



Bribery and corruption:
the impact on UK SMEs

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Introduction by Ian McCartney MP

I am very pleased to have the opportunity to highlight the seriousness with which the British Government takes the fight against corruption. Corruption affects every country. What many people see as a way to get things done is, in fact, a crime. Every year, over US\$1 trillion is paid in bribes with devastating consequences. It hits the poorest people in the poorest countries hardest.



Picture: Ian McCartney MP, Minister of State for Trade

Government needs business to act responsibly. If it doesn't there is a risk that good governance will give way to bad governance and bad governance will become entrenched with dire consequences. Globalisation will stall and sustainable development, climate security and in many cases conflict prevention will be unachievable. The Government needs business – including the professional bodies and trade associations, as well as individual companies and trades unions – to understand the positive role that they can play in fighting corruption.

The Government has funded a new unit in the Metropolitan Police to combat money laundering and it has already been successful in returning stolen money to its rightful owners – the people of Nigeria – from Joshua Dariye a Nigerian State Governor. He stole millions of pounds from Nigerian funds meant to provide drinking water for the people of Plateau State. The Unit achieved this on the back of information received from Suspicious Activity Reports submitted to the Serious Organised Crime Agency. At the end of 2007, when the 3rd EU Money Laundering Directive comes into force, it will be the legal duty under the Money Laundering Regulations of every business, including accountants, to carry out enhanced due diligence on foreign 'politically exposed persons' and report any suspicious transactions. This will help the Unit in its vital work to help the people of Nigeria and other countries hold their politicians to account.

ACCA's research shows that more can be done to help raise awareness of the risks of corrupt business practices, both to long-term profitability and to short-term consequences for individuals who might get caught. For example, in February this year, a UK citizen was convicted after a three-week trial. She had assisted ex-Governor Dariye to launder money through her bank accounts. The Government has also set up the Overseas Anti-Corruption Unit in the City of London Police. It has started work to support the Serious Fraud Office by investigating foreign bribery allegations against UK businesses and nationals. To date, the City

of London Police has started work on four cases and made its first arrests in January.

The Foreign and Commonwealth Office leads Government awareness-raising activities, through sessions for the UK business community in key emerging markets as well as in the UK regions. But we know that it is not always easy to reach SMEs. This is why we welcome the chance to engage with ACCA, a major representative body for one of the obvious advisers of choice for smaller companies. Only through such multiplier organisations can we succeed in conveying the message that corruption is as bad for business as it is for the societies where it is most rife.

In addition, Government can help to offer guidance on what to do in difficult circumstances, especially in markets where corruption is a daily challenge. We can also point the way to the range of business tools available to help companies make the right choices. To this end, we are part-funding a Danish-led internet information portal for SMEs to help SMEs avoid and fight corruption, including through references to international treaties, detail of practical due diligence tools and country profiles.

I commend ACCA's efforts to be a part of the solution to fighting corruption. It is not an easy task but it is a fight worth winning.



Ian McCartney MP

Minister of State for Trade
Foreign & Commonwealth Office

The issue

Governments and regulators around the world are increasingly concerned about the problem of financial crime. In the UK and elsewhere action is being taken to combat it and accountants are seen as very much part of the solution to the problem.

While money laundering and terrorist financing have been the main focus of official efforts to combat financial crime, there is one particular element of financial crime that has not in the past received a great deal of attention – that aspect being bribery and corruption.

What exactly is meant by the terms bribery and corruption? Legal definitions will vary from jurisdiction to jurisdiction, and the UK Government is itself in the process of reviewing the scope of its own legislation in this area. The following definitions, while not having any legal status, offer a reliable indicator of what is involved.

'Corruption: the misuse of entrusted power for private gain

Bribery: an offer or receipt of any gift, loan, fee, reward or other advantage to or from any person as an inducement to do something that is dishonest, illegal or a breach of trust, in the conduct of the enterprise's business'.

