

Anti-bribery and corruption

In this lesson you will be introduced to the problem of **bribery and corruption**.

Click on the **Quick Facts** menu button above to view a summary of the lesson.

[CLICK HERE TO BEGIN](#)

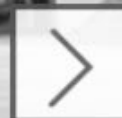
After completing this lesson, you should be able to:

- state what bribery and corruption is
- explain the types of circumstances where bribery can occur
- recognise the laws prohibiting the bribery of public officials
- explain private sector bribery and false accounting.

During this lesson there are scenarios related to the topic and questions to check your understanding.

This lesson should take **20** minutes to complete.

Click the arrow to begin.





Bribery is a type of corruption involving the giving or receiving of a benefit (such as money, property, a discount or favour) with the aim of influencing a person's decision.

Bribery is illegal and you don't have to give or receive anything to be found guilty of it. Promising or soliciting a bribe is enough.



Corruption is a general term for the dishonest use of power for personal gain.

Public officials are frequently the subject of corruption inquiries because of the positions they hold.



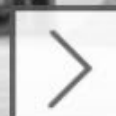
REMEMBER:

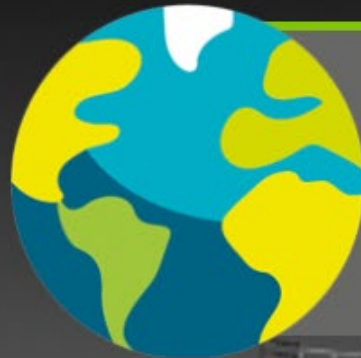
Downer prohibits bribery and corruption in all its business dealings, whether directly or via any third party. Familiarise yourself with Downer's Anti-Bribery and Corruption Policy, Gifts and Benefits Policy and tendering and contract negotiation procedures.

Click icon to view Anti-Bribery and Corruption, Gifts and Benefits Policy



To view the Policy on the Downer website, [click here.](#)





The International Monetary Fund (IMF) estimates that corruption in the public sector costs the global economy between USD\$1.5 trillion to \$2 trillion every year. This includes both money paid as bribes as well as indirect costs, like reduced government revenue resulting from tax evasion.

Bribery is devastating to developing countries. It:

- Increases poverty and impedes economic growth
- undermines the integrity and stability of governments
- undercuts the efforts and reliability of aid programs
- results in inefficient allocation of resources.

Negotiation risks

Corruption adds extra costs and uncertainty to doing business because it draws out negotiation processes and creates the risk that a competitor will simply offer a higher bribe.



Oliver is a project manager at Sky High Co, an engineering and construction firm. He recently returned from a business trip to Gondwana where Sky High was contracted to build a copper mine.



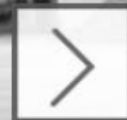
He heard that a competitor, Jade Construction, has set up an office in Gondwana and is close to securing a deal with one of the local mining companies to set up their own mine.

Oliver calls Gondwana's government planning officer, Bruce:

"Hi Bruce, I know you're busy but it would mean a lot if you could consider approving Sky High's mine construction project. I'll tell you what. As soon as the application is approved, I'll transfer you \$20,000."



Consider this scenario as you read the next pages...

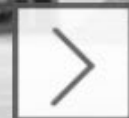


Does Oliver's conduct amount to bribery?

- Yes, because Oliver is giving the money to influence Bruce's decision
- No, it's only bribery if Oliver receives a benefit for the purpose of influencing Bruce's decision
- No, it's not bribery if the other party is from another country

That is correct!

Bribery involves the giving or receiving of a benefit, such as money, property, a discount or favour, to influence a person's decision.



Oliver is based in Sky High's head office in Sydney. He receives several messages from a client asking why a project to develop a shopping centre has been delayed.



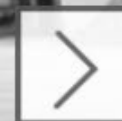
Oliver contacts his friend, Hana, who works at the local council for the development site.

Hana: "Hi Oliver, unfortunately your re-zoning application is still in progress while we finish assessing the submissions we received."

