

6. Governance, Anti-Bribery and Corruption (ABC)

In 2023, the EU proposed a new directive¹ covering anti-corruption which will escalate corruption prevention significantly. The directive will extend the definitions of criminal corruption offences beyond the more traditional bribery scenarios to include offences such as misappropriation, trading in influence, abuse of function, obstruction of justice and illicit enrichment adjacent to corruption offences. The proposal would introduce minimum criminal penalties and sanctions for different offences to ensure a level playing field across the EU.

Domestic law related to bribery and corruption is mature in many jurisdictions. For example, in the UK, the Bribery Act 2010 is well established, and generally understood by companies covered by it. It is worth noting that companies can be liable under anti-corruption and bribery legislation even if the person attempting to bribe another party is not actually an employee, or if the bribery takes place in another country. Furthermore, as well as the usual civil and criminal penalties, companies and individuals can find themselves disbarred from bidding for new work, or winning places on new frameworks.

What risks are companies in the rental sector exposed to?

- Doing business in countries, or with companies based in countries, where there is a tradition of bribes being paid as part of business.
- Pressure from other parties, or public officials, to obtain materials or access services that are critical to the rental sector's business.

It is worth noting that these risks are generally low in Europe.

What can rental companies do to manage their ABC risks?

- Create a clear ABC policy and ensure it is understood by all staff and business partners
- Monitor operations for any indications of unsafe behaviour
- Avoid doing business in regions with high ABC risks or conduct due diligence before doing business there.

Governance more broadly can include financial, legal and reputational risks around information security, tax compliance, wider legal compliance, board remuneration and a range of other issues as well as anti-bribery and corruption. Rental companies are exposed to these risks in an equivalent way to other companies operating in Europe, and should be well aware of their obligations in these areas. Smaller rental companies may need, or wish to consider, hiring appropriate independent specialists who can support their boards and managers, such as company secretary specialists or independent non-executive directors.

Cybersecurity

Information security and wider cybersecurity is a specific risk area that the ERA has investigated and produced guidance on. Damages from cybercrime are forecast to reach \$10.5 trillion annually by 2025,

¹ <https://www.whitecase.com/insight-alert/proposed-eu-anti-corruption-directive-how-does-it-compare-us-and-uk-gold-standard>

and trends such as remote working, supply chain integration and electronic banking provide new hazards for security managers to respond to.

The growth of smart machines and telematics also creates some vulnerabilities that the rental sector is particularly exposed to, with some professionals identifying the risk of internet-connected machinery being hacked, instructed to perform dangerous acts, or frozen with ransomware². While incidents of this nature have not been widely reported so far, ‘white hat’ hackers have already demonstrated the feasibility of attacking construction equipment, such as cranes, in tests in Italy³.

Good practice in this space involves therefore working with OEMs to ensure that equipment security specifications are rigorous, ensuring that each rental business is aware of its legal obligations (such as under the General Data Protection Regulation, GDPR) and considering implementing a security standard such as ISO 27001. Implementing a security standard such as ISO 27001 can be a time-consuming exercise, but will ensure that a company has a high level of credibility to clients by having carried out wide-ranging risk assessments, ensuring staff competence and auditing or penetration testing vulnerabilities. Some standards such as the UK’s Cyber Essentials scheme also come with free cyber insurance for companies who complete the assessment successfully.

As well as implementing cybersecurity good practice and standards, rental companies should also consider obtaining insurance which covers cybersecurity incidents. Smaller rental firms (under 250 staff) are much less likely to have cyber insurance than large firms, but the impacts of a cybersecurity incident can be just as serious⁴. Cybersecurity insurance can not only cover the direct business costs resulting from a cybersecurity incident (such as extortion or third party damages for data loss) but provide access to expert advisors such as technical specialists, business continuity managers and law firms, who can cover aspects of cybersecurity response such as containment, IT forensics, public relations and assessing the legal implications of a data breach.

For more information, please refer to the ERA report ‘*A guide to cybersecurity leading practice in the equipment rental industry*’⁵.

² <https://www.construction-europe.com/news/How-to-stop-hackers-targeting-your-smart-construction-machines/8022432.article>

³ <https://www.forbes.com/sites/thomasbrewster/2019/01/15/exclusive-watch-hackers-take-control-of-giant-construction-cranes/?sh=5e95f0971d0a>

⁴ <https://www.hiscox.co.uk/sites/default/files/documents/2023-10/Cyber-Readiness-Report-2023-UK.pdf>

⁵ https://cybersecurity.erarental.org/wp-content/uploads/2023/02/ERA-CyberSecurityGuide2022_spreads.pdf

7. Social Sustainability, Workforce and People

The social, workforce and people theme covers a range of topics, including sickness, health and safety, diversity and discrimination (disabled, gender, minority, aged workers). Social issues are an important component to any company's sustainability strategy, and especially in the rental sector where the workforce is critical to delivering value to customers. Aspects such as health, safety and wellbeing policies and implementation, EDI (equality, diversity and inclusion) and staff training on sustainability are increasingly expected by clients in order to satisfy their own due diligence requirements.

