

---

## Bribery Act Prosecutor Withdraws Guidance; Whither SFO Enforcement, Self-Reporting?

By Raymond L. Sweigart

---

*We previously noted in our [17 May 2012 publication](#) that Directorship of the UK Serious Fraud Office ("SFO") had passed to David Green QC. Mr. Green joined the SFO from private practice, where he was a barrister specializing in serious crime issues. He also previously served as the first director of the UK's Revenue and Customs Prosecutions Office. Upon taking office Mr. Green promised to re-examine the relationship between prosecution and civil settlement and focus on strategically significant cases. This emphasis suggested a departure in approach from that of Mr. Green's predecessor, Richard Alderman. It now appears that Mr. Green is out to fulfill his promises.*

---

Under Mr. Green's direction, the white collar crime agency is reportedly reappraising its position in dealing with corporate hospitality, facilitation payments and self-reporting.

Previously, companies had been reassured in published guidance that the SFO would not pursue them for certain technical infringements of the Bribery Act and that if certain procedures were followed, it would not prosecute facilitation payments—small payments to ensure that public officials more expeditiously carry out functions they should ordinarily do without such "bribes". In addition, corporate hospitality if considered "reasonable and proportionate" would also not be considered to run afoul of the law. But such guidance has now been withdrawn without further comment or explanation.

Further, the SFO's previous offer to companies that self-reported corruption that they would more likely face civil penalties than criminal punishment has also now been withdrawn.

Perhaps this withdrawal is simply part of the Government's plans to introduce formal deferred prosecution agreements as a permissible tool to deal with economic crime committed by commercial organisations.

Nevertheless, given the uncertainty that necessarily should follow the SFO's unexplained withdrawal of guidance, anyone considering self-reporting either to the SFO or other investigative body in the UK or

elsewhere for the moment should carefully reevaluate both that approach and its timing. Thus, it may actually be a positive step towards cooperation between business and Government in this regard, although many issues will still need further consideration and resolution.

---

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

Raymond L. Sweigart [\(bio\)](#)  
Washington, DC  
+1.202.663.9172  
[raymond.sweigart@pillsburylaw.com](mailto:raymond.sweigart@pillsburylaw.com)

This publication is issued periodically to keep Pillsbury Winthrop Shaw Pittman LLP clients and other interested parties informed of current legal developments that may affect or otherwise be of interest to them. The comments contained herein do not constitute legal opinion and should not be regarded as a substitute for legal advice.

© 2012 Pillsbury Winthrop Shaw Pittman LLP. All Rights Reserved.