

Global Corruption

managing the risks

INGO Accountability Charter
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Robert Barrington
Executive Director, Transparency International UK

% OF RESPONDENTS WHO REPORT HAVING PAID BRIBES IN THE PAST YEAR TO ANY ONE OF EIGHT SERVICES BY COUNTRY/TERRITORY¹¹

<5%

AUSTRALIA, BELGIUM,
CANADA, CROATIA,
DENMARK, FINLAND,
GEORGIA, JAPAN, KOREA
(SOUTH), MALAYSIA,
MALDIVES, NEW ZEALAND,
NORWAY, PORTUGAL,
SPAIN, URUGUAY

5–9.9%

BULGARIA, ESTONIA, ITALY,
SLOVENIA, SWITZERLAND,
UNITED KINGDOM, UNITED
STATES

10–14.9%

ARGENTINA, CHILE, EL
SALVADOR, HUNGARY,

ISRAEL, JAMAICA,
PALESTINE, PHILIPPINES,
RWANDA, VANUATU

15–19.9%

ARMENIA, CYPRUS,
CZECH REPUBLIC,
KOSOVO, LATVIA,
MACEDONIA (FYR),
ROMANIA, SRI LANKA,
SUDAN, THAILAND, TUNISIA

20–29.9%

BOSNIA AND HERZEGOVINA,
COLOMBIA, GREECE, IRAQ,
LITHUANIA, MADAGASCAR,
MOLDOVA, PAPUA NEW
GUINEA, PARAGUAY, PERU,
SERBIA, SLOVAKIA, TURKEY,
VENEZUELA

30–39.9%

BANGLADESH, BOLIVIA,
EGYPT, INDONESIA,
JORDAN, KAZAKHSTAN,
MEXICO, NEPAL,
PAKISTAN, SOLOMON
ISLANDS, SOUTH SUDAN,
TAIWAN, UKRAINE,
VIETNAM

40–49.9%

AFGHANISTAN, ALGERIA,
DEMOCRATIC REPUBLIC OF
THE CONGO, ETHIOPIA,
KYRGYZSTAN, MONGOLIA,
MOROCCO, NIGERIA, SOUTH
AFRICA

50–74.9%

CAMBODIA, CAMEROON,
GHANA, INDIA, KENYA, LIBYA,
MOZAMBIQUE, SENEGAL,
TANZANIA, UGANDA, YEMEN,
ZIMBABWE

≥75%

LIBERIA, SIERRA LEONE

Corruption is more than bribery...

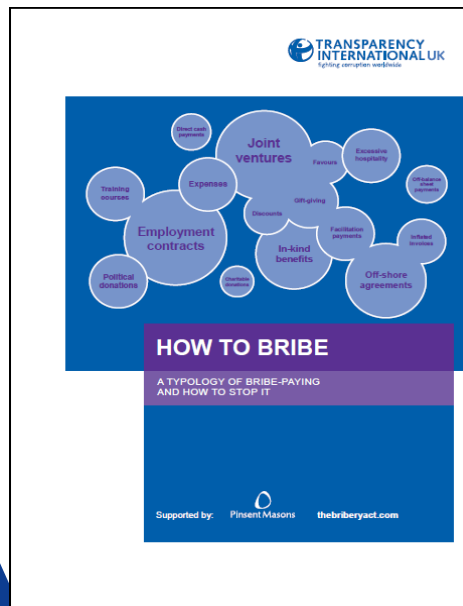
- Cronyism
- Nepotism
- Abuse of power
- Conflicts of interest
- Asset misappropriation
- etc

...though most anti-corruption laws principally cover bribery

SECTION ONE – What is a bribe?

