

ONLINE



Navigating corruption risks

The law and dilemmas – an essential half day workshop for construction professionals

Tuesday 24 September 2024
08:30 – 12:20 BST



Type of event

Virtual



CPD Hours

3

Formal

Join us for an exclusive half-day online workshop presented by the RICS in collaboration with the UK Anti-Corruption Forum.

Dive into the crucial realm of corruption laws, prosecutions, and ethical challenges within the dynamic world of construction.

Tailored for surveyors, engineers, project managers and other professionals across the construction spectrum, this workshop promises cutting-edge insights and practical strategies to tackle corruption dilemmas head-on. Whether you operate in the public or private sector, this workshop is your gateway to staying ahead in an ever-evolving industry.

Why attend this workshop?

Legal Compliance: Understanding the latest corruption laws and prosecutions will help you stay compliant with legal requirements, avoiding severe penalties and reputational damage.

Ethical Standards: Navigating potential ethical dilemmas will help you maintain high standards of integrity, fostering trust with clients, partners, and the public.

Risk Mitigation: Equipped with the knowledge to identify and address corruption risks, you can protect your projects and organisation from fraudulent activities that could lead to significant financial losses.

Resource Efficiency: Particularly for small and medium-sized organisations with limited training resources, this workshop will provide essential education and practical strategies to ensure your teams are well-prepared to handle corruption-related challenges.

Industry Reputation: Upholding ethical practices will contribute to a positive industry reputation, attracting more business opportunities and partnerships.

Career Advancement: Professionals who are well-versed in anti-corruption measures are more valuable to their organisation and are likely to advance in their careers by demonstrating their commitment to ethical practices and legal compliance.

About RICS

We are RICS. Everything we do is designed to effect positive change in the built and natural environments. Through our respected global standards, leading professional progression and our trusted data and insight, we promote and enforce the highest professional standards in the development and management of land, real estate, construction and infrastructure. Our work with others provides a foundation for confident markets, pioneers better places to live and work and is a force for positive social impact.

About the UK Anti-Corruption Forum

The UK Anti-Corruption Forum was established in 2004 with the objective of helping to create a corruption-free business environment. It provides an informal venue in which participants can discuss issues of concern about corruption and propose solutions. Participants in Forum meetings and conferences have included professional institutions, business associations, civil society organisations, engineering and management consultancies, contractors, law firms, government departments, and prosecution agencies.





Time zone:

BST

08:30

Virtual Registration & Networking

09:00

Welcome Remarks from Conference Chair

Bob McKittrick, Chair of Anti-Corruption Forum and GIACC-UK; Past President of IStructE; Past Main Board Director of Scott Wilson

09:05

Introduction: The value of ethics in the construction sector

Christine O'Rourke, Executive Director, Professional Standards, RICS

09:15

The legal landscape

- An update on UK law: Bribery, fraud and cartels
- An update on prosecution policy and significant recent enforcement
- Q&A

Moderator: **Sam Eastwood**, Partner of Mayer Brown; Anti-Corruption Monitor for World Bank and AfDB

Panellists:

Senior representative from a law firm (TBC)

Senior representative from SFO or NCA (TBC)



Time zone:

BST

10:00

Corruption dilemmas 1 to 2:

Five corruption dilemmas will be debated by the panel (See Annex at the bottom of the programme). In particular, what should an organisation or individual do when faced with these dilemmas.

- Dilemma 1 and Q&A
- Dilemma 2 and Q&A

Moderator: **Ian Tyler**, Chair of Affinity Water, BMT, and Grafton; Past CEO of Balfour Beatty

Panellists:

Petter Matthews, CEO of Construction Sector Transparency Initiative (CoST); CEO of Engineers against Poverty

Neill Stansbury, Co-founder and Director of GIACC; Past Chair of BS 10500 and ISO 37001 Project Committees

10:45

Virtual Networking Break

11:00

Corruption dilemmas 3 to 5

- Dilemma 3 and Q&A
- Dilemma 4 and Q&A
- Dilemma 4 and Q&A

Moderator: **Ian Tyler**, Chair of Affinity Water, BMT, and Grafton; Past CEO of Balfour Beatty

Panellists:

Alex Traube-Childs, PIDG Global General Counsel

Colin McCarthy, Principal (FRICS), McCarthy, Lilburn & Partners

Hamish Goldie-Scot, Technical Advisor to CoST; Anti-Corruption Consultant

12:15

Closing remarks

Bob McKittrick, Chair of Anti-Corruption Forum and GIACC-UK; Past President of IStructE; Past Main Board Director of Scott Wilson

12:20

Close of workshop

Annex - Dilemmas for discussion

Key Facts for Dilemmas:

- ConsultCo is a UK consulting firm.
- BuildCo is a UK contractor.
- DevelopCo is a UK property developer.
- Hypothetica, where BuildCo is undertaking some construction projects, is ranked as a medium corruption risk country on Transparency International's Corruption Perceptions Index. The prevailing business perception is that corruption is quite widespread, but can be avoided if businesses are cautious as to their business partners and the type of work they take on.
- The criminal law in relation to bribery, extortion, and fraud is the same in Hypothetica as in the UK.

