

Petty bribes in the UK

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What happened?

The UK Bribery Act, which came into force in 2011, was expected to result in the prosecution of British companies paying bribes overseas. In fact, the law applies equally to bribes paid within the UK, and to bribes paid by individuals and not companies. The first three prosecutions under the Bribery Act were of this type.¹

Case 1 was Munir Yakub Patel (Ernst & Young 2012). He was a Court clerk working at Redbridge Magistrates' Court in Essex. In August 2011 he was convicted of accepting £500 to help a driver avoid a being placed on the Court record system for a speeding offence. Although convicted of only one offence, Patel was said in court to have repeated this at least fifty times, assisting those guilty of road traffic offences to avoid fines, disqualifications from driving or having penalty points put on their driving licences. He was effectively accepting bribes to help drivers avoid penalties and keep their crimes off the official records. Patel was arrested after *The Sun* newspaper had filmed him arranging the bribe (Reilly 2014). *The Sun* was acting after receiving a tip-off from a member of the public to whom Patel had offered his services. As well as being convicted under the new Bribery Act

¹ EY's UK Bribery Digest, edited by Jonathan Middup, is the best single source for UK bribery cases https://www.ey.com/en_uk/assurance/uk-bribery-digest-patterns-in-the-last-10-years-of-uk-bribery-prosecutions

(the first case under the new law), Patel was convicted of Misconduct in Public Office, and sentenced to six years' imprisonment, reduced to four years on appeal.

The Judge's remarks illustrate the seriousness with which the crime was regarded, because Patel was a public official in a position responsible for upholding the rule of law:

“By doing what you did, you created a danger not only to the integrity of the process but also to public confidence in it. A justice system in which officials are prepared to take bribes in order to allow offenders to escape the proper consequences of their offending is inherently corrupt and is one which deserves no public respect and which will attract none...The public would expect and rightly expect the courts to take strong action to protect and defend the integrity of the justice system” (McInnes 2011).

In addition to Patel, more than twenty of those who paid bribes were convicted, many for perverting the course of justice. (Select Committee on the Bribery Act 2010 2019; Wells 2015). The Court was read a text message from Patel in which he said: “I only do this for Asian bruv. I do this all day long” (BBC News 2011). Media coverage at the time speculated that he had repeated this offence several hundred times.

Case 2 was Mawia Mushtaq (Ernst & Young 2013a, 9). He was hoping to be a taxi driver in Oldham, for which he needed to take a driving test accompanied by a Council licensing official to qualify for a private hire licence. Mushtaq was told he had failed the test, and then offered the official a bribe of £200, raised to £300, to record that he had passed the test and to issue the private hire licence he required. The official reported the attempted bribery to his manager, who in turn reported it to the police. Mushtaq was convicted in December 2012, and sentenced to two months in prison, suspended for twelve months.

Case 3 concerned Yang Li (Ernst & Young 2013b, 15). This was the third prosecution under the Bribery Act in April 2013. Li was the son of a wealthy Chinese businessman and a student at the University of Bath. He had received a mark of 37% of his dissertation, fractionally below the 40% pass mark. At a meeting with two tutors, Li was give three standard options for how to proceed. He proposed a fourth: producing £5,000, he proposed “... you can keep the money if you give me a pass mark...” His offered was declined, and he caused further alarm when he dropped a gun – later found to be an air pistol – on the floor, before picking up the cash and gun and leaving. His tutor reported the incident, and on conviction Li received a 12-month prison sentence.

What type of corruption does the case illustrate?

Each of these cases is a straightforward example of bribery, with cash in each case.

However, in the case of Court clerk Patel, the offence was to receive a bribe for ‘improper

performance’; in the cases of the student and the taxi driver, no bribe was actually paid, but the offer of a bribe was sufficient to break the law. In each case, the bribe-payer was seeking ‘improper performance’ by the person who was being bribed.

There is no precise definition of ‘petty’ bribery, but it is often described as small-scale, or modest, and characteristically a one-off payment to a single official. It is partly defined by default – petty bribery is not grand corruption (systematic theft of assets by a corrupt office-holder) or a large corporate bribe. Thus although £5,000 from the student may seem a significant sum, all these cases can be regarded as petty bribery, and all are clearly categorised as illegal.

