



## "Failure to Prevent Bribery" offence - what does it mean for employers?

By **Caroline Baker** - 28 June 2018

Earlier this year, following a two day jury trial, the CPS succeeded in obtaining a successful prosecution of a corporation for failing to prevent bribery.

The defendant in this case was London-based interior design company, Skansen Interior Limited. Skansen appointed a new CEO, Ian Pigden-Bennet, in January 2014. Following his appointment, Mr Pigden-Bennett was told that there had been two payments made to a third party totalling £10,000. Mr Pigden-Bennett carried out an investigation, he spoke to the managing director, Mr Banks and put in place an anti-bribery and corruption policy.

As it turned out Mr Banks was responsible for making these payments and despite the increased focus on what had happened, tried to make a third payment of £29,000 which was discovered and prevented. Mr Pigden-Bennett fired Mr Banks, informed the relevant authorities and assisted with the ongoing criminal investigations.

However, Skansen was still found guilty of a criminal offence under the Bribery Act 2010 and the jury found that it had not put "adequate procedures" in place to prevent bribery to avoid liability.

Companies should use Skansen's failings as guidance as to how to avoid prosecution. In particular, it is essential to have an appropriate anti-bribery and corruption policy in place and ensure that it is regularly reviewed and followed. In addition, a policy in itself is unlikely to be enough to tick the box of having "adequate procedures" in place, particularly for larger organisations. At a minimum, it is important that employees are aware of the policy and trained as necessary. A dedicated compliance officer should also be appointed to have oversight of the policy and to act as a point of contact for employees to report any concerns to. Ultimately, what will be adequate procedures will depend on the particular company.