Oliver: "Is there any chance you can push through my application in the next couple of days? I have these tickets to a cruise...if you can help me out, the tickets are yours."



Consider this scenario as you read the next pages...



Corrupt conduct can occur at any level, such as:

1

Local and state governments or officials

2

Commonwealth government and other public officials

3

Small or large private sector organisations.

Click the buttons below for more information

**Public
Officials**

**Public
Authorities**

Public officials include:

- Politicians
- Local councillors
- Magistrates and judges
- Statutory authorities
- Police officers.



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Click the buttons below for more information

**Public
Officials**

**Public
Authorities**

Public authorities include:

- Government agencies, administrative offices or teaching services
- Local government authorities
- Government departments
- Universities
- State-owned corporations.





Some countries have lower levels of corruption than others. It is important that you are aware of the different bribery risks associated with the jurisdictions in which Downer does business.

You can check out Transparency International's annual Corruption Perception Index to see how countries are ranked.

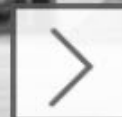
Click on the button below for an example.

BE AWARE:

Corrupt individuals and organisations risk prosecution, severe penalties, reputational damage and debilitating sanctions.



Survey





Some countries have lower levels of corruption than others. It is important that you are aware of the different bribery risks associated with the jurisdictions in which Downer does business.

Survey: Australian and NZ organisations dealing with corruption



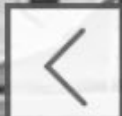
A 2017 Deloitte survey of Australian and NZ organisations found that:

- one in five respondents had experienced at least one instance of domestic corruption in the past five years. The most common types included undisclosed conflicts of interest, inappropriate gifts/hospitality and personal favours
- one in five respondents had experienced a foreign corruption incident in the past five years

[Click here to read more about the survey.](#)



Survey



Which of the following statements are true? Select all that apply.

- Bribery can occur at Commonwealth and state government levels
- Bribery can occur within local government
- Bribery can occur in the public sector

Submit

That is correct!

Bruce, the public official in Gondwana, emails Oliver:



“Dear Oliver

The Gondwanan government has approved the development application for your copper mine.

You can commence construction in the next month.

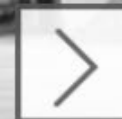
I look forward to receiving the bonus we discussed.”

Oliver had promised to pay Bruce \$20,000 if Bruce approved the project. But now he worries that the payment is illegal. He consults his colleague, Shannon for advice.

Shannon: “You’re probably fine. These sorts of payments are common practice in Gondwana. It’s not a bribe, it’s just a bonus.”



Consider this scenario as you read the next pages...





It is illegal to bribe a Commonwealth, state or local public official.

You are guilty of bribery if you dishonestly provide (or offer or cause to be provided) a benefit to a public official with the intention of influencing how they exercise their duty.

Click on the button below for an example.

Villawood Detention Centre bribe



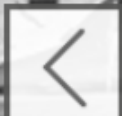
In 2013, Jason O'Halloran admitted to receiving almost AUD\$100,000 from two western Sydney construction companies in exchange for confidential information to help win contracts to rebuild Villawood Detention Centre.

O'Halloran was a contractor for Serco Australia, which was contracted by the Department of Immigration and Citizenship to manage the detention centre.

He pleaded guilty to corruptly organising to receive almost \$60,000 from the managing director of a company named Vantagecorp.

He also admitted to receiving \$30,000 and an 18-year-old bottle of Chivas Regal whisky from the managing director of Blue Star Building Services.

O'Halloran surrendered \$90,000 in cash to investigators and faced prison time.





A public official will be guilty of bribery if they ask for, obtain, receive or agree to receive a benefit with the intention or suggestion that they will be influenced in their official duties. They will still be guilty even if the benefit goes to another person.

For example, offering a free trip to France to a public official's son to influence how the official exercises their duties is still bribery.



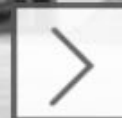
BE AWARE:

It doesn't matter why you pay a bribe. If a court finds that you attempted to influence a public official, you will be guilty of the offence, regardless of any excuses you have.

