

(前略)

11. Governance

a) Bribery

Correspondents are expected to operate to the highest ethical standards. They should be aware that most P&I clubs are domiciled in countries that have strict anti-bribery laws such as the United Kingdom's Bribery Act 2010 and the United States' Foreign Corrupt Practices Act, and even those clubs that may be domiciled in other jurisdictions are likely to be subject to these laws, as well as their own countries' anti-bribery laws. All clubs in the International Group have implemented best practice systems to deal with any form of bribery and financial crime. Those systems extend to all service providers instructed to act in the interest of members' business.

11 統制

a) 贈収賄

コレポンは須く最高級の倫理基準をもって運営すると期待される。コレポンは大多数のP&Iクラブが英 Act2010 や米 FCPA 等厳格な贈収賄禁止法を有する国に所在すること、又英米以外の国に所在する倶楽部も、自国の贈収賄禁止法とともに、件の英米の禁賄法の(域外)適用を受け得る事既承であろう。

IG 加盟の全 PI クラブは既にあらゆる賄賂や財務犯罪に対処する体制を敷いている。クラブの体制は IG 加盟者の利を図るべく指示されている全サービス提供者にも及ぶ。

The UK's Bribery Act, effective from 1 July 2011, is probably the most extensive anti-bribery legislation and compliance with its provisions represents best practice in combating bribery worldwide. It is therefore essential that all club correspondents, and those instructed by correspondents to assist with members' business, strictly comply with the standards set by that Act.

In summary, under the UK's Bribery Act, the criminal offence of bribing is defined as offering, promising or giving a financial or other advantage to another person (whether in a private or public position) intending to induce or reward that person for improperly performing a relevant function or activity. What amounts to a relevant function or activity is widely defined. It is also an offence to offer, promise or give a financial or other advantage to a person where it is known that acceptance would itself amount to improper performance of a relevant function or activity.

If the above conditions are satisfied, the party being bribed is also guilty of a criminal offence, and indeed they will also be guilty where a relevant function or activity is performed improperly in anticipation or in consequence of them requesting, agreeing to receive or accepting a financial or other advantage.

英国の Act2010 は恐らく最も禁賄が徹底された法規制であり、これを遵守すれば世界の賄賂との戦いの模範となろう。 掘って全コレボン及びコレボンの指示により IG 加盟者を補助する者は全てこの Act の設定する基準を厳格に遵守することが肝要である。

概括するに、英 Act に於いて、贈賄は、(官民を問わず)他人に自らの職務権限/能力を不適切に行使用することを勧誘する企図で金銭その他の優遇を持ちかけ、約束又は実際提供することと定義される。のみならず、収賄者がかかる優遇を受諾することそのものが権能の不適切行使に含まれる場合も該当する。

(贈賄側が)上記構成要件に該当するとき、収賄側も又その(収賄の)構成要件に該当する。のみならず収賄側自らから経済的優遇を期待、要求、同意、受諾しただけでも収賄の構成要件に該当する。

In addition, when a public official outside the UK is offered, promised or given any financial advantage, with the intention of obtaining or retaining business or an advantage in the conduct of business, an offence is committed even where there is no intention to induce improper performance of that official's functions.

It should particularly be noted that the above offences clearly criminalise so-called 'facilitation payments', which can be summarised as small bribes paid to facilitate routine government action. No matter how small, or how well established the practice is in any jurisdiction, such activities must not be allowed to happen.

加えて、英国外の官僚に対し受注若しくは優遇を期待し、経済的優遇を持ちかけ、約束、又は支給する場合はその官僚の職務権限不適切行使を招来するか否かを問わず贈賄の実行とする。

特注； これらの犯罪に於いて、「袖の下」は、明瞭に小額賄賂の総称として可罰類型に含まれる。如何に小額でも、如何に行為地で定着した行為であっても袖の下を許してはならない。

Correspondents need to be aware that, where bribery is committed by someone associated with, and in order to obtain or retain business or an advantage in the UK (which may include many members and the clubs themselves), that organisation may be prosecuted for an offence of failing to prevent bribery even when it has no knowledge that the bribery is taking place. Such associated persons might include (but are not limited to) correspondents, lawyers, experts, surveyors and other forms of service providers, and so it is important that correspondents secure compliance with the necessary standards of conduct from those they engage to assist in the handling of matters referred to them.

コレポン各位は是が非でも理解されたい。

若し P&I クラブやその会員の「関係者」が英国における受注や優遇を企図し、贈賄を犯した時、P&I クラブやその会員組織は仮に預かり知らぬ事件でも、贈賄防止不能の咎で訴追されることがあり得る。「関係者」としては、コレポン、Lawyer、専門職、その他のサービス業者、その他が含まれよう。従ってコレポンは指示に応じて補助する相手のクラブ等利用者の要する行動基準に則って本法を遵守することが肝要である。

Correspondents are reminded that any individual or company that engages in bribery of any kind does so without the club's agreement or authority and that such activity is in clear contravention of the club's policies.

Reference should be made to detailed guidance issued by the individual clubs for further details of their bribery prevention policies and for further clarification of correspondents' responsibilities under anti-bribery legislation.

Of course, compliance with the requirements of individual clubs' bribery prevention policies and the Act must be in addition to correspondents' compliance with any other anti-bribery legislation that may affect them.

コレポンに念を押すが、如何なる贈賄もクラブは同意又は授權せず、斯かる行為は全て明白なクラブ指針違反である。

個々のクラブの贈収賄禁止指針及びコレポンの贈収賄禁止制度の更なる詳細は個々のクラブに問合せのこと。

当然、斯かるクラブの贈収賄防止指針や英国の Act2010 の遵守はそのコレポンの、他の全ての贈収賄禁止制度（法令）の遵守を前提として、それに加えるものである。

（後略）