Source: Transparency International, The Global Compact and IBLF¹

Because of its clandestine nature, it is difficult to estimate the true extent and cost of the problem of bribery and corruption. The World Bank, however, estimates that \$1 trillion is paid in bribes every year, representing 3% of the world's gross domestic product.² No firm estimates exist on how this issue affects UK business specifically. Some sectors, such as the construction industry, may be particularly

vulnerable, with a recent survey by the Chartered Institute of Building producing some alarming statistics. It found that 41% of its survey respondents had been offered a bribe at least once and that 51% thought that corruption was common in the sector.³ The problem may be even more widespread than this, however, given the lack of certainty as to what constitutes criminal activity in this area and the fact that businesses are increasingly likely to be involved in cross-border trade.

The recent OECD⁴ and UN⁵ Conventions on bribery and corruption, as well as the UK Government's new operational initiatives to prosecute offenders, suggest that there is an increasing momentum of commitment to tackling this problem.

Progress so far, in the UK as much as elsewhere, has been slow. The OECD report of 2005 on the UK's implementation of the OECD Convention on Combating Bribery was highly critical of the UK's efforts, highlighting that at the time of the survey, no company or individual had been indicted or tried for the offence of bribing a foreign official.

The UK Government has accepted the need for new legislation to bring together and modernise all the charges relating to corruption. It prepared a draft Corruption Bill with these intentions in 2003, although this has yet to proceed to the statute book. It is also very conscious that awareness of the current legislation needs to be raised. For example, the Anti-Terrorism, Crime and Security Act 2001 now provides that an act that would constitute an act of bribery or corruption if it were committed in the UK is in fact triable in the UK courts even where the act itself took place abroad.

BRIBERY AND CORRUPTION AND SMES

So far, on the issue of bribery and corruption, the focus has been principally on larger companies and particular business sectors. The OECD report referred to above in fact called for more to be done to highlight the issue of bribery and corruption within the UK's SME community, on the basis that this form of crime has at least the potential to affect smaller businesses and those trading on a wholly domestic level just as much as large companies that conduct regular international trade.

Further, according to the Business Environment and Enterprise Performance Survey (BEEPS), conducted jointly by the World Bank and the European Bank for Reconstruction and Development, it appears that in transition countries more than 70% of SMEs perceive corruption as an obstacle to their business operations.⁶

There are no comparable data for the developed economies and, until now, we have not had a comprehensive picture of how this issue affects SMEs in the UK.

