

Anti-corruption landscape 2017

CGMA[®] Report

Transparency International UK (TI-UK)

Transparency International UK (TI-UK) is the country's leading anti-corruption organisation and part of the global Transparency International (TI) movement. With colleagues working in more than 100 countries, TI has unparalleled global understanding and expertise on bribery and corruption.

[transparency.org.uk](https://www.transparency.org.uk)

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1. Overview

Professional accountants worldwide have a responsibility to be aware of the global demand for transparency in order to prevent corruption and improve fair and competitive conditions for business. CGMA designation holders have professional obligations and ethical responsibilities in relation to integrity, objectivity and independence, as well as a duty to act in the public interest. Given their skills and insight, they are able to contribute to both the detection and deterrence of corrupt activities as well as identify ways to safeguard their employing organisation.

To support our members and those they work with in better understanding the global risk environment, this updated joint publication¹ with Transparency International offers an overview of global corruption, outlines the legislative landscape in the UK and the US, describes how international measures to combat corruption have intensified and highlights the latest anti-corruption developments in a number of emerging markets.

This joint update accompanies the CGMA briefing [Keeping business clean: a CGMA guide to countering fraud and corruption](#), which highlights some of the recent developments and trends globally related to fraud and corruption in business and signposts to useful resources and insights from across the Association of International Certified Professional Accountants (AICPA, CGMA and CIMA) and other leading providers of anti-corruption and fraud materials.

2. Global corruption trends – an update by Transparency International (TI)

Of the 176 countries on Transparency International's [Corruption Perceptions Index 2016](#), the vast majority (69 per cent) scored below 50 out of 100, where 0 is perceived to be extremely corrupt and 100 is perceived to be completely clean, exposing how significant and pervasive corruption is around the world. This year more countries declined in the index than improved, a worrying set-back highlighting that progress in many countries remains fragile. The 2016 index is presented in full in this update, with geographic trend data and further analysis available via TI's website.

Corruption continues to undermine the legitimacy of many governments across all continents. China's leadership has continued its anti-corruption drive, but the campaign looks increasingly politicised, and many conditions for a successful long-term campaign such as a free press, vocal civil society, uncensored social media and independent judiciary are not evident. Russia has declined in our rankings consistently over the last decade and continues to concern those who value integrity in government. South Africa has had a year of contradictions – a tainted president but a creditable fight back from civil society. Other long-running scandals like those surrounding Malaysia's 1MDB remain unresolved.

Large corruption cases, from Petrobras in Brazil to business interests associated with Ukrainian ex-President Viktor Yanukovich, show the depth that the roots of corruption reach in some

countries. In the case of Odebrecht the trail started in Brazil as part of the Petrobras investigations but seems to reach across most of Latin America. This kind of systemic corruption undermines public confidence not only in politicians and business, but in the whole economic and political system.

But there is good news too. Despite the scandal surrounding Petrobras and Odebrecht, Brazil continues to demonstrate one of the most widespread and effective anti-corruption drives of recent years, prosecuting and jailing businessmen and politicians once thought untouchable. France has passed the 'Loi Sapin II', designed to tackle corruption and corporate bribe-paying, putting French anti-corruption law on par with if not ahead of legislation from other leading countries. In the UK, the UK Bribery Act is seeing its first significant cases, that of Standard Bank and Rolls-Royce (both Deferred Prosecution Agreements), with more to follow this year.

Amongst global leaders we have seen a significant commitment to tackle corruption. The 2016 London Anti-Corruption Summit brought together a 'coalition of the willing': a group of world leaders from 43 countries who made a total of no less than 648 anti-corruption commitments. We at Transparency International are monitoring the progress on these commitments which can be viewed on our [Pledge Tracker](#).

Anti-corruption rhetoric wins votes

People are fed up by too many politicians' empty assurances to tackle corruption, and many are turning towards politicians who promise to change the system and break the cycle of corruption and privilege.

In countries with populist or autocratic leaders, however, we often see democracies in decline and a disturbing pattern of attempts to crack down on civil society, limit press freedom and weaken the independence of the judiciary. Instead of tackling crony capitalism, many of those leaders use corrupt practices to strengthen their power base. Only where there is freedom of expression, transparency in all political processes and strong democratic institutions can civil society and the media hold those in power to account and corruption be fought successfully.