1. Cash is (still) King – Direct cash payments	6
2. Junkets and Jollies – Excessive hospitality	8
3. Bribery in the form of gift-giving	10
4. Favours to friends or relations	12
5. Facilitation payments	14
6. Bribes disguised as charitable donations	16
7. Bribes disguised as political donations	18
8. Bribes masked as commissions	

SECTION TWO – How bribes are paid



1. Associates – Agents, Intermediaries, Introducers	23
2. Associates - Sub-contractors and Distributors	26
3. False or inflated invoicing or product pricing	29
4. Off-shore arrangements and off-balance sheet payments	31
5. Joint ventures	33
6. Training	34
7. Per diems and expenses	36
8. Rebates and discounts or kickbacks	37
9. Employment contracts and association agreements	38

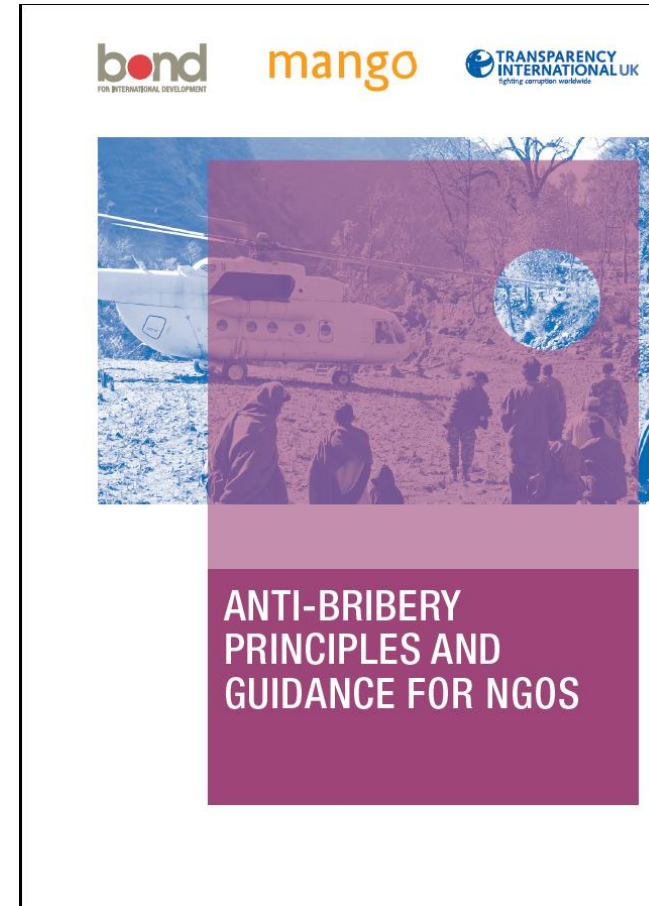
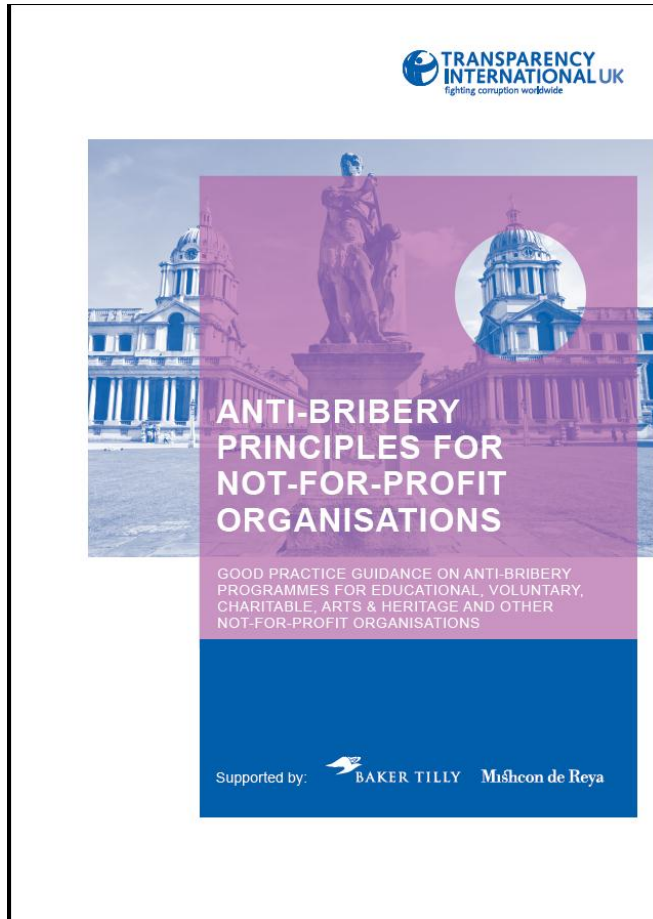
Legal framework: cutting off the supply-side

