

# Steps taken to implement and enforce the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transaction

## UNITED KINGDOM

(Information as of 24 March 2014)

### *Date of deposit of instrument of ratification/acceptance or date of accession*

The United Kingdom signed the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (“the OECD Convention”) on 17 December 1997, and deposited its instrument of ratification on 14 December 1998. The UK’s ratification was extended to the Isle of Man in 2001, to the Cayman Islands, Jersey and Guernsey in 2010 and to the British Virgin Islands and Gibraltar in 2013.

### *Implementing legislation*

Bribery Act 2010

[http://www.opsi.gov.uk/acts/acts2010/ukpga\\_20100023\\_en\\_1](http://www.opsi.gov.uk/acts/acts2010/ukpga_20100023_en_1)

The Secretary of State issued guidance for commercial organisations in March 2011 <http://www.justice.gov.uk/guidance/making-and-reviewing-the-law/bribery.htm>

The Director of Public Prosecutions, and the Director of the Serious Fraud Office, has issued joint guidance for prosecutors. <http://www.sfo.gov.uk/press-room/press-release-archive/press-releases-2011/bribery-act-prosecution-guidance-published.aspx>

### *Other relevant laws, regulations or decrees that have an impact on a country’s implementation of the OECD Convention or the Recommendations*

The UK has prosecuted the crime of bribery under the common law (unwritten) for many centuries but the crime of corruption only entered statute law (written) with the Public Bodies Corrupt Practices Act 1889, which outlawed bribery of public officials. The Prevention of Corruption Act 1906 extended bribery into the private sector and introduced the concept of bribing agents acting on behalf of a principal. The Prevention of Corruption Act 1916 Act widened the definition of ‘public body’ and added a presumption of corruption for all payments made in connection with contracts to Crown employees or government departments. The Anti-Terrorism, Crime and Security Act 2001 came into force on 14 February 2002. Part 12 of the Act expressly extended the jurisdiction of domestic courts to bribery committed abroad by UK nationals or bodies incorporated under UK law, and widened the definition of public bodies to encompass foreign public bodies. Before the Anti-Terrorism, Crime and Security Act 2001 if the substance of the offence was committed in the UK it would be prosecutable. Legislation to reform the criminal law of bribery received Royal Assent on 8 April 2010. The Bribery Act 2010 came into force on 1 July 2011.

### *Other information*

#### *Relevant authorities*

Department for Business, Innovation & Skills,  
1 Victoria Street  
London  
SW1H 0ET  
Tel: 0207 215 3010

### *Signature/Ratification of other relevant international instruments*

The United Kingdom has signed the Council of Europe Criminal Law Convention on Corruption and joined GRECO.

[http://www.coe.int/t/dghl/monitoring/greco/general/about\\_en.asp](http://www.coe.int/t/dghl/monitoring/greco/general/about_en.asp)

The United Kingdom signed the United Nations Convention against Corruption (UNCAC) on 9 December 2003 and ratified UNCAC on 14 February 2006. UK law became fully compliant with the convention when the Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) Order 2005 came into force on the 31 December 2005, and the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 came into effect on 1 January 2006.

<http://www.unodc.org/unodc/en/treaties/CAC/index.html>

### ***Working Group on Bribery Monitoring Reports***

Phase 1: Review of Implementation of the Convention and 1997 Recommendation (December 1999): <http://www.oecd.org/dataoecd/8/24/2754266.pdf>

Phase 1bis. (March 2003): <http://www.oecd.org/dataoecd/12/50/2498215.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions (March 2005). <http://www.oecd.org/dataoecd/62/32/34599062.pdf>

Phase 2: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions July 2007) <http://www.oecd.org/dataoecd/43/13/38962457.pdf>

Phase 2bis. (October 2008) <http://www.oecd.org/dataoecd/23/20/41515077.pdf>

Phase 1ter. (December 2010) <http://www.oecd.org/dataoecd/58/43/46883138.pdf>

Phase 3 (March 2012) <http://www.oecd.org/daf/anti-bribery/UnitedKingdomphase3reportEN.pdf>

### ***Judicial decisions (and enforcement actions)***

**2014**

#### **London market broker punished for bribery and corruption controls**

In March London market broker Besso was fined £315,000 by the Financial Conduct Authority (FCA). The regulator said the firm had failed to take reasonable care to establish and maintain effective systems and controls for countering the risks of bribery and corruption. Besso operated a "weak control environment" surrounding the sharing of commissions with third parties which resulted in an "unacceptable risk" that they could be used for "corrupt purposes".

<http://www.fca.org.uk/news/press-releases/besso-limited-fined-for-antibribery-and-corruption-systems-failings>

**2013**

#### **FCA fines JLT Specialty £1.8m over lack of bribery controls**

On 19 December FCA published notice that JLT Specialty, a specialist insurance broking company, accepted that systems it put in place to deal with potential bribery and corruption

were inadequate during a three year period up to May 2012. The Financial Conduct Authority (FCA), imposing the fine, said that the company failed to carry out proper checks before beginning new working relationships with introducers overseas.