Corruption and business

The last few years have seen a series of high-profile corruption scandals in the business world. For example, this year the UK saw Rolls-Royce pay £671 million to settle claims that for over three decades it paid bribes all over the world in order to win contracts. In the US, there was the Wells Fargo scandal in which employees opened more than 2 million fee-charging accounts without customer knowledge.

Why in business do some individuals resort to corrupt practices? One key risk factor is how staff are being incentivised within the company. A number of Wells Fargo employees were found to be trying to hit aggressive sales targets and compensation incentives set by the company. There also seemed to have been an entrenched culture of fear and reprisals for speaking up. Even if a company avoids such poor practices, there still remains the challenge of how to incentivise ethical behaviour while continuing to drive performance. Our recently published guidance [Incentivising Ethics](#) explores the risks companies face, and looks at how to use incentives to deter bad behaviour and encourage good behaviour.

Another key risk factor for business is a reliance on third parties or agents to conduct deals. Rolls-Royce's bribes tended to be paid via agents, but of course, such activity still fell squarely within the remit of UK legislation. Third parties pose the biggest challenge to most companies, whether they are agents, suppliers or professional advisors. We published [Managing Third Party Risk](#) to outline some practical steps to manage the bribery risks faced by businesses when engaging third parties or agents around the world.

What we learn from these recent scandals is that an underlying risk factor is the sustainability of a company's business model. Is a company successful because its product is of a high quality and in demand? Or is it making profit by bribing in order to sell outdated products or hard selling with disregard for whether the customer even requires such a service or product? If there are practices reflecting the latter, the message that comes down to employees is that the sole priority is to make money, whatever it takes. This creates a culture where cutting corners, paying bribes, mis-selling or market manipulation may all be tacitly encouraged.

“Finance Professionals play an important role in ensuring that the company’s business model is sustainable. Besides exposing irregularities and corrupt practices, they play a key role in highlighting and challenging any potentially damaging business models, processes and practices that could lead to a culture of corruption.”

Peter van Veen,
Director of the Business Integrity Programme,
Transparency International UK

“Bribery and corruption thrive on weak organisational governance that itself relies on poor accounting. Through their training and experience, professional accountants understand better than anyone how to maintain resilient and information-driven processes that deter and detect fraudulent and corrupt behaviour, ensuring that there is nowhere to hide. Transparency International UK recognises that accurate and ethical accounting overseen by qualified professionals is critical in the fight against corruption globally.”

Jeff Kaye, FCMA CGMA
Trustee at Transparency International UK

The role of accounting professionals

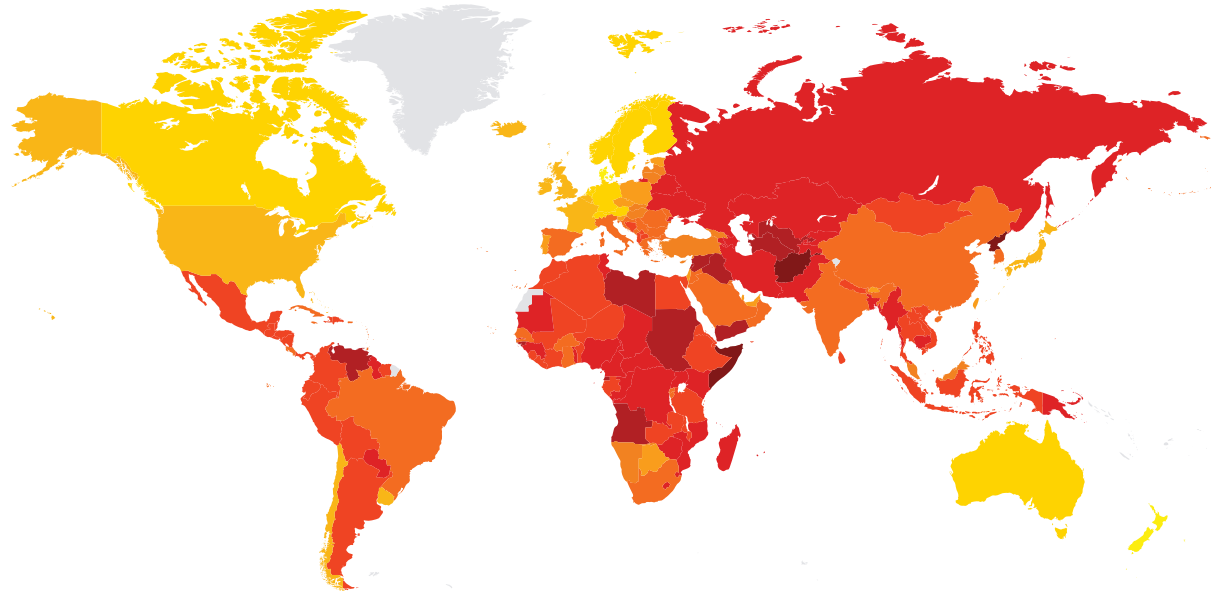
Accounting professionals within an organisation can play a vital role in tackling corrupt behaviour. A curious, questioning mindset will uncover anomalies and wrongdoing, and will help convey the message throughout the organisation that bribery and corruption will always be exposed.

