

# Combating bribery in the SME sector: the UK findings

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The Forum brings together experts from the corporate sector, public practice and academia from around the world to debate trends and developments in business law. One of its areas of special focus is on how legal systems can achieve the right balance between encouraging entrepreneurial initiative and providing necessary protection for stakeholders and the public interest.

#### The ACCA Global Forum for SMEs

The Forum provides a unique platform for promoting the role of SMEs in the global economy. Representing over 15 countries and a wide range of professional backgrounds – from finance institutions, academics and professional advisers to entrepreneurs themselves – the Forum represents the sector's needs at a global level and facilitates the sharing of best practice.

This report presents the analysis of the UK findings of a global survey of ACCA members, exploring the impact of bribery and corruption on the SME sector in the UK. It draws comparisons with ACCA's previous research on the same subject in 2007, and considers SMEs' perceptions of the impact of the 2010 Bribery Act and the 2008 global financial crisis.

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#### GLOBAL SURVEY REPORT

The full report of the survey of ACCA's global membership, *Combating Bribery in the SME Sector*, is available from the ACCA website:

[www.accaglobal.com/content/dam/acca/global/PDF-technical/small-business/tech-tp-cbiss.pdf](http://www.accaglobal.com/content/dam/acca/global/PDF-technical/small-business/tech-tp-cbiss.pdf)

## Foreword

The SME sector faces a quandary. There is pressure to export to new markets, and to find new niches in existing markets. Yet there seem to be any number of legal and ethical roadblocks in relation to human rights, labour standards, environmental concerns, political risk and corruption. Some believe that the latest piece of legislation in this picture, the UK's Bribery Act, has added to the complexity. Moreover, the Bribery Act is not alone. It is one of a series of laws designed to bring countries in line with the OECD Anti-Bribery Convention, which have gone hand in hand with greater enforcement.

One way to find light at the end of the tunnel is to understand more about the specific challenges that SMEs face in practice. This report from ACCA is therefore extremely important. It sheds light on how SMEs experience corruption, their understanding of the Bribery Act, and what they feel would help them to act ethically and avoid breaking the law.

It is an important report as, irrespective of the new law, corruption is bad for business. Corruption undermines the rule of law, erodes public trust in institutions, degrades services and product quality, often putting consumers and the public citizens at risk, and is a drag on investment. As the survey shows, accountants and managers within SMEs believe there are clear business reasons for SMEs to demonstrate their anti-corruption credentials. These reasons include an increased likelihood of being able to trade with large businesses and public bodies, enhanced consumer confidence in the company and consolidating the firm's reputation for high standards of business conduct.

One encouraging result is that SMEs' understanding of guidance on bribery laws is increasing, with 27% of respondents believing the current guidance is sufficient. This is up from 6% in ACCA's equivalent survey in 2007, when the UK had a patchwork of anti-bribery laws including some from the 19th century.

While this increase in awareness is encouraging, it still leaves 49% of respondents claiming the guidance is insufficient and 24% of respondents who were unsure of the effectiveness of the guidance, possibly indicating that they are unaware of it. This points to a communication gap between the government's current Bribery Act guidance and the SME community.

Worryingly, almost half of respondents in the survey felt that SMEs are unaware that UK law enables prosecutions of bribery and corruption even where the acts are committed abroad – a very similar proportion to the respondents in the 2007 survey. There is, however, a clear message for the regulators and law enforcement authorities from the 71% of respondents who believed that high profile bribery prosecutions are the most important tool for improving the ethical standards and increasing awareness. Whistle-blowing protection laws (61%, up from 42%) are cited along with high-profile prosecutions as the most important anti-corruption technique in the fight against corruption in the SME sector, compared to a code of ethics for businesses (only 41%) and the appointment of auditors (36%).

There has been a debate about whether the Bribery Act should be modified for SMEs. Transparency International believes that the law should apply equally to all companies, given the devastating consequences of corruption. In the ACCA survey, around the same number were in favour as against the concept of changing the rules on facilitation payments and hospitality for SMEs; while 51% of respondents do not agree with reforming the UK Bribery Act specifically for SMEs, seeing value in maintaining one framework for all businesses, regardless of size.

