



Implementing ISO 37001

# A practical case study on anti-bribery management

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# IMPLEMENTING ISO 37001: A PRACTICAL CASE STUDY ON ANTI-BRIBERY MANAGEMENT

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## Introduction

In today's global business environment, maintaining integrity and transparency is crucial.

ISO 37001:2015 provides a **framework for organizations to establish, implement, maintain, and improve an anti-bribery management system.**

This case study of Themisco, a family-owned international business, illustrates the practical challenges and solutions in implementing such a system.

*Note: all names of individuals or organizations in the scenarios are entirely fictitious and the circumstances described therein, although realistic, are not attributable to any specific organization.*

## Case study overview

Themisco is a commercial organization active internationally in the export of agricultural products and the import of manufactured products.

It is well established on its national market of Farland and is doing business with many countries. It is taking advantage of the fast-growing Farlandian market for its development.

It employs some 900 staff and has yearly sales of the equivalent of some 550 million dollars in Farlandian currency.

In addition to its personnel in Farland it conducts its business abroad in the countries where it has close business relationships through representatives or business partners.

Themisco is a family business in the third generation. It is organized as a limited liability company.

The President of the Board of Directors and main shareholder, John Alpin, is the family patriarch and the members of the board are his wife, Barbara, his daughter, Emily, the family lawyer, Peter Law, as well as John Alpin's son, Michael Alpin, who is also the Chief Executive Officer.

# Scenarios

## Scenario 1 – Initial assignment



At the beginning of a new work week, Michael Alpin calls Patrick Normandy to his office, a young man in his early thirties, working in the controlling department, and speaks to him as follows.

Michael Alpin (CEO): “Good morning, Patrick. As you might know, we had yesterday a meeting of the Board of Directors. Under the item “Other Business”, the Chairman, my father, told us that he had attended a business meeting recently where a speaker addressed the need for companies like ours to do something against corruption.

*This is apparently even a requirement of some of our foreign clients.*

*I am not sure whether I fully understood what it is about, but I would like to ask you to develop a programme along the lines of what other companies do.*

*I have noticed that you are a smart and hard-working young man, and I want to give you this opportunity of development. It will be up to you to make sure that our company does not face corruption allegations. You shall do that in addition to your job in controlling, I think that it is a good fit.*

*Come back to see me at the end of the week to tell me how you shall go about this new task.”*

### Comments:

- **The motivation of Michael Alpin, the Chief Executive Officer appears to be rather weak.** He does not quite know what an anti-bribery management system is about and just wants to please Themisco’s foreign clients and to implement his father’s suggestion that does not appear to be based on a strong motivation either. Unless their attitudes change and they assume their leadership roles, the anti-bribery management system is rather unlikely to be successful.
- **Michael Alpin’s choice of Patrick Normandy to develop what he calls an anti-corruption programme is questionable.** Patrick is young and at the beginning of his career, in a rather middle- or low-level position. Although his experience in controlling can be an asset for the anti-bribery compliance function, it is doubtful that he has the required authority and independence that are required. Because of his age and his position in the organization, Patrick is also likely to focus first and foremost on his career. That will also negatively affect his independence.
- Michael Alpin intends to leave Patrick in his current position and to give him the anti-bribery compliance function as an additional task. This can work in a small organization, but **Themisco’s size would rather call for a full-time anti-bribery position.** The individual holding that position should also be positioned at a higher level in the organization, reporting preferably to the Chief Executive Officer or to the Chairman of the Board or having in any case unlimited access to both of them.
- Michael Alpin seems to believe that Patrick Normandy, or whoever else will ultimately be chosen for the anti-bribery compliance function, will assume the responsibility to make sure that Themisco does not face corruption allegations. **This is actually not the responsibility of the anti-bribery compliance function but of everybody in the organization** under the leadership of top management and of the governing body.

### Key takeaway

**Leadership commitment and appropriate staffing are crucial for the success of an anti-bribery management system.**

## Scenario 2 - Project committee formation




Patrick Normandy has reported his discussion with the CEO to his boss, Charles Scott, Head of Controlling, who has been with Themisco for 26 years and Controller for the last five years. Patrick Normandy was actually quite relieved when Charles Scott, after discussion with Michael Alpin, took over the lead of the anti-bribery project.

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Charles Scott formed a project committee including himself, the Head of Human Resources, the Chief Financial Officer, the Company Lawyer and the Head of Communication, as well as Patrick Normandy, as Secretary of the committee.

The committee is discussing the drafting of the anti-bribery policy, and the Company Lawyer proposes the following wording for the prohibition of bribery that is a central element of that policy:


 “It is forbidden for any Themisco employee to unlawfully proffer at any time, directly or indirectly, any offer, promise, donation, gift or reward, in order to induce a person holding public authority, discharging a public service mission, or vested with a public electoral mandate:

1. To carry out or abstain from carrying out an act pertaining to his office, duty, or mandate, or facilitated by his office, duty or mandate.
2. To abuse his real or alleged influence with a view to obtaining distinctions, employments, contracts or any other favourable decision from a public authority or the government.