- Global framework
 - OECD Anti-Bribery Convention [1997]
 - UN Convention Against Corruption [2003]
 - Regional conventions
- National laws
 - Foreign Corrupt Practices Act [US 1977]
 - Bribery Act [UK 2010]
 - Amendment No. 8 to Article 164 [China 2011]
 - Federal Law No. 97-FZ [Russia 2011]
 - Clean Company Act [Brazil 2014]

Do bribery laws apply to not-for-profits?

- An irrelevant question
- Consider instead...
 - The ethical case
 - The damage that corruption does to your organisation's mission
- And think of...
 - The reputational damage
- Then think of...
 - The political fall-out

Designing anti-corruption procedures



The Bond Anti-Bribery Principles

- 1. The NGO commits to a policy of zero-tolerance of bribery in any form.**
- 2. The NGO will implement policies to counter bribery, including:**
 - 2.1 High-level commitment**

The Board of Trustees and senior management should commit to and oversee the implementation of a policy of zero-tolerance, recognising that bribery is contrary to fundamental values of integrity, transparency and accountability and undermines organisational effectiveness.
 - 2.2 Risk assessment**

Bribery risk assessment should form part of each organisation's overall and ongoing risk management process.
 - 2.3 Devise and implement robust anti-bribery procedures**

Organisations should devise, implement and maintain robust procedures, which are proportionate to the risks and to the size, resources and complexity of the organisation.
 - 2.4 Due-diligence assessment of partners, agents and contractors**

The organisation should assess the bribery risk associated with entering into partnership or contracting arrangements with other entities and then carry out periodic due diligence based on that risk assessment. Partnership or contractual arrangements should check that these organisations have policies and procedures which are consistent with these Principles and Guidance.
 - 2.5 Dissemination and communication**

The organisation should establish effective internal and external communication of its policy and procedures. The organisation should undertake training and awareness programmes to ensure staff, agents and partners are aware of the potential risks, how bribery might affect them, what they should do if they are offered a bribe, and the consequences should they be found to have made or received a bribe.
 - 2.6 Monitoring and evaluation**

Implementation of anti-bribery procedures should be monitored as part of overall risk management and internal control processes. Periodic reviews of anti-bribery procedures should be made and reported as part of governance and accountability processes. Organisations that are exposed to higher risks should consider external verification and assurance of their anti-bribery procedures.
 - 2.7 Collective action**

The organisation should commit to sharing information and strengthening collective action to prevent bribery.

Poor practice - excuses

Common excuses

COMPLACENCY

“We’ve always done it...”

IGNORANCE

“If only we’d known that it would be regarded as a bribe...”

SIEGE MENTALITY

“We can only compete if...”

PRETENDING IT’S NOT A BRIBE

“It was only a helicopter trip and a five-course banquet for him and his partner...”

OUTSOURCING BRIBERY

“We had no clue our agent was paying...”

CITING CUSTOM

“That’s the way things work here - it’s different...”

