



Corruption: Can You Ignore It?

Corruption is the single greatest obstacle to economic and social development around the world. Governments, the private sector and NGOs are joining forces to fight this crime. The joint international campaign led by the United Nations designated December 9, 2014 as Anti-Corruption Day to encourage all businesses and employees to take a stand and say 'No' to corrupt practices.

"The only thing necessary for the triumph of evil is for good men to do nothing" - Edmund Burke.

Ian Foxley was six months into his new job overseeing a US\$3.5 billion supply contract between the U.K. Ministry of Defence (MoD) and Saudi Arabia's National Guard, when he noticed that a procurement document requiring his signature included US\$2.5 million in strange, additional charges.

Listed under the vague heading, 'Bought in services', the payments - one sixth of the project's total value - sent alarm bells ringing.

It was not the first sign that something was wrong. Since moving into his new offices in Riyadh, Foxley, a former lieutenant-colonel in the British army, had observed a number of anomalies in the behaviour of his fellow directors, the company's processes and its relationships with subcontractors.

Similar smaller charges added on to earlier projects had been explained as cleaning contracts or minor supplies which were "none of his concern". But when questions over these latest additions were brusquely dismissed by other senior managers, he realised there was a problem. All the evidence

suggested that Foxley's employer, a defense contractor hired by MoD, was paying bribes to officials and expecting him to sign off on them. The question now was, what was he to do?

Executives: exposed and vulnerable

Unfortunately, Foxley's position is not unique. The World Bank estimates that globally more than US\$1 trillion is handed over annually to corrupt government officials.

Today, with governments tightening anti-corruption legislation, and a global push for greater transparency, an increasing number of executives, particularly those working in multinational organisations, are finding themselves exposed and vulnerable. Penalties for executives found guilty of bribes and kickbacks are harsh. In September this year, the former head of GlaxoSmithKline's (GSK) China operations, Mark Reilly, and four of his colleagues received suspended prison sentences from a Chinese court for bribing doctors. With the matter now under investigation by U.K. and U.S. officials, the threat of jail time

Minimising potential exposure

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Some may say Foxley was naïve in thinking a defense contracting job in the Middle East would come without strings attached, but it's important to note that corruption is not limited to certain sectors or regions. While it's unlikely any personal due diligence will reveal possible wrong doing by a potential employer (bribery and other corrupt actions are usually secret practices), there are certain factors which can help executives assess how exposed they will be in their new position.

* The first is the region in which the company operates. Transparency International's 2013 **Corruption Perception Index** identifies Russia, Eastern Europe and some North African countries as being among the most corrupt countries to do business. In many of these regions bribery and kick-backs may be expected as "normal" business practice. Nonetheless, *within* countries ranked as more corrupt, there may be big differences; business executives in India (ranked 94th least corrupt) say they are more exposed to corruption in the state of Rajasthan than Kerala.

* The type of business you are in also has an impact. Companies which have significant interaction with governments, whether as business partners or customers, are more exposed, as are those in the extractive, construction, and real estate sectors (**Bribe Payers Index**).

* Company characteristics are a third critical factor. Firms with strong competitive positions in higher margin businesses are better able to resist bribery demands. Whether they do so will depend on the organisation's culture, values and the tone - and example - from the top. While it is rare to find companies without a code of conduct and anti-bribery policies today, what matters is the depth of commitment to ethics in practice. This can be difficult to discern by doing due diligence on a potential employer, but it can at least be tested in informal conversations with the firm's current employee.

still hangs over their heads.

They're not alone.

Over the past decade many large multinational firms with strong reputations - including Hewlett Packard, Siemens, Rolls Royce, and Avon - have been investigated for paying kick-backs and bribes and fined millions of dollars.

The OECD's 2014 **Foreign Bribery Report** indicates the number of bribery cases brought annually around the world has increased substantially since 1999. Of the 427 cases identified: 53 percent involved corporate management or CEOs; 80

individuals received jail terms of up to 13 years; and another 38 were given suspended sentences. The highest fine handed down to an individual amounted to US\$149 million.

One of the most remarkable outcomes from the report is that almost half the cases involved officials from countries with high HDI (Human Development Index) rankings, suggesting corruption is not, as some would believe, the scourge solely of developing nations.

Weighing up the options

At some point in their career, most managers will find their values challenged (and quite possibly their futures placed at risk) whether it's by a boss who pushes them to do the wrong thing; a foreign culture where rules are viewed differently; or the questionable expectations of their peers.

As employees, executives must ask themselves what are their obligations? How exposed are they? And whose values are they morally bound to follow: their own, their employers or the country in which they operate?

In many situations there is no prescriptive or clear-cut response. But in any case, it's better to have considered the potential problems in advance and to have a firm idea of what you are prepared to do, and which lines you are not prepared to cross.