This is a timely and important study. It helps to fill an important gap in debates around the Bribery Act by giving us more information about the experiences and opinions of SMEs. It tells us that awareness is increasing in the SME sector, although there is still a lack of knowledge and understanding in some parts. It reinforces the need for anti-bribery support and guidance specifically aimed at the SME sector. Above all, ACCA's survey reveals that the Bribery Act represents an opportunity as well as a challenge for SMEs, strengthening the view that SMEs can benefit from the free market and clean business environment that anti-corruption laws help to create.

**Robert Barrington**  
Executive director  
Transparency International UK

# 1. Introduction

In 2007, ACCA conducted its first research into the impact that bribery and corruption may have on the SME community, focusing exclusively on the UK. Gaining greater understanding of how bribery and corruption affects SMEs and how they can mitigate their associated risks is important. Most attention has been traditionally focused on international businesses and public bodies, but SMEs form the backbone of the economy and some will grow to become the leading businesses of tomorrow.

This latest research builds and expands on that earlier UK work, reflecting changes in the economic and legal environment. The UK economy has been struggling to recover from the 2008 global financial crisis, increasing pressure on many businesses. The legal framework has also evolved, with the introduction of the Bribery Act 2010 and its expansion of existing bribery offences. The 2013 survey, therefore, while pursuing the themes originally examined in 2007, also considers SME perceptions of the impact of the 2010 Bribery Act and the impact of the global financial crisis.

## RESEARCH BASE

The findings presented here are based on an online survey of ACCA's global membership conducted in July 2013. Respondents primarily were ACCA members working within SMEs as accountants or general managers (54%) and those in public practice providing professional services to SMEs (44%). This report analyses the 205 responses received from the UK, and is presented as additional analysis to that in the main global report.

For the purposes of this research, bribery and corruption are treated as a single issue, in line with the typical approach taken by leading organisations. Given that one objective of the survey was to gauge understanding of the term 'bribery and corruption', respondents were not given any formal definition in order to avoid influencing their perceptions.

The questions asked in 2013 were not in all cases exactly the same as those asked in 2007. Comparative results have been provided in the analysis where appropriate.

## KEY FINDINGS

SMEs, like other business entities of all sizes and types, are exposed to risks associated with bribery and corruption. Greater help from accountants in countering such risks would generally be welcomed, alongside stronger enforcement action by the authorities.

Almost two-thirds (64%) of UK survey respondents think SMEs see bribery and corruption as having a negative impact on the business environment. Only 27% think that SMEs are unlikely to face any risk of bribery and corruption in the course of their business dealings. Furthermore, almost one in five (19%) think that businesses have been more willing to mis-state financial statements to cover up for corrupt behaviour and fraud since the onset of the global financial crisis in 2008. UK SMEs are clearly at risk of encountering bribery and corruption in some form, and particularly if trading overseas.

Considerable scepticism exists in relation to the impact of the Bribery Act 2010. Only 17% of UK survey respondents think the Act has given

SMEs more confidence that they will not encounter, or have to compete with, corrupt business practices. Over half (51%) think that it has not increased confidence. This may be because awareness of the details of the Bribery Act 2010 is not good. Only 35% of respondents think UK SMEs are aware of the Act's provision that firms carrying on a business in the UK themselves commit a criminal offence if acts of bribery are committed by their employees or other associated persons and they fail to take adequate measures to prevent such acts.

Compared with the 2007 survey findings, a larger proportion of respondents now believe there is sufficient guidance to help SMEs in identifying and dealing with bribery and corruption – 27% of this year's respondents, compared with 6% in 2007. Nonetheless, 49% of 2013 respondents still do not think sufficient guidance is available for SMEs.

What could really help to counter fraud and corruption? High-profile prosecutions were given one of the top two effectiveness ratings, cited by 71% of this year's survey respondents, in line with the 67% who held this view in 2007, but more could be done. A majority of respondents (61%) consider that laws granting whistle-blowing rights to employees and businesses could also have a substantial effect, a significantly higher percentage than in 2007 (42%).

Accountants also have an important role in helping SMEs protect themselves. Three-quarters (75%) of survey respondents believe SMEs would welcome advice from their accountants on the policies and practices they need to put in place to deal with possible cases of bribery and corruption.