<http://fca.org.uk/news/firm-fined-18million-for-unacceptable-approach-to-bribery-corruption-risks-from-overseas-payments>

<http://www.fca.org.uk/your-fca/documents/final-notices/2013/jlt-specialty-limited>

### **Alexander Capelson**

On 21 June 2013 former CEO of UK registered oil and gas exploration company Vostok Energy Alexander Capelson pleaded guilty at Southwark Crown Court to making a corrupt payment, contrary to section 1(1) of the Prevention of Corruption Act 1906. US national Capelson paid US\$200,000 to a director for Russia, Belarus and Tajikistan at the European Bank for Reconstruction and Development (EBRD). The bribe was paid in July 2009 by Capelson using a third party Monegasque account via an offshore shell company's Swiss account. He was sentenced to 1 year imprisonment.

**2012**

### **Paul Jennings**

The former Innospec CEO pleaded guilty to charges of conspiracy to corrupt Iraqi public officials and agents (between 1 June 2006 and 31 May 2007). Other offences, already admitted in June 2012, relate to allegations of conspiracy to corrupt in that he gave or agreed to give corrupt payments to public officials and other agents of the Governments of Indonesia (between 14 February 2002 and 31 December 2008) and Iraq (between 1 January 2003 and 31 January 2008) as inducements to secure, or as rewards for having secured, contracts from those Governments.

<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2012/innospec-ltd--former-ceo-admits-bribery-to-falsify-product-tests.aspx>

### **Oxford Publishing Ltd (OPL)**

Action in the High Court resulted in an Order that OPL pay £1,895,435 in recognition of sums it received which were generated through unlawful conduct related to subsidiaries incorporated in Tanzania and Kenya. OPL is a wholly owned subsidiary of Oxford University Press (OUP).

<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2012/oxford-publishing-ltd-to-pay-almost-19-million-as-settlement-after-admitting-unlawful-conduct-in-its-east-african-operations.aspx>

### **Dr David Turner**

The former Innospec Global Sales and Marketing Director pleaded guilty charges of conspiracy to give corrupt payments to public officials and other agents of the Government of Indonesia and the Government of Iraq.

The sentencing of Dr Turner was adjourned.

<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2012/innospec-ltd--former-ceo-admits-bribery-to-falsify-product-tests.aspx>

**2011**

### **Action on Macmillan Publishers Limited**

The Director of the Serious Fraud Office (SFO) took action in the High Court, which resulted in an Order for the company, Macmillan Publishers Limited (MPL), to pay in excess of £11 million in recognition of sums it received which were generated through unlawful conduct

related to its Education Division in East and West Africa. <http://www.sfo.gov.uk/press-room/press-release-archive/press-releases-2011/action-on-macmillan-publishers-limited.aspx>  
<http://www.cityoflondon.police.uk/CityPolice/Media/News/290711OACUcaseendwith%20%A311mpayout.htm>

**FSA fines Willis Limited £6.895 million for anti-bribery and corruption systems and controls failings.**

The Financial Services Authority (FSA) fined Willis Limited £6.895 million for failings in its anti bribery and corruption systems and controls. These failings created an unacceptable risk that payments made by Willis Limited to overseas third parties could be used for corrupt purposes.

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2011/066.shtml>

**DePuy International Limited** were ordered to pay £4.829 million in a Civil Recovery Order. In April 2011 the SFO obtained a Civil Recovery Order against DePuy International Limited. The company was ordered to pay £4.829 million, plus prosecution costs, in recognition of unlawful conduct relating to the sale of orthopaedic products in Greece between 1998 and 2006.

<http://www.sfo.gov.uk/press-room/press-release-archive/press-releases-2011/depuy-international-limited-ordered-to-pay-4829-million-in-civil-recovery-order.aspx>

**MW Kellogg Ltd to pay £7 million in SFO High Court action**

Although M.W. Kellogg Limited (MWKL) took no part in the criminal activity which generated share dividends payable from profits and revenues produced by contracts obtained by bribery and corruption, the High Court made an Order under the Proceeds of Crime Act 2002 on 16 February 2011 which will lead to the payment of £7,028,077 in full and final settlement of the case.

<http://www.sfo.gov.uk/press-room/press-release-archive/press-releases-2011/depuy-international-limited-ordered-to-pay-4829-million-in-civil-recovery-order.aspx>

**2010**

**BAE System plc**

In December 2010 BAE Systems Plc was fined £500,000 after admitting it had failed to keep adequate accounting records in relation to a defence contract for the supply of an air traffic control system to the Government of Tanzania. This follows a settlement by BAE as part of a global agreement it reached with the Serious Fraud Office and the US Department of Justice concerning contracts in a number of countries. The settlement with the SFO relates to the Tanzania contract whereby BAE agreed to pay an ex-gratia payment for the benefit of the people of Tanzania of £30 million less any fine imposed by the Crown Court.

