

Understanding and Preventing Corruption: Risk, Prevention and Reporting

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Ladies and Gentlemen, let me take you through a journey of understanding corruption. We will end it with real case scenario, although the names have been omitted for legal reasons.

Our agenda:

1. Introduction
2. Definition and international initiatives
3. Differential Association Theory – Rationalisations – The Myth of Amoral Business
4. The Slippery Slope
5. The Anti-Corruption Compliance Program
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1. Introduction

People everywhere are more concerned than they ever have been about corruption and business ethics.

In some countries, more than in others, we find a more lenient or even cynical attitude towards the private use of common resources. The costs of corruption are borne by the poor and powerless, while the benefits are enjoyed by the rich and powerful.

The correlation between poverty and corruption is generally accepted, although I don't particularly fully agree with that if we look at the most recent cases in developed countries.

In recent years, corruption scandals have hit the headlines all around the world, across a diverse range of institutional, organisational and cultural settings. These series of events have exploded the myth that corruption is a problem which is confined to a specific sector or to the developing world. However, that does not seem to be case anymore.

From developing countries in Africa, Latin America, and Asia to the United States, Western Europe, and the United Kingdom, bribery and corruption continues to create an uneven playing field in international trade, commerce, and the process of government. Problems range from the small payment demanded by a customs official to inappropriately process an import package, to multimillion-dollar payments to secure a large government contract. These are only two examples that businesses face in the international market place.

The costs of corruption are significant and affect people worldwide. Analysts have lined corruption with political instability, human rights violations, the exacerbation of poverty, the erosion of public confidence in institutions and many other negative outcomes. It has also been identified as a major obstacle to political, social and economic development in many parts of the world.

In a globalised world characterised by increasing flows of goods, capital, people and knowledge, corrupt activity not only takes place within national boundaries but also across them.

The 'internationalisation' of corruption has profound implications for counter corruption efforts, which have traditionally fallen within the remit of national politics and law-making. It is not something that can be dealt with by individual countries alone, and is increasingly perceived as a problem which can only be addressed collectively by a collaborative approach between international actors.

Organisations are often victimised by fraud. Similarly, organisations are often involved in serious corruption, for example paying bribes in order to obtain business or accepting bribes in exchange for favouring particular contractors or suppliers. Directors, managers and employees are responsible for protecting the organisation against fraud and avoiding corruption, but at the same time directors, managers and ordinary employees are often involved as perpetrators or accomplices.

The risk of bribery and corruption continues to be an area of concern for companies around the world. As business continue to expand globally into new and emerging markets, bribery and corruption risks have increased exponentially due to increased awareness and enforcement.

2. Defining Corruption

One difficulty in combating corruption is our struggle with defining it.

Definitions employed by different nations, legal systems, organisations and cultures can vary.

The Organisation for Economic Co-operation and Development (OECD) has suggested the following definition of 'corruption':

The active or passive misuse of the powers of Public officials (appointed or elected) for private financial or other benefits.

It is understood to include everything from the paying of bribes to civil servants and the simple theft of public purses, to a wide range of dubious economic and political practices in which business people, politicians and bureaucrats enrich themselves. Corruption comes in many guises: bribery, extortion, fraud, trafficking, embezzlement, but also nepotism and cronyism (giving privileges to long-time friends).

There are dozens of definitions of corruption in use around the world:

- International: *'The misuse of public powers, office and authority for private gain through bribery, extortion, influence, peddling, nepotism, fraud, speed money or embezzlement'* (United Nations Development Programme 1999)
- Europe: *'Requesting, offering, giving or accepting, directly or indirectly, a bribe or any undue advantage or prospect thereof, which distorts the proper performance of any duty of behaviour required of the recipient of the bribe, the undue advantage or the prospect thereof'* (Council of Europe 1999)
- Africa: *'The Soliciting, accepting, obtaining, giving, promising or offering of gratification by way of a bribe or other personal temptations of inducement or the misuse or abuse of a public office for private advantage or benefit'* (Zambia Anti-Corruption Commission 1996)

- Middle East: *'Corruption is the behaviour of private individuals or public officials who deviate from set responsibilities and use their position of power in order to serve private ends and secure private gains'* (Lebanon Anti-Corruption Initiative Report 1999)
- Asia: *'Corruption is the asking, receiving or agreeing to receive, giving, promising or offering any gratification as an inducement or reward to a person to do or not to do any act, with corrupt intention'* (Corruption Prevention Investigation Bureau, Singapore 2001)
- North America: *'The misuse of public office for private gain'* (United States Agency for International Development 2003)

