commits that it will not penalise an employee for refusing to make or receive a bribe even if such refusal may result in the company losing business.
- **Channels:** Specification of the procedures and channels that the employee should use for raising concerns or seeking advice. The company should commit that it will protect the identity and confidentiality of the employee. The reporting channels may include reporting to the employee's immediate line manager, a right for the employee to go above his/her line manager to a more senior manager, access to an ethics or compliance officer and use of whistleblowing channels.
- **Disciplinary procedures:** Any breach of the anti-bribery programme will be dealt with under the review and disciplinary procedure. Gross misconduct may lead to summary dismissal with termination of the employee's employment.

7.3.2 Recruitment and induction

The company's commitment to a culture of integrity should be carried through in the recruitment process by selecting people who exhibit the required standard of integrity. The level of due diligence human resources are required to undertake when selecting recruits should be proportionate to the role being filled and the sensitivity and risks of the position.

Communication of the anti-bribery programme starts when new employees and board members come on board. They should receive full documentation in appropriate languages including the Code of Conduct and the employee guidance or handbook detailing the anti-bribery programme. The documents should be written in plain English and not couched in legalistic terms, use local languages and reflect local cultures. New recruits should be given induction training which covers the anti-bribery programme. Induction on the anti-bribery programme is particularly important where a company is taking on large numbers of new employees whether through rapid growth, a major project or merger or acquisition, as an influx of new employees may act to weaken or confuse the existing integrity culture.

Bribery and other forms of corruption such as nepotism can be a risk within the recruitment process. The 'princeling' scandals associated with US banks, where children of government officials and other favoured referrals, who were typically unqualified for the positions, were recruited, demonstrate how the recruitment process is vulnerable to corruption.

7.3.3 The revolving door

An important aspect of the recruitment process, to be addressed by human resources, is the issue of the 'revolving door'. The term refers to the movement of high-level employees between the public and private sectors. These movements can be in either direction and may bring risks of improper access or influence, whether intentional or inadvertent.

Movements are two-way

- Public office to the private sector: Politicians, legislators, regulators, public officials or political advisers become directors, employees, lobbyists or consultants for the industries they once acted for as policy makers or regulators, or otherwise contracted with.
- Private sector to public office: Private sector leaders or specialists are appointed to government, a regulatory body or political party (e.g. as a special adviser).

The risks of the revolving door

- Ministers and public officials favour the company while in office, with a view to securing future employment with the company.
- Former politicians and public officials who have accepted employment in a company influence their former colleagues to make decisions that favour their new employer. They may also use confidential information to benefit their new employers, and trade in influence by providing introductions to and favours from their former contacts.

- Directors or employees who move to public office from a company favour their previous employer and may allow the lobbying agenda of their previous private sector employer to influence their government work.

Controls

In light of these risks, governments have sought to regulate the revolving door in several ways:

- **Employment cooling-off period:** A cooling-off period is a time-limited restriction on the ability of former public officials to accept employment in the private sector.
- **Restrictions on negotiating private sector employment:** Government officials and employees are required to report any continuing negotiations for subsequent private sector employment and to recuse themselves from any governmental matter where a conflict of interest arises.
- **Post-employment scrutiny:** Monitoring of post-employment behaviour to check that the individual complies with the law.
- **Restrictions on high-risk roles:** Restrictions on specific jobs or activities where risks of improper influence are high, including lobbying, roles in procurement and, in the USA, roles such as bank examiners.

7.3.4 Recognition and promotion

Human resources is usually responsible for managing a company's approach to performance. The appraisal and assessment of employees' integrity performance is an emerging area for corporate practice. More generally, leading companies such as Accenture, GE and Microsoft are beginning to drop formal annual performance reviews, appraisals and rigid rankings in favour of more flexible approaches. A flexible approach is appropriate for appraisal of integrity performance which does not lend itself to measurement or rankings. When appraising integrity performance, a company will typically be looking for:

- Evidence of positive attitude, commitment and knowledge.
- How the employee demonstrates his/her knowledge of the code of conduct, how s/he has attended and performed in training, his/her knowledge of the employee handbook and evidence that the employee has acted with integrity in all aspects of work.
- How the employee has dealt with bribery incidents, if any.
- Whether the employee has shown evidence or interest in continuous improvement in all areas including that of the anti-bribery programme. This would be important for functions at high risk of bribery such as procurement, contracting and marketing.
- Evidence which enables human resources to judge that the employee acts as an ambassador of the company's commitment to integrity.

The company should promote only staff that exhibit the right behaviours and attitudes and decline promotion to those that do not, even if they meet or exceed financial targets.

7.3.5 Monitoring and continuous improvement

Human resources should help keep the anti-bribery programme under review to ensure that it is being implemented effectively from a human resources perspective and that improvements to the programme are identified and implemented. Reports on the human resources aspects of the anti-bribery programme should be made to senior human resources management and to compliance.

RESOURCES

[*Incentivising Ethics: Managing incentives to encourage good and deter bad behaviour*, Transparency International UK, October 2016](#)

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