

This article first appeared in a slightly different form in *Construction News*, 7 October 2010

HAS TIME BEEN CALLED ON CORPORATE HOSPITALITY?

By Andrew Legg and Susan Rosser

Corporate hospitality, Wimbledon, lunches and all the rest are what might be called an accepted part of commercial life. Bribery? Surely not? But, from next April, the radically modernised anti-corruption legislation in the new Bribery Act will place a significant question mark over corporate hospitality.

The new Act will apply to those doing business in Britain and UK companies and residents doing business abroad. Not only individuals will be open to criminal prosecution; companies may be liable for failing to implement adequate measures to prevent their employees and agents paying bribes to win business. The construction industry, as any other, should be aware of what this means in *practical* terms.

The new Act's main offences are very broad and based around the idea of a bribe being an inducement or reward for someone performing their job improperly. A bribe is not limited to the classic brown envelope stuffed with banknotes, but means any type of "advantage" whether it has direct monetary value or not. It can therefore include gifts, corporate hospitality, donations, favours or even providing information. Even trivial gifts may potentially be caught by the legislation where the "improper" test is met.

An offence can also be committed by a recipient of an "advantage", where acceptance in itself constitutes improper performance of their job, and by the person offering the "advantage", if they know that; for example, where an organisation has expressly prohibited its employees from accepting gifts from its suppliers.

On its face, therefore, excessive corporate hospitality could expose the host and recipient to criminal prosecution. Suppose a host offers high value entertainment (e.g. an all expenses paid trip to the World Cup), knowing or believing that acceptance would breach internal policies of the recipient's organisation; that could be a bribery offence. Similarly, if the person to be entertained "requests, agrees to receive or accepts" this high value hospitality and this infringes their organisation's internal rules and policies, they are also at risk of prosecution.

Which means it is now vital that all commercial organisations have an effective policy on the giving and receipt of gifts and other corporate hospitality and that their employees and other representatives are fully aware of that policy. This is not only to reduce the risk of prosecution of those individuals, but also to ensure the organisation itself is not exposed to criminal liability and potential reputational damage.



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