

Corruption in Construction

Prime Minister David Cameron closed the Anti-Corruption Summit in May this year. It was mentioned that first of all there is need to expose corruption to tackle it. So here is a first step-read whether corruption is perceived a problem in the UK construction sector and what practices are deemed as corrupt.



Transparency International (TI) defines corruption as "the abuse of entrusted power for private gain".

Despite the fact that the UK construction output is increasing every year, the way the industry operates and economic factors make it still the high risk. Also, the world construction sector is one of the most corrupt. Reasons are various but mostly it is due to the competitiveness of the industry and squeezed margins or reduced workloads, poor enforcement of anti-bribery laws or long supply chains.

The UK Government is very strict on bribery and corruption and the legislation UK Bribery Act 2010 poses a threat of prosecution for companies which carry out businesses in the UK and will be connected with a bribe. However, the bribery risk arises in almost every stage of the construction process from tendering to sourcing

materials and developing the supply chain. Corruption may be connected with colluding, fixing prices, producing fraudulent invoices, billing for unperformed jobs, paying bribes for contracts, stealing from sites, etc.

The biggest risks of corruption are at the following stages of construction process:

- Obtaining the license or permit - there might be situations where bribes are required or offered for construction permits, licenses, planning permissions.
- Procurement - this is one of the biggest corruption risk areas and sadly the most costly for the industry as the bribes will prevent the selection of the best suppliers for the project. Fortunately the fraud

and anti-bribery rules restrict the corruption during the procurement.

- Tender process- bribery to obtain a contract or post project secret payments can be the common practices.
- Commissions to contractors or subcontractors- unrecorded payments to main contractors and subcontractors, production of fraudulent invoices.
- Partner risk- bribes paid or accepted by the third party connected.
- Payments- production of false or exaggerated claims to reduce the payment or inclusion of false extra costs to increase the contract payments.



- Contract administration - contract administrators have a duty to act impartially as between their employer and the contractor but the bribery occurs at the valuations, interim payments or at completion stage of building process- withhold or delay payments, approve claims for additional money, etc.
 - Identity fraud connected with CIS- the sale and misuse of the CIS cards
 - Fraudulent HS&E tests pass results to obtain CSCS cards
 - Cost cutting on building materials or labour- sourcing materials or using substandard materials to cut costs, production of fraudulent invoices, employment of illegal workers.
 - In the events of litigation or arbitration, parties may offer bribes to witnesses.
- Researches on corruptions are rare. The last CIOB survey on corruption in construction was in 2013 and it showed that the corruption was a common place in the UK market at that time. Fraudulent practices tend to be more common on the residential projects where goods can go missing or subcontractors can be paid more due to enhanced invoices. However, the highest levels of corruption are at the management level during the procurement or tender stage and might involve officials, designers, goods suppliers, subcontractors, etc. Under the New Bribery Act 2010 many larger companies have the auditing procedures in place and when it comes to procurement, the public sector is more aware of the anti-bribery laws.

The Construction Sector Transparency Initiative helps to raise the awareness about transparency to tackle the corruption. The current legislation requires the transparency during the procurement and tendering but regular audits might be helpful also during the projects execution or at the completion to catch the fraud and deliberate mismanagement.

The Bribery Act 2010 imposes the liability on bribing, offering or requesting a bribe, receiving a bribe or failing to prevent a bribe. Also, money laundering activities are tackled by the Proceeds of Crime Act 2002 (POCA).

Companies should be able to prove they have the anti-bribery procedures in place, which may include the risk assessments, regular audits, transparency of accounts and all financial records, procedures on facilitations of payments, gifts, sponsorship, etc.

The consequences of proved corruption can be very serious and may include: unlimited fines; imprisonment; director disqualification; the confiscation of assets; exception from tendering for public contracts; reputational damage and adverse media attention.

The UK Serious Fraud Office prosecuted and imposed fines on well known companies from the sector, including, amongst others: Balfour Beatty plc or AMEC plc.