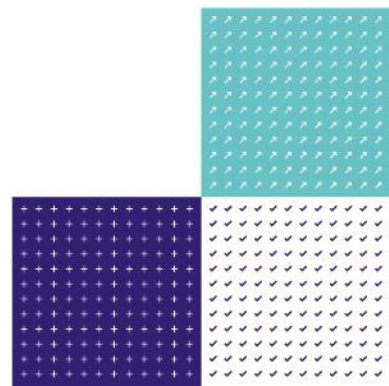


# CIS 14

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## **UKAS Guidance for Bodies Offering Certification of Anti-Bribery Management Systems**



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## 1. Introduction

### 1.1 Scope

This document has been produced as guidance on the requirements and technical competencies set out in ISO/IEC TS 17021-9: 2016 for certification bodies seeking accreditation under ISO/IEC 17021-1: 2015 to certify to ISO37001: 2016 “Anti-bribery management systems - Requirements with guidance for use”.

### 1.2 Background

An international Anti-Bribery Management System standard (ISO37001: 2016) was approved for British publication on the 31st October 2016. This standard is based on and supersedes the British Standard BS 10500:2011 in the UK.

The Anti-Bribery Management Systems standard conforms with the ISO high-level structure requirements for management systems and Certification Bodies can be accredited against ISO/IEC 17021-1:2015 for audit and certification in accordance with this management system standard. The key elements of this management system standard are to enable organisations:

- to prevent, detect and respond to bribery and comply with anti-bribery laws
- to identify and regularly review risks in relation to the threat of bribery
- to implement measures to minimise risks
- to implement a management system that is reasonable and proportionate to the risks associated with the organisation.
- to monitor anti-bribery procedures and ensure they remain effective

A supporting ISO Technical Specification document has been published (ISO/IEC TS 17021-9: 2016) which covers the competency requirements for auditing and certification of anti-bribery management systems.

UKAS implemented a development project to confirm the arrangements for accreditation to ISO/IEC 17021-1: 2015 for the accredited certification of an Anti-Bribery Management System (ABMS). This project was completed in July 2018 allowing UKAS to accept further applications from September 2018. This document provides additional guidance, based on the experience from the development project, for Certification Bodies (CBs) applying for accreditation.

## 2. UKAS Assessment Approach

### 2.1 Accreditation

UKAS will accredit Certification Bodies for Anti-Bribery Management Systems using ISO/IEC 17021-1: 2015 as the standard for accreditation supported by the requirements of ISO/IEC TS 17021-9:2016 “Competency requirements for auditing and certification of anti-bribery management systems”. At this juncture Certification Bodies will be accredited to certify organisations to ISO 37001: 2016.

Certification Bodies wishing to apply for accreditation are required to use the standard application process on the UKAS website and complete the AC1 form detailing the scope and geographical

locations where it wishes to offer accredited certification and provide the documentation as detailed in section 2.3 of this document.

<http://www.ukas.com/services/accreditation-services/apply-for-accreditation/>

## 2.2 Accreditation scoping

UKAS will scope the accreditation for ABMS certification by the following Scope Description Groups. These groups are based on similar bribery risks in the market sectors and perceived risks published by Transparency International<sup>1</sup>. The accreditation schedule will also include geographical scoping. The certification body will need to demonstrate knowledge and awareness of bribery risks and controls associated to Scope Description Groups and geographical locations within its scope of accreditation.

Scope Description Groups [economic sector / activity]	Related IAF Codes as detailed in IAF ID1	NACE 2 Code
Agriculture/Forestry and Fisheries	01	01, 02, 03
IT/Telecommunications	31 (comms only), 33	58, 59, 60, 61,62,63
Light and Heavy Manufacturing	3, 4, 5, 6, 7, 12, 14, 15, 17, 18 (exclude weapons), 19, 20, 23 (exclude Medical Devices),	10, 11, 12, 13, 14, 15, 16, 17, 18, 20 (excludes 20.51 – explosives), 22, 23 (exclude 23.5 and 23.6 concrete/plaster), 24, 25 (exclude 25.4 – weapons) , 26, 27, 28, 29, 30 (excluding 30.3 & 30.4 – air craft, military), 31, 32 (exclude 32.5 – medical and dental instruments), 33 (exclude 33.16 – repair of aircraft and spacecraft)
Aerospace & Arms, Defence and Military	18 (weapons), 21, 36 (Defence related)	20.51, 25.4, 30.3, 30.4, 33.16, 84.22
Banking and Finance Real estate, property, legal business services	32, 35 (Legal and Accounting)	64, 65, 66, 68, 69, 92
Construction and Public Administration and Contracts	16, 28, 36	23.5, 23.6, 41, 42, 43, 84 (excluding 84.22)
Power Generation and Transmission, Mining, Oils, Gases / Utilities	02, 10, 11, 24, 25, 26, 27	05, 06, 07, 08, 09, 19, 35,36, 37, 38, 39, 46.12
Pharmaceutical & Healthcare	13, 23 (medical devices), 38	21, 32.5, 46.46, 86, 87, 88
Transport and Storage	22, 29 (vehicles), 31 (except communication)	45, 49, 50, 51, 52, 53
Printing/Publishing, Consumer and Social Services, Education and Engineering Services	08 (publishing), 09 (printing) 29 (non-vehicles and pharmaceuticals), 30, 34 (engineering services), 35 (non legal and accounting), 37 (education), 39	46 (except 46.12 – agents for mining, 46.46 – pharma), 47 55, 56, 70, 71, 72, 73, 74, 75, 77, 78, 79, 80, 81, 82, 85, 90, 91, 93, 94, 95, 96, 97, 98, 99