## 2. SME exposure to bribery and corruption risk

In line with the 2007 UK survey, this year's findings suggest that SMEs are just as likely as large businesses to face bribery and corruption risks. Only 27% of respondents think that SMEs are not generally likely to face any risk of bribery and corruption in the course of their business dealings, and almost half (48%) think they definitely will do so.

Since the 2007 survey, the UK has been suffering the effects of the 2008 global financial crisis. During times of economic difficulty, instances of fraud and corruption can increase as corporates and individuals come under greater pressure to report positive results. Survey participants were asked

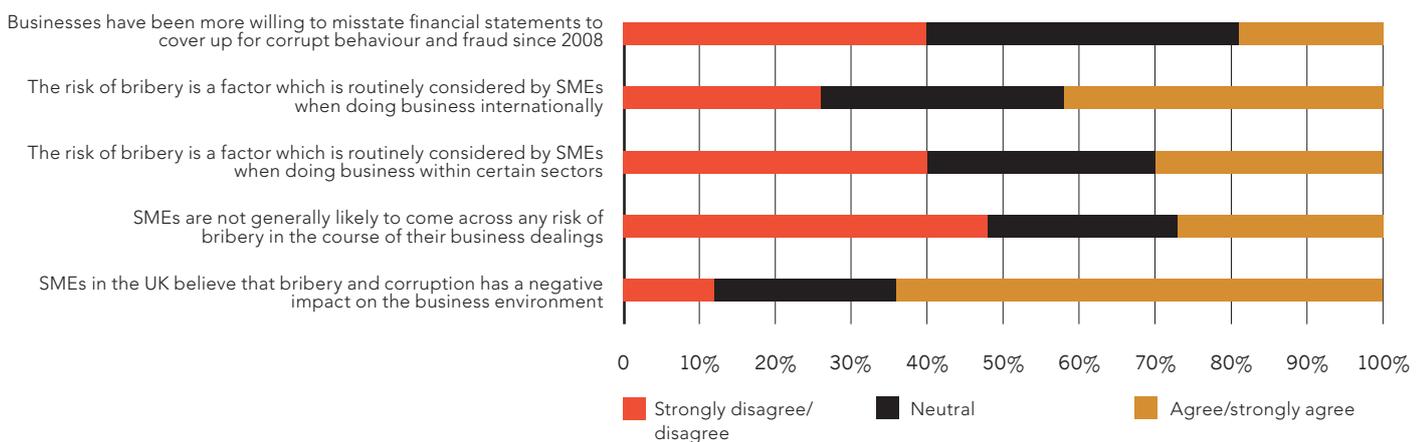
whether businesses have been more willing to mis-state financial statements to cover up for corrupt behaviour and fraud since the onset of that crisis. Almost one in five (19%) think they have, while just 40% completely disagree with this proposition.

Do SMEs routinely consider the risk of bribery when considering doing business? Perhaps not as routinely as they should. Fewer than half (43%) of respondents believe bribery risk is routinely considered by SMEs when contemplating doing business internationally, and just 30% think this happens when UK SMEs are considering doing business within certain sectors.

This is a concern, given that SMEs seem likely to be exposed to fraud and corruption risks.

Almost half (48%) of UK survey respondents think that when bribery and corruption is an issue in the SME environment, it is most likely to manifest itself in the negotiation of contracts involving cross-border trade (49%) followed by commercial dealings of all kinds (48%). This compares with 63% and 70% respectively in the 2007 survey. Similarly, over four in ten respondents (41%) this year think bribery and corruption likely to arise as a result of supply chain pressures (64% in 2007), 36% believe it likely in the course of

**Figure 1: Respondents' perceptions of SMEs' approach to bribery and corruption issues**



dealing with public sector officials (44% in 2007) and 33% in the course of negotiation over private sector contracts (66% in 2007). In all cases, the percentages were somewhat down on the corresponding findings from 2007, suggesting that SMEs and their advisers were more certain of where they were likely to encounter a threat of bribery and corruption in 2007, but much less certain about this today.

In 2007, commercial dealings of all kinds and private sector contracts scored highest in perceptions of where bribery and corruption would be most evident. In 2013, a different picture emerges, with private sector contracts being the least likely dealings to involve bribery

and corruption and contracts involving cross-border trade emerging as the area where SMEs and their advisers would most expect bribery and corruption to emerge.

