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Corruption Policy**

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Anti-Bribery and Corruption

Westside Personnel must not give, or procure any other person to give, gifts, benefits, inducements or rewards (monetary or non-monetary) with the intention of, or which may be perceived to have the intention of, influencing:

- a) a public official in the exercise of their duties; or
- b) a public official or any other party in obtaining or retaining business or a business advantage.

1. What is Bribery and Corruption

Bribery is the giving or receiving, whether directly or indirectly, of an inducement or benefit in order to gain an advantage or influence a transaction.

Corruption is the abuse of entrusted power for private gain¹.

Bribery is a criminal offence in all jurisdictions in which Westside conducts business.

The following information explains generally the relevant anti-bribery laws that operate in the jurisdictions in which Westside conducts business.

2. Australian Anti-Bribery Laws

Federal Criminal Code

In Australia, bribing a foreign public official is a criminal offence under section 70.2 of the Criminal Code Act 1995 (Cth). A person is guilty of an offence if:

- a) the person provides, offers or promises to, or causes to be provided, a benefit to another person; and
- b) the benefit is not legitimately due to the other person; and
- c) the bribe is given or offered with the intention of influencing a public official (who may or may not be the recipient of the bribe) in the exercise of the official's duties as a foreign public official in order to obtain or retain business or obtain or retain a business advantage which is not legitimately due.

A *foreign public official* includes an employee or official of a foreign government, a member of the executive or judiciary of a foreign country, a person who performs official duties under a foreign law, an employee or an official of a public international organisation (such as the UN).

Examples of foreign bribery include:

- an employee or agent of a company in Australia offering to pay a public official in another country a sum of money in order to have that company's tender for a contract with a

¹ Transparency International <https://www.transparency.org>

local government authority considered favourably or to obtain a clearance to be able to do business in that country; and

- an employee or agent of a company in Australia offering a bribe to the procurement manager of a state-owned company in another country in order to secure goods from that state-owned company.

It is also a criminal offence to bribe Commonwealth public officials under Divisions 141 and 142 of the Criminal Code.

False accounting offences: A person who makes, alters, destroys or conceals in an accounting document or fails to make or alter an accounting document that the person is under a duty to make or alter with the intention of facilitating, concealing or disguising the receipt or giving of a benefit that is not legitimately due to a loss that is not legitimately incurred will also be guilty of an offence. A person can also be guilty where they are reckless as to whether the benefit or loss would arise.

State and Territory Laws

There is also legislation at State and Territory level that prohibits 'domestic bribery', i.e. the corrupt giving, offering or receiving of inducements or rewards to or from employees or agents of companies and individuals or public officials with the intention of influencing the recipient of the inducement or reward to show favour.

In order to constitute a criminal offence, it is necessary that there be an intention to influence however, it can still amount to bribery even if there is no specific objective sought e.g. it is enough if the benefit simply encourages a person to show favour at a future point in time.

3. New Zealand Anti-Bribery Laws

It is an offence to corruptly give, agree or offer to give, an agent (someone who works on behalf of a principal, e.g. employee of a private company, or someone related to the agent, e.g. wife, husband or child) a gift or other consideration so as to induce or reward an agent's actions with respect to their principal's affairs or business².

It is also an offence³:

- For an agent to fail to disclose to their principal a financial interest in a contract;
- To provide a false receipt to an agent with intent to deceive a principal
- To receive a secret reward for advising someone to enter into a contract.

Under the *Crimes Act* it is an offence for a person to corruptly give, receive, accept or obtain a bribe (whether directly or indirectly) for themselves or any other person, with intent to influence that person to act or refrain from acting in their official capacity.

² Section 3 Secret Commissions Act 1910

³ Sections 5, 6 and 8 of the Secret Commissions Act 1910

Domestic bribery and corruption of New Zealand judges, government ministers, members of Parliament, police officers and other public officials is a criminal offence under sections 100-105 of the *Crimes Act*.

Foreign bribery of public officials in the course of an international business transaction is an offence under section 105C and 105D of the *Crimes Act*. The offence occurs where any person corruptly gives, offers or agrees to give a bribe to a person with the intent to influence an act or omission by the official (whether or not within the scope of the official's authority).

4. China Anti-Bribery Laws

Both official bribery and commercial bribery are crimes in the Peoples Republic of China (PRC).

Official bribery is the criminal offence of giving, accepting, soliciting or introducing a bribe to or by *state functionaries*. A 'State functionary' is a person who performs public services in state organs (including, executive, administrative, judicial, prosecutorial and military organs); a person who performs public services in state-owned companies or enterprises; a person who is assigned by state organs or state-owned enterprises to enterprises or institutions that are not owned by the state but perform public services; and other people who perform public service according to law.

Commercial bribery includes giving a bribe and accepting a bribe, but no party is government related. Commercial bribery is also prohibited under the PRC Anti-unfair Competition Law which defines commercial bribery as business operators using money, assets, or other means to bribe counter parties to sell or purchase goods.