<http://www.sfo.gov.uk/press-room/press-release-archive/press-releases-2010/bae-systems-plc.aspx>

<http://www.sfo.gov.uk/press-room/press-release-archive/press-releases-2010/bae-fined-in-tanzania-defence-contract-case.aspx>

<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2012/bae-systems-will-pay-towards-educating-children-in-tanzania-after-signing-an-agreement-brokered-by-the-serious-fraud-office.aspx>

**Julian Messent**

A former director of London-based insurance business PWS International Ltd -Julian Messent pleaded guilty to two counts of making corrupt payments between February 1999 and June 2002, contrary to s1 (1) of the Prevention of Corruption Act 1906. He was sentenced to 21 months imprisonment on each count to run concurrently. He was ordered to pay £100,000 compensation within 28 days to the Republic of Costa Rica or serve an additional 12 months

imprisonment if he fails to do so. He was disqualified from being a company director for a period of five years. The sentencing judge made it clear that Messent's guilty plea, cooperation with the SFO and the mitigation offered had allowed him to reduce the sentence from an initial starting point of four to five years to the 21 months. Messent admitted making or authorising corrupt payments of almost US \$2 million to Costa Rican officials in the state insurance company, Instituto Nacional de Seguros (INS) and the national electricity and telecommunications provider Instituto Costarricense de Electricidad (ICE). He also asked for 39 similar offences to be taken into consideration.

<http://www.sfo.gov.uk/press-room/press-release-archive/press-releases-2010/insurance-broker-jailed-for-bribing-costa-rican-officials.aspx>

2009

### **Robert John Dougall**

The former DePuy executive Robert John Dougall pleaded guilty after admitting his involvement in making £4.5 million of corrupt payments to medical professionals within the Greek state healthcare system. He was originally sentenced to 12 months imprisonment. Recognising the important public interest issues raised in this case, Mr. Dougall was granted leave to appeal. On appeal the sentence was suspended. The Court of Appeal emphasised that where a defendant entered a guilty plea and provided full cooperation with the authorities investigating a major crime involving fraud or corruption and the level of criminality and mitigation meant that the sentence of imprisonment would be 12 months or less, then “the argument that the sentence should be suspended is very powerful” and that “this result will normally follow”. <http://www.sfo.gov.uk/press-room/press-release-archive/press-releases-2010/british-executive-jailed-for-part-in-greek-healthcare-corruption.aspx>

### **Innospec Ltd**

In March 2010, Innospec Ltd appeared at Southwark Crown Court and entered a plea of guilty to bribing employees of Pertamina (an Indonesian state owned refinery) and other government officials in Indonesia. The judge indicated he would impose a fine of the sterling equivalent of US\$ 12.7 million.

<http://www.sfo.gov.uk/press-room/press-release-archive/press-releases-2010/innospec-limited-prosecuted-for-corruption-by-the-sfo.aspx>

<http://www.sfo.gov.uk/press-room/press-release-archive/press-releases-2010/innospec-ltd-charged-over-bribery-and-corruption.aspx>

### **Mabey & Johnson**

In July 2009, bridge builders Mabey and Johnson entered guilty pleas to charges of corruption and breaching UN sanctions. On 25 September 2009, the company agreed to pay £6.6 million in fines, confiscation and reparation orders. A monitor was appointed for up to three years to ensure future compliance.

In January 2012 the Director of the Serious Fraud Office (SFO) took action in the High Court, which resulted in an Order for Mabey Engineering (Holdings) Ltd, to pay over £130,000 in recognition of sums it received through share dividends derived from contracts won through unlawful conduct. Mabey Engineering (Holdings) Ltd is the parent company of modular bridge manufacturers Mabey and Johnson Ltd and part of the Mabey Holdings group.

<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2009/mabey--johnson-ltdprosecuted-by-the-sfo.aspx>

<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2009/mabey--johnson-ltdsentencing-.aspx>

<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2011/mabey--johnson-ltd-formerexecutives-jailed-for-helping-finance-saddam-hussein's-government.aspx>

<http://www.sfo.gov.uk/press-room/press-release-archive/press-releases-2011/mabey--johnson-directors-made-illegal-payments-to-sadam-hussein's-iraq-to-gain-contract.aspx>  
<http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-2012/shareholder-agrees-civil-recovery-by-sfo-in-mabey--johnson.aspx>

#### **FSA fines Aon**

In January 2009 the Financial Services Authority fined the company £5.25 million for failing to take reasonable care to establish and maintain effective systems and controls to counter the risks of bribery and corruption.

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/004.shtml>

**2008**

#### **Balfour Beatty plc**

In October 2008 the Serious Fraud Office used new Civil Recovery powers against a UK plc to recover property obtained by unlawful conduct. A Consent Order agreed before the High Court established a settlement of £2.25 million plus costs. <http://www.sfo.gov.uk/press-room/press-release-archive/press-releases-2008/balfour-beatty-plc.aspx>

#### **City of London Police - Guilty plea to bribery sets legal landmark**

The first UK prosecution of a foreign bribery offence was heard in August 2008. The Managing Director of a UK-based company was found guilty of making corrupt payments to foreign officials. A Ugandan Government official who received the payment was arrested in London and also convicted.

<http://www.cityoflondon.police.uk/CityPolice/Departments/ECD/anticorruptionunit/guiltypleatobribery.htm>