However they encounter it, bribery and corruption are seen as a problem for those trying to operate in the business world. Almost two-thirds (64%) of UK respondents think SMEs see bribery and corruption as having a negative impact on the business environment (Figure 1); only 12% do not.

**Ranking of where bribery and corruption are most likely to be evident**

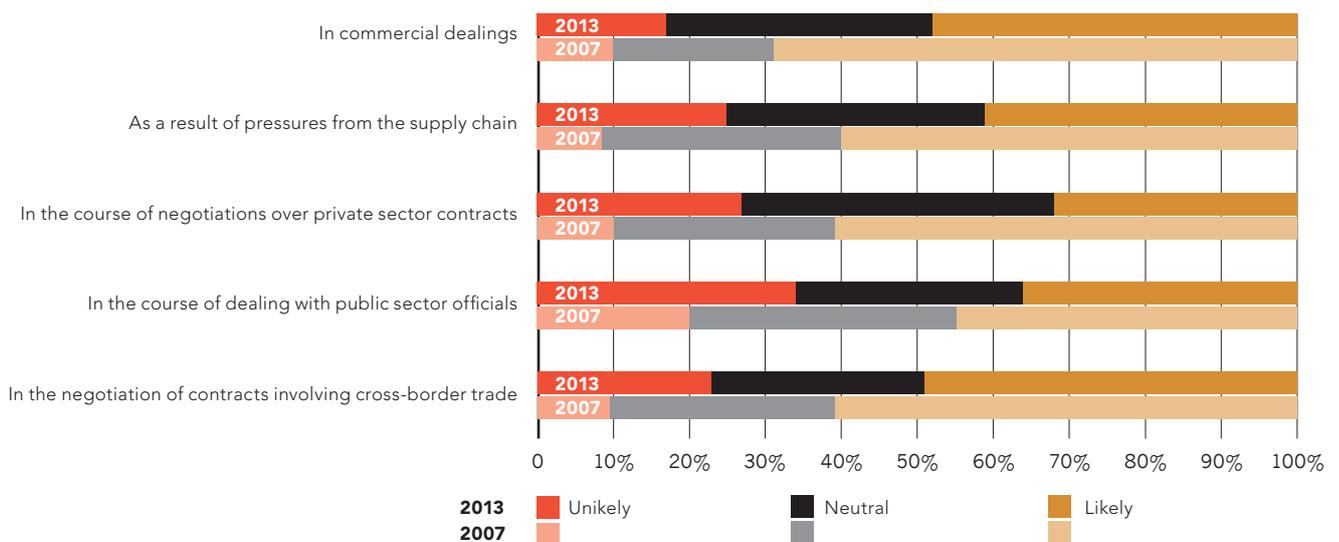
**2007**

1. Commercial dealings of all kinds
2. Negotiations over private sector contracts
3. Negotiation of contracts involving cross-border trade
4. Result of pressure from supply chains
5. Dealing with public sector officials

**2013**

1. Negotiation of contracts involving cross-border trade
2. Commercial dealings of all kinds
3. Result of pressure from supply chains
4. Dealing with public sector officials
5. Negotiations over private sector contracts

**Figure 2: Respondents' perceptions of where they would expect to encounter bribery and corruption**



### 3. Understanding of bribery and corruption issues

Are SMEs likely to be able to identify bribery and corruption? As in the 2007 survey, respondents were asked whether they would expect SMEs to be able to differentiate between bribery and corruption and certain other specified scenarios.

Respondents are most confident about SMEs' ability to distinguish between bribery and corruption and the offer of business-related gifts or unsolicited payments; of those able to express a view, 63% believe SMEs could do this. Similarly, 59% consider that SMEs would be able to distinguish between bribery and corruption and the provision of corporate hospitality, and 55% think

they can differentiate bribery and corruption from the suggestion of preferential treatment by regulatory officials. A small majority (51%) believe SMEs could distinguish between contract-related consultancy fees and facilitation fees and bribery and corruption. Respondents to this year's survey appear slightly more confident than survey participants in 2007 in relation to all four scenarios.