*Themisco employees are also forbidden from yielding before any person holding public authority, discharging a public service mission, or vested with a public electoral mandate who, unlawfully, at any time, directly or indirectly solicits offers, promises, donations, gifts or rewards to carry out or to abstain from carrying out any act specified under 1, or to abuse his influence under the conditions specified under 2.”*

### Comments

- This formulation is appropriate for a legal text that must be precise so as not to leave any room for misinterpretation in a court of law. **It is not appropriate for a document, like an anti-bribery policy, that is meant for employees at all levels of the organization.** An anti-bribery policy must support a culture of integrity and express the spirit of that culture. This spirit can be conveyed in simple words that any employee can understand; if it cannot, it is doubtful that more legal verbiage will succeed.
- A **simpler wording** (including not only the bribing of public officials but also that of employees of private entities as required by ISO 37001) might look as follows:

 “We at Themisco do not engage in bribery or corruption of any form, in any of the countries where we operate. Employees, or anyone acting on behalf of Themisco, must not offer or make payments to government officials, whether directly or indirectly, or offer them any gift or entertainment with the aim of influencing their decision, or encourage them to secure an improper advantage for Themisco. This applies equally to officers and employees of private entities.”

### Key takeaway

**Clear communication and involvement of key stakeholders are essential in policy development.**

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## Scenario 3 - Policy distribution



The anti-bribery policy has been finalized, and, at a meeting of the project committee, the following discussion unfolds.

**Head of Communication:** “we should distribute our anti-bribery policy as widely as possible. It is a good text and makes us look good, which we are of course. We should print it and publish it on our website”.

**Company Lawyer:** “we do not need to print it to distribute it to our 900 employees, we can make copies for those who need it. I do not think that we should distribute it widely, nor should we publish it on our website for anybody to see it and raise doubts on the way we implement it. On the other hand, we should distribute it to all our business partners, especially to those for whose actions we can be held responsible”.

### Comments:

- According to ISO 37001, the anti-bribery policy must:
  - be available as **documented information**;
  - be **communicated in appropriate languages within the organization and to business associates** who pose more than a low risk of bribery;
  - and be **available to relevant stakeholders**, as appropriate.
- It is **up to the organization to decide** exactly how it will distribute its anti-corruption policy. It is a good practice to print it as a leaflet (with some illustrations to make it attractive) and to distribute it to the entire personnel including top management and the governing body.
- It could also be made available in an electronic format on the intranet (whether there is a leaflet version or not) and even on the Internet, where it will be available to the wide public including all business associates and stakeholders. This exceeds the strict requirement of the standard which is to distribute the policy to business associates who pose more than a low risk of bribery and to relevant stakeholders as appropriate but there is little downside in doing it. On the contrary, **a wide distribution** of the anti-bribery policy **should convey a positive image** of the organization and there is no harm in such a positive image being widely disseminated.

### Key takeaway

**Wide distribution of the policy can enhance the organization’s positive image and ensure comprehensive awareness.**

## Scenario 4 - Compliance confirmation



Charles Scott meets with Michael Alpin to report on the progress made in implementing the anti-bribery management system.

**Michael Alpin:** *“You have done a good job with our anti-bribery policy. I particularly like the pictures. I suppose that you will distribute it to all our personnel.”*

**Charles Scott:** *“Yes, we will distribute it not only to our personnel but also to our governing body and our business partners and we will ask all recipients to confirm that they have received it and shall comply with it.”*

**Michael Alpin:** *“I wonder whether this is really necessary? Asking our personnel to give us such a confirmation, sounds like suspecting them of not having the moral compass to behave properly. Some could take offence to that. As for the governing body, don’t think of it – they are not in the organization and have nothing to do with this. And for the business associates you will need to explain to me why they should be included in the distribution”.*

### Comments

- Contrary to what Michael Alpin says, the governing body is part of the organization and is required to exercise its leadership to support the anti-bribery management system, even if it consists of the family of the main shareholder as is the case in Themisco.
- ISO 37001 requires that personnel exposed to more than a low bribery risk, as well as top management and the governing body file a declaration at reasonable intervals confirming their compliance with the anti-bribery policy.
- ISO 37001 further requires business associates which pose more than a low bribery risk, to commit (preferably in writing as a stand-alone declaration or as part of the contract with the organization) to preventing bribery. This is especially important with respect to agents or consultants retained by the organization to obtain or retain business for the organization.

### Key takeaway

**Regular compliance confirmation is necessary for maintaining integrity and accountability.**

## Scenario 5 - Training implementation



The project committee has been transformed into an anti-bribery working group assisting the anti-bribery compliance function in implementing the anti-bribery management system. The working group is discussing how to organize anti-bribery training for Themisco's personnel.