Click on the button below for an example.



Example



Eddie Obeid and ICAC



In 2013, the Independent Commission Against Corruption (ICAC) found former Australian Labor Party ministers Eddie Obeid and Ian McDonald engaged in corrupt conduct which potentially cost the state of NSW AUD\$90 million.

An inquiry found that the ministers conspired to rig a tender for a multi-million-dollar coal exploration licence over land owned by Obeid's family, suggesting a "conspiracy to defraud".

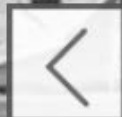
McDonald also granted a coal exploration licence in the Hunter Valley to another person without a tender process and provided confidential information to certain parties.

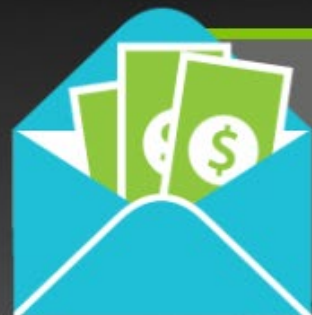
Obeid was subsequently convicted of misconduct in public office.

Click on the button below for an example.



Example





You will commit the offence of foreign bribery if you provide (or offer to provide) an undue benefit to a foreign public official in the pursuit of business or a business advantage.

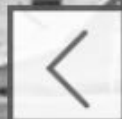
You may be guilty even if you are only indirectly involved with the bribe, e.g. if you somehow cause the benefit to be provided.

BE AWARE:

It's still bribery even if the benefit is considered "normal" or "customary" in another country.

REMEMBER:

It doesn't matter if you didn't end up getting the business or advantage, or if you didn't set out to bribe any particular foreign public official (e.g. if you didn't know their identity).



Can Oliver be penalised for his conduct?

- Yes, because he has bribed a foreign public official
- No because he hasn't paid the money yet
- No, because the payment would be considered common practice in Gondwana
- No, because the bribe is going to a person outside Australia

That is correct!

This is a case of bribery of a foreign public official – Bruce is a foreign public official and Oliver has promised to give him a benefit that would not otherwise legitimately be due to him, in order to obtain a business advantage. It doesn't matter if such payments are common practice in Gondwana – it's still illegal.

Shannon is drafting a submission for a tender to design and build a new power plant for a private sector company called Modena Utilities.



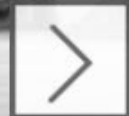
She receives a call from Irina, a business development consultant at a rival construction firm, Silverite Industries.

Irina: "I hear you're planning to bid on that Modena power plant tender, but we're really willing to do anything to get this project. How about I pay you \$10,000 personally to persuade your board to discontinue your submission?"

Shannon agrees.



Consider this scenario as you read the next pages...



It is illegal for any employee or agent of an entity to receive or ask for a reward/benefit for:

- doing or refusing to do anything in relation to that entity
- showing or not showing favour to any person in relation to the entity's affairs.



An entity can be an individual or a company.

Engaging in corrupt conduct at Downer could result in:

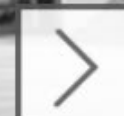
Click on the buttons below for more information.

1
disciplinary action,
including demotion
or dismissal

2
criminal charges

3
imprisonment

4
financial penalties.



ALWAYS:

Familiarise yourself with Downer's policies, tendering and contract negotiation procedures.

REMEMBER:

Never solicit bribes for your work. If you are offered a bribe, you must refuse it and notify the Company Secretary.

Click on the button below for an example.



Example



ALWAYS:

Familiarise yourself with Downer’s policies, tendering and contract negotiation procedures.

Seven years in prison for receiving corrupt benefits



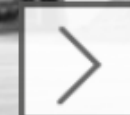
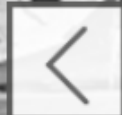
In 2012, a court found David Wills, a former senior Woolworths executive, guilty of 14 criminal charges for “showing favour” to Israeli software firm Az-Ben Electronics in awarding contracts.