Many respondents this year see scope for improving the SME community's understanding of the legal definition of bribery and corruption. In fact, confidence in understanding appears to have slipped since 2007. Fewer than half

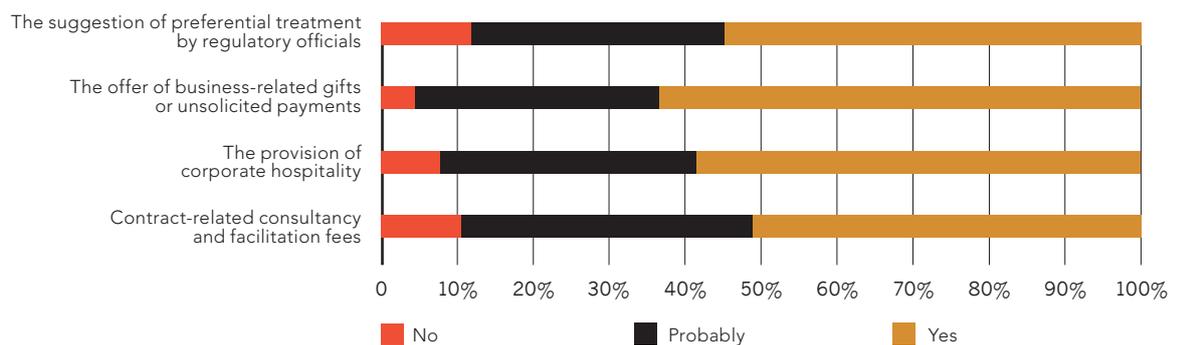
(45%) of UK respondents in 2013 agree that SMEs generally understand this definition (Figure 3), compared with 57% in 2007. This year, a quarter (25%) of respondents think SMEs do not understand the legal definition of bribery and corruption (22% in 2007).

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*'Most SMEs do not understand the impact of the new laws and therefore may fall foul unknowingly.'*

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**Figure 3: Respondents' ability to differentiate between bribery and corruption and the following**



### 3. The legal framework

Since the 2007 survey the UK's Bribery Act 2010 has come into force, revising the existing offences related to giving and accepting bribes, and introducing the new corporate offence of failing to prevent acts of bribery being committed by employees, agents or subsidiaries. The introduction of the Act, with the inevitable accompanying media reports and government promotional activity, might have been expected to raise awareness of the legal framework surrounding bribery and corruption. This does not appear to be the case among SMEs.

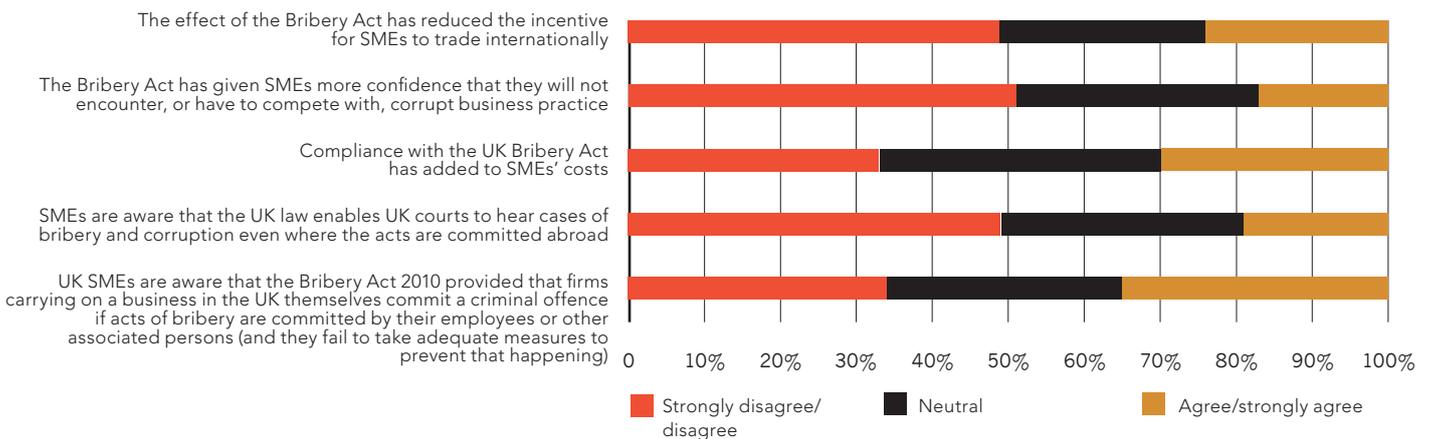
Almost half (49%) of respondents do not think that SMEs are aware that UK law enables courts to hear cases of bribery and corruption even where the alleged acts are committed abroad – a very similar proportion of respondents as held this view in 2007 (51%). Just 19% of this year's survey respondents think SMEs are aware of this (22% in 2007). Only 35% of respondents believe that UK SMEs are aware that, under the Bribery Act 2010, firms carrying on a business in the UK themselves commit a criminal offence if acts of bribery are committed by their employees or other associated persons, and they fail to take

adequate measures to prevent such acts.