Dilemma 1 - Procurement evaluation – potential bribery.

You are procurement manager for DevelopCo. You have sent out invitations to tender to several contractors (one of which is BuildCo) for the construction of an office block for DevelopCo. You are leading the evaluation team which will consider the tenders once received. Before tender submission date, BuildCo invites you as their guest to a major international sports match, followed by a dinner, the next weekend.

Q 1.1: What factors should you take into account in considering whether or not you should accept the invitation?

Q 1.2: Should you accept?

Q 1.3 Could you be committing a criminal offence if you accept the invitation?

Q 1.4 What are the possible perception implications of accepting the invitation?

Q 1.5 Should you report the invitation to anyone?

Q 1.6 What action should DevelopCo take in relation to the invitation?

Dilemma 2 - Certification of work done – potential fraud and bribery

You are employed by ConsultCo. DevelopCo has appointed ConsultCo to act as the project engineer on the construction of an office block for DevelopCo. BuildCo has been appointed by DevelopCo to undertake the construction. You have been assigned by ConsultCo to undertake the role of project engineer on site. Your role includes certifying extensions of time, work done and payments on an independent basis as between DevelopCo and BuildCo.

The project is delayed. BuildCo applies for an extension of time of 30 days. You consider the application and the supporting evidence. You believe that 25 days of BuildCo's application is justified, and inform DevelopCo that you intend to issue an extension of time of 25 days. The Chief Executive of DevelopCo is expecting that BuildCo will need to pay significant liquidated damages to DevelopCo for the delay, and so is unhappy with your intention to grant 25 days extension of time. He phones the Chief Executive of ConsultCo to express his displeasure. The Chief Executive of ConsultCo then telephones you and tells you "What you are you playing at? DevelopCo is ConsultCo's biggest client. They will only appoint us in the future if we support them. You have a job because of DevelopCo. You can easily find a reason to turn down the whole of BuildCo's extension of time application."

Q 2.1: What is your legal duty in relation to the extension of time application?

Q 2.2: Could the Chief Executives of DevelopCo and ConsultCo have committed a criminal offence?

Q 2.3 What should you do in relation to the extension of time application?

Q 2.4 What should you do in relation to the actions of the Chief Executives?

Dilemma 3 - Appointment of subcontractor - potential bribery

BuildCo is preferred bidder on a contract in Hypothetica for the public sector Hypothetica Road Agency (HRA). BuildCo proposes to use a Hypothetica based supplier, AggreCo, who they have successfully worked with previously, for the local supply of all materials and consumables. The lead negotiator for the HRA informs BuildCo that HRA is not happy with the financial stability and quality of AggreCo, and states that the contract will be awarded to BuildCo next week, as long as BuildCo confirms that it will appoint Supreme Supplies, another Hypothetica based supplier, as supplier instead of AggreCo.

Q 3.1: Are there any steps that BuildCo should take before it makes a decision as to how to respond?

Q 3.2: Can BuildCo appoint Supreme as supplier?

Q 3.3: Taking into account this request, can BuildCo proceed with the contract with HRA?

Q 3.4: Should BuildCo inform anyone of the HRA requirement?

Q 3.5: Could BuildCo be committing a criminal offence if it appoints Supreme?

Dilemma 4 - Claim for additional costs for delay- potential fraud

BuildCo is awarded a contract in the UK by DevelopCo. The project is delayed by 50 days, and BuildCo suffers additional site overheads of £10,000 per day in consequence (totalling £500,000). The contract allows recovery by BuildCo from DevelopCo of its actual additional costs to the extent that the delay was caused by DevelopCo, but not otherwise. BuildCo is reasonably confident that 10 days delay was caused by DevelopCo, and that a separate 10 days delay was caused by one of BuildCo's sub-contractors. It is hard to find the direct cause for the other 30 days delay, as there seem to be a mixture of intertwined reasons, partly DevelopCo's fault and partly not.

Q 4.1: How much can BuildCo legitimately claim from DevelopCo?

Q 4.2: Can BuildCo claim all 50 days, and then negotiate down?

Q 4.3: If BuildCo claims all 50 days, is BuildCo obliged to inform DevelopCo about the sub-contractor delay and its doubts about the 30 days delay?

Q 4.4: In what circumstances could BuildCo be committing a criminal offence?

Dilemma 5 - Payment of fee to public official - potential extortion and bribery

BuildCo's project manager in Hypothetica is returning by plane to the UK. It is the last flight of the day leaving at 11.00 pm. She is stopped at immigration and taken to a side room. The flight is leaving in 60 minutes. The official states that there is a problem with her entry visa, and that this is an arrestable offence. He states however, that if she paid a rectification fee of \$100, her passport will be stamped and she can catch the plane.

Q 5.1: What does the Project Manager do?

Q 5.2: Should she report the incident, and, if so, to whom?

Q 5.3: Should BuildCo report the incident, and, if so, to whom?

Q 5.4: If the Project Manager makes such a payment:

- a) could she have committed a criminal offence
- b) could BuildCo have committed a criminal offence
- c) how should the payment be treated in BuildCo's accounts?