(Source: Gilligan and Bowman (2007: 172))

One of the ways that corruption may be differentiated is by discussing **public corruption** versus **private corruption**. Public corruption could occur when a member of the tax-paying public is given poor service or asked to pay a bribe by one who is engaged in public service: a judge, a policeman, a civil servant, etc. An example of private corruption could be when public company managers, whose job it is to look out for the interests of shareholders, engage in side deals or make decisions for the company in order to benefit them personally, rather than doing what is best for the firm and the shareholders.

Corporate corruption generally takes two forms: engaging in bribe-making, usually as a supplier of bribes, and violations of ethical and professional standards with the intent to deceive or defraud investors. With respect to bribes, corporate corruption could consist of a representative of the firm receiving bribes in order to make a decision advantageous to the bribe-maker, or as bribe-giver, either to another private party or to a representative of a domestic or foreign government.

The question is: is it possible to be compare incidences of corruption in different countries if their conceptions of what constitutes corrupt acts differ.

3. International Bribery and Corruption Initiatives

In the 1990s there were a number of international organisations – made up of various member states – began working to address the negative impact of bribery and corruption.

The key early initiatives include:

- The Organisation for Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Officials (1997)
- The Inter-American Convention against Corruption of the Organisation of American States (1996).

Later initiatives include:

- The United Nations Convention against Corruption (2005)
- And efforts in Africa, Asia, and Europe: African Union Convention on Preventing and Combating Corruption (2003)

The objectives of these initiatives are to pressure member states to enact comprehensive legislation to criminalise global corruption and to increase enforcement of these laws. Although these efforts have been fruitful from a legislation perspective; however, the laws are not consistently enforced.

One recent example is the UK Bribery Act 2010, which was passed in April 2010 and came into force on July 1, 2011. It represents a strengthening of the UK position on bribery and corruption and an important development in global anti-bribery legislation.

The UK Bribery Act makes bribery of foreign public officials an offense and extends beyond company employees to include the behaviour of third parties acting on behalf of a company. However, in certain respects, the UK Bribery Act goes further than the US Foreign Corrupt Practices Act of 1977 (FCPA). The act:

- Covers all bribery, both commercial and public officials
- Makes no exception for facilitation payments made to expedite routine governmental actions.
- Makes it a corporate offense to fail to prevent bribery.
- Makes it an offense not only to give but also to receive a bribe.

The United Kingdom's Serious Fraud Office (SFO), the main body currently tasked with enforcement, has expressed a determination to enforce the UK Bribery Act internationally.

The UK Bribery Act specifies the following four major offences:

1. The general offence of offering, promising, or giving a bribe.
2. The general offence of requesting or agreeing to receive a bribe.
3. A separate offence of bribery of a foreign public official.
4. A corporate offence for failing to prevent bribery.

1. The general offence of offering, promising, or giving a bribe.

The action is divided into two types of cases, in the first case, the advantage (financial or other) is offered to a person for improper performance, either as a reward or to induce. The person would still be guilty of this offence even if the actual bribe were given to a person, other than the one performing improperly.

In the second case, the advantage is offered, and the person knows or believes that the acceptance of the advantage itself would constitute an improper performance. even if the bribe were given through an intermediary, the person would still be liable, as the law specifically states that there is no difference between the methods of giving a bribe.

2. The general offence of requesting or agreeing to receive a bribe.

The offence of receiving a bribe is divided into several cases, all of which deal with requesting, accepting, or agreeing to receive a financial or other advantage in exchange for improper performance.

The involvement of a third-party intermediary does not absolve the receiver from the guilt, and the advantage gained does not have to benefit the receiver.

The Act further states that the receiver does not have to know or believe that the performance of the function or activity is improper. The same is applicable to cases where a third party is performing the activity.

3. A separate offence of bribery of a foreign public official.

The Act lists bribery of a foreign public official as an offence separate from just giving a bribe.

The person would be guilty if he or she specifically influences another person in that person's capacity as a foreign public official. Additionally, intent to obtain or retain business or business advantage needs to be present.

4. A corporate offence for failing to prevent bribery.

Failure of a commercial organisation to prevent bribery is a new corporate offence that would instigate the corporate prosecution under the Act.

