

How well do you know your ABCs?

That is your Anti-Bribery and Corruption (“ABC”) framework.

The Bribery Act 2016 (“the Act”) has been effective in Bermuda for well over a year now, and it operates to criminalise private and public sector bribery and corruption and is all encompassing. The Act generally applies to all organisations, regardless of whether incorporation or registration takes place in Bermuda.

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Commercial organisations must take steps to prevent it, which means training and at least making your staff aware of the provisions of the Act so that there can be no suggestion that they weren’t aware.¹”

Nicholas Pedro,
Organised and Economic Crime
Department, Bermuda Police Service

Consistent with the UK when their legislation was updated in 2010, we are yet to see a significant change or increase in publicly reported cases since the Act came into effect on this island. However, if the trends from the UK hold true, then we should be ready for more focus on organisations’ practices and increased public resources.

This trend isn’t unique to the UK.

More countries are strengthening their ABC legislation more than ever, and regulators and law enforcement agencies are pursuing allegations of bribery and corruption. Under the legislation, an organisation’s only defence to an allegation of bribery or corruption is to demonstrate that it had ‘adequate procedures’ in place. Before doing so, an organisation needs to be able to identify and understand where the key bribery and corruption risks and exposures lie – much like your general business risk assessment. This same process should be completed specifically for bribery and corruption.

Recent scrutiny of the existing ‘gold standard’ UK Bribery Act 2010 has resulted in key recommendations to strengthen the business risk assessment.

Four key principles

After completing the risk assessment, organisations should consider their ABC framework as a whole and consider these key principles:



Clear, zero tolerance approach to bribery and corruption:

demonstrated at all levels of an organisation, including third parties, service contractors and agents, and it should be included in procedural documents, such as the Code of Conduct.



Regular training and communication:

provide formal, practical training to all employees and relevant third parties, including how to report concerns of bribery and corruption within an organisation.



Appropriate ABC policies and procedures:

design and implement proportionate to the level of risk presented to and by your organisation.



Ongoing monitoring and review:

ensure your policies and procedures are working appropriately – are they commensurate to your organisation's risks? Or has your organisation recently expanded its business operations or engaged a new outsourced provider?

¹ Source: <http://www.royalgazette.com/crime/article/20171024/top-police-officer-fighting-corruption>

² Source: https://publications.parliament.uk/pa/ld201719/ldselect/ldbriact/303/30309.htm#_idTextAnchor070

In our experience working with clients around the world, the most effective risk assessments consider the threat of bribery and corruption across the entire organisation and they are the result of a collaborative process with employees at all levels. The risks considered are both internal and external threats.

Once the risks have been identified, then the controls to prevent and detect need to be documented – organisations will then be in a better position to determine where there may be gaps in their controls, and appropriately allocate resources to remedy these deficiencies.

While the tone at the top is critical, the tone at the middle is also key. This starts with having the right ABC framework, a Code of Conduct, and ensuring the four principles are in play.

How KPMG can help

We help our clients with all areas of financial crime compliance:



Host ABC workshops to prepare risk assessments



Draft policies and procedures



Conduct ABC investigations



Review of risk assessments and policies and procedures



Deliver ABC training for employees and boards of directors

Let's start a conversation.

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We stress the importance for even the smallest companies of carrying out a properly documented risk assessment... They will need to carry out a re-assessment if their business changes.²”

UK Parliament