Understanding the finances of an organisation also allows accounting professionals to see where staff incentives might be in tension with the company’s stated values. This may, for example, be a matter of identifying where short-term demands may be putting staff under unreasonable pressure, leading to the risk that they may engage in unethical behaviour to meet targets and save their job or get their bonus.

3. TI Corruption Perceptions Index 2016

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The perceived levels of public sector corruption in 177 countries/territories around the world.



RANK	COUNTRY/TERRITORY	SCORE	RANK	COUNTRY/TERRITORY	SCORE	RANK	COUNTRY/TERRITORY	SCORE	RANK	COUNTRY/TERRITORY	SCORE
1	Denmark	90	15	Hongkong	77	31	Barbados	61	46	Grenada	56
1	New Zealand	90	17	Austria	75	31	Qatar	61	47	Cyprus	55
3	Finland	89	18	United States	74	31	Slovenia	61	47	Czech republic	55
4	Sweden	88	19	Ireland	73	31	Taiwan	61	47	Malta	55
5	Switzerland	86	20	Japan	72	35	Botswana	60	50	Mauritius	54
6	Norway	85	21	Uruguay	71	35	Saint Lucia	60	50	Rwanda	54
7	Singapore	84	22	Estonia	70	35	Saint Vincent and The Grenadines	60	52	Korea (South)	53
8	Netherlands	83	23	France	69	38	Cape Verde	59	53	Namibia	52
9	Canada	82	24	Bahamas	66	38	Dominica	59	54	Slovakia	51
10	Germany	81	24	Chile	66	38	Lithuania	59	55	Croatia	49
10	Luxembourg	81	24	United Arab Emirates	66	41	Brunei	58	55	Malaysia	49
10	United Kingdom	81	27	Bhutan	65	41	Costa Rica	58	57	Hungary	48
13	Australia	79	28	Israel	64	41	Spain	58	57	Jordan	48
14	Iceland	78	29	Poland	62	44	Georgia	57	57	Romania	48
15	Belgium	77	29	Portugal	62	44	Latvia	57	60	Cuba	47