**Company Lawyer:** *"It is essential that our personnel know all legislative provisions on corruption. I propose that we make a table of these provisions in our country and in the countries where we have our main operations and that we make this table available to our personnel for reference in case of doubt."*

**Head of Human Resources:** *"I am not sure that this is the best way to raise the awareness of our personnel. They will not have doubts as long as they do not know what behaviour they must avoid and will therefore not consult the table. Even if they did, they will not necessarily understand what is bound to be legal verbiage."*

**Head of Finance:** *"I find the proposal of our company lawyer interesting. We could send the table to all our personnel by e-mail."*

**Head of Communications:** *"You are dreaming, this is not how to communicate. People receive an avalanche of e-mail every day. It will take more to gain their attention. I know companies that offer training programmes online at a reasonable cost. That should do."*

**Head of Human Resources:** *"If we opt for such a programme, can we be sure that it will address the concerns of our personnel. What will they do if they have questions?"*

### Comments

- Experience shows that training should focus on behaviour and integrity rather than on legal provisions. It should first be delivered as awareness training soon after new personnel have started; regular classroom training should then be delivered for personnel most exposed to bribery while online training can be appropriate for other personnel.
- Training should be refreshed regularly, e.g. annually.
- Training can be complemented by e-mail messages or leaflets focusing on certain aspects of the anti-bribery management system.

### Key takeaway

**Regular, behaviour-focused training is crucial for effective anti-bribery management.**

## Scenario 6 - Engaging a local agent



The anti-bribery management system is well established. However, one day, Charles Scott receives the visit of the marketing manager of Alturia, a country where Themisco wants to develop its business.

**Marketing manager:** *“I am facing a difficult situation in Alturia as we do not have any contact there who knows the language and the local customs. Fortunately, John Alpin, the Chairman of our Board and father of our CEO, knows a businessman and entrepreneur there, Walter Mandrin, who has excellent contacts with the Alturian Government. Mr. Mandrin’s business is essentially in construction, but he wants to expand it and is very interested to work with our company. He has close links with the politicians of the ruling party in Alturia. A cousin of his wife is even Minister of Agriculture. He himself has never been in government and is not affiliated to any party although he also has some (discreet) contacts with the opposition party. He offers to assist us for a commission of 12 % on our sales in Alturia. Mr. Mandrin comes to see us in Farland next week and I need to know whether I can accept his offer at that occasion.”*

In anticipation of that meeting Charles Scott had looked up Alturia’s ranking in **Transparency International’s Corruption Perception Index** and found that it ranked in the bottom third of all countries covered by the index.

### Comments

There are **several reasons to be (very) cautious in this kind of situation:**

- Alturia is a high-risk country with respect to corruption and Walter Mandrin’s business, public works and construction, is also a sector exposed to a high bribery risk.
- Walter Mandrin has no experience in Themisco’s business; his main asset appears to be his contacts with the government and politicians of the ruling party and even of the opposition party.
- Walter Mandrin also has family relations, through his wife, with a high-ranking member of the government.
- The commission asked for by Walter Mandrin, 12 %, is rather high and it is difficult to see what he is offering for that price other than his government contacts.
- The need to decide quickly, within a week, is an additional risk factor.

In such a situation, **Themisco should opt for the following course of action:**

- State to Walter Mandrin that it will not be possible to take a decision before full due diligence has been conducted.
- Obtain information from the marketing manager on the need and justification for hiring Walter Mandrin.
- Obtain information from Walter Mandrin on his business experience, professional qualifications, financial situation, business structure, etc.
- Conduct a background investigation locally, with the help of external investigators as needed, focusing on Walter Mandrin’s reputation in business and his possible involvement in dubious activities, including bribery, fraud, commercial litigation, etc.
- Establish what service Walter Mandrin will provide and require him to report on his activities in writing e.g. monthly.
- Review Walter Mandrin’s commission in light of his services.
- Enter into an agreement with Walter Mandrin including a commitment to comply with Themisco’s anti-bribery policy and permitting Themisco to audit his accounts.
- Require Walter Mandrin to take anti-bribery training.
- Monitor Walter Mandrin’s activity on a continual basis.

### Key takeaway

**Thorough due diligence is essential when engaging third parties, especially in high-risk regions.**



## Conclusion

This case study highlights the importance of **leadership commitment**, **clear communication**, **appropriate staffing**, **regular training**, and **thorough due diligence** in implementing an effective anti-bribery management system. By following these best practices, organizations can enhance their integrity and transparency, thereby gaining the trust of stakeholders and ensuring long-term success.

## Find out more

For more information on ISO 37001 and to access additional resources, visit [www.iso.org/standard/37001](http://www.iso.org/standard/37001).

## What other standards can help with compliance?

**ISO 37301:2021**, *Compliance management systems – Requirements with guidance for use*, is crucial for organizations looking to ensure adherence to laws, regulations, and ethical standards within their operational context. It helps in mitigating risks, fostering a culture of integrity, and enhancing organizational governance and reputation.

**ISO 37002:2021**, *Whistleblowing management systems – Guidelines*, gives guidelines for establishing, implementing and maintaining an effective whistleblowing management system based on the principles of trust, impartiality and protection

**ISO 37003** (under development) *Fraud control management systems — Guidance for organizations managing the risk of fraud*, provides guidance for use for establishing, developing, implementing, evaluating, maintaining and improving an effective anti-fraud management system.

**ISO 37009** (under development) *Conflicts of interest – Guidelines*, provides guidance for managing conflict of interest (COI) in organizations, including definitions, principles, and procedures to identify, manage and resolve conflict of interests.



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