Failure to prevent bribery can be triggered by employees, agents, subsidiaries, or anyone who performs services on the business's behalf. Therefore, schemes where third parties may be used to distance a corporation from a bribe are caught in the scope of the act. However, the Act specifically provides for a defence of the organisation, if it can prove it had adequate procedures designed to prevent bribery.

Unlike the US Foreign Corrupt Practices Act (FCPA), no exemption is made for facilitating payments and such payments are therefore illegal under the UK Bribery Act.

The Act is designed to have the maximum deterrent effect. The penalties of an offence under the Act can be severe, including unlimited fines and up to 10 years' imprisonment.

The corporate offence of failing to prevent bribery expands the scope of the Act beyond an individual transaction or event, to consider the corporate environment in which the bribery took place.

The defence available to an organisation is one of having "adequate procedures" in place to prevent bribery.

What constitutes "adequate procedures" is a matter of opinion.

The UK Ministry of Justice issued a further guidance in March 2011. The guidance is principles based and lays out six key principles:

- Proportionate procedures
- Top level commitment
- Risk assessment
- Due diligence

- Communication
- Monitoring and review

4. The Differential Association Theory

One of the most influential theories of fraud and corruption was already presented in the 1930s by the American sociologist Edwin Sutherland and published in his classic *White Collar Crime* (1949/1983). It was called the Differential Association Theory and stated that criminal behaviour was something learnt:

...criminal behaviour is learned in association with those who define such criminal behaviour favourably and in isolation from those who define it unfavourable, and ... a person in an appropriate situation engages in such criminal behaviour if, and only if, the weight of the favourable definitions exceeds the weight of the unfavourable definitions.

Crimes are committed when people think, or construct a reality, in which it is better for them to commit crime than not. The quote suggests that criminal behaviour is learnt together with others.

The 'Differential Association Theory' is supported by the fact that the same fraudulent behaviour spreads rapidly within an organisation or group:

- A culture where senior managers have claimed for BIG private purchase (clothes, holidays, family dinners at posh restaurants and so on) on their travelling expenses.
- Several members of the management have their own companies (offshore and difficult to trace) which are invoicing certain suppliers.
- People who speak up get fired and sometimes offered money to shut up.
- Management have secret ownership in suppliers and distributors, and they get good deals.

There are instances in which actual cases of misconduct cannot be isolated to a certain individual but is being spread as a sub-culture in the organisation, like a kind of social rot or moral decay.

The relevance of an organisational perspective on white-collar crime is also supported by the observation that the same kind of criminality can persist in a company after the original perpetrator has been removed or brought to justice. It often takes a deeper cut in the organisational pyramid and a deliberate change in culture over time to make it finally disappear.

5. The Fraud Triangle

The Differential Association Theory has been developed in more detail. Since it was proposed by Sutherland's colleague Donald Cressey (1953/1973) students of fraud have used a model called the 'Fraud Triangle' in which fraud is understood and explained as an overlap between Need, Opportunity and Rationalisation.

A perceived 'need' for money or advantage is evidently a necessary prerequisite for fraud. However, fraud also demands a possibility to cheat, combined with a low possibility of

getting caught, that is, a proper 'opportunity', created for instance by weak internal control systems, power to override systems, inside information, privileged access to resources, and so on. A potential fraudster will perceive an opportunity when he believes he can commit a fraud with either an acceptably small risk of getting caught, or an acceptably low risk of punishment if caught.

Finally, a cognitive element is added to the triangle: 'rationalisation', or in Sutherland's words, how 'the weight of the favourable definitions exceeds the weight of the unfavourable definitions'. Rationalisation may also be a kind that is accepted only within a specific sub-group of society, a sub-group that may accept or even engage in fraud and corruption.

We can also introduce here a certain kind of fraudster, the 'innocent' fraudster, who has been trapped in a peculiar sub-culture, honestly believing that what they do is approved by management and aligned with local traditions.

If we accept the premise of the Fraud Triangle, all three elements must be present for fraud to occur, although not in equal amounts.

6. The Fraud Diamond

David T. Wolfe and Dana R. Hermanson enhanced the fraud triangle in order to improve both fraud prevention and detection by considering a fourth element: an individual's capability.

Opportunity opens the doorway to fraud, and incentive and rationalisation can draw the person toward it. But the person must have the capability to recognise the open doorway as an opportunity and to take advantage of it by walking through, not just once, but time and time again.