RANK	COUNTRY/TERRITORY	SCORE	RANK	COUNTRY/TERRITORY	SCORE	RANK	COUNTRY/TERRITORY	SCORE	RANK	COUNTRY/TERRITORY	SCORE
60	Italy	47	90	Colombia	37	116	Togo	32	145	Kenya	26
62	Sao Tome and Principe	46	90	Indonesia	37	120	Dominican Republic	31	145	Madagascar	26
62	Saudi Arabia	46	90	Liberia	37	120	Ecuador	31	145	Nicaragua	26
64	Montenegro	45	90	Morocco	37	120	Malawi	31	151	Tajikistan	25
64	Oman	45	90	The FYR of Mecadonia	37	123	Azerbaijan	30	151	Uganda	25
64	Senegal	45	95	Argentina	36	123	Djibouti	30	153	Comoros	24
64	South Africa	45	95	Benin	36	123	Honduras	30	154	Turkmenistan	22
64	Suiname	45	95	El Salvador	36	123	Laos	30	154	Zimbabwe	22
69	Greece	44	95	Kosovo	36	123	Mexico	30	156	Cambodia	21
70	Bahrain	43	95	Maldives	36	123	Moldova	30	156	Democratic Republic of Congo	21
70	Ghana	43	95	Sri Lanka	36	123	Paraguay	30	156	Uzbekistan	21
72	Burkina Faso	42	101	Gabon	35	123	Sierra Leone	30	159	Burundi	20
72	Serbia	42	101	Niger	35	131	Iran	29	159	Central African Republic	20
72	Solomon Islands	42	101	Peru	35	131	Kazakhstan	29	159	Chad	20
75	Bulgaria	41	101	Philippines	35	131	Nepal	29	159	Haiti	20
75	Kuwait	41	101	Thailand	35	131	Russia	29	159	Republic of Congo	20
75	Tunisia	41	101	Timor-Leste	35	131	Ukraine	29	164	Angola	18
75	Turkey	41	101	Trinidad and Tobago	35	136	Guatemala	28	164	Eritrea	18
79	Belarus	40	108	Algeria	34	136	Kyrgyzstan	28	166	Iraq	17
79	Brazil	40	108	Cote d'Ivoire	34	136	Lebanon	28	166	Venezuela	17
79	China	40	108	Egypt	34	136	Myanmar	28	168	Guinea-Bissau	16
79	India	40	108	Ethiopia	34	136	Nigeria	28	169	Afghanistan	15
83	Albania	39	108	Guyana	34	136	Papua New Guinea	28	170	Libya	14
83	Bosnia and Herzegovina	39	113	Armenia	33	142	Guinea	27	170	Sudan	14
83	Jamaica	39	113	Bolivia	33	142	Mauritania	27	170	Yemen	14
83	Lesotho	39	113	Vietnam	33	142	Mozambique	27	173	Syria	13
87	Mongolia	38	116	Mali	32	145	Bangladesh	26	174	Korea (North)	12
87	Panama	38	116	Pakistan	32	145	Cameroon	26	175	South Sudan	11
87	Zambia	38	116	Tanzania	32	145	Gambia	26	176	Somalia	10

4. The legislative landscape

Exponential growth of international instruments against corruption

The introduction of the US Foreign Corrupt Practices Act in 1977 represented the world's first legislation to govern bribery by domestic (US) businesses of foreign government officials in foreign markets. This ground-breaking legislation was the catalyst for a number of international initiatives, and the late 1990s saw an exponential growth of anti-corruption instruments. National legislation followed in a variety of other countries, and governments in emerging markets have been strengthening their legal framework in the last few years:

International initiatives (selection)	Domestic legislation (selection)
OECD Anti-Bribery Convention [1997]	United States: Foreign Corrupt Practices Act [1977]
Inter-American Convention Against Corruption [1997]	India: Prevention of Corruption Act [1988]
Council of Europe Criminal Law Convention on Corruption [1999]	United Kingdom: Bribery Act [2010]
ADB-OECD Action Plan for Asia-Pacific [2001]	Russia: Federal Law No. 273-FZ [2008], with 2011 amendment: 'Criminal Code Article 291 / Federal Law no. 97 FL'
Council of Europe Criminal Convention on Corruption [2002]	China: Amendment No. 8 to Article 164 Criminal Law [2011] – Foreign Bribery Article
UN Convention Against Corruption [2003]	Indonesia: Law No. 31 on Corruption Eradication [1999 last amended by Law No. 20 of 2001]
African Union Convention on Preventing and Combating Corruption [2004]	Brazil: Law No. 10467 [2002] and Law No. 12,846: Clean Company Act [2014]
G20 Anti-Corruption Action Plan [2010 and annually thereafter]	France: Sapin II [2016]

