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Criminalising Commerce – the impact of the Bribery Act 2010 on corporate hospitality

The Bribery Act 2010 (**Act**) comes into force in April 2011. It will replace the current outdated laws on bribery and establish offences for individuals and commercial organisations. The Act will apply across the United Kingdom and appears to be the Government's response to the global threat to business posed by bribery.

Section 7 of the Act will create an offence where a commercial organisation fails to prevent persons associated with it from committing a bribe on behalf of that organisation. A commercial organisation will have a defence where it can show it had in place adequate procedures designed to prevent associated persons from committing bribery. Section 9 of the Act obliges the Secretary of State to publish guidance on the procedures a commercial organisation can employ to prevent associated persons from bribing others. The Ministry of Justice is undergoing a consultation on these procedures.

The area I would like to explore further is how corporate hospitality will be dealt with under the Act and the associated guidance. Corporate hospitality is critical in many businesses and there have long been concerns about the circumstances in which corporate hospitality could amount to bribery. Corporate hospitality will be in the spotlight when the Act comes into force and it is hoped the Ministry of Justice will be able to provide useful and workable guidance on this topic. Key questions are:

- what types of corporate hospitality will be acceptable? Will the guidance clarify this or will the courts be left to decide on a case by case basis?
- what kind of procedures will a commercial organisation need to have in place to establish a successful defence?

The guidance will be published ahead of the conference.

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