Using the four-element fraud diamond, a fraudster's thought process might proceed as follows:

- Incentive: I want to, or have a need to, commit fraud.
- Opportunity: there is a weakness in the system that the right person could exploit. Fraud is possible.
- Rationalisation: I have convinced myself that this fraudulent behaviour is worth the risks.
- Capability: I have the necessary traits and abilities to be the right person to pull it off. I have recognised this particular fraud opportunity and can turn it into reality.

The components of capability:

- position/function: CEO or divisional president can influence when contracts or deals take effect, they have the positional authority
- brains: the person is smart enough to understand and exploit internal controls weaknesses and to use position, function, or authorised access to the greatest advantage
- confidence/ego: the person has a strong ego and great confidence that he will not be detected, or believes that he could easily talk himself out of trouble if caught.

- coercion skills: a successful fraudster can coerce others to commit or conceal fraud. He can convince others to go along or to simply look the other way.
- effective lying: a successful fraudster lies effectively and consistently. To avoid detection, he must look auditors, investors, and others right in the eye and lie convincingly. He also possesses the skill to keep track of the lies, so that the overall story remains consistent.
- immunity to stress: A successful fraudster deals very well with stress. Committing a fraud and managing the fraud over a long period of time can be extremely stressful.

7. Rationalisations

One specific quality of fraud and corruption is that they are morally condemned. Therefore fraud and corruption will remain undetected even if someone notices, for instance, falsified invoices, unknown suppliers in tax haven countries or large amounts of cash payments, but does not combine these observations with any moral blame, or experience it as wrong or bad.

Donald Cressey (1973/1953) also pointed out that:

“Trusted persons become trust violators when they conceive of themselves as having a financial problem which is non sharable, are aware that this problem can be secretly resolved by violation of the position of financial trust, and are able to apply to their own conduct in that situation, verbalisation which enables them to adjust their conceptions of themselves as trusted persons with their conceptions of themselves as users of the entrusted funds or property”.

Creating socially acceptable arguments for behaviour that, in fact, is caused by unacceptable motives.

Some examples of common rationalisations are:

- everyone is doing it;
- it’s only fair;
- I’ve no choice;
- No one is hurt;
- I’ve earned it;
- They deserve it;
- It’s not a crime;
- They don’t mind;
- It’s for a good cause.

An investigation in 2009 by *The Daily Telegraph* (UK) into the expenses of British Members of Parliament (MPs) blossomed into what Prime Minister, at the time, Gordon Brown called ‘The biggest Parliamentary scandal in two centuries’. To the shock and anger of the general public, MPs had been abusing expense privileges from flat screen televisions to shipments of horse manure. MPs also refurbished homes at taxpayer expense, sometimes more than one home.

The abuse was widespread, with hundreds of parliamentarians implicated. The expenses were not public information until leaked by an indignant employee. Parliamentarians defended themselves claiming they were just following the rules, but since Parliament also created the rules their protests were not convincing. Cabinet ministers all denied wrongdoing, and some suggested the *Daily Telegraph* was conducting a smear campaign; they only claimed what they were entitled to.

There is no question however they would have preferred the details to remain secret!

8. The Myth of the Amoral Business

One way in which fraud and corruption avoid public blame, was called by the American business ethicist Richard De George (1982/1990) 'The Myth of Amoral Business'. What this myth claims is simply that business is concerned with a highly pragmatic search for profits and individual careers, and that moral concern is and should be left out of the reflection around practical business problems. If fraud and corruption exist in business, that is no cause for alarm or action.

The myth does not explicitly say that business is immoral, rather that business leaders sometimes act without concern for moral aspects, thus creating scandals along the way.

On the other hand, silent and cynical bystanders remain passive because they believe that corrupt behaviour is the norm among managers and, accordingly, nothing to be too upset about.

Why spend time and effort on being successful if the appearance of success suffices?

We have current cases: Barclays Bank (manipulation of LIBOR, mis-selling swaps, credit crunch bailout by the Qataris), Standard Charter, HSBC.

9. The Slippery Slope

After the collapse of Barings Bank, when rogue trader Nick Leeson was caught he was quoted saying: 'The first time I asked London for funding, massive alarm bells should have been ringing.' But they didn't, and he fell quickly down the slippery slope. Increasingly risky deals were designed in the vain hope of covering for incurred losses. 'Someone should have stopped me'.