### 2.3 Application requirements

For certification bodies applying for ABMS accreditation, the information detailed in AC1 along with the following must be provided with the application to UKAS, in order for their application to be progressed:

- Management system documentation which has been updated as a result of the implementation of ABMS certification activities
- Supporting ABMS Scheme documentation
- Evidence of the design process undertaken for the new scheme
- Training requirements and material for key roles (application review, audit team, certification decisions)
- Competence criteria and evaluation process for key roles in defined technical areas
- Details of the structure of audit teams, along with numbers of authorised auditors and technical experts (if relevant).
- Confirmation that the CAB has at least one client and the submission of the list of clients to assist with identifying suitable witness audits.

### 2.4 Assessment approach - initial

UKAS' assessment approach for ABMS applications requires an initial desktop assessment of the submitted documentation to confirm that the Certification Body is ready for an on-site assessment. UKAS shall undertake a head office visit or visit to the location from where the scheme is managed, to assess the implementation of the scheme. UKAS will assess the implementation of the scheme at other key locations included in the application and this may involve visiting all or some of these locations depending on the centralised controls demonstrated at the head office.

The head office assessment will involve the review of the implementation of the ABMS scheme into the management system, the ABMS scheme requirements and the technical competence of the Certification Body to deliver the scheme. As part of the assessment the Certification Body will need to provide access to staff undertaking key roles for technical interviews at the time of the visit. The key roles may typically include staff responsible for the development and technical management of the scheme, the application review process, planning, auditing and certification decision. UKAS will also need to have access to any technical experts used by the certification body as part of their audit teams.

For certification bodies that have a limited number of clients across the technical scope they are applying for and therefore limited opportunity for UKAS to review the implementation of the process in different market sectors or geographical location, UKAS will also use other assessment tools to confirm the robustness of their process. One of the key aspects of the requirements of ISO 37001:2016 and ISO/IEC TS 17021-9:2016 is in the ability of the Certification Body to undertake appropriate background research into its clients to identify the potential bribery risks and verify the effectiveness of the client's risk assessment. In order to assess this, UKAS will provide details of a scenario of an "example case study" client and the CB will be asked to undertake their normal processes in identifying the potential bribery risks via background research. This scenario will be provided with the visit plan and the UKAS assessment team will review the results of the CB's background research on the visit. The effectiveness of the CB's background research process will also be verified as part of the witness audits.

UKAS will undertake a minimum of 2 witness audits as part of the initial assessment process. At least one needs to be a Stage 2 audit. The other could be a Stage 1 audit. Additional audits may be required if there are multiple key locations and/or insufficient evidence of competence demonstrated throughout the assessment process. It is expected that the audits witnessed are in Scope Description Groups where there is a medium to high perceived/actual risk of bribery (market sector and/or working in specific geographical location). For geographical location risks this would equate to countries with scores below 70 on the Transparency International Corruption Perception Index (<https://www.transparency.org/country>). For market sectors the following table provides some guidance. If the scope of application includes high risk sectors, then UKAS will witness at least one in those sectors:

Technical Sectors	UKAS Risk categorization
Construction and Public Administration and Contracts	HIGH
Banking and Finance Real estate, property, legal business services	HIGH
Power Generation and Transmission, Mining, Oils, Gases / Utilities	HIGH
Pharmaceutical & Healthcare	HIGH
Aerospace & Arms, Defence and Military	HIGH
Light and Heavy Manufacturing	MEDIUM
IT/Telecommunications	MEDIUM
Transport and Storage	MEDIUM
Agriculture/Forestry and Fisheries	MEDIUM
Printing/Publishing, Consumer and Social Services, Education and Engineering Services	LOW

If a Certification Body has only one client, then UKAS can witness both the Stage 1 and 2 audits. However, UKAS will review the level of assurance provided by the audits, along with all other assessment information, to determine if additional audits need to be witnessed prior to, or as a condition of grant of accreditation.

