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## UK Bribery Act: Still Hostage to Budget Cuts?

By Raymond L. Sweigart

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*According to a 22 July 2013 article in The Law Society Gazette, the Serious Fraud Office (SFO) is investigating only two cases relating to the Bribery Act more than two years after the law came into force. Response to a freedom of information request reportedly confirmed what was otherwise apparent from the public record, namely, that the SFO has yet to bring any prosecutions under the new legislation and, perhaps more alarmingly to some, has so few Bribery Act matters under investigation, none of which has yet led to any prosecution. The SFO does reveal that it has nine other ongoing investigations relating to pre-Bribery Act misfeasance under prior anti-corruption laws.*

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As we have previously noted, it appears that the SFO will continue to struggle in its efforts to enforce the Bribery Act under recent budget constraints. The SFO's 2012/13 annual report indicates that its total budget will be cut to £32.2m this year and further down to £30.8m in 2014. The SFO budget for 2008/09 was reported to have been more than £53m.

While it has always been considered unlikely that significant convictions would be achieved within the first two years given the complexity and difficult-to-prove nature of activities underlying most commercial bribery, the resulting small number and slow pace of reported investigations must surely come as a disappointment to those supportive of the Act and its objectives. It is believed, therefore, that public pressure to visibly enforce the Act will certainly accompany its second anniversary and continue to grow. Whether and how the SFO will be able to respond remains to be seen.

It does appear that current SFO director David Green QC has taken, or at least announced, a markedly different approach than that of his predecessor Richard Alderman. Alderman was known to have focused on incentivizing companies to self-report any wrongdoing and cooperate with the SFO in return for a civil rather than criminal resolution. Green is clearly striving to buttress the SFO's role as primarily a prosecutor of serious and complex crime. While Green must certainly intend to prove his words by action, the SFO will nevertheless require adequate resources to turn his promises into reality.

Of course, not everyone is disappointed in the slow pace of enforcement, and there continue to be calls for changes to the Bribery Act itself. However, Justice Secretary Chris Grayling has indicated that the Government has no intention of relaxing the application of the Act.

As always, the proof of the pudding is in the eating.

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If you have any questions about the content of this alert, please contact the Pillsbury attorney with whom you regularly work, or the author.

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