The cases also illustrate that when a bribe is paid, there is co-offending: both the bribe-payer and the bribe-taker have broken the law.

Finally, the Patel case tangentially illustrates cronyism. His pitch to a ‘client’ was “I only do this for Asian bruvv” suggesting that not everyone would have access to his services. Cronyism typically thrives in small, enclosed groups, whether that be a group in a specific area from the same ethnic background, or a group of political party officials from the same elite school.

The harm and the victims

In each of these cases, the Crown Prosecution Service and Judge attempted to spell out the nature of the harm and victims – even though this is notoriously hard in cases of corruption. The Patel case had perhaps the most obvious harm: dangerous drivers were free to repeat their offending, with potentially fatal consequences. The Judge also emphasised the damage to public trust in the criminal justice system and even noted the possible consequences for insurance companies: “Bad drivers pose a higher risk than good ones. One of the effects of your offending was that insurers were carrying risks at an inappropriate cost, insuring bad drivers as if they were good ones.” Mushtaq’s attempted bribery was likewise a combination of potential danger to the public – through licensing a driver who had failed the taxi driver test – and undermining public confidence in the system. In the case of the student Yang Li, the harm would be to other students, undermining the value of their degrees if it were thought that they could be bought and not achieved through merit; and potentially damaging a future employer if he had gained a job for which he was unqualified through presenting a false qualification. The Judge in the Li case noted “*if it had been successful you would have undermined the integrity of the universities in the UK and the legitimacy of degrees from universities here, the University of Bath in particular*”.

In general, these three very different cases illustrate that petty bribery has very different victims depending on the circumstances; but any bribe of a public official risks undermining public trust in the system as a whole.

Who benefited and how?

The person receiving the bribe stood to benefit financially in all three cases. The bribe-payers also stood to gain by receiving something to which they were not entitled: a clean driving record, a taxi licence and a degree. As is common in cases of straightforward bribery, when both parties stand to benefit from the transaction, and the law has been broken, there is a strong incentive to keep the transaction secret.

How did the case come to light?

One of the cases came to light due to a sting operation by a newspaper after a tip-off from a member of the public; and two as a result of reports from the person who had been offered a bribe. Investigative journalists, in particular, have played an important role in exposing many high-profile cases of bribery. Reports by public officials of attempted bribery are far less common. In all these cases, one party to the transaction misread the likelihood of the crime being seen as unacceptable and being reported. In the Patel case, although successful in at least fifty instances, he was reported by a 'client' to *The Sun* newspaper. His working assumption seemed to have been that he would not encounter an honest offender, or if he did, that they would prioritise getting off their driving offence over reporting him for attempted solicitation of a bribe. For Yang Li and Mawia Mushtaq, they had the misfortune to attempt to bribe officials who were not willing to be bribed but who were willing to report the attempt.

What was the response from authorities/law enforcement/society?

These cases were investigated by the police and prosecuted by the Crown Prosecution Service. Such cases are extremely rare in the UK, both because they can be prosecuted under alternative laws such as the Fraud Act or Misconduct in Public Office, but also because police willingness and resources to investigate is low (Hicks 2021). The response from the judiciary was striking in that at the end of each trial the presiding Judge used strong condemnatory language both about the actions themselves, but also about the detrimental effect of bribery for institutions and society.

Were the sanctions (penalties) effective?

There is considerable diversity between the penalties in these three cases: a 2-month suspended sentence for Mushtaq; 12 months for Yang Li; and four years for Munir Patel. This is partially explained by the perceived severity and harm of the offence, but also reflects the fact that individual bribery cases in the UK are rare and there is no clear evidence for what length of sentence would act as a deterrent to others.

Indeed, so little is known about the scale, prevalence, and circumstances of low-level bribery in the UK, that it is impossible to know whether these cases had a deterrent effect. In each case, the penalties stopped the immediate offending, and in the case of Patel,

brought his long-running scheme to an end. His case, in particular, gained widespread media coverage as it was exposed by *The Sun* newspaper, and so might be expected that it reinforced the message that bribery of public officials is a criminal offence and if caught will attract severe punishment.

What were the conditions/environment that enabled the corruption?