## 2.5 Assessment approach - surveillance

After the grant of accreditation for the ABMS scheme, UKAS will include the scheme in the Certification Bodies ongoing surveillance activities. This will typically include an annual visit to a number of the key locations covered by the scope of the accreditation for ABMS. It will also involve at least one witness audit to be determined by the assessment team. The Certification Body must provide a list of ABMS audits prior to their annual visit and UKAS will select an audit in a medium/high risk market sector and geographical location to witness. This will typically be in an area not witnessed before.

Please note that the witness audits are likely to be outside the UK.

### 3. Guidance for Certification Bodies

#### 3.1 Scope description groups and related technical areas

UKAS will grant accreditation using the Scope Description Groups detailed in section 2.2 and also identify geographical areas where the CB has demonstrated competence to deliver an effective audit. CBs may wish to consider these groupings when determining specific technical areas within each scope category. The CB will need to demonstrate its understanding of the local bribery risks via predetermined risk assessment or an effective process for identifying the risks during the background research stage (see section 4.3).

#### 3.2 Competence

Certification Bodies are required to determine the competence criteria for personnel involved in the management and performance of ABMS audits and other certification activities. Competence criteria shall be determined with regards to the requirements of the Anti-Bribery Management System standard, for each technical area, and for each function in the certification process. For ABMS specific requirements relating to competence, criteria have been established in ISO/IEC TS 17021-9:2016. UKAS' position, which has been supported through the pilot assessment activities, is that the CB audit team needs to have a practical knowledge and understanding of how bribes manifest themselves in the specific business sector and geographical location for the client as the channels and mechanisms for bribery may be different between Scope Description Groups.

#### 3.3 Audit team competency

ISO/IEC 17021-1: 2015 requires the audit team to have knowledge of the client's business sectors in terms of terminology, practices and process in the context of the anti-bribery management system. It needs to know the client sufficiently well to understand its business operations and how it can apply the requirements of the management system. In addition ISO/IEC TS 17021-9:2016 requires the audit team to have knowledge and skills in designing and evaluating anti-bribery controls and investigating bribery as well as designing or implementing an ABMS or similar compliance management or internal control system.

The audit team will therefore need to demonstrate knowledge of the bribery risks pertinent to the client's commercial operations and where it operates, in order to make judgements on the overall completeness of the client's risk assessment and whether the preventive measures are adequate and effective.

The audit team will also need to have knowledge of the applicable law(s) and bribery risks associated with the countries, regions and markets in which the client operates. (ISO 17021-1: 2015 clause 7.1.1).

If a CB plans to cross train auditors from other management systems they will need to demonstrate how the audit team has acquired the practical understanding and knowledge of the bribery risks and what appropriate controls would be in the sector/geography they are authorised to audit in, in addition to understanding the concepts of ABMS and requirements of ISO 37001: 2016.

## 4. Guidance in applying ISO/IEC 17021-1 for ABMS Certification

### 4.1 Scoping of certification

If a CBs client is requesting specific exclusions to geographical locations or activities (e.g. no sales, operations, suppliers, business associates and existing markets) the Certification Body will need to confirm that these exclusions do not present bribery risks which might undermine the scope and operation of the anti-bribery management system. If key areas are excluded, then justification would be required as to how certification can be offered.

It will be necessary for a CB to document its policy on certification scope so that applicants are aware of the CBs expectation with regards to the extent of coverage of the Anti-Bribery Management System within the client's legal entity.

### 4.2 Application and application review

The application and application review processes of Certification Bodies certifying to ABMS will need to ensure that the extent to which it gains an understanding of the potential client is sufficient to enable a reliable commercial proposal/quotation to be provided. It is recognised that it might be necessary to re-validate the stage 2 duration and therefore costs at the Stage 1 of the initial audit. Key information which a CB needs to consider as part of the application review would be similar to "Understanding the organisation" as set out in section 4.1 of ISO 37001: 2016.

To understand the business context, the audit team will need to conduct independent research related to its client, including its business model and operating environment, (ISO/IEC TS 17021-9:2016 clause 5.3.2) before conducting the Stage 1 visit. The level of this background research (see section 4.3) may be based on similar information to that which a client needs when undertaking its risk due-diligence (e.g. as set out in the guidance in A.10.2 of ISO 37001: 2016)

### 4.3 Background research on clients

It is recognised that audits of ISO 37001: 2016 management systems do not involve an in-depth investigation into the client, however, CBs may consider undertaking background research through the internet (i.e. open source investigation tools and techniques) and public information held in relevant countries to assure themselves that the client has no additional risks such as pending bribery allegations/cases or adverse media reports which have not been disclosed. A simple review of the information provided by the client and details on their website is unlikely to be adequate.