A small initial step, like a high-risk investment that failed or a petty theft, could very well start a process of increasingly larger and more risky deceptive schemes in order to hide or compensate the losses. In combination with a kind of mental blunting, this process makes up the famous moral 'slippery slope' down which we might slide.

10. Compliance Programs

Business leaders, regulators, and commentators generally agree with the proposition that companies need to be proactive in their efforts to combat corruption and bribery.

Due to the priority given to enforcement, especially in the United States, larger companies are incentivised to create structures to mitigate the risk of noncompliance with anti-corruption laws. These have evolved into what is now referred to as an anti-corruption compliance program, which have become an important element of most companies' overall compliance programme.

The goals of such programmes are fairly straightforward: to deter, detect, and prevent bribery and corrupt payments. This is done through a compliance structure that includes people, processes, and technology.

People are the ones who develop, implement, and monitor a company's anti-corruption compliance programme.

Processes are the elements of the anti-corruption compliance programme: adoption of policies and enhanced financial controls; anti-corruption training, audits, and monitoring mechanisms; anti-corruption risk assessments; and continuous review and improvement.

Technology includes the tools used to assist to carrying out the overall compliance mandate: intranet for posting the code of conduct and other policies; online training system; for monitoring the ongoing activities.

There are four documents published about building corporate compliance programme in general and anti-corruption compliance programmes in particular:

- “Internal Control-Integrated Framework”, issued by the Committee of Sponsoring Organisations of the Treadway Commission (COSO) in 1992.
- The US Federal Sentencing Guidelines for Organisations.
- “Good Practice Guidance on Internal Controls, Ethics and Compliance”. Annex II to the Recommendation of the Council for the Organisation for Economic Cooperation and Development (OECD) for Further Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Anti-Corruption Compliance Framework), February 18, 2010.
- “The Bribery Act 2010 Guidance about procedures which relevant commercial organisations can put into place to prevent persons associated with them from bribing” (The Bribery Act Adequate Procedures Guidance) issued by the UK Ministry of Justice, March 30, 2011.

What should an anti-corruption programme include?

Global policies should include a code of conduct and policies regarding gifts, training, political and charitable contributions, and delegation of authority, as well as accounting policies regarding the proper recording of transactions.

An anti-corruption programme should focus on the specific risks of corruption and bribery facing a company.

The first step is to conduct a corruption risk assessment to identify and prioritise these and other risks faced.

Then develop a programme to design and implement strategies and allocate resources to manage such risks.

Additional risk assessments should be undertaken periodically to ensure that the programme in place is meeting new risks and challenges as the business and regulatory environment change.

The three aspects of a holistic anti-corruption programme include:

1. Setting the proper tone at the top within the organisation through policies and procedures.
2. Proactively identifying corruption risks and monitoring internal controls to prevent or detect the fraud risks.
3. Developing reactive protocols in the event that corruption is suspected.

Anti-Corruption Policy

Companies should develop a company-wide anti-corruption policy based on the requirements of the FCPA and the UK Bribery Act. The overall compliance policy should be a clear and unambiguous statement of the company's position that both governmental and commercial bribery on any scale or level will not be tolerated.

The policy should also provide operational guidance on how compliance will be achieved in certain high-risk areas.

Communication and Training

Anti-corruption training is imperative, especially for global organisations employing nationals in countries with a high history of corruption. But also for organisations involved in international and complex transactions where the risk is higher and the need for stronger internal controls is a must.

Every person in a position to obtain business through bribery or other improper means should receive anti-corruption compliance training.

Training should highlight the company's position that it does not tolerate corruption, its anti-corruption policies to ensure compliance with the requirements of the FCPA and UK Bribery Act, potential "red flags" or problem situations, and guidance for employees to get help. Continually update the training and provide it to new or transitioning employees.

Anti-Corruption Financial Controls

Good controllership is the first line of defence against corrupt payments.

Companies should focus on high-corruption-risk areas such as:

- Bank accounts
- Petty cash
- Procurement and contracting
- Consultants, agents, and other high-risk intermediaries
- Customs and cross-border shipping
- Gifts, meals, and entertainment of customers and government officials
- Charitable giving and offset commitments

For example, strict enforcement of travel and entertainment rules related to meals and entertainment and the detailed reporting of the business purpose and people entertained supports anti-corruption compliance.

Reconciling bank accounts on a monthly basis is a key cash control that also protects against misappropriation and possible off-books payments.