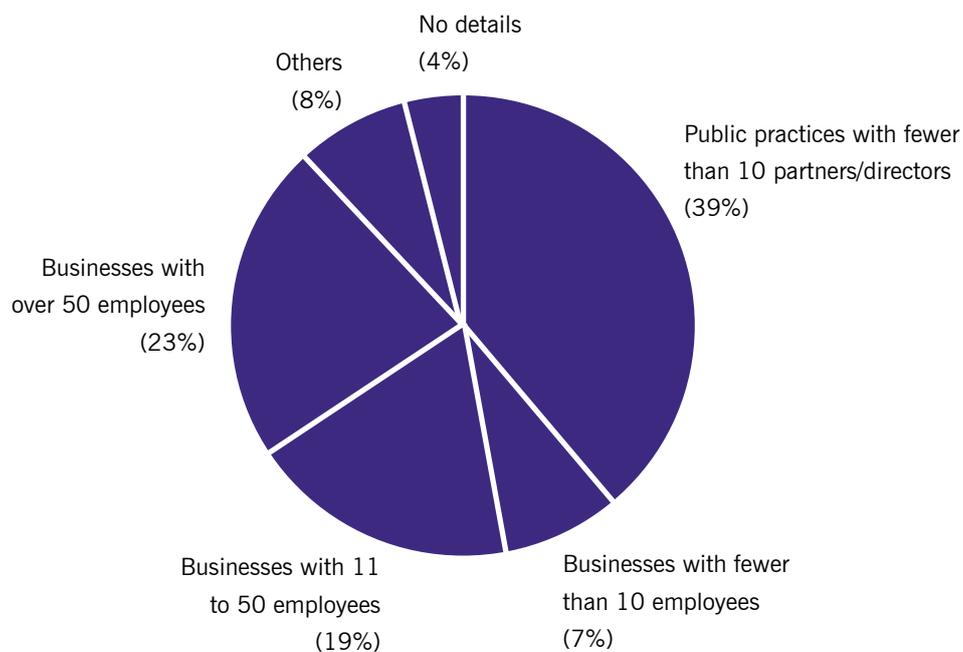
About the research

In the light of the limited information on the scale of the problem outside the large, multinational company environment, the aim of ACCA's survey was to assess the experience of bribery and corruption issues among accountants working within the UK's SME sector and thereby to improve our understanding of the issue.

The study was carried out by ACCA's technical department in October 2006. The sample consisted of two main groups of ACCA members – those actually working in SMEs as accountants or general managers and those in public practice who provide professional services to SMEs. Responses were received from 558 members.

For the purposes of this study, bribery and corruption is treated as a single issue in line with the common approach undertaken by the leading organisations in this field. Given that one of the objectives of the survey was to gauge respondents' understanding of the term, a formal definition of bribery and corruption was not provided, to prevent respondents' perceptions being influenced by it.

Figure 1: Number of responses by business category



ACCA's involvement

As a professional accountancy body, our interest in this particular issue is based on the implications that we believe it has for the efficient conduct of business, both domestic and international, and for business and professional ethics.

All our members, whether they work in business, in public practice or the public sector, are subject to the ACCA Rules of Professional Conduct. This means they are required to act not only in accordance with the law and with high technical standards but with high ethical standards as well. Members who come across bribery and corruption, or any other form of criminal activity, in the course of their work must not be a party to it and in some cases will be subject to a legal obligation to report it to the authorities.

Given that accountants play an important advisory role in the business sector, they can make a valuable contribution towards closing some of the gaps identified in this survey, with the appropriate support from government and other relevant organisations. Research

consistently shows that accountants are the first choice advisers of SMEs, as shown in the 2006 FSB Biennial Membership Survey.⁷ Not only do accountants prepare annual and management accounts, they routinely advise client businesses on the keeping of proper records, the maintenance of internal financial controls and the negotiation of financial transactions. They are thus ideally placed to advise SMEs on the adoption of sound and ethical business policies and practices, and the results from our survey would seem to confirm this.

Considering that over 99% of businesses in the UK are SMEs, it is imperative that we have a better insight as to how this important issue affects them and, more importantly, what steps need to be taken in order to deal with it effectively.

Summary of findings

Our survey suggests that there is a fundamental problem of uncertainty, shared by many SMEs, about what an act of bribery and corruption amounts to. For example, when asked whether SMEs would be able to differentiate between bribery and corruption and corporate hospitality, over 20% of respondents suggested they would not; almost as many suggested they would have difficulty in distinguishing between bribery and corruption and facilitation fees.

The survey also suggests that the impact of bribery and corruption on the SME community may well have been underestimated. Indeed, our survey suggests that the repercussions of bribery and corruption are much wider: almost three-quarters (70%) of respondents believed that this is an issue in commercial dealings of all kinds, implying that it is not confined to particular business sectors or to cross-border transactions but one that also affects SMEs and the way that they conduct business.

Considering that small companies often lack the capacity to develop and implement anti-corruption policies and to interpret and apply anti-corruption legislation, there is a particular need for assistance to fill these information gaps and develop anti-corruption tools tailored for SMEs. With special business needs

and fewer in-house and financial resources at their disposal than larger businesses, smaller enterprises will often require more focused help and treatment. In practice, 62% of our survey respondents agreed that currently there is not enough suitable guidance to help SMEs deal with issues relating to bribery and corruption.

