Jonathan Djanogly MP
House of Commons
London
SW1A 0AA

Our Ref: 272706

2. March 2010

Dear Jonathan,

BRIBERY BILL

At Second Reading of the Bribery Bill on 3 March I undertook to write to you in response to the point you raised about the impact of the Proceeds of Crime Act 2002 on companies convicted of an offence under the Bill (Hansard, col. 948).

It is not true that companies convicted of an offence under the Bribery Bill would be exposed to double jeopardy under the Proceeds of Crime Act 2002. The powers of confiscation in that Act are not intended to be punitive but are directed towards the recovery of the proceeds of crime, which is an entirely correct approach. It is a matter for the courts to determine the benefits derived from criminality in any individual case. I am not persuaded that it follows that the existence of confiscation powers makes it any less likely that companies would self report allegations of bribery.

Furthermore, section 13 of the Proceeds of Crime Act 2002 requires the court to have regard to the confiscation order before imposing a fine or other order involving payment on the defendant. As I indicated in the debate at Second Reading, I consider that it would be sensible for the new Sentencing Council to look at the case for issuing guidance on sentencing for the bribery offences following the enactment of the Bribery Bill. However, the courts are required by law to ensure that the fine imposed reflects the seriousness of the offence and the circumstances of the case, including the known financial circumstances of the offender.

I am copying this letter to Dominic Grieve MP, Lembit Opik MP, David Howarth MP, Edward Garnier MP, Hugh Bayley MP, Daniel Kawczynski MP and David Heath MP. I am also placing a copy in the library of the House.

JACK STRAW