5. A comparison of the UK Bribery Act 2010 and the US Foreign Corrupt Practices Act 1977

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Provisions	Bribery Act	Foreign Corrupt Practices Act
Prohibition on bribery of foreign public officials (FPO)	Yes (section 6)	Yes, the FCPA applies only to bribery of foreign officials (15 U.S.C. §§78dd-1(a) and (f) ⁽¹⁾)
Prohibition on private-to-private bribery	Yes, the main provisions of the Bribery Act apply to the private sector/ individuals as well as the public sector/ individuals (with the exception of the FPO offence)	Not covered but private commercial bribery is illegal under the laws of most US states ³
Prohibition on receipt of a bribe	Yes (section 2)	Not covered but receiving a bribe is illegal under other sectorial legislation e.g. for public officials ⁽⁴⁾
Intention	The general offences of bribing another (sections 1 and 2) require an intention to elicit 'improper performance'. However, no 'corrupt' or 'improper' intent is required under section 6 FPO offence ⁽⁵⁾	In alleging violations of the bribery provisions of the FCPA, the government must show that the defendant had the requisite state of mind with respect to the action i.e. negligence, recklessness, intent (15 U.S.C. §78dd-1(f) ⁽²⁾)
Facilitation payments	The Bribery Act does not permit an exception for facilitation payments	Permitted under very limited circumstances when paid to foreign officials in order to expedite or secure the performance of a 'routine government action'. This excludes a decision by a foreign official to award new business or to continue business with a particular party e.g. to obtain a licence or to be granted a concession (15 U.S.C. §78dd-1(b) and §78dd-1(f) ⁽³⁾)
Promotional expenses	The Bribery Act makes no specific provision for promotional expenses, but the UK Ministry of Justice Guidance for the Bribery Act 2010 gives concrete examples of gifts and hospitality under the scope of the sanctions ⁽⁵⁾	Yes, affirmative defence for reasonable and bona fide business expenses that are directly related to the promotion, demonstration or explanation of products or services (e.g. demonstration or tour of a pharmaceutical plant) or in connection with the execution of a particular contract with a foreign government

Provisions	Bribery Act	Foreign Corrupt Practices Act
Extra-territorial application	Yes, persons are liable for giving or receiving a bribe, and FPO offences committed outside the UK if they have a 'close connection' with the UK	Yes, the FCPA applies to violative acts by US issuers, domestic concerns and their agents and employees that occur wholly outside US territory, and to acts by US citizens or residents, wherever they occur
Corporate liability	Yes, corporate liability under the Bribery Act provisions. Specific liability for the 'failure of commercial organisations to prevent bribery' offence (section 7). It applies to (i) UK entities that conduct business in the UK or elsewhere; and (ii) any corporation wherever formed, which carries on business or part of a business in the UK business in the UK (section 7) ⁽⁵⁾	Yes, a US company can be held vicariously liable for acts of its employees and agents
Third parties	A corporate offence of 'failure to prevent bribery' has been created under section 7 of the Bribery Act. The offence is one of strict liability for acts of 'associated persons' (e.g. intermediaries or third parties) who perform services for or on behalf of a company. It is however a defence to this provision for organisations to show that they have in place 'adequate procedures' to prevent bribery ⁽⁵⁾	Yes, the FCPA prohibits corrupt payments through intermediaries. It is unlawful to make a payment to a third party, while knowing that all or a portion of the payment will go directly or indirectly to a foreign official. The term 'knowing' includes conscious disregard and deliberate ignorance. Intermediaries may include joint venture partners or agents
Failure to keep accurate books and records	Covered by other legislation (for example, the Companies Act 2006 and additional statutory requirements in the financial services sector)	Yes
Criminal penalties	Individuals: up to ten years' imprisonment and unlimited fines Companies: unlimited fines The Sentencing Council has recently issued guidelines on fraud, bribery and money laundering sentences for corporate offenders which will come into force in October 2014 ⁽⁶⁾	Corporations and other business entities are subject to a fine of up to \$2,000,000 per violation. Officers, directors, stockholders, employees and agents are subject to a fine of up to \$250,000 per violation and imprisonment for up to five years. Under the Alternative Fines Act, the actual fine may be up to twice the benefit that the defendant sought to obtain by making the corrupt payment. Fines imposed on individuals may not be paid by their employer or principal

6. Overview of anti-bribery legislation in selected emerging markets

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	Indonesia	Nigeria	India	China
Legislation	Anti-Corruption Law (1999 amended 2001) and Law No. 30 (2002) on the Corruption Eradication Commission	Federal Criminal Code and the Independent Corrupt Practices Commission Act (2000)	Prevention of Corruption Act (1988)	Criminal Law
Prohibition on bribery of foreign public officials (FPO)	No. The anti-corruption and anti-bribery regulations do not expressly regulate the bribery of a foreign public official	Nigerian law does not specifically prohibit bribery of a foreign public official. Such prohibition as exists is general: the giving of material benefit to any person for 'corrupt' purposes is an offence	No. The Prevention of Bribery of Foreign Public Officials Bill 2011 has not received parliamentary approval and has since lapsed	Yes (Article 164)
Private-to-private bribery	Yes, where it is detrimental to the finances or economy of the state	No	No	Yes
Receipt of a bribe	Yes	Yes	Yes	Yes (Article 385)
Facilitation payments prohibition	Yes	Yes	Yes	Yes
Extra-territorial application	Yes	No	Yes	No
Third parties	Yes	Yes	Yes	In domestic bribery only (Article 388 and 392)