In this survey, ACCA also explored the question of to whom SMEs are most likely to turn when confronted with bribery and corruption. Two-thirds (71%) of respondents from businesses with fewer than 10 employees and almost three-quarters (68%) of respondents from all other businesses agreed that small firms would welcome guidance from accountants in relation to the adoption of policies and practices for dealing with possible cases of bribery and corruption.

Survey results

1. UNDERSTANDING OF BRIBERY AND CORRUPTION ISSUES

Respondents were asked whether they would expect SMEs to be able to differentiate between bribery and corruption and a selection of other scenarios set out in the questionnaire. The responses suggest that SMEs are not clear on what constitutes bribery and corruption.

Fewer than half (45%) of respondents considered that SMEs would be able to make the distinction between bribery and corruption and the provision of corporate hospitality; fewer than half (46%) considered that SMEs would be able to differentiate between contract-related consultancy or facilitation fees and bribery and corruption. Only half (50%) of respondents were of the opinion that SMEs would be able to differentiate between the offer of business-related gifts or unsolicited

payments and bribery and corruption; only half (50%) believed that SMEs would be able to distinguish between the suggestion of preferential treatment by regulatory officials and bribery and corruption.

When asked whether, in general, the SME community understands the legal definition of bribery and corruption, the majority of respondents (57%) believed that the community does understand. Only 22% held the opposite view. Nonetheless, there clearly remain significant areas of uncertainty. Just over half of respondents (51%) believed that SMEs were not aware that UK law enables UK courts to hear cases of bribery and corruption even where the acts complained of are committed abroad. Over two-thirds (69%) of respondents also agreed that SMEs are likely to come across the risk of bribery and corruption in the course of their business dealings, implying that SMEs are just as likely as larger businesses to face such risks.

Figure 2: Would you expect SMEs to be able to differentiate between bribery and corruption and the following? (n=551)

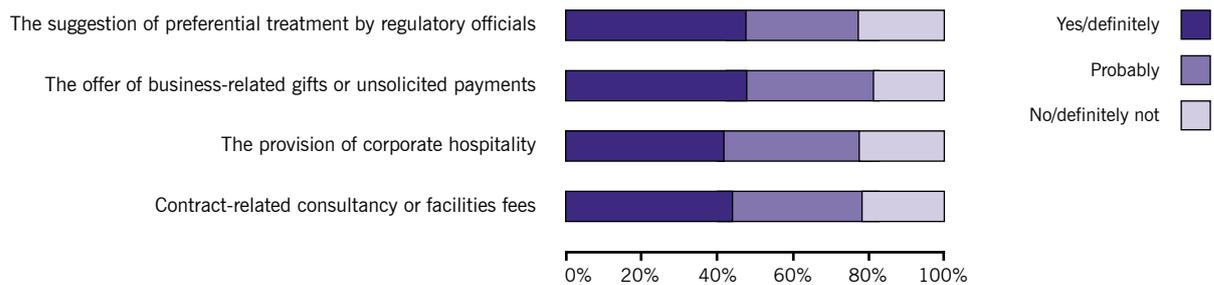
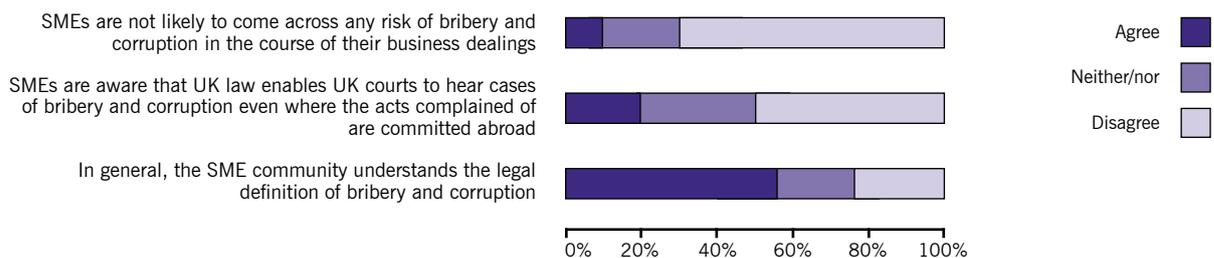