In each of these cases, the individuals holding a position of power had considerable discretion to make a decision that would favour or give an advantage to the bribe-payer. When a system or institution is built on trust and a set of assumed norms there is a corruption risk if others are willing to breach the trust or break the norms. This is usually counteracted by formal procedures of oversight and accountability, which seem to have been absent or not working in the case of Patel's manipulation of the database. Patel's remark that "I only do this for Asian bruvv" illustrates how cronyism, nepotism and bribery in the form of exchanges of favours can thrive within small, enclosed communities.

What failed to allow it to happen?

In these cases, particularly the two which proceeded to prosecution without the bribery having been successful, the system can be seen broadly to have succeeded rather than failed. However, the Patel case is of great interest as it illustrates multiple failures – over fifty successful bribes – before the newspaper exposed the scheme. A key component of his scheme was that despite being a low-level official he was in a position of trust such that he was able to control which records went onto a database. The Court was told that the number of driving offences that were wiped from the database on grounds of clerical or postal errors rose from four in the period before Patel was employed to 950 in the period when he was employed (Reilly 2014). This suggests that such a scheme, operated by a person in a position of trust, had not been foreseen, and oversight mechanisms to pick up such an unusual pattern were either not in place or were not functioning.

Although the cases of Mushtaq and Li came to light due to their attempted bribe being reported, it is also possible that they mis-judged the scale of the bribe necessary to secure their ends.

What corrective mechanisms were or could be put in place?

The Bribery Act envisages that organisations will put into place "adequate procedures" to prevent bribery, and such procedures have been widely adopted in the corporate world, especially in larger companies. This is reinforced by a similar requirement in the Loi Sapin II in France where unlike in the UK the procedures are legally required) and guidance from the US department of Justice about the Foreign Corrupt Practices Act. Although the private sector has responded to the Bribery Act in the UK, there remains little awareness of bribery and bribery risk in the UK public sector, and it is very rare for institutions to have in place systems equivalent to those in the private sector. This is rational in that the risk of

prosecution for such a public sector institution is low; however, experience from elsewhere in the world suggests that public institutions, and officers with discretionary power, face an elevated risk of bribery, and so an anti-bribery system might be appropriate.

How does this case study illustrate or relate to theories of corruption and tackling corruption?

Bribery is normally a straightforward illustration of rational choice theory, in which it is easier to gain access or rights to something by paying a bribe, and the likelihood of being caught or punished is low. However, in these cases, the likelihood of being caught seems to have been high – either by coming up against a person in a position of power who would act with integrity, or through soliciting bribes from a wide number of people, one of whom act with integrity. An interesting question is therefore why the individuals made the choices they did, either to offer, refuse, accept or solicit a bribe. Social norms may help guide the explanation here. For Yang Li, a student from China, there may have been an expectation that the right level of bribe could secure the grade he needed, given that bribery of public officials is reasonably common in China. For his university lecturer, to have accepted the bribe would have been both contravening the law and breaching social norms. All three cases illustrate that strong institutions, backed up by an institutional culture that is averse to straightforward bribery, were an important defence against corruption.

What does this case study illustrate about corruption and what lessons can be learned for the future?

These three cases of petty bribery within the UK illustrate the widespread nature of bribery. Even though the UK performs well on international indices and comparisons of corruption, the first three prosecutions of the UK Bribery Act were for these cases within the UK. They act as an important reminder that bribery takes place even in countries that perform well on international comparative measures of corruption. Corruption in developed economies is not simply a question of the grey areas of legal corruption or political corruption.

There are, however, crucial missing pieces in the jigsaw to enable us to know what these cases really tell us about the UK. They are glimpses of what may either be a wider problem, or a system that is, by and large, working well: but which is it? Without further detailed research into the scale, type, and prevalence of corruption in the UK, such questions remain unanswered.

The involvement of *The Sun* newspaper might suggest that the scheme was sufficiently unusual, and sufficiently scandalous, to merit the newspaper's resources and result in headlines. But the newspaper was at the time also running a campaign to discredit a government inquiry into bribe-paying by the press, and in its articles on the Patel case *The*

Sun pointed out that in offering a bribe to lure Patel, the newspaper had broken the law but for public interest purposes.

Although there is much we do not know about the bigger picture, these cases serve to reveal there is petty bribery taking place within the UK, and that the use of the Bribery Act and active law enforcement, combined with a culture of integrity and good governance, are important components to keeping it in check.

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