Failure to keep accurate books and records	Covered by other legislation	Covered by other legislation	Covered by other legislation	Covered by other legislation
Criminal penalties	<p>Individuals: yes – imprisonment, death penalty, fines</p> <p>Companies: fines, criminal conviction, confiscation of property, permanent or temporary closure</p>	<p>Individuals: yes – imprisonment and fines</p> <p>Companies: fines</p>	<p>Individuals: yes – imprisonment and fines</p> <p>Companies: fines and criminal conviction</p>	<p>Individuals: yes – imprisonment, fines and confiscation of property</p> <p>Companies: fines, blacklisting systems, revocation of the business licence and confiscation of illegal earnings</p>

7. Summary actions

Ensure you have adequate procedures in place to counter the risk of bribery and corruption.

These include:

- **Top-level commitment:** The Board of Trustees or equivalent governing body should commit to and oversee the zero-tolerance policy and anti-bribery and corruption programme, demonstrating visible and active commitment to the implementation of the programme.
- **Risk assessment:** Undertake regular bribery and corruption risk assessment that underpins the programme.
- **Effective anti-bribery policies and procedures:** Design and implement anti-bribery and corruption policies and procedures that are effective and proportionate to your organisation's risks, circumstances and culture.
- **Incentives:** Ensure that the company's approach to incentives is aligned with and doesn't inadvertently undermine its anti-bribery and corruption commitment.
- **Due diligence and procedures for third parties:** Carry out reasonable and proportionate due diligence on potential associates before entering into contracts with them, and put in place procedures for managing the associated risks on an ongoing basis.
- **Communication and training:** Build awareness and understanding of your anti-bribery and corruption programme among the Board, employees, volunteers and relevant stakeholders through communication and appropriate training. Report publicly on the anti-bribery and corruption measures.
- **Whistleblowing:** Encourage the reporting of bribery and corruption incidents, and provide secure and accessible whistleblowing and advice channels for use by all employees. Create a 'speak up' culture where employees know that their concerns will be listened to and acted upon, without risk of retaliation.
- **Monitoring and evaluation:** Monitor the implementation and effectiveness of the anti-bribery and corruption programme. The results of monitoring should be reviewed regularly by the Board and guide improvements to the programme as necessary.

8. Further resources

CGMA resources:

Find AICPA, CIMA and CGMA resources signposted in:

- Keeping business clean: a CGMA guide to countering fraud and corruption www.cgma.org/fraud-corruption
- CIMA anti-bribery resources: www.cimaglobal.com/bribery

Transparency International resources:

- Business Integrity Programme: <http://www.transparency.org.uk/our-work/business-integrity/>
- Business Integrity Forum: <http://www.transparency.org.uk/our-work/business-integrity/business-integrity-forum/>
- Corporate Anti-Corruption Benchmark: <http://www.transparency.org.uk/our-work/business-integrity/corporate-anti-corruption-benchmark/>
- TI-UK publications: <http://www.transparency.org.uk/our-work/publications>
- Incentivising Ethics: <http://www.transparency.org.uk/publications/incentivising-ethics-managing-incentives-to-encourage-good-and-deter-bad-behaviour/>
- Managing Third Party Risk: <http://www.transparency.org.uk/publications/managing-third-party-risk-only-as-strong-as-your-weakest-link/>

- Wise Council or Dark Arts? Principles and Guidance for Responsible Corporate Political Engagement: <http://www.transparency.org.uk/publications/wise-counsel-or-dark-arts-principles-and-guidance-for-responsible-corporate-political-engagement/>
- Doing Business Without Bribery e-Learning: <http://www.doingbusinesswithoutbribery.com/>

Legislation, Conventions and Guidance:

- UK Ministry of Justice Guidance for the Bribery Act 2010: <https://www.gov.uk/government/publications/bribery-act-2010-guidance>
- Serious Fraud Office: <https://www.sfo.gov.uk/>
- Guide to the U.S. Foreign Corrupt Practices Act: <http://www.justice.gov/criminal/fraud/fcpa/guidance/>
- United Nations Convention against Corruption: <https://www.unodc.org/unodc/en/treaties/CAC/>
- OECD – Anti-bribery instruments and initiatives: <http://www.oecd.org/daf/anti-bribery/>

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