Having enhanced vendor approval and payment processes, and increased scrutiny of high-risk transactions are also good controls which should be included.

Corruption Risk Assessment

Resources are limited, and a company needs to allocate its scarce compliance resources as efficiently as possible.

A thorough risk assessment adds both efficiency and credibility to your anti-corruption compliance efforts. It puts a company in a position, should issues arise that were not foreseen, to demonstrate that it used due care in assessing its risk.

The first stage of the corruption risk assessment should focus on actual risks posed by the nature of a company's operations, the revenue generation process, the degree of business with governmental entities, its use of agents and other intermediaries, the countries where it does business, the regulatory environment, and other factors.

The second stage should identify what policies and controls the company has in place to mitigate its corruption risk and analyse the effectiveness or gaps in such policies and controls.

The third stage is to produce a plan to build an effective and efficient anti-corruption compliance programme based on the present risk, the current controls in place and additional resources available to provide reasonable assurance of compliance.

The more thorough the risk assessment, the more confident one can be that the corruption risks have been sufficiently identified and analysed.

More robust risk assessments also involve transaction testing that can be performed at the corporate level and in high-risk locations. The output should consist of detailed recommendations for modifications to the design and implementation of the anti-corruption compliance programme.

Monitoring

Monitoring means anti-corruption compliance audits. It also can include data mining and analytics.

The purpose of anti-corruption compliance audits should be both to audit for compliance with the anti-corruption compliance programme and to test for substantive compliance by seeking to identify potential violations or "red flags".

Creating an effective anti-corruption compliance monitoring programme requires having the right people, processes, and resources.

The audit is not an investigation. However, anti-corruption audits have a powerful deterrent effect.

Due Diligence

Companies should conduct anti-corruption due diligence, especially in merger, acquisition and joint venture, as the risk includes:

- Inheriting liability for past corrupt activities
- Becoming liable for continuing corrupt activities that you failed to identify and stop
- Overpaying for a business that was built on corruption
- Inheriting corrupt employees from the acquired company
- Becoming saddled with significant increased compliance costs required to change the new business that was not anticipated.

The amount of anti-corruption due diligence that can be performed in the context of a merger or acquisition is subject to negotiation between the buyer and the seller, but it should include the following activities:

- Background investigation and public database searches of key executives.
- Interviews of key executives relating to past corruption and risks of corruption in the business.
- Review of documents related to acquired company's anti-corruption compliance programme, past incidents of corruption, and risks of corruption in the business.
- Forensic accounting and transaction testing procedures related to high-corruption-risk transactions.

Statements accurately disclosing any past corrupt actions or FCPA violations should be included in the seller's representations and warranties related to the transaction or as part of the merger or joint venture contract. The contract also should address future compliance with anti-corruption laws.

The acquiring company should put anti-corruption compliance and conduct further risk assessment procedures as necessary.

Reactive Measures

Management should establish protocols to react to those situations in which inappropriate behaviour is suspected.

An incident response plan should be established that encompasses investigations, remediation, and uniform disciplinary processes; it is important to have consistent treatment of red flags and allegations of impropriety.

Investigation protocols should be established so that management has a framework from which to operate if corruption is suspected.

The setup of policies and procedures that establish the uniform practice of disciplining any individual, regardless of position, who commits bribery or fails to comply with the organisation's code of conduct or ethics is considered a best practice.

Results of the investigations should be reviewed to determine what remediation, if any, is required to eliminate the potential for reoccurrence (e.g. changes in policies, procedures, or processes).

The audit committee should be communicated of any disciplinary action and of the status of the remediation plans.

Upon identification through the whistle-blower hotline, a tip, or otherwise, the response process should allow for this alleged potential complaint to escalate properly and enable an appropriate investigation of the facts. That will make the incident response plan be effective.

11. Financial Institution case

Bank 1 has a number of customers, one of them is A Co, and the other one is B Co.

B Co is also a customer of A Co. Therefore, both companies have their bank accounts with the same bank.

Invoice Finance 2 is a subsidiary of and fully owned by Bank 1. They also use other consultants and Insolvency Practitioners, who are also customers of Bank 1.

Bank 1 discusses with the director of A Co the way forward, as Bank 1 now suggest that they no longer can finance A Co due to B Co's risk. For that, they propose another invoice finance company, Invoice Finance 2. They also recommend their own consultants to review the affairs of the company.