Many in the SME community appear sceptical about the Bribery Act's impact. Only 17% of respondents think the Act has given SMEs more confidence that they will not encounter, or have to compete with, corrupt business practices. Over half (51%) think that it has not.

Respondents are divided in their views on whether compliance with the Act has added to SMEs' costs: 30% think it has, while 33% think it has not. Asked about the effect of the Bribery Act on

**Figure 4: Respondents' perceptions of the impact of the 2010 Bribery Act**



international trade, 49% think it has not reduced the incentive for SMEs to trade internationally, although 24% think that it has.

Survey respondents were also asked whether they think SMEs are deterred from doing business within some sectors or jurisdictions because of the risk of sanctions under anti-bribery laws. Many respondents are unsure (46%). Almost a third (31%) do not think SMEs are deterred, while 23% think that they are.

Should anti-bribery laws incorporate a modified regime for SMEs, involving

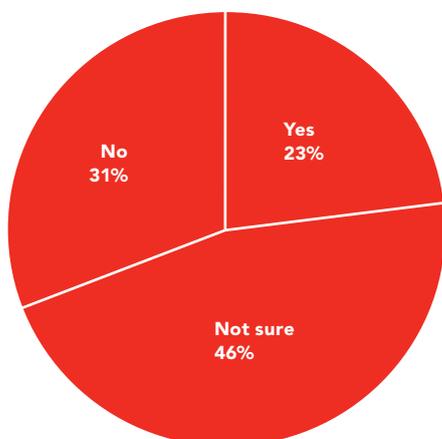
less strict compliance obligations than those applying to large companies and public bodies? The largest proportion of survey respondents (51%) do not think so, seeing value in maintaining one framework for all businesses, regardless of size. Nevertheless, 29% would like to see a modified SME regime. Of those supporting this idea, 37% think that rules prohibiting the solicitation or payment of facilitation payments should be relaxed for SMEs. Another 32% are unsure, while 31% do not want these rules to be relaxed for SMEs.

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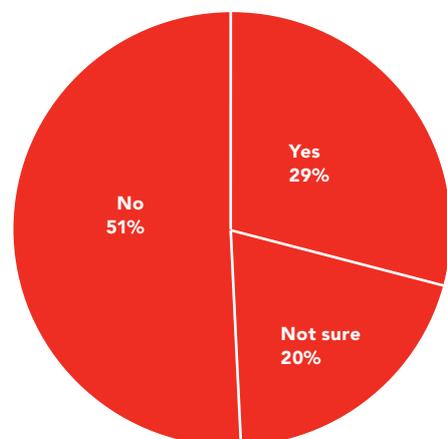
**'Increase in international trade is making bribery and corruption more likely.'**

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**Figure 5: Respondents' perceptions of the deterrence effect of bribery and corruption sanctions**



**Figure 6: Respondents' support for modified anti-bribery and corruption legislation for SMEs**



## 4. Advice and guidance

When asked to whom SMEs are most likely to turn if faced with a bribery and corruption issue, 44% of respondents identify their lawyer and 28% their accountant. These findings are closely aligned with those in the 2007 survey, when 42% of respondents thought SMEs would turn to their lawyer and 29% their accountant.

In this year's survey, 12% thought SMEs would turn to members of their peer group, 6% thought they would contact a confidential advisory service, and just 2% the police.