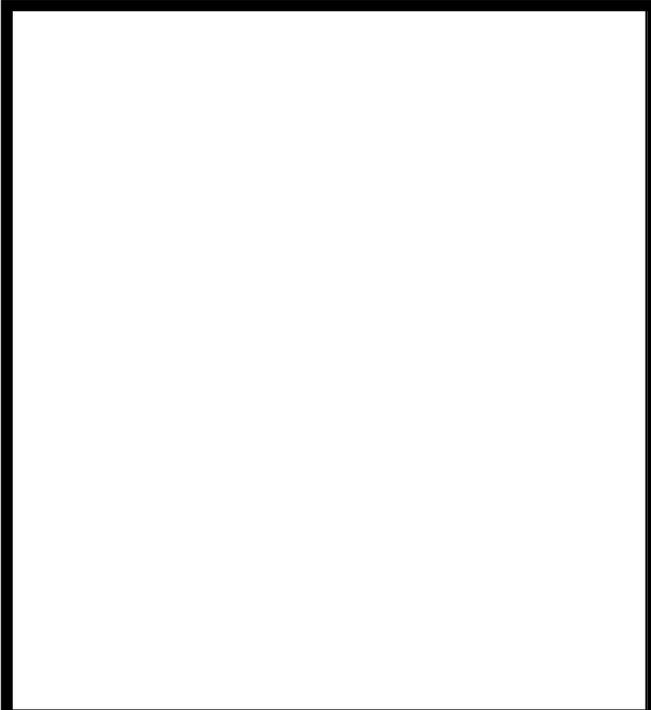
Some may choose to turn a blind eye, staying on the job and being complicit in the action. Others may bide their time before moving on. Or they may decide to speak out. All options hold some element of risk.

When faced with evidence of bribery, Foxley made the brave decision of taking a stand, but he paid a price.

When the day came for him to sign off on the documentation he refused, prompting a meeting with his managing director who gave him the choice to resign or have his contract terminated. Given several days to consider the options, Foxley contacted the company's former financial controller, "Martin", who had been removed from his role for questioning payments, and who confirmed Foxley's suspicions that corruption was deeply entrenched in the firm's practices.

Martin had been asked to pay millions of dollars to two Cayman Island firms and to sign off on payments for luxury cars and jewellery to be used to bribe government officials involved in the programme's procurement process. When he had tried to blow the whistle, he had been removed from his post and given a worthless job. With a wife and young child

still living in the country, Martin was vulnerable to coercion. While he was not prepared to hand Foxley documentary proof, he directed him to his old emails.



Fighting corruption is a global concern contributing to instability and poverty. The United Nations designated December 9 as **International Anti-Corruption Day** to bring attention to situations like Ian Foxley's and highlight the butterfly effect corporate corruption has across the globe; undermining democracy and the rule of law, inflaming human rights violations and allowing organised crime, terrorism and other security threats to flourish.

Foxley followed the electronic paper trail and sent the relevant material through to the head of the U.K. military team overseeing the telecommunications contract. Any expectation of help were shattered four hours later when his managing director summoned him to a meeting and threatened to have him arrested and jailed for theft of company documents. Realising such a fate in a foreign country under tight autocratic rule might be tantamount to a death sentence, Foxley left the office, headed straight to his car, and drove to a safe rendezvous before catching the next available flight out of the country.

He was free, but the ramifications were severe. His attempts to sue for unfair dismissal were dismissed, with the company arguing British courts had no jurisdiction over the overseas employment contract. Legal fees ate substantially into his family savings and despite his knowledge, experience and professional capability he found himself with the

reputation of “being too hot to handle” and has not worked for a major defence contractor since.

Preparing to blow the whistle

Since his story became public, Foxley has co-founded **an organisation** to support current and future whistleblowers. His advice to anyone looking to blow the lid on an employers' wrong-doing is to *be prepared*:

- Get yourself serious protection, or move to a safe haven before blowing the whistle.
- Be very careful who you trust. The most respected of colleagues could resort to obeying orders if their own livelihood is threatened.
- Ensure you have a safe deposit of irrefutable documented evidence before you act.
- Be ready for a long drawn-out stressful experience which will test your moral, mental and physical strength to the limit.
- Ensure you have the support of your partner: when the commercial world turns against you, you need a secure home base to retreat to.
- Ensure you find out what the prescribed routes for disclosure are and (if possible) take independent legal employment advice so you can take recourse through the courts if needs be.

"My experience has shown that no matter how well prepared or strong you think you are, few will be ready for the challenge presented by whistleblowing. Anyone who goes ahead will be changed by the event and its aftermath," Foxley says. But despite the sacrifices he has no regrets. What's most important, he insists is that "when faced with the man in the mirror, I'm still able look myself in the eye."

The case involving Ian Foxley remains under investigation for potential prosecution. Further details are available on the following links: "[Corruption crusaders warn against meddling in Saudi bribery probe](#)", Financial Times, October 14, 2014, "[How EADS whistleblower took flight](#)", Financial Times August 14, 2014, "[Airbus staff quizzed in SFO probe into alleged Saudi corruption](#)", Financial Times July 8, 2014.

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