

Joint Committee on the Draft Bribery Bill

Scrutiny Unit, Room G10, 7 Millbank, London, SW1P 3JA
E-mail: briberybill@parliament.uk

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COMMITTEE WELCOMES NEW CORPORATE BRIBERY OFFENCE BUT CALLS FOR IT TO BE TOUGHENED FURTHER

In a report published today, Tuesday 28 July 2009, the Joint Committee on the Draft Bribery Bill strongly welcomes the draft Bill as an important step forward in tackling corruption and fulfilling the United Kingdom's international obligations. This follows years of criticism being levelled against the current law of bribery by the Organisation for Economic Co-operation and Development, among others. The proposals replace the draft Corruption Bill that was published by the Government in 2003 but which failed to win support.

The Committee particularly welcomes the new offence that targets companies and partnerships that fail to prevent bribes being paid on their behalf, saying that "the current law has proven wholly ineffective and in need of reform." However, the Committee remains concerned about the draft Bill's focus on whether a "responsible person" was negligent, rather than on the collective failure of the company to ensure that adequate anti-bribery procedures were in place, fearing that this would introduce a narrow and complex solution to a pressing problem. The Committee recommends stiffening the offence by making a company or partnership "strictly liable" for any bribe paid by a person performing services on its behalf, except where the organisation proves that adequate anti-bribery procedures were in place. The Committee says this would not be unfair on the organisation, given that it is well placed to demonstrate the adequacy of its anti-bribery procedures. This would also bring the criminal law into line with other leading jurisdictions where, to date, a tougher approach has been taken on corporate criminal liability.

Subject to a number of amendments being made, the Committee endorses the main criminal offences that are proposed by the draft Bill, including a discrete offence for the bribery of foreign public officials. The Committee also endorses the substantial penalties that are available under the Bill, including the power to impose unlimited fines on companies and a maximum ten year sentence of imprisonment for individuals, saying the Bill "must have teeth to be effective". It calls on the Government, however, to address the injustice that is risked by debarring companies from entering public contracts on an automatic and perpetual basis, which it says undermines the effectiveness of the draft Bill.

On parliamentary privilege, the Committee says that this complex issue should not be addressed "piecemeal" through different Bills, such as the Draft Bribery Bill and the Parliamentary Standards Bill (now the Parliamentary Standards Act 2009). The Committee recommends that clause 15 of the Draft Bribery Bill, which deals with this issue, should be deleted, as the analogous provisions were from Parliamentary Standards Bill. This issue should only be addressed in future as part of a comprehensive Bill specifically on Parliamentary Privilege.

The Committee also considers that clauses 13 and 14, which would "extend the security services' powers to contravene the criminal law" should be deleted, saying the Bill is not the appropriate place for such a measure. The Committee heard "no persuasive evidence that the domestic intelligence agencies needed an authorisation to bribe", and also questions whether such proposals would anyway be compliant with the UK's international obligations.

The Chairman of the Joint Committee, Viscount Colville of Culross, said:

“The World Bank estimates that around a trillion dollars’ worth of bribes are paid each year. This adds 10% to the cost of doing business globally and as much as 25% to the cost of procurement contracts in developing countries, where arguably it is most damaging. It is essential that businesses compete on a level playing field both at home and abroad. There is no room for bribery, which distorts free competition, undermines society and the rule of law, and worsens the living conditions of the poorest in society.

“While the draft Bill is not a cure for the many challenges of corruption both within the United Kingdom and in relation to international business, we believe that, with some key changes that we recommend, it is an essential step forward that should create an improved platform for the Government and the business community to build upon the increasing global commitment to tackle bribery.

“The Government must now focus on the need for rigorous enforcement including the resources this will require. Given the scale of the problem and what is at stake, this is an investment that is well worth making.”

The Joint Committee, including members of both Houses of Parliament, was set up specifically to scrutinise the Draft Bill. The Committee’s report – published after five weeks of oral evidence – includes recommendations on how the Government should amend the Bill before it is introduced into Parliament.

Notes to eds:

Media inquiries and bids to Jessica Bridges-Palmer on 020 7219 0724 / 07917 488 447

The Joint Committee on the draft Bribery Bill was appointed by the House of Commons and the House of Lords on 11 May 2009 to examine the draft Bribery Bill and report to both Houses by 21 July 2009.

For more information on the Committee:

http://www.parliament.uk/parliamentary_committees/joint_committee_on_the_draft_bribery_bill.cfm

The members of the Committee are;

Viscount Colville of Culross (*Crossbench*), Chairman
Mr David S. Borrow (*Labour, South Ribble*)
Mr Alistair Carmichael (*Liberal Democrat, Orkney and Shetland*)
Mr Geoffrey Cox (*Conservative, Torridge and West Devon*)
Mary Creagh (*Labour, Wakefield*)
Mr Jonathan Djanogly (*Conservative, Huntingdon*)
Mr Bruce George (*Labour, Walsall South*)
Linda Gilroy (*Labour Co-operative, Plymouth Sutton*)
Dr Brian Iddon (*Labour, Bolton South East*)
Martin Linton (*Labour, Battersea*)
Mr Virendra Sharma (*Labour, Ealing Southall*)
Dr Desmond Turner (*Labour, Brighton Kemptown*)
Jeremy Wright (*Conservative, Rugby and Kenilworth*)
Lord Anderson of Swansea (*Labour*)
Lord Goodhart (*Liberal Democrat*)
Lord Grabiner (*Labour*)
Baroness Henig (*Labour*)
Lord Lyell of Markyate (*Conservative*)
Lord Mayhew of Twysden (*Conservative*)
The Earl of Onslow (*Conservative*)
Lord Sheikh (*Conservative*)
Lord Thomas of Gresford (*Liberal Democrat*)
Baroness Whitaker (*Labour*)
Lord Williamson of Horton (*Crossbench*)