Wills received almost \$1.4 million in corrupt payments from the firm over three years. In exchange, Wills awarded the firm multi-million-dollar Woolworths IT contracts. This breached Woolworths’ tender policy, which required Wills to issue a tender when buying goods or services worth \$100,000 or more.

The court sentenced Wills to seven years in prison.



Example



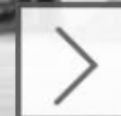


You must not falsify accounting documents for the purpose of facilitating, concealing or disguising the giving or receiving of an undue benefit or illegitimate loss. This includes:

- making, altering, destroying or concealing an accounting document
- breaching any duty you have to create or alter an accounting document.

You may be guilty of false accounting whether you were acting intentionally or were simply reckless to the risk of bribery resulting from your actions.

False accounting offences apply both within and outside Australia.



What is wrong with Shannon's conduct in this situation?

- Nothing, because the company will not win the job
- She has agreed to accept a personal benefit for doing something in relation to her company's affairs
- She should never talk to employees from competitor organisations
- She cannot guarantee the Board will listen to her, so she doesn't have the right to agree

That is correct!

It is illegal for any employee (or agent of an entity) to receive or ask for a reward/benefit for doing/refusing to do anything in relation to that entity, or for showing/not showing favour to any person in relation to the entity's affairs.



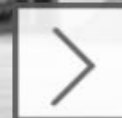
Oliver sends the Gondwanan government planning officer, Bruce, \$20,000 in exchange for having his company's construction project approved.



The next day, Bruce forwards him the approved application.



Consider this scenario as you read the next pages...



Severe criminal penalties apply for engaging in bribery.

Individuals

Individuals who bribe a Commonwealth or foreign public official face fines of up to \$2.1 million and/or imprisonment for up to 10 years.

Companies

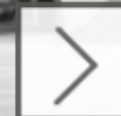
Courts can order companies engaging in bribery to pay whichever is greatest of the following:

- \$21 million
- three times the value of any benefit obtained (either directly or indirectly) as a result of the bribe
- 10 percent of the company's annual turnover in the 12 months leading up to the bribe.

Companies can also be penalised for authorising or requiring a bribe to be paid.

WARNING:

You can be jailed for up to five years for giving (or offering to give) a corrupt benefit, even if you didn't know the person you were trying to influence was a Commonwealth public official.



Click on the buttons below for more information.

The OECD

UK Bribery Act

The OECD

Under the Organisation for Economic Co-operation and Development (OECD)'s Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, participating countries must adopt common rules penalising entities that bribe, and prohibiting bribing foreign public officials.

REMEMBER:

Australian laws prohibit bribing any foreign public official, even if they are from a country that has not endorsed the Convention.



Click on the buttons below for more information.

The OECD

UK Bribery Act

UK Bribery Act

Under the UK Bribery Act, employers must apply any necessary procedures to prevent bribery. This law has a huge scope: it applies to companies incorporated in the UK, British citizens and any organisation that carries on business in the UK or which acts as an agent of a UK organisation.



Click each text box to learn more.

US Foreign Corrupt Practices Act (FCPA)

The United Nations Conventions Against Corruption (UNCAC)

Transparency International (TI)

US Foreign Corrupt Practices Act (FCPA)

The FCPA could apply to you if you are a US citizen or because Downer has operations that relate to or flow through the US.

REMEMBER:

If you are unsure about how local or foreign laws or international instruments affect the way you do business, contact Downer's legal department.



Click each text box to learn more.

US Foreign Corrupt Practices Act (FCPA)

The United Nations Conventions Against Corruption (UNCAC)

Transparency International (TI)

The United Nations Conventions Against Corruption (UNCAC)
Australia has signed UNCAC, the first legally-binding international anti-corruption instrument.

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Click each text box to learn more.

US Foreign Corrupt Practices Act (FCPA)

The United Nations Conventions Against Corruption (UNCAC)

Transparency International (TI)

Transparency International (TI)

TI focuses on increasing the level of transparency in government elections, public administration, procurement and business. Its global network of chapters and contacts also use advocacy campaigns to lobby governments to implement anti-corruption reforms.