Figure 3: To what extent do you agree with the following statements? (n=547)



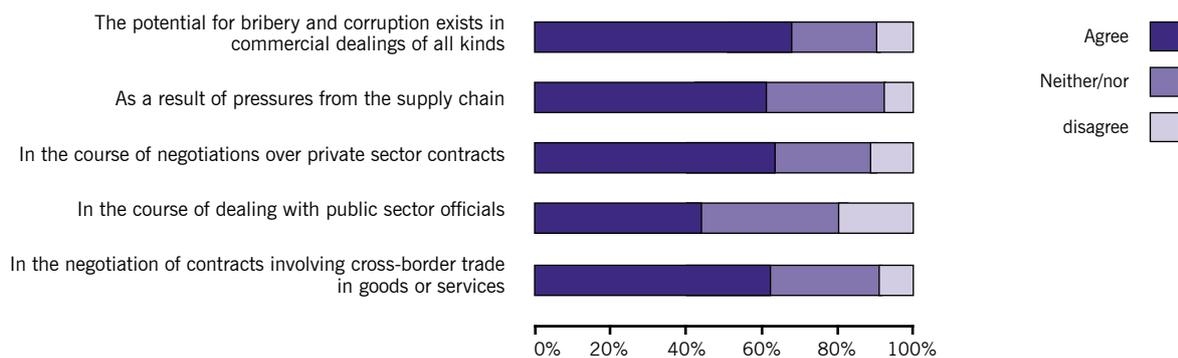
2. MANIFESTATION OF BRIBERY AND CORRUPTION

Consistent with the findings concerning the risk of bribery and corruption faced by SMEs, almost three-quarters (70%) of respondents agreed with the statement that the potential for bribery and corruption exists in commercial dealings of all kinds. When asked about specific instances, around two-thirds of respondents agreed or agreed strongly that bribery and corruption could occur in common business dealings: two-thirds (66%) agreed or strongly agreed that bribery and corruption may occur in the course of negotiations over private sector contracts; almost two-thirds (63%) were in agreement regarding its potential manifestation in the negotiation of contracts involving cross-border

trade in goods or services; and again, almost two-thirds (64%) thought it could arise as a result of pressures from the supply chain.

Almost half (44%) of the members surveyed believed that if bribery and corruption were an issue in the SME environment, it would be likely to occur in the course of dealings with public officials. It is perhaps worth making the point that this figure is lower than for the perception that bribery and corruption would occur in private sector business dealings. It should be noted that responses to this question reflect respondents' perceptions of the circumstances in which they might encounter bribery and corruption at home or abroad, rather than their direct experience of such circumstances.

Figure 4: If bribery and corruption were an issue in the SME environment, in what ways would it be most likely to occur? (n=547)



3. ADVICE AND GUIDANCE

When asked whom SMEs would be most likely to turn to for advice when faced with a bribery and corruption issue, 42% of respondents believed that SMEs would turn to their lawyer and 29% to their accountant. Almost a fifth (19%) of respondents either held the perception that SMEs would not turn to anyone (11.3%) for advice, or did not know to whom SMEs would turn (7.7%).

