

BRIEF UPDATE

FROM THE CORPORATE DIVISION



Bribery Act 2010 - first prosecution demonstrates severe penalties for breach

The much awaited sentencing of the first prosecution under the Bribery Act 2010 has recently been passed, and the severity of the sentence should serve as a harsh reminder of the very real consequences for those who commit offences under the new Act.

Munir Patel, an administrative officer at Redbridge Magistrates' Court, committed the offence of accepting a bribe under s.2 of the Act when he accepted £500 by way of a bribe to assist a driving offender by getting rid of a speeding charge. Mr Patel was also charged with Misconduct in Public Office. Mr Patel received a six year custodial sentence for the offences – three years for the Bribery Act offence and six years for the offence of Misconduct in Public Office. The two sentences will be served concurrently.

In sentencing, it was made clear that in coming to a decision on Mr Patel's sentence, various factors were taken into consideration such as: Mr Patel's early plea of guilty, his young age, previous good character, and the remorse he now

expresses for his actions. However, in light of the severity of the offence which constituted a very substantial breach of trust, the judge made it clear that the sentence must act to deter offending of this kind.

A key factor in the sentencing of this case was the nature and circumstances of the offence. Mr Patel was not guilty of a one-off offence as a result of an approach made to him by an offender. His misconduct lasted for well over a year and involved at least 53 cases. Mr Patel sought out offenders and then offered them a way out of the consequences of their offending in exchange for cash payments. The judge found that this behaviour involved a high level of culpability on Mr Patel's part and this was reflected in Mr Patel's sentence.

It is worth noting that Mr Patel's sentence would have been between four and five years' imprisonment for the Bribery Act offence had Mr Patel not entered an early plea of guilty.

The sentence in this case should serve as a wake-up call for all commercial organisations which are subject to the provisions of the Bribery Act. Are seemingly small systematic facilitation payments still a part of daily business? If so, not only are your directors, managers and employees who make these payments potentially at risk of imprisonment under the Act, but your organisation may also face a conviction under the offence of failure to prevent bribery. This would jeopardise your reputation and ongoing ability to do business. The severity of Mr Patel's sentence signals that it is time to pay real attention (if you have not already done so) to the new-found power of the Bribery Act before it is too late.

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