The Serious Fraud Office has dedicated 2014 to rooting out corporate corruption. Michael Littlechild answers some key questions about anti-bribery measures concerning UK FDs.

Since becoming director of the Serious Fraud Office in 2012, David Green has sought to sharpen the strategic focus of the organisation with a particular focus on casework dealing with the “topmost tier of serious and complex fraud and bribery”. With this in mind, Michael Littlechild, chief executive of corporate responsibility specialists GoodCorporation, answers questions on pressing issues surrounding identification and prevention of corporate fraud.

Q: How do companies typically find themselves exposed to bribery risk?
A: There is a real danger in assuming that bribery is carried out by third parties in remote locations. While this does present a very real risk, often the root cause is much closer to home and stems, for example, from highly pressurised sales targets. Companies need to ensure that employees have a clear understanding of what is and is not acceptable in pursuit of new business. The
paid bribes to government officials to win contracts in east Africa. The sectors listed above are particularly at risk, as they tend to be large multinationals with complicated supply chains, using agents or intermediaries to bid for government contracts or permits.

Q: Are possible sanctions just a reputational issue or is there criminal liability involved?
A: Facing corruption charges is more than just a reputational issue. In the UK, to diversion under the Bribery Act could lead to up to 10 years in jail and an unlimited fine. Not only that, but executives facing bribery charges abroad would subject to local penalties which range from life imprisonment (China) to fines up to 100 times the bribe plus a jail sentence (Russia).

What we have also seen is where countries are taking a firm line on corruption, it is often overseas companies in the firing line, as governments tend to protect their own companies first. Eight of the top 10 FCPA enforcement actions have involved foreign companies.

But it’s not just about prosecution, and as we have seen in the UK, nor are foreign companies that discover corrupt practices within their operation for a specific period of time.

A comprehensive risk assessment of the markets, countries, sectors and areas of the business at risk from bribery, with appropriate mitigation controls put in place.

All stakeholders must receive clear and regular communication and training on the company’s ABC policies and demonstrate their commitment to following these principles. Appropriate risk-based due diligence must be carried out to examine the ethical practices of agents, intermediaries and partners as well as wholesalers, distributors and suppliers that act on the company’s behalf.

Proportionate procedures also need to be in place to prevent corruption in the key business functions of sales, procurement, finance, HR and government and regulatory affairs.

Finally there should be a compliance and monitoring function with a clear ABC remit and the resources to ensure that the policies are implemented and appropriate reporting channels are in place.

Management commitment to demonstrate clear ownership at the senior level of anti-bribery controls and a total commitment to a zero-tolerance approach.

Q: Are UK businesses covered only by UK legislation or do they need to study bribery rules of the country in which they operate?
A: A business operating internationally may find itself exposed to a number of laws simultaneously. These include the laws of the country in which it is based, the laws of any overseas country in which it is doing business and the laws of any further countries into which it may be exporting that have extra-territorial reach. It is essential therefore, to employ the services of well-informed local lawyers and compliance professionals to ensure that ABC controls meet all legal requirements.

A company’s anti-bribery commitment should start with the board but be well driven by the compliance function that should also install their responsibility throughout the organisation. In all but the largest companies, ABC compliance is often bolted on to an existing job title, often to someone in the legal department. This may result in insufficient focus on ensuring adequate procedures are properly in place.

GoodCorporation advises its clients to take an ethics-based approach to anti-corruption compliance, embedding an ethical culture and ethical decision making throughout the organisation.

An open and transparent whistleblowing procedure for reporting potential bribery should also be developed to encourage the reporting of misconduct.

Q: What about education – what works and what doesn’t when it comes to training staff in this area?
A: Training and communication of a company’s anti-bribery policy should be clear and consistent using a number of mediums to reach the widest possible audience. The website should be used to communicate the organisation’s zero-tolerance approach to bribery.

All employees should receive the company’s policy and make a commitment to follow it.

Those members of staff likely to be exposed to bribery risks should receive a minimum, interactive e-training on the company’s ABC policies and procedures. In doubt, train: the more stakeholders who are aware of potential misconduct, the greater the organisation’s eyes and ears.

An international programme of risk assessment workshops should also be considered. This is an effective means of training teams to identify local bribery risks and develop a deeper understanding of the threats they pose to the organisation as a whole.

ABC policies should also be communicated to suppliers, customers, agents, intermediaries and partners. This needs to be done proactively, soliciting their commitment to uphold the organisation’s equivalent policies.

A: Ignorance is most definitely not a defence. If a business is exposed, it could well lead to conviction. Under the Bribery Act, failure to prevent corruption is a criminal offence and could therefore expose a business to both criminal prosecution and a fine. A company’s anti-bribery commitment must be clearly communicated as an integral part of an effective compliance programme, targeting the areas where it is most likely to make a material difference. The key to getting this right is to take a risk-based approach, which enables a business to identify the real dangers and put the right controls in place.

Too many organisations embark on an overambitious programme of anti-corruption due diligence, often becoming bogged down mid-way through and consequently failing to identify the real concerns. This is particularly true when it comes to managing corruption in the supply chain. Good decision trees (see GoodCorporation’s due diligence leaflet at bit.ly/1sqXhy1) can help here, ensuring the risk is properly evaluated and appropriate mitigating steps put in place.

Michael Littlechild is chief executive of GoodCorporation, leaders in the field of anti-corruption prevention and responsible business management.