REMEMBER:

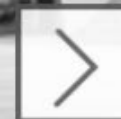
If you are unsure about how local or foreign laws or international instruments affect the way you do business, contact Downer's legal department.



BE AWARE:

Even though local laws and practices may differ across the different jurisdictions in which Downer operates, all employees, contractors and business partners are expected to adhere to the highest anti-bribery standards. You should abide by this standard and Downer's policies even if it goes above and beyond what is specified in another country.

If you have any queries or concerns about bribery and corruption, please contact your manager or Downer's legal department.

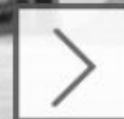
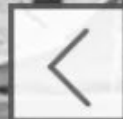


If Oliver is found guilty of bribery, what penalties would he face?


- Fines only
- Imprisonment only
- Fines or imprisonment, or both
- There is no penalty for Oliver, only the company he works for

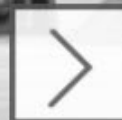
That is correct!

The penalty for individuals who bribe a foreign public official is a fine and/or imprisonment.



End of lesson

Click the  button below to continue onto the quiz.



Formal quiz

You are about to begin the formal quiz.

You will be asked **10** questions based on the **Anti-Bribery and Corruption** module.

Follow the prompts below.

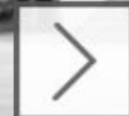


Click the  button to continue.



Complete the sentence. In Australia, corrupt conduct is prohibited in...

- ... the public sector only
- ... the private sector only
- ... the public sector, and the private sector only if the conduct involves a foreign official
- ... both the public and private sector, regardless of whether a foreign official is involved or not



Finish the sentence. It is illegal to receive or ask for a benefit for...

- ... showing or not showing favour to any person in relation to an entity's affairs
- ... doing or refusing to do anything in relation to an entity
- Both A and B



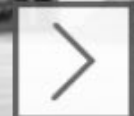
Which of the following best describes corruption?

- The dishonest use of power for personal gain
- Bribery of a public official where the monetary reward offered is above \$1 million
- Accidental oversight of an accounting error that results in a financial loss sustained by the company
- Repeated occasions where a decision-maker appoints a particular contractor based on their pricing and quality work



Complete the sentence. Offering an undue benefit to a foreign public official in pursuit of a business advantage is...

- ... against the law regardless of whether the benefit is considered normal or customary in the country in which you are offering it
- ... against the law only if the benefit is considered abnormal or unorthodox in the country in which you are offering it
- ... against the law if the benefit is valued at more than AUD\$1,000
- ... not against the law, provided the benefit is non-monetary



Select the best answer. Which of the following conduct amounts to bribing a foreign public official?

- Providing the official with an undue benefit in order to retain business
- Providing an undue benefit in exchange for obtaining business from the official
- Offering to provide the official with an undue benefit in order to obtain a business advantage
- All of the above



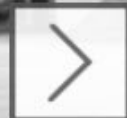
Which statement is true?

- You can only be found guilty of bribery if you actually give or receive a bribe
- Corruption makes the cost of doing business cheaper
- Public officials are less likely to be offered bribes because of the position they hold
- Bribes include both cash and non-cash benefits offered to improperly influence a decision



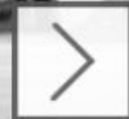
Select the best answer. Who can be affected by bribery?

