

THE MISSING PIECE



Welcome....

to the latest issue of *The Missing Piece*, the monthly legal bulletin from *In House Lawyer*. *In House Lawyer* is my individual and exclusive legal service with strong ideals and a bespoke approach.

In this issue I'll be commenting on the first corporate conviction under the Bribery Act 2010.

For more bulletins and information on *In House Lawyer*, go to www.inhouselawyer.uk.com.





Sweett Group Plc has been given the dubious 'honour' of being the first corporate conviction under the Bribery Act 2010 for failing to prevent bribery.

The case

According to the announcement of the conviction by the Serious Fraud Office (SFO), Sweett Group, a construction and professional services company, pleaded guilty in December 2015 to a charge of failing to prevent an act of bribery committed by its subsidiary, Cyril Sweett International Limited. That act of bribery had been intended to secure and retain a contract with Al Ain Ahlia Insurance Company for the building of the Rotana Hotel in Abu Dhabi. The conviction cost Sweett Group Plc £2.25 million, made up of a £1,400,000 fine and a £851,152 confiscation order. In addition £95,031 of costs were awarded to the SFO.

The law

A commercial organisation is guilty of an offence if a person associated with it bribes another person to obtain or retain business or other advantage for that organisation. A person is associated with a commercial organisation if he/she/it performs services for or on behalf of the organisation. This includes agents, employees, subsidiaries, intermediaries, joint venture partners and suppliers. The consequences of being convicted of a bribery offence are considerable with individuals liable to a jail sentence of up to 10 years and/or an unlimited fine. Commercial organisations face unlimited fines. Particular risk areas for commercial organisations include public procurement, corporate hospitality and gifts and facilitation payments.

What should organisations do?

A commercial organisation has a defence to a claim for failing to prevent bribery if it has adequate procedures in place to prevent bribery. Guidance from the Ministry of Justice sets out six principles for commercial organisations to consider in relation to adequate procedures:

- Proportionate procedures
- Top level commitment
- Risk assessment
- Due diligence
- Communication (including training)
- Monitoring and review

What does this mean in practice?

Practical examples of the adoption of the principles set out in the Guidance include:

- Conducting a complete risk assessment of the commercial organisation and any other companies in the group
- Conducting a review of anti-corruption policies and procedures
- Reviewing the commercial organisation's employee code of conduct
- Conducting due diligence on all individuals and entities who could be considered an associated person
- Appointing a compliance officer
- Publishing an anti-corruption statement and displaying the anti-corruption policies to ensure that they are accessible by all.

If you do not already have policies and procedures in place then I can assist you in preparing those at a fixed fee.

Be warned

Commenting on the conviction David Green, director of the SFO, said: "Acts of bribery by UK companies significantly damage this country's commercial reputation. This conviction and punishment...sends a strong message that UK companies must take full responsibility for the actions of their employees and in their commercial activities act in accordance with the law."

THAT'S ALL FOR THIS MONTH...

If you have any queries, comments or request for future bulletins then get in touch, I would be delighted to talk to you or meet at your convenience.



+44 (0) 7525 810 444



+44 (0) 1244 318 470



edelgado@inhouselawyer.uk.com



www.inhouselawyer.uk.com

The Missing Piece is not intended to constitute a definitive or complete statement of the law on any subject, nor is any part of it intended to constitute legal advice for any specific situation. In House Lawyer Limited does not accept any responsibility for action taken as a result of information provided by in The Missing Piece. You should take specific advice when dealing with specific situations. The Missing Piece is general and educational in nature, may not reflect all recent legal developments and may not apply to the specific facts and circumstances of individual transactions and cases.

In House Lawyer Limited is registered in England & Wales with number 07808015 with its registered office at 84 Clare Avenue, Chester, CH2 3HP. © 2016 In House Lawyer Limited.