

## The one time you should look for the price tag on that gift

December 2016



**The Bribery Act ushered in a stricter anti-corruption regime when it came into force in 2011 and although Christmas gifts and hospitality are not banned, it's important that companies don't splash out and end up in deep water with over-generous Christmas gifts.**

**If you're worried there are too many bottles of wine bearing "Happy Christmas" messages from your suppliers, it's worth checking out the facts and making sure staff know the right and wrong way to go about corporate gifting.**

[The Bribery Act](#) came into force in 2011, simplifying and consolidating existing law on corruption and creating a new crime of failing to prevent bribery. When it became law, many commentators thought it might end all corporate hospitality. That wasn't the case, with the Ministry of Justice's later guidance saying: "hospitality is not prohibited by the Act", but any gifts must be reasonable and proportionate. So, companies who splash out and are over-generous in their gifting could find themselves breaking the rules and getting both themselves and the recipient into deep water.

In simple terms, bribery is defined as giving or offering a person a financial or other advantage with the intention of inducing them to act improperly. It is also a crime to ask for or to receive an inducement in return for acting improperly.

Our white-collar crime expert, Steven Barker, said:

"When it comes to gifts or any form of hospitality, the simplest thing is to have a clear threshold that's appropriate to the sector you're operating in, whether giving or receiving. Then, if anything offered has a value beyond that, employees must obtain permission. It's also sensible to make sure everything, however small, is logged in a central register."

As well as looking at the price ticket on gifts or hospitality, companies also need to demonstrate that they are doing it with the right intentions. A gift given at Christmas-time is less likely to be problematic than

something offered during contract negotiations or when an extra invoice has been submitted. Similarly, hospitality that doesn't involve any opportunity for business development on the part of the giver is likely to raise questions.

Partner, Vinay Verma, added:

"Entertaining your customers at a Christmas party, or providing a modest bottle of wine, is unlikely to cause problems. But if you offer a pair of theatre tickets and a dinner reservation for two at a high-end restaurant to a key contact and their spouse, that is much less likely to pass the "reasonable and proportionate" test. Where there's a clear opportunity to promote the company supplying the hospitality, it's more likely to be seen as reasonable business development.

"Preventing bribery is important for any business, whatever their size, and every company must demonstrate they are taking it seriously. That includes undertaking risk assessments, making sure staff know the procedure, and setting everything out in writing."

Since the introduction of the Bribery Act, the [Serious Fraud Office](#) has shown a tough attitude to enforcement and seeking out corruption. In one recent high profile case, a construction and professional services company was ordered to pay £2.25 million as a result of a conviction arising from a failure to prevent bribery taking place. In short, where bribery has occurred it is a separate offence to fail to have in place adequate measures to prevent it. We can help you ensure that those measures are in place and effective. Speak to [Steven Barker](#) or [Vinay Verma](#) for more information.

**Note:** *This is not legal advice; it is intended to provide information of general interest about current legal issues.*