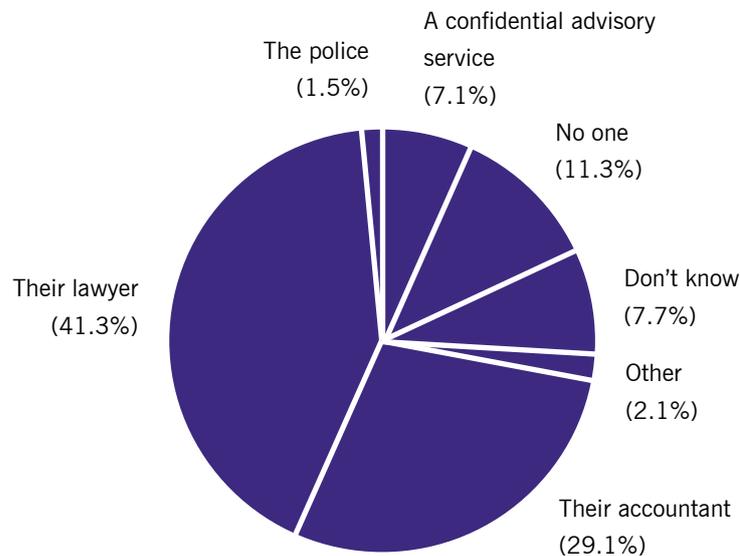
The perception that lawyers are asked to advise on such issues may be held not just because of lawyers' legal expertise but also because of their right to claim legal privilege in relation to their client dealings. Only 1.5% of respondents believed that SMEs would be likely to turn to the police for advice.

Also, for 29% of respondents overall to say that businesses were likely to approach their accountant for assistance suggests strongly that there is a need on the part of the SME community for advice on

suitable policies and practices to adopt in relation to this matter. The fact that practising accountants are known and valued by SMEs for their all-round business support service may explain why so many small and medium-sized firms would welcome advice on bribery and corruption issues from them, even though this area is not one that falls obviously within the scope of the accountant's expertise. The finding can be said to represent a challenge to individual accountants and the accountancy profession generally – to broaden the range of accountants' skills and expertise to enable them to provide suitable advice to their clients in this developing area.

Respondents were then asked specifically whether they believed SMEs would welcome advice from their accountants in relation to the adoption of policies and practices for dealing with possible cases of bribery and corruption. Over two-thirds of respondents working in businesses (see figure 6) and over half (58.7%) of respondents in public practice agreed that SMEs would welcome advice from their accountants in relation to this issue.

Figure 5: If SMEs were to be confronted with a bribery and corruption issue, to whom do you think they would be MOST likely to turn to for advice? (n=533)



Almost two-thirds of respondents (62%) indicated a belief that there is not enough suitable guidance to help SMEs in identifying and dealing with bribery and corruption, with almost a third (32%) of respondents indicating that they do not know if there is enough guidance, which may suggest that respondents are not aware of what guidance there is. Only 6% agreed that there is enough suitable guidance.

Given that the majority of respondents (70%) to our survey considered that bribery and corruption is an issue that SMEs may have to confront, and given the significant level of uncertainty as to what bribery and corruption means in practice, these perceptions regarding the availability of suitable information and guidance to the SME community are a cause for concern.

Figure 6: Do you think that SMEs would welcome advice from their accountants in relation to the adoption of policies and practices for dealing with possible cases of bribery and corruption? (n=531)

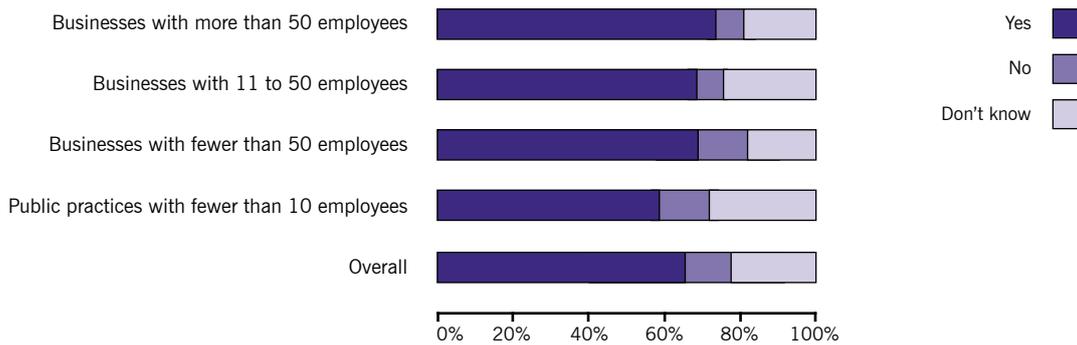
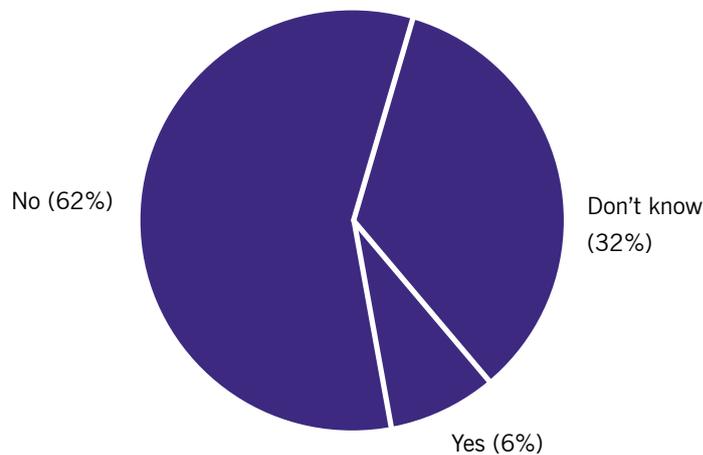