The CB will need to demonstrate its research process and how that research is recorded as part of the Stage 1 and 2 processes and used by relevant personnel undertaking certification activities (ISO17021-1: 2015 Annex 1). To ensure consistency it is envisaged that the CB may need a documented procedure outlining the way this independent research is undertaken.

Some factors of bribery risks which need to be considered are:

- the client's risk profile to support an anti-bribery risk assessment
- the socio-economic and socio-political risk factors adopted and implemented within a client anti-bribery risk assessment
- the threat sources, threat actors, motivation levels and threat capabilities in order to confirm that a client has selected and applied appropriate controls



- the clients monitoring controls for behavioural and systems analysis
- awareness of applicable bribery law which may affect areas such as the gifts and hospitality policy. Related laws in countries of operation (e.g. the UK Bribery Act 2010 and the Criminal Finances Act 2017)

#### 4.4 Stage 1

Stage 1 is primarily to confirm a client's readiness for the audit as per the objectives listed in ISO/IEC 17021-1: 2015.

To progress from Stage 1 to Stage 2 the auditor/team is expected to confirm that the client has identified and documented the bribery risks which they might reasonably anticipate (ISO 37001: 2016 clause 4.5.1). The auditor/team will need to confirm that the appropriate bribery risks and control measures have been determined for the organisation, relevant to its business model, operating environment and external and internal relationships including supply chain arrangements.

The auditor/ team will need to gain assurance that the client has identified all business associates (as defined in ISO 37001: 2016 clause 3.26) and the risk of bribery they may present to the client.

The auditor/team will need to determine the locations which need to be audited to ensure effective implementation of the ABMS. Factors<sup>1</sup> to consider might include the level of country risk, higher risk sectors, jurisdictions and the management and role of business associates. Outsourced activities will not be included in the scope of the audit directly, but (as with ISO 9001) the management of outsourced activities will need to be included in the overall audit processes.

It is envisaged that the client's bribery risk assessment and the factors above will inform the audit team of the audit approach and duration to be undertaken for Stage 2 (ISO 17021 clause 9.1.4.2g).

#### 4.5 Stage 2

The Stage 2 initial audit, and subsequent surveillance/re certification is to confirm the effectiveness of the ABMS in preventing the opportunity for bribery and monitoring the arrangements (and indicators) accordingly; for instance, that they are, and remain, fit for purpose.

The majority of bribery prosecutions to date involve the use of business associates (intermediaries such as sales agents, consultants or similar). The audit team will need to confirm that the client has identified and conducted an appropriate level of risk based due diligence for each of its identified business associates and is managing them accordingly. In addition, the audit will need to review how the client is ensuring that their associates, where there is more than a low bribery risk, have implemented their own anti-bribery controls or adopted the anti-bribery controls of the client (ISO 37001: 2016 section 8.5).

Principle 3 Risk Assessment in the Guidance to the Bribery Act 2010 states in section 3.4 that the "risk assessment that applies to a commercial organisation's domestic operations might not apply when it enters a new market in a part of the world in which it has not done business before". If a CB is offering global certification for a specific client activity, the audit by the CB of the client's ABMS will establish confidence that the client's risk assessment process can be evidenced to ensure it is sufficiently robust and inclusive to deal with changes in geographical operations i.e. when considering potential new market opportunities, location of operation, local business culture, management team, sales, marketing, procurement, supply chain and manufacturing.

## 5. References

- 1) The Transparency International Corruption Perception Index - <https://www.transparency.org/>
- 2) ISO/IEC 17021-1: 2015 - Conformity Assessment – Requirements for bodies providing audit and certification of management systems Part 1: requirements
- 3) ISO/IEC TS 17021-9: 2016 - Conformity assessment – Requirements for bodies providing audit and certification of management systems Part 9 – Competence requirements for auditing and certification of anti-bribery management systems
- 4) ISO 37001: 2016 - Anti-bribery management systems – Requirements with guidance for use
- 5) EA2-13 M: 2012 - EA Cross Border Accreditation Policy and Procedure for Cross Border Cooperation Between EA Members
- 6) EA2-13 S1: 2013 Supplement 1 to EA-2/13 EA Cross Border Accreditation Policy and Procedure for Cross Border Cooperation between EA Members
- 7) IAF MD 1: 2018 IAF Mandatory Document for the Audit and Certification of a Management System Operated by a Multi-Site Organization
- 8) IAF MD 10: 2013 IAF Mandatory Document for Assessment of Certification Body Management of Competence in Accordance with ISO/IEC 17021: 2011
- 9) IAF MD 11: 2013 IAF Mandatory Document for Application of ISO/IEC 17021 for Audits of Integrated Management Systems (IMS)
- 10) IAF MD 12: 2016 Accreditation Assessment of Conformity Assessment Bodies with Activities in Multiple Countries