

Responding to a business need, or an excuse to change the Bribery Act?

An announcement in January that the UK government will review the Bribery Act may indicate that No.10 intends to reverse the trend towards tackling bribery in the UK, and seems to be rather against the spirit of the “freedom, fairness, responsibility” mantra in the coalition agreement. The coalition agreement includes an express commitment (in the international development section) to support efforts to tackle corruption.

There is the risk that the coalition may be seen as preaching one thing, to the developing world, but practicing another at home, which may undermine its credibility.

The Government has to tread very carefully here. Seeking to remove obstacles to economic growth in the current economic malaise may make sense now, but we have to consider what message it sends out to the world about the way that our country views bribery? The rhetoric about getting tough on bribery goes back to the Law Commission review in 1998, around the same time that the Organisation for Economic Co-operation and Development (OECD) Working Group on Bribery issued a press release which demanded rapid UK action to enact adequate anti-bribery laws. The impact risk assessment of the Bribery legislation, published in August last year, heralded the wider reputational and commercial benefits from reinforcing the integrity of UK business practices and the ability of UK businesses to compete fairly. Are we now prepared to retreat from our tradition of fair play?

The Bribery Act 2010 was passed in the last-minute legislative scramble before the dissolution of the last parliament, and creates a discrete offence of bribery of a foreign public official and a new offence of negligent failure of commercial organisations to prevent bribery. It is the latter offence which has been of particular concern to UK businesses, especially lavish corporate hospitality, which was a dogged issue in the parliamentary debates. It would seem that lavish corporate entertainment (and the obligatory stuffed goody bags) may be back on the agenda in the very near future.

c. Philip Henson – Partner, Bargate Murray.

www.bargatemurray.com