



Pacific Judicial
Integrity Program

Managing and Reporting on Fraud and Corruption Cases Online Course

Via Zoom 20 & 27 July and 3 & 10 August 2023



**FEDERAL COURT
OF AUSTRALIA**



Papua New Guinea
Centre for Judicial Excellence

Session 2 - Agenda



1. Welcome & Introduction (15 minutes)
2. Presentation on Bribery (20 minutes)
3. Discussion Questions (30 minutes)
4. Introduction to next week's session (5 minutes)
5. Session Wrap-Up (5 minutes)



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Session 2: Bribery

Presenter: Judicial Registrar Alicia Ditton, Federal Court of Australia

Definition: 'Bribery'

The act of giving, offering or accepting (or causing to be provided, offered or accepted) a benefit (ie. anything of value) to any person in order to improperly influence an act or decision so as to gain a business or personal benefit or advantage.



Difference between bribery and corruption



- Bribery is a form of corruption.
- Corruption is the abuse of a position of employment, authority or trust to gain a business or personal benefit or advantage.
- There are many forms of corruption conduct, including blackmail, fraud, perverting the course of justice.



Types of Bribery Offences

- **Political bribery** involving political favours, such as votes or contracts
- **Judicial bribery** involving the influence of a legal decision
- **Bribery of public officials** involving a public servant or official in office in exchange for favourable decision



Types of Bribery Offences



- **Foreign bribery** bribery of a foreign official in exchange for favourable decision or advantage
- **Commercial bribery** involves bribery with respect to a business transaction to gain an advantage over others.



Seriousness of Bribery Offences



- High profile offender / position of power
- Breach of trust / abuse of office
- Often substantial benefit received or advantage gained
- Conduct is often sophisticated, carefully orchestrated and concealed



Seriousness of Bribery Offences



Consequences of bribery conduct are severe - effect economic growth, discourage foreign investment and undermine the rule of law.

Heavy penalties (significant fines and lengthy periods of imprisonment).

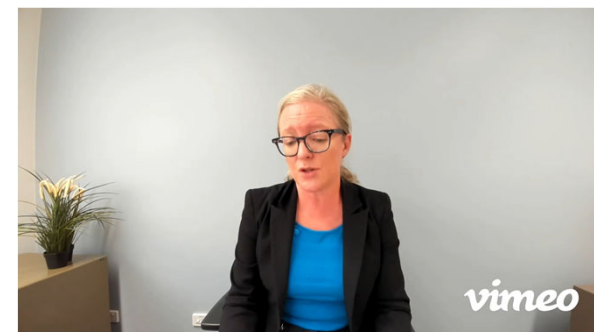


Interaction of Bribery Offences & your court



Number of ways bribery offences may interact with your Court:

- Court staff or judicial officers engaging in bribery conduct
- Managing bribery prosecutions being conducted in your Court



Managing bribery prosecutions



What are the key features of bribery / corruption prosecutions

- Multiple and mostly high profile accused / numerous legal representatives
- Complex legal and factual issues involved
- Regular pre-trial challenges and case management obstacles



Managing Bribery Prosecutions



- Significant number and variety of witnesses
- Voluminous documentary evidence
- Often criminal and civil proceedings on foot
- High level of public scrutiny
- Likelihood of imposition of custodial sentence



Managing bribery prosecutions



Your role in managing bribery prosecutions

- Support Judges - legal research, summaries of evidence and drafting case management timetables
- Manage the case in registry - filing documents, dealing with parties and media, evidence storage and
- Coordinate the case for trial - dealing with witness attendance, IT issues, Corrective Services
- Record decisions/outcomes - electronic file records
- Useful reporting - feedback and review, capture lessons learned - create future guidelines/ practices.



Managing bribery prosecutions



Case study - *R v Douglas; R v Read; R v Linke* (Supreme Court of NSW): illustrates the key features of bribery prosecutions

- Charged: company and numerous individuals – two separate conspiracies to cause an offer of a bribe to a foreign official
- Multiple pre-trial challenges, including a dispute about the elements of the offence of conspiracy to bribe a foreign official
- Indemnity witness involved and international evidence
- Company pleaded guilty, individuals in first conspiracy found not guilty by jury, the second conspiracy prosecution was discontinued. Proceedings ran for approx 4 years.

Questions



Discussion Questions



1. Explain to your group what your role involves. Tell your group two things you would do daily as part of your role.
 - Are there specific things that you do when your court is hearing a bribery or official corruption case? What are those things?
2. In the presentation, Registrar Ditton identified five types of bribery offences: political, judicial, public offences, foreign bribery and commercial bribery.
 - Can you give one example of a case heard by your court that falls into one of these categories. Which category is it in? What were the facts of the case?
3. Registrars and Court Officers are in position of a trust. Can you imagine a situation in which you might be placed in a difficult or compromising situation. Explain such a situation and how you would handle this.
4. What challenges does a Court Officer face when a court is hearing bribery or official corruption prosecutions? How do you assist the court to manage these prosecutions?

Action Plan



- Throughout the duration of the Online Course we will be discussing ideas and suggestions that may be of interest to your Court.
- Over the next week, please meet with your colleagues and consider any key bribery actions that you may wish to consider implementing in your Court.

Next Week: Session 3 - Procedural Steps and Documents



- Thursday 3 August 2023
- **12-2pm (GMT+10:00)**
- Use same Zoom link
- Presenters: Victoria Belo & Jodie Burns



Due to varying locations, **local time zones for Session 3** are as follows:

| Thursday 3 August, 2023 | |
|-------------------------|--|
| 11:00am | Palau |
| 12:00pm | Australia Papua New Guinea |
| 1:00pm | Federated States of Micronesia Solomon Islands Vanuatu |
| 2:00pm | Fiji Kiribati Nauru Republic of Marshall Islands |
| 3:00pm | Tonga Samoa Tokelau |

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See you next week!