Lawyers may be seen as the most obvious source of help, owing not only to their legal expertise but also to their right to claim legal privilege in relation to their client dealings, a benefit not currently available to accountants. Given that this is the case, the consistently high reliance placed on accountants is notable. SMEs value practising accountants for their all-round business support services, and clearly perceive their expertise as encompassing bribery and corruption issues. They may, for example, look to their accountant to provide advice on appropriate policies and practices for reducing their bribery and corruption

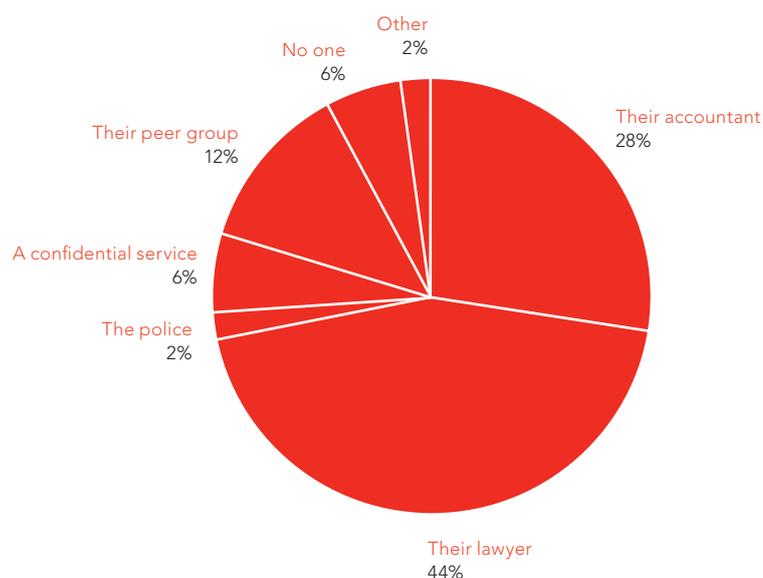
risks. This creates an opportunity for accountancy professionals to strengthen client relationships by developing their skills and expertise to meet SME needs in this area. This is confirmed by the 2013 survey findings. Three-quarters (75%) of survey respondents believe SMEs would welcome advice from their accountants on the policies and practices they need to put in place to deal with the risk of encountering bribery and corruption.

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*'As SMEs increase their presence in other countries, the risk of bribery and corruption increases as in some countries bribery is rampant and you are expected to offer bribes.'*

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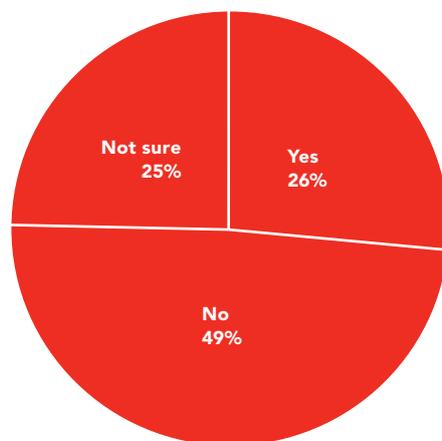
**Figure 7: Respondents' views on sources of advice for SMEs**



Survey respondents see a range of benefits for SMEs that demonstrate strong anti-bribery credentials. Three-quarters think this will help to ensure that the business does not breach legal requirements or give rise to reporting obligations by third parties. In addition, 70% think it will enhance the firm's reputation for high standards of business conduct, and 58% anticipate enhanced consumer confidence in the business. Almost half (48%) believe that an SME demonstrating strong anti-bribery credentials will be more likely to be able to trade with large businesses and public bodies. Nonetheless, 32% think it will cost SMEs business.

Compared with the 2007 survey findings, a larger proportion of participants now believe there is sufficient guidance to help SMEs in identifying and dealing with bribery and corruption – 27% of this year's respondents believe there is, compared with 6% in 2007. Even so, 49% of this year's respondents do not think there is sufficient guidance for SMEs and around a quarter (24%) do not know, suggesting they may not be aware of the guidance that does currently exist.

**Figure 8: Respondents' perceptions of the availability of suitable guidance for SMEs on bribery and corruption**



## 4. Combating bribery and corruption

If bribery and corruption are an issue for SMEs, how can this best be countered? Survey respondents were asked for their views on a number of measures that could potentially help SMEs reduce the risk of bribery and corruption.

High-profile prosecutions were given one of the top two effectiveness ratings, cited by 71% of this year's survey respondents, in line with the 67% who held this view in 2007.