- Local and state governments and officials
- Commonwealth government and other public officials
- The private sector, including both small and large organisations
- All of the above



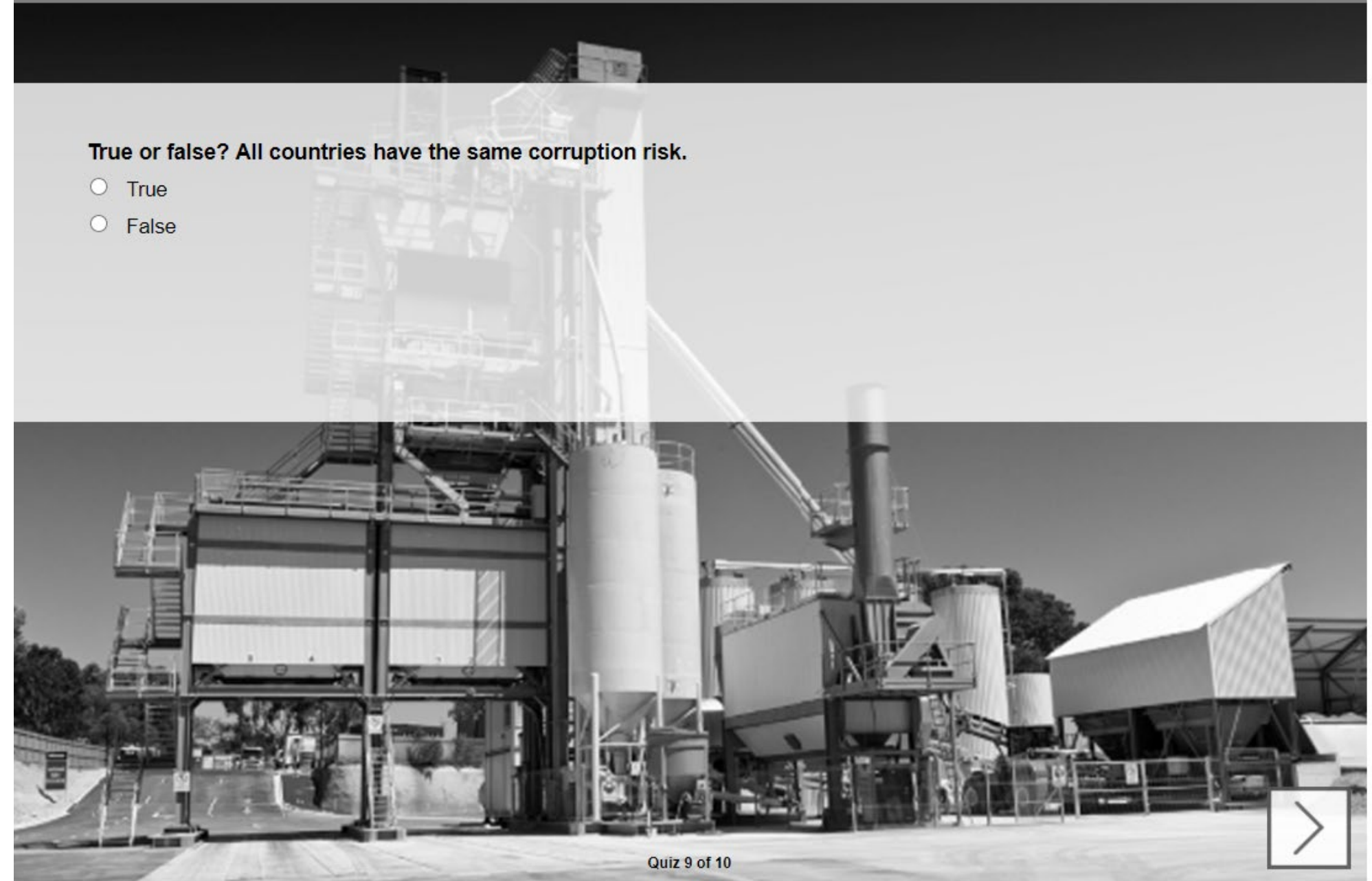
Which of the following is an example of a public authority?

- Transparency International
- The CEO of a bank
- A government department
- A local councillor



True or false? All countries have the same corruption risk.

- True
- False



Complete this sentence so it is **TRUE**. Bribery occurs when a decision-maker is offered a benefit....

- ... as payment for services rendered (as per legal agreement / contract)
- ... as an incentive clause in their employment contract that rewards them for meeting performance criteria
- ... in the form of cash (only)
- ... with the aim of influencing the decision