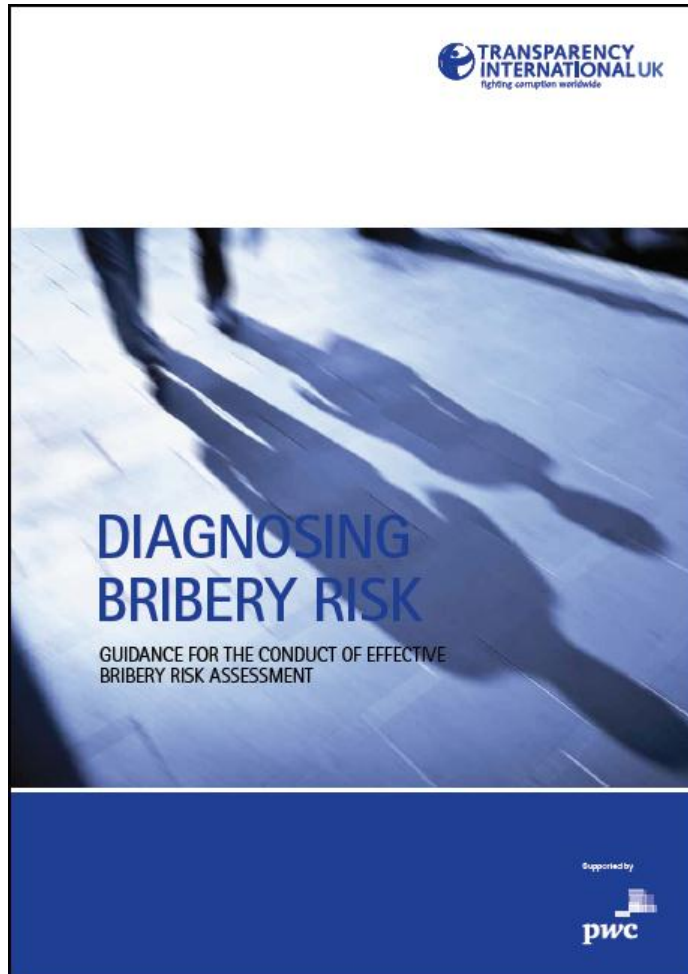
INADEQUACY

“We thought our anti-bribery systems were up to the job...”

What makes the best system?

- Tone from the top
 - Leadership on corruption
 - No-blame, supportive culture
- Risk assessment
 - Really understanding the risk of encountering corruption
- Training
 - Helping employees and partners know what to do and how to do it
 - www.doingbusinesswithoutbribery.com – free e-learning course

What does a bribery risk assessment look like?



ANNEX 1: BRIBERY RISK ASSESSMENT PROCESS CHECK LIST

The check list set out below is intended as an aide memoire for those charged with organising and carrying out a bribery risk assessment in their organisation. It is not exhaustive list but aims to cover the key elements outlined in this guide.

No.	Task	By whom	Completed (date)	Doc ref.
Planning, scoping and mobilisation				
1	Obtain Board level support for the risk assessment process including commitment to: a. Investment of appropriate time and resources b. Board communication of the importance of the exercise c. Personal participation of Board members as appropriate in the process			
2	Appoint project lead			
3	Define stakeholders, team, responsibilities			
4	Identify potential sources: a. People: Line and function b. Internal and external documents			

ILLUSTRATIVE RISK ASSESSMENT

Risk ID	Risk area	Description	Active/Passive	Public/Private	Risk rating	Business unit/function	Associated parties
Heightened Risk Transactions							
1	Cash payments	Our policy is to avoid cash payments where possible. However, petty cash facilities are available for certain purposes in all locations. In addition, in some locations cash payments are necessary because of limited alternative means of money transfer. The risk therefore exists that cash payments could be used for improper purposes.	Active/Passive	Both	High	All	All
2	Gifts	Gifts are customary in many of our markets. There is a risk that an individual gift or a number of gifts in combination over time might improperly influence a recipient, or be seen to do so. This applies equally to third parties with whom we do business and to our own people in their dealings with others. There are some specific local customs and practices in our individual markets. These are captured in local market risk assessments and need to be managed and addressed locally.	Active/Passive	Both	Medium	All	All
3	Travel, hospitality and entertainment	We engage in a number of activities involving the provision to third parties of hospitality and entertainment. The majority of these expenditures are charged through our staff expenses system. We have on occasions also funded flights and other travel for certain government officials to view our facilities, which may also involve hospitality and entertainment as part of the package. There is a risk that such expenditures could be or be seen to be excessive or otherwise improper in the context of the activity to which they relate. There is also a risk that certain of our own staff might receive such benefits in a manner which compromises them in their role.	Active/Passive	Both	Medium	All	All

Conclusions

- NGOs are not very focussed on corruption
- Corruption undermines their missions and can create many other problems
- There are well-established approaches to managing corruption risks
- Most have been developed in the private sector
- They can be adapted for use by not-for-profits
- The TI website is a good source of information and materials
 - www.transparency.org.uk
- Good luck!