

CHESHIRE EAST

STANDARDS COMMITTEE

Date of meeting: 25 July 2011

Report of: Monitoring Officer

Title: The Bribery Act 2010

1.0 Purpose of the Report

1.1 To inform Members of the passage of the Bribery Bill into legislation, its coming into force, content and impact.

2.0 Decision Required

2.1 To note the report.

3.0 Financial Implications

3.1 None.

4.0 Legal Implications

4.1 As outlined in the report below.

5.0 Risk Assessment

5.1 This report highlights the change in the legislation surrounding bribery and corruption and mitigates the risk that its impact may be overlooked.

6.0 Background/Context

6.1 Members will recall that a report was presented to Standards Committee in March 2010 outlining the forthcoming legislation, which was at that formative stage, known as the Bribery Bill. It had been published in draft as part of a White Paper on 25 March 2009 and passed through pre-legislative scrutiny by a Joint Committee of both Houses of Parliament. That Parliamentary Committee received written and oral evidence from May 2009 and published its report on 28 July 2009. The Bill was introduced in the House of Lords on 19 November 2009, and had its Third Reading in the Lords on 8 February 2010. It was then referred to the Commons to a Public Bill Committee and finally received Royal Assent on 8 April 2010. It came into force on 1 July 2011.

6.2 The Act is aimed at providing a more effective legal framework to combat bribery in the public and private sectors. It replaces the former fragmented and complex offences at common law, as well as the body of Acts between 1889 – 1916, comprising the Public Bodies Corrupt Practices Act 1889 and the Prevention of Corruption Acts 1906 – 1916. The Act is also aimed at business by ensuring that everyone is clear about their responsibilities to do business in an open and honest way and to help to deal with the threat posed by bribery to economic progress and development around the world.

6.3 The following new offences have been created:

- Two new general offences covering the offering, promising or giving of an advantage, and requesting, agreeing to receive or accepting of an advantage. The formulation of these offences is designed to abandon the agent/principal relationship, in favour of a model based on intention to induce improper conduct.
- A further separate offence of bribery of a foreign public official.
- A new offence of failure by a commercial organisation to prevent a bribe being paid for or on its behalf. It will be a defence if the organisation has adequate procedures in place to prevent bribery.

6.4 As reported earlier, the new legislation does not require any changes to be made to the existing Codes of Conduct to which Members of the Council, and employees of the Council, are already subject, and since the March 2010 report, separate measures have been introduced in the Localism Bill to reform the Standards regime, which have been reported in other reports. The Bribery Act nonetheless needs to be noted by both elected Members and employees, and future conduct and ethics training, and updates to contract documentation and financial regulations will need to reflect it, as will the separate changes to the Standards regime.

6.5 The Ministry of Justice has published guidance on the new Act at <http://www.justice.gov.uk/guidance/docs/bribery-act-2010-guidance.pdf>

7.0 Reasons for Recommendation

7.1 As outlined in part 6 above.

For further information:

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Background documents

None.