Figure 7: Do you think that there is enough suitable guidance to help SMEs in identifying and dealing with bribery and corruption? (n=531)



4. COMBATING BRIBERY AND CORRUPTION

Respondents were asked for their views on how effective they believed a selection of measures could be in helping SMEs to reduce the risk of bribery and corruption. When adding the two top responses, respondents believed that successful, high-profile convictions would be of most help (67%), followed by guidance from professional and trade associations (43%). This suggests that the UK's dedicated police unit, set up in 2006 to investigate and prosecute cases of bribery and corruption, could have a vital role to play in encouraging the adoption of good commercial standards across the business community. The unit consists of officers from London's Metropolitan and City of London police forces and tackles allegations involving UK firms and the UK's financial system. The least effective measures were thought to be an ethical code to which businesses could publicly sign up (59%), followed by the appointment of an auditor (48%).

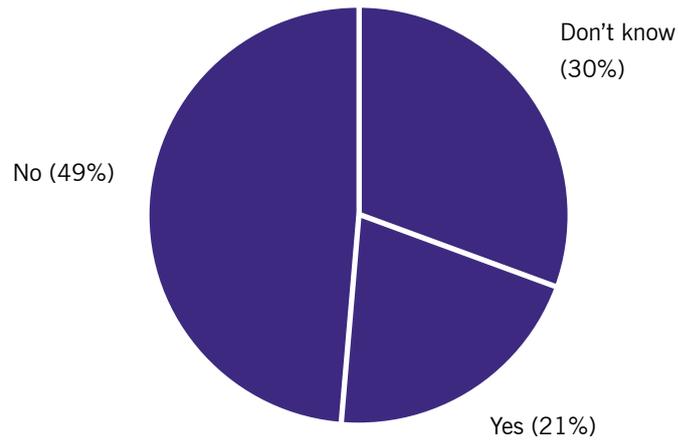
Respondents were asked if they believed that bribery and corruption is a cause of concern to SMEs (see figure 9). Only 21% of respondents considered that bribery and corruption is a cause of concern to SMEs, with 49% saying it is not an issue.

This response appears to contrast with other findings registered by the survey, in particular that 70% of respondents accepted that the potential for bribery and corruption exists in commercial dealings of all kinds and that 62% of respondents believed that SMEs need more guidance in this area. Drawing these apparently contradictory responses together, we infer that while SMEs are prepared to recognise that bribery and corruption is an issue that they have to be prepared to deal with, and that they would like more information about, it may not be an issue that they have yet come across in practice. As a result, bribery and corruption is not regarded as being a matter of actual, day-to-day concern for SMEs.

Figure 8: How effective do you think each of the following could be in helping SMEs to reduce the risk of bribery and corruption?