The company director of A Co losses control over his own company as the decisions are arranged by the consultants who report back to Bank 1. They charge the A Co extortionist charges for their time and they take payment straight away from A Co's bank account, which is with Bank 1.

Bank 1 holds payments of the book debt, leaving A Co in a situation of technical insolvency. Therefore, they determine that A Co is insolvent.

The Consultants present projections showing very high turnover and profits. Those projections are used for their next step in the conspiracy.

Bank 1 arranges a meeting with the director of A Co at the Bank 1's headquarters. Full catering is provided for that meeting. They proposed to the director to let A Co go into liquidation, where they would take care of the process leaving trade creditors, tax authorities and the outstanding invoice finance debt unpaid. They also offered the director of A Co a offshore bank account with £100,000 and further credit and banking facilities. Then another company AA Co would be set up carrying on business as usual, with Invoice Finance 2 buying the book debt of AA Co, and with B Co as the main customer, as before. The assets of A Co would have been transferred to AA Co.

AA Co would have started trading with assets and debt free.

Bank 1 would profit from the exit charges, B Co's debt to A Co and its service charges.

Just remember that B Co is a customer of Bank 1 and it continues to be. The only change is the new invoice finance company, Invoice Finance 2, which takes over Bank 1. AA Co is essentially the same company with a different name and debt free.

A lot of questions could be raised on this scenario, as it has been repeated with many other companies which went through the process.

This particular case is currently in Court.

12. Hesitation to report

One way of summarising why there is still a lack of reporting cases of corruption is:

'How can I know what I think until I see what I say?'

The Prisoner's Dilemma

A reason behind the difficulties in exposing fraud and corruption could be that bystanders find themselves in a situation resembling the 'Prisoner's Dilemma'.

It can be explained by using the following scenario:

Two thieves have been arrested and put in separate cells. The police will interrogate them independently. If they cooperate with each other and both remain silent they will only have to serve one year each as there will be too little evidence to convict them of the more serious charges. If they give evidence against each other they will each get three years each in prison. However if only one prisoner talks, that prisoner will go free as a reward, while their betrayed accomplice will then have to serve five years. Thus, from each individual perspective, the best outcome would be to betray the other hoping the other remains silent. There is nothing to lose. But if both reason in this way, each will betray the other and get three years in prison.

The Prisoner's Dilemma is an illustration of trust versus mistrust.

The Bystander's Dilemma

The Bystander's Dilemma can be explained with an example:

An employee knows that his superior transfers considerable amounts of their employer's money into his own offshore company with the help of an outside accomplice. The employee has very good reputation within the firm. He knows that in order to get the CEO to start a proper investigation it is vital that the superior's secretary also steps forward and verifies some of the things that the employee would like to reveal.

The employee has spoken with the superior's secretary who knows about some illegal business operations that are going on but is constantly afraid of her superior and his sudden outbursts with anger.

They agree that something has to be done.

The employee is dependent on the superior's secretary and she is dependent on him, but she looks really frightened.

The employee has a choice; he can play safe and keep his suspicions to himself, go on with his life and let the superior's secretary to take the blow.

He can speak out, but if the superior's secretary changes her mind, he will be the only one to speak out and he might be accused of running with gossip and have to face accusations or disloyalty, and the fraudster may also take his revenge.

If both speak out, the CEO cannot ignore two independent witnesses and an investigation will start.

Although neither really know what will happen if they come forward individually or together, the situation resembles the Prisoner's Dilemma and, in the end, the fear of being alone in accusing the superior could deter each of them from speaking out.

Group Pressure

If a large majority of a group agrees on a specific solution to a problem, it is probably rational to go along with it. It is safer for each individual to play along, right or wrong, with the group than to embark on a single and risky journey alone.

Group pressure is not sensitive to issues of right or wrong, good or bad. It is simply a question of conformity. It does not matter if the majority is making a mistake or is putting the welfare of the group at risk.

Fear

Fear is triggered by the possible anticipated threats coming from the perpetrators, if we go against them. However, fear can also trigger fraud and corruption, which may be motivated not only by greed but also by fear of losing one's reputation of being a successful professional.

Threatened status was said, in a study, to be a more important fraud motivator than imagined wealth.

Hesitation to prosecute

Hesitation to prosecute has been manifested in the most recent cases of fraud and corruption within financial institutions where the regulators opted for a fine rather than prosecution.

THANK YOU!