

AGENDA ITEM:

REPORT TO:	MERSEYSIDE FIRE & RESCUE AUTHORITY MEETING
DATE:	16TH DECEMBER 2010
REPORT NO.	CFO/192/10
REPORTING OFFICER:	CLERK TO THE AUTHORITY & MONITORING OFFICER
CONTACT OFFICER:	JANET HENSHAW, CLERK TO THE AUTHORITY. EXT,4301
OFFICERS CONSULTED:	HELEN PEEK MEMBER LIAISON & SUPPORT MANAGER
SUBJECT:	THE BRIBERY ACT 2010

THERE ARE NO APPENDICES TO THIS REPORT

Purpose of Report

1. To inform Members of the implications of the Bribery Act 2010 for Merseyside Fire and Rescue Authority.

Recommendation

2. That Members note the report.

Introduction & Background

3. The Bribery Act received Royal assent on 8 April 2010 and is expected to come into effect in April 2011. In brief the Act repeals the common law offence of bribery as well as various statutory offences under the Prevention of Corruption Acts which date as far back as 1889.
4. In their place it establishes four categories of offences. Three of these are capable of being committed by an individual or a company, whilst the fourth can only be committed by a company (known as the "Corporate Offence") which attracts corporate liability/responsibility.
5. In summary the four main offences will be:
 - (i) Bribing another person (Section 1): It is an offence to offer, promise or give a bribe (so-called "active bribery").
 - (ii) Receiving bribes (Section 2): It is an offence to request, agree to receive or accept a bribe (so-called "passive bribery").

- (iii) Bribing foreign officials (Section 6): It is an offence to bribe a foreign public official to obtain or retain business or a business advantage.
 - (iv) Failure of commercial organisations to prevent bribery (Section 7): This offence is based on the failure by a commercial organisation to prevent bribery by people acting on its behalf.
6. Section 7 describes a commercial organisation – which comprises a corporate body or legal partnership which is carrying on a business in the UK. The Government is presently consulting businesses about this aspect of the legislation.
 7. Section 7 does not apply to local authorities, however of particular interest for local authorities and other public organisations is the offence under Section 2, whereby a person “requests, agrees to receive or accepts” an advantage in some form, in return for improper performance or permitting improper performance of a “function or activity” which is either something public in nature or done in the course of business. It does not matter whether the recipient of the bribe knows or believes that the performance of the function is improper.
 8. Furthermore, if an offence is committed with the consent or connivance of a senior officer of a local authority, that person is also guilty of an offence.
 9. The implications for local authorities are far reaching, from an agreement to “fix” a procurement evaluation, inappropriate provision of services, assistance for reward, to declarations of gifts and hospitality.
 10. From an internal perspective, there is an increased risk to offences being committed if an Authority fails to implement adequate processes and procedures to prevent the bribery.
 11. A report has been presented to the Corporate Leadership Team and as a result Directors have been asked to review risk areas to minimise the opportunity for offences.
 12. In addition tendering and contracting arrangements are being examined to ensure that these contain anti-corruption provisions which will adequately address the provisions of the new Act when it comes into force.
 13. Members are also asked to ensure that gifts and hospitality are declared in line with current processes and procedures. The Standards Committee is reviewing the forms and guidance for this and new forms, which are broadly similar to those across Merseyside local Authorities, are being developed.

Equality & Diversity Implications

14. None relevant to this report.

Financial Implications & Value for Money

15. None relevant to this report.

Health & Safety and Environmental Implications

16. None relevant to this report.

Contribution to Achieving Our Purpose:

“To Make Merseyside a Safer, Stronger, Healthier Community”

17. Reviewing internal and external processes will ensure that risks of offences are minimised, thereby allowing the Fire Authority to continue to work with the communities of Merseyside.