	1 (greatest)	2	3	4	5 (least)
The appointment of an auditor	16% (72)	17% (79)	19% (89)	19% (85)	29% (134)
An ethical code to which businesses could publicly sign up	5% (21)	15% (65)	22% (96)	32% (144)	27% (119)
Laws granting whistle-blowing rights to businesses in respect of bribery and corruption they are confronted with	12% (54)	30% (134)	26% (117)	22% (98)	11% (51)
Guidance from professional and trade associations	15% (71)	28% (134)	31% (152)	16% (76)	11% (52)
High profile cases of prosecution	47% (241)	20% (100)	11% (57)	12% (59)	10% (51)

Figure 9: Do you think that in general, bribery and corruption is a cause of concern to SMEs? (n=530)



Conclusions

As well as being a criminal matter and a matter of business ethics, bribery and corruption poses a potential barrier to profitability and growth by distorting competition and putting at a commercial disadvantage those businesses that conduct their affairs honestly and fairly.

Where businesses lose out on contracts because they have chosen not to engage in bribery or other corrupt behaviour, there can be consequences not only for the profitability of the businesses concerned but, indirectly, for their shareholders, employees and lenders of finance. At the same time, companies which accede to bribery and corruption once must consider the possibility that they will be faced with further demands of a similar nature in the future. This issue can therefore have an impact beyond the reach of criminal law and commercial morality. Given the market vulnerability of many SMEs, any barrier – especially an illegal one – to their ability to compete for contracts on fair terms must be treated as a matter of concern.

Serious and high-profile action by the relevant authorities to bring successful prosecutions attracted by far the greatest support as a factor that could help reduce bribery and corruption in the SME environment. Conversely, there was little support for developing a voluntary, industry-wide code of practice. The responses to other specified factors were more mixed. Views on the relevance of an auditor were varied – at the extremes of reported perceptions, the appointment of an auditor was the second highest supported measure but also that judged least likely to help. This

spread of views may suggest a range of understanding among respondents as to the responsibilities of an auditor in relation to matters such as bribery and corruption.

Our survey does not suggest that most SMEs currently view bribery and corruption as a matter of actual concern to them in the running of their day-to-day activities. Nonetheless, the survey does suggest that there remains a significant degree of uncertainty as to what bribery and corruption actually means – this situation may improve if the Government introduces new legislation in this area in the near future.

The responses from the survey also suggest that, even if individual firms may not have come across the issue in practice, a large number of SMEs do appreciate that bribery and corruption could be an issue in their business dealings, whether domestic or international. Considering that fewer than half of respondents felt that SMEs would be able to make a distinction between bribery and corruption and, for example, the provision of corporate hospitality, there is a need for more suitable guidance to be available to them to advise on how to prepare for and deal with this and other such issues should they arise.

Recommendations

ACCA intends to convene a Policy Forum that will explore the issues identified in this survey and consider how accountants, government and regulators might usefully work together in future to develop a practical and effective business support service to SMEs.

In summary, our survey has identified a number of areas where the following lessons must be learned.

- Any future reform of the law on bribery and corruption needs to ensure that it can be presented in a form that is clear and comprehensible.
- The issue of bribery and corruption would be treated more seriously by many businesses if well-publicised and successful prosecutions were brought under UK law.
- Accountants and other professional advisers have an important role to play in helping their clients to recognise the risks associated with bribery and corruption and to mitigate those risks. To help equip them for this purpose, accountants and their professional bodies should actively consider incorporating the study of bribery and corruption issues into their professional development activities.
- Policy makers and other stakeholders working with SMEs should consider whether there is a need for specific SME guidance on the issue that would help SMEs in reducing the risk from bribery and corruption. Equally, awareness-raising of the information already available may provide a good basis for identifying gaps that exist in the provision of advice and guidance specifically tailored for SMEs.

Endnotes

- 1 *Business Against Corruption: A Framework for Action*, Transparency International, The Global Compact and IBLF (2005).
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- 5 'The United Nations Convention Against Corruption', [online text] <http://www.unodc.org/unodc/en/crime_convention_corruption.html> accessed 9 March 2007.
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Further reading

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