



An Roinn Post, Fiontar agus Nuálaíochta
Department of Jobs, Enterprise and Innovation

Combating Bribery of Foreign Officials



What are bribery and corruption?

Bribery is a serious offence concerning the practice of offering something (usually money) in order to gain an illicit advantage.

Corruption is an abuse of a position of trust in order to gain an undue advantage and may encompass a number of offences such as fraud, abuse of one's position of power and money laundering.

This is a worldwide problem with businesses, governments, societies and individuals being affected.

What are the consequences of bribery?

- It creates an unfavourable business environment, particularly in relation to Trade and Foreign Direct Investment.
- As well as allowing organised crime to flourish, corruption is one of the primary obstacles to the economic development of a country; it undermines the rule of law, weakens trust in public institutions and challenges democratic principles.

OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions

The *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* was signed in December 1997 and came into force in February 1999. Ireland ratified the Convention in September 2003. The Convention is aimed at reducing corruption by encouraging sanctions against bribery in international business transactions carried out by companies based in the convention member countries.

OECD website <http://www.oecd.org/corruption/oecdantibriberyconvention.htm>

What is the Legal Position in Ireland?

The Prevention of Corruption (Amendment) Act, 2001 gave effect in Irish law to the *OECD Convention on Bribery of Foreign Public Officials in International Business Transactions* and also two other Conventions, concerning corruption in criminal law and corruption involving officials of the European Communities and officials of the EU member states.

There are strong penalties in place, of up to 10 years imprisonment and an unlimited fine, for those found guilty of offences under the Act, including convictions of bribery of foreign public officials by Irish nationals and companies. Under section 23 of the Proceeds of Crime Act 2005, the Criminal Assets Bureau has power to seize a suspected bribe, and that Act also contains provisions relating to forfeiture of the bribe.

The Prevention of Corruption (Amendment) Act 2010 strengthened the anti-corruption laws, and which gives fuller effect to certain provisions of the OECD Anti-bribery Convention. The Act broadens the legislation on corruption, in

particular in relation to corruption occurring outside the State, and Irish jurisdiction in this regard has been extended to cover virtually all persons, including companies, having a connection with the State.

A key provision in the Act is the protection afforded to whistleblowers who make reports, in good faith, of suspected corruption offences. These reports can be made on a confidential basis. Regarding suspected corruption offences abroad, the Act provides that reports can be made to diplomatic or consular officers as well as to foreign police forces.

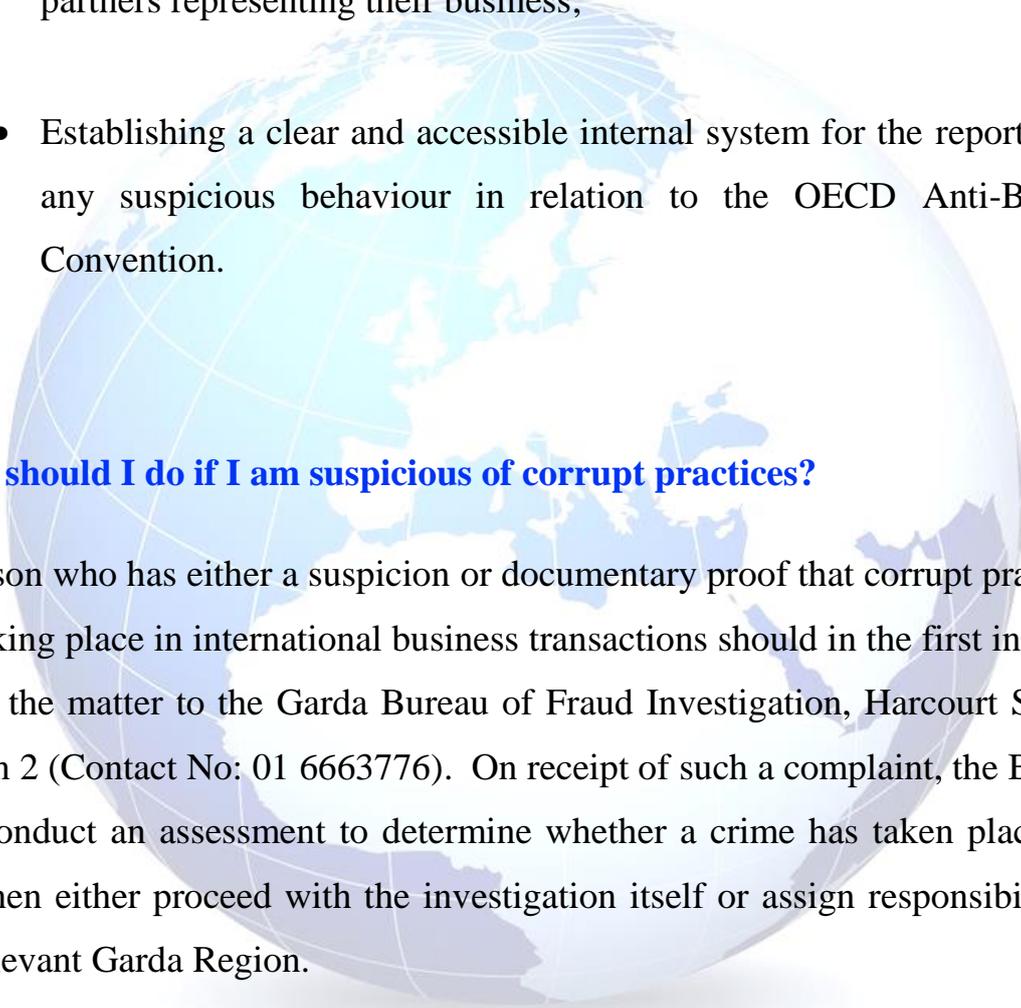
Note also the Criminal Justice Act, 2011, whereby it is an offence to fail to give the Gardaí (Police) information which could prevent the commission of certain serious offences, including corruption and other financial crimes. This Act also provides protection for whistleblowers, including protecting employees from penalisation for disclosing relevant information.

What should companies do to minimise the risk of corruption?

Irish businesses, both at home and abroad, should implement anticorruption policies and practices, including anti-corruption guidelines, training, internal audit procedures and reporting requirements. The challenge for business is to maintain, review and develop these measures to respond to changing circumstances. Specific measures that a business could implement include:

Establishing an anti-corruption policy;

- Ensuring all employees are familiar with the relevant bribery and corruption laws, their responsibilities and the appropriate response to any suspicion of corrupt activity;

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- Ensuring that agents and partners, who are representing or purporting to represent their business, have adequate and valid credentials for the activities being undertaken;
 - Establishing monitoring and reporting requirements for agents and partners representing their business;
 - Establishing a clear and accessible internal system for the reporting of any suspicious behaviour in relation to the OECD Anti-Bribery Convention.

What should I do if I am suspicious of corrupt practices?

A person who has either a suspicion or documentary proof that corrupt practices are taking place in international business transactions should in the first instance report the matter to the Garda Bureau of Fraud Investigation, Harcourt Square Dublin 2 (Contact No: 01 6663776). On receipt of such a complaint, the Bureau will conduct an assessment to determine whether a crime has taken place and will then either proceed with the investigation itself or assign responsibility to the relevant Garda Region.

Further information can also be obtained on the Department of Justice, Equality and Law Reform dedicated website: www.anticorruption.ie.