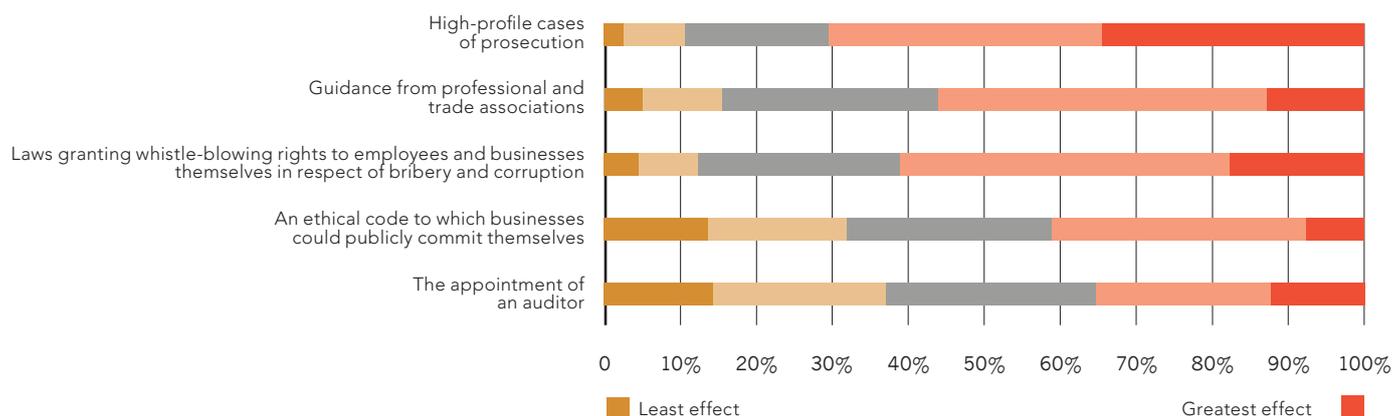
A majority of respondents (61%) consider that laws granting whistle-blowing rights to employees and

businesses themselves in respect of instances of bribery and corruption could also have a substantial effect, a considerably higher percentage than held this view in 2007 (42%). There may be a perception that more cases would be reported if whistle-blowers had greater protection; this in turn could lead to more prosecutions being pursued.

This year 56% of participants see potential in the provision of guidance from professional and trade associations, up from 43% in 2007.

'It increases the cost of doing business.'

**Figure 9: Respondents' perceptions of the effectiveness of different measures in helping SMEs deal with bribery and corruption**



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'Loss of potential business when refusing to behave corruptly.'

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The measures considered to be least effective by survey respondents are the creation of an ethical code to which businesses could commit themselves (41%) and the appointment of an auditor (36%). These were also considered to be the least effective measures in the 2007 survey.

Asked whether, in general, bribery and corruption are a cause of concern for SMEs, 54% of respondents expressed the view that they are not (49% in 2007). Nevertheless, one in five respondents (21%) this year believe that they are – exactly the same percentage as in 2007.

Survey respondents give many reasons for why bribery and corruption are a concern for SMEs, including the loss of a level playing field when competing for business, the increased costs that can result, and the risk of losing business if refusing, for example, to make facilitation payments. Many perceive it as a particular risk when trading abroad, while others highlight the challenges that SMEs face in understanding the legal requirements in connection with bribery and corruption.

## 5. Conclusions

Although the UK business environment in 2013 has evolved since that of 2007, bribery and corruption remains an issue for SMEs. They are at risk, particularly if trading internationally, and may not have the awareness and the policies and procedures in place to protect themselves adequately.

More could be done to help SMEs. There could, for example, be a case for developing additional guidance or improving awareness of what already exists in this area. Actions often speak louder than words – high-profile prosecutions that tackle bribery and corruption are seen by many as the most important tool for improving the ethical standards applied in the wider business environment. Enabling potential instances of bribery and corruption to come to light by protecting whistle-blowers is also seen as important.

Yet, as found in 2007, accountants remain a source of advice and support to the SME business community. When instances of potential law-breaking arise, accountants are seen as a key source of help. Their ability to advise on robust procedures and controls designed to counter the risk of bribery and corruption exposure is also valuable. Some accountancy practices may wish to consider developing greater expertise in this area in order to be able to provide appropriate support and services to their SME clients. By doing so they could further develop their role as trusted business advisers.



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