

Bribery Podbriefing Audio Transcript

00:03

The Bribery Act is the UK's anti-corruption law. It introduces a range of offences to tackle corruption, and affects both individuals and organisations, in both the private sector and in public sector context.

00:31

What people often think about bribery is a payment in cash or financial advantage, but a bribe can be many things. It can be excessive hospitality, lavish gifts, a favour, the offer of employment or some other kind of advantage and the Bribery Act is very broadly defined to cover that range of different activity.

00:49

Mr Pryce, can you confirm for the court that you are the Director of Procurement at Oldtown University.

00:53

Yes that's correct.

00:55

And can you also confirm that your son was offered a job with one of Oldtown University's suppliers B.U.N.G. Limited?

01:03

Well, yes, they offered him a job.

01:05

And this was during your negotiations with them on the University's behalf ... They made it clear to you that in exchange they wanted University business ... That is correct, isn't it?

01:16

No. It just so happened that they were offered business afterwards. Look I swear to you, I promise, there was no connection!

01:27

Mr Pryce I have here in front of me a list, which includes a whole range of things: lavish gifts, benefits, advantages ... call them what you like. It's a list of inducements that you have received from that same supplier, B.U.N.G. Limited, in exchange for University business.

01:49

A gourmet meal at Tre Share... An iPad... A season ticket for Oldtown Football Club, with front row seats... A donation of £10,000 to a charity of your choice... A first class business trip to a conference, staying in a five star hotel. I put it to you that all of these were lavish inducements, wouldn't you agree?

02:15

No, actually, I wouldn't agree. These are all just examples of hospitality that helped to build good business relationships. And my son's job offer is a personal matter. They are not bribes!

02:32

Mr Pryce, you may be interested to know that a bribe can take any form whether financial ... or other advantage.

02:47

The core offences are paying and receiving bribes. If you make an offer of a bribe, a financial or other advantage, with the intention of inducing someone to do something improperly, it's an offence. And similarly, if that offer in itself is improper, it is an offence. One of the key messages about the Bribery Act is that it is about conduct that's corrupt and *not* just about outcomes.

03:15

Two straight forward rules help sum up the key offences. First, do not make payments to anyone or favour them in some other way which involves *them* misusing their position. And secondly, don't misuse your position in connection with payments, or favours to yourself or to someone else.

03:40

And furthermore, I put it to you Mr Pryce that all these things were lavish. They were all bribes and they were all accepted by you, in exchange for misusing your position. You knew what you were doing all along, you knew it was wrong!

03:52

Objection your honour! My learned friend is badgering the witness.

03:58

No, I'll allow it. Please continue.

04:04

Mr Pryce, would you say you were a man of good judgement? Someone who uses their common sense?

04:12

Well, yes I would say so. Yes!

04:15

Then why, I ask you why did you not apply your common sense and question the source and the timing of the lavishness of all these inducements, and what you were asked for in return?

04:34

The Bribery Act extends liability to acts committed abroad that are bribes. So, if you are a UK national or ordinarily resident in the UK and you're involved in bribery outside of the UK, you could be prosecuted here.

04:49

In addition to the main two offences of paying bribes and receiving bribes, The Bribery Act also includes a third offence: of bribery of a Foreign Public Official. This is an important offence because it is very widely defined. It includes the offer or payment of financial or other advantage, with the intention of *influencing* a Foreign Public Official and with the intention of winning or obtaining, or retaining business, or business advantage. The key thing there is that they don't need to be induced to perform their functions improperly; a mere intention to influence them might be enough. The second issue is that a Foreign Public Official includes a whole range of people in state run or state controlled organisations overseas, including potentially, those working in Universities or in the University Sector abroad, and also those working in state run or state controlled enterprises.

05:54

Often people say, well it's normal or it's customary to make this payment in this particular jurisdiction outside the UK. But norms and customs of that kind are no defence to bribery under the Bribery Act. Only written laws overseas that authorise, or permit conduct would provide such a defence.

06:16

Mr Pryce, part of your role at Oldtown University is selecting suppliers for overseas operations, that is correct isn't it?

06:23

Yes, that's correct.

06:25

If I could take you to page 150... this is Oldtown University's Anti-Bribery Policy. Mr Pryce, you've read this policy haven't you and you're aware aren't you that you need to exercise particular caution when dealing with Foreign Public Officials?

06:39

Yes, I seem to recall something along those lines.

06:43

And you offered an employee of a state run business: a Foreign Public Official, a cash payment in exchange for a favour.

06:51

Yes. Yes I've admitted I did that, but I just went along with the cultural norm... I mean everybody does it. At least I think they do.

07:02

Mr Pryce, local norms or customs are no defence to prosecution under the Bribery Act. And you are liable here for bribery, even if it takes place outside the UK jurisdiction.

07:18

The University can be liable for bribery that it commits or that it is involved in directly, just as an individual can be. But the real stand out change brought in by the Bribery Act, is that a University as a commercial organisation can be liable for failure to prevent bribery... which means that it is liable if someone performing services for it or on its behalf pays a bribe, or offers a bribe to someone else, intending to win business or a business advantage for the University.

07:51

In those circumstances the University doesn't need to have known about that payment or offer or have approved it. It could be strictly liable as a commercial organisation with a bribe paid by a third party. That's liability for the acts of Associated Persons, and Associated Persons under the Bribery Act include a range of other people connected to the University. All of its employees, but equally third parties who perform services for the University such as its agents, its consultants, its contractors, its joint venture partners even. So the liability is very wide under this new failure to prevent offence.

08:38

Mr Pryce as an employee of Oldtown University you put them at risk of a prosecution for failing to prevent you from committing bribery... How do you feel about that? They didn't even know what you were doing.

08:57

The University as a commercial organisation has a defence to the failure to prevent bribery offence and that is to put in place adequate procedures designed to prevent bribery. UK government guidance has set out what those procedures should look like. They should involve a risk assessment to assess potential corruption risks. It will also involve due diligence on third parties and services they're performing for the University. It will involve having proportionate procedures and policies in place to train staff and communicate a zero tolerance approach to corruption of all kinds. And keeping all of those steps under review and monitoring them as the risk to a University change, as the business expands into different jurisdictions and the like.

09:47

Mr Pryce you have already admitted to this court that you have read Oldtown University's Anti-Bribery Policy.

09:54

Yes. I think I filed that policy somewhere.

09:58

So you accept the guidance is there but you failed to act on it... Instead, you just filed it away for a rainy day... And you would no doubt recall being invited to watch a training video.

10:12

Yes. Yes, I did watch something, but in all honesty I was trying to multi-task. I think I was trying to take a phone call at the same time, so I might have missed something.

10:29

The Bribery Act introduces a range of different penalties for individuals and for organisations. Individuals can face imprisonment with a maximum sentence of up to 10 years, and organisations can face unlimited fines and a range of other penalties. The consequences of a bribery conviction for individuals and for organisations have wider effects as well, including very severe reputational damage.

11.01

Mr Pryce, you have been found guilty of charges under the Bribery Act. You have caused very serious reputational damage not only to yourself but also to your employer, Oldtown University.

11:18

I can tell you that I am minded to consider, that the only sentence commensurate with the seriousness of your actions is a lengthy term of imprisonment.