

# Wake-up call for small companies on bribery process

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The activity of political consulting firm Cambridge Analytica has been hitting both headlines and the Facebook share price, following accusations that it used the personal data of millions of Facebook users to sway the outcomes of the 2016 US presidential election and the UK Brexit referendum. Executives from the company were also filmed by an undercover journalist apparently suggesting that honey-traps and bribery might be used to discredit politicians.

The company denies the allegations, saying that the Channel 4 news story was edited to misrepresent the conversations and explaining that its staff will actively try to tease out any unethical or illegal intentions from prospective clients, because legality and reputational risks are critical in assessing new projects. In the [statement](#), the company highlights how it uses such meetings to make an informed decision about who to engage with, in line with the guidance of the UK's Bribery (the [Act](#)).

The Act came into force in 2011, with the aim of simplifying and consolidating existing law on corruption and creating a new crime of failing to prevent bribery. 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.

***“Having the right processes in place to comply with the tough standards introduced by the Act is not just the concern of big business.”***

In *R v Skansen Interiors Limited*, a contracting company employing 30 people was charged with failing to prevent bribery under Section 7 of the Act, resulting in the first

contested trial of this offence since the Act came into force in the summer of 2011. The action was taken despite the company self-reporting the illegal conduct of its former managing director in making bribes to win contracts.

The company had anti-bribery and anti-corruption policies in place and had identified and stopped the largest bribe payment before it was paid, but the measures were found to be insufficient to meet the defence under the Act.

Vinay Verma, our white-collar crime expert, explains:

*“The outcome of this case illustrates the difficulties that smaller companies may face in trying to act responsibly and keep within the law. Certainly, Skansen thought they had matters well covered, and by taking action to self-report may have imagined that their actions would have been considered exemplary, rather than falling short.”*

*What is interesting is that by the time the case was heard, the company had become dormant, so no financial penalty could be imposed, and the only sentence could be an absolute discharge. When the judge asked why the prosecution had been brought in such circumstances, the Crown Prosecution Service said that it was in the public interest and they wanted to send a message to others.”*

Vinay added:

*“The message is loud and clear: you must have processes and policies that meet best practice conditions, whatever the size of your business, and be able to demonstrate how it is embedded within the culture of the company. That will be demonstrated through regular risk assessments, ensuring staff are kept up to date on procedures, undertaking due diligence on clients and agents, and making sure written documentation hits the*

*right standard and matches up to the requirements of the Act.”*

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

