

## **The Intersection of Security and the UK Bribery Act**

*Ed. Note-recently Graham Clarke, Director of Group Security for Centrica, was interviewed by Harriet O'Brien about his experiences in leading Centrica's response to implementation of the UK Bribery Act's 'adequate procedures'.*

### **Could you give an example of how this relates to anti-bribery and corruption?**

One thing that it does is to show that the company is serious about meeting its professional and regulatory obligations in providing effective security. Making us a secure organization and helping us drive a security culture through the business then enables us to be more compliant and much more resilient to the risk of security incidents or fraud. It is also about showing that, because we have national critical infrastructure responsibilities, we are doing all we can to keep our sites and people secure and as a result keeping our customers lights on and making sure they are warm in bad weather. It is also an indication that we're very keen to meet our corporate social responsibilities by ensuring our assets are secure and where we operate in communities; we understand the need to be a good neighbor.

### **How will the bribery act affect your business?**

The energy industry, being so diverse, should have a lot of concerns about the effect that bribery risk can have on organization. Because of the type of work we do, whether that's in the supply of gas/electricity to people's homes or whether it's the sourcing of gas, particularly in developing countries, where the regulations might not be at the same level as ours in the UK. However, the impact of the new UK Bribery Act will be worldwide and quite clearly states that companies operating in the UK, anywhere in the world could be affected by offences of bribery. As such, we have to make sure that our behavior is appropriate, whether we are operating in the UK or we're operating internationally. One particular area that is of concern to me, is capital expenditure programs, particularly around new construction projects and when, for example, you think over the next few years the energy industry is going to be investing maybe billions of pounds in new nuclear plants. The risk in that amount of investment not being managed appropriately is significant, particularly when you think of the previous problems that have occurred in the construction industry in relation to the management and procurement of contracts. The government are talking about 50 billion in investment in new nuclear and that is clearly a significant amount of business.

We need to show that we are serious as a country in complying with these new requirements; obviously one of these is supply chain in relation where we need clear processes in place when purchasing and receiving goods and services to ensure, for example, that there's a separation of duties in the approval and payment of invoices, and that you could track any odd or illegal payments. Procurement policies should be clearly communicated to all suppliers that there is a process in place to be able to apply sanctions and the right to audit if companies that you're working with transgress. Including a clear statement on the fact that you conduct business with integrity these are the controls that need to be in place when looking at procurement and supply chain.

Ultimately, we should all be responding to the bribery act by ensuring that we have in place adequate procedures to prevent the risk of bribery before the legislation comes into place. Although I don't believe that as an organization we're doing anything wrong in the meantime we clearly want to make sure that we are resilient to risk in the future.

### **Once the bribery act comes into force, what things do you believe will affect your business?**

The areas that there will undoubtedly be confusion around are gifts and hospitality and the responsibilities we all have in managing third party relationships. Gifts and hospitality is something that as long as its proportionate and appropriate encourages good business providing you stick clearly to the rules and the controls the company has in place. Importantly, gifts or hospitality, should not influence a business decision, but be part of building business relationships and certainly not part of signing an agreement.

In a company such as my own, we have a gift and hospitality policy in place that we are expected to follow at all times. Perhaps more importantly, going forward, there will be a need to make sure that you have a means to record any offers or acceptance of gifts or hospitality. That way you know that you are able to comply exactly with the policy that is set and therefore comply with the new legislation, which will confirm the requirement for gifts and hospitality to be appropriate and proportionate. Being able to be audited on your approach to the issue is important internally; we should want to know that our businesses are following the guidelines set within the legislation. Communication is also important, so that employees are aware of the limits and can comply. We are looking to introduce a piece of software that will enable us to manage and audit the process much more easily and transparently.

Another area of concern for energy companies is the use of agents and intermediaries. You need to make sure that fees paid to agents are appropriate and justifiable and are clearly recorded and agreed in advance. The industry does tend to use agents particularly when moving into new territories because they clearly need local knowledge and a grasp of the rules, regulations and culture in those countries. I think that it is absolutely essential that clear rules are in place and they do not try to exceed the expectations that are placed upon them. My view is that companies should resist payments for success as this may encourage individuals to step outside the guidelines to deliver above expectations. This would avoid rewarding or encouraging bad behavior.

### **The UK, US and Germany all have their own compliance regulations. Do you think that this will create competition between other countries?**

I think that the work that Transparency International have been doing in this area, together with the European Union, in encouraging countries to go down this route, is admirable. It is important for everybody to acknowledge that bribery and corruption exists, because of the impact that it has on people further down the food chain, on poverty, etc. There is a swell of interest in putting whatever is wrong, right and for us all to take part in that. I think it will take a while for it to filter through but the UK has an opportunity to take the lead. We are going to have to comply with this strict legislation but I believe most countries are already behaving appropriately. The important thing in all this is transparency.

There also needs to be some consistency in the way these things are dealt with and that to a large extent will be down to the judiciary. If you take the UK, for example, there seems to be a move by the judiciary to say that cases should be dealt with through the courts and not handled by negotiated financial settlements. This view differs in the US, where the majority of cases are dealt with through out of court fines or settlements. Lord Justice Thomas said that recent fines would have been much higher if they'd have been dealt with by the UK courts.

*Graham Clarke is a former senior detective and Head of Special Branch in the UK Police Service. In December, 2008 he joined Centrica as the Director of Group Security, having previously spent 8 years with TXU Europe in the role of Security Operations Manager and latterly E.ON UK where he became the Head of Business Resilience.*

*The comments contained herein are his own and not necessarily those of his employer.*

*Graham will be sharing his experiences in global security operations at the Compliance in the Global Supply Chain: Anti-Bribery and Corruption Series taking place in Houston, Texas, USA, 26<sup>th</sup> – 27<sup>th</sup> April 2011. For more information on the event, go to [www.compliance-supplychain.com](http://www.compliance-supplychain.com).*

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