Rental companies consistently find that attracting and retaining staff is one of their more difficult tasks. Companies report that the rental industry (and wider construction sector) is not always seen as an attractive place to work, and that companies must consider how they can show it is an innovative and sustainable industry with good long-term prospects for employees. A high level of staff turnover can affect the morale of remaining staff and damage team cohesion, as well as creating burdens in onboarding and training new staff and affecting the customer experience.

There are a number of key ways in which rental companies can aim to improve their staff recruitment and retention. Some rental companies have reported that they have seen a good response from both existing and new staff after investing in their physical office and workshop facilities. Modern and well-designed facilities make staff more productive, but also emphasise that a company cares about their staff and sees them as a valuable part of the company identity. There are also specific ways in which companies can target and support certain groups of employees, and meet EDI targets while also improving staff satisfaction and retention.

Further guidance will be forthcoming from the ERA, which is running a project titled 'Attracting and Retaining People in Rental'. The project will be finalized by the first half of 2024.

Case study: Attracting and retaining staff

Sunbelt Rentals, a rental company owned by Ashtead Group, have made a particular effort to attract military veterans, who are in many places a marginalised group facing significant challenges after leaving military life. Sunbelt has set up a veterans programme⁶, recognising that many of the attributes and skills learned in military life such as teamwork and self-sufficiency are also highly valuable in the equipment rental industry. The programme provides tailored support, including guidance on accessing benefits, introductions to new teammates and access to accommodation, to make the transition to civilian life as easy as possible. Sunbelt's team in the USA is now staffed 10% by veterans.

Health, safety and wellbeing

Health, safety and wellbeing topics are generally well established in mature legislation across Europe, particularly the aspects of workplace safety. Broader wellbeing, including mental health, is also increasingly an important subject, with estimates ranging between 30%-60% of absence being due to mental ill-health⁷. The wider construction industry has a relatively high accident rate, with (for example)

⁶ <https://careers.sunbeltrentals.com/en-US/page/military-veterans>

⁷ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3062016/>

2,880 reported accidents per 100,000 workers in the UK against an average across all industries of 1,650⁸.

Much of the key legislation is mature. The European Framework Directive⁹ for occupational health and safety dates from 1989, and provides for general principles such as employers' responsibilities for the health and safety of their workforce, the corresponding duties of those workers and the use of risk assessments to manage occupational health and safety. Over twenty further occupational health and safety directives have followed, as well as numerous pieces of national legislation. Of particular interest in the rental and construction sectors are:

- Directive 2009/104/EC, which covers safety and health requirements for the use of work equipment by the workforce;
- Directive 89/656/EEC which covers the use personal protective equipment (PPE) by the workforce;
- Directive 90/269/EEC which covers manual handling of loads where there is a specific risk of back injury to the workforce;
- Directive 1992/57/EEC which specifically covers health and safety on construction sites, and;
- Directive 2003/10/EC and Directive 2002/44/EC which cover vibration and noise.

Key actions for the rental sector to take on workplace health, safety and wellbeing

- Ensure risk assessments are current and comprehensive, and that control or mitigation actions are being implemented
- Follow the hierarchy of risk control – elimination; substitution; engineering controls; administrative controls; PPE.
- Be aware of the ERA's ongoing work on Occasional Health and Safety. A new project in this space is due to be delivered by the end of 2024.

Equality, diversity and inclusion

It is recommended that Rental companies create and implement a People Charter (see example below). This is a document that focuses on how a company will support their workforce and ensure that they feel safe, respected and positive about working for that company. It goes beyond values statements (although there can be some overlap) in how it emphasises the experience, feelings and priorities of people, rather than the priorities of the organisation.

Example People Charter

At [insert Company Name here] we are committed to ensuring all staff have a positive working experience. How you feel while working here is central to that experience. This People Charter describes how we believe you have a right to feel in the workplace.

While at work, you should:

⁸ <https://www.hse.gov.uk/statistics/industry/index.htm>

⁹ <https://eur-lex.europa.eu/eli/dir/1989/391/oj>

- Feel safe
- Feel respected by colleagues and leadership
- Feel proud of your work
- Feel valued
- Feel supported by your line manager, other managers and the whole organisation in your personal and career development
- Feel excited and confident about the organisation's future
- Feel empowered to make changes to improve our organisation's processes
- Feel aligned to the organisation's values
- Feel a sense of belonging to something special

Creating these conditions is a shared obligation amongst us all. Together, we can create a positive, energising culture and experience in which we can all thrive.

Signed [Director]

This is adapted from the Good Work Charter's Toolkits – for more information, see <https://www.ifow.org/toolkit/the-good-work-charter#section-2>. A People Charter also contains more detailed aims and plans for organisational implementation, such as commitments from the organisation about how it will support professional development and training.

Training and Skills

Providing training opportunities for rental company staff is both important for customer satisfaction and also key to providing a stimulating work environment with good employee retention. Rental companies report that their customers expect rental staff to be highly knowledgeable about a wide range of equipment, which can be a challenge as many rental staff will not have operational experience using the equipment. Furthermore, the new challenges provided by sustainability mean that customers are likely to have questions about topics such as battery life, charging times, and even the availability of certified green electricity tariffs.

At a minimum, rental companies should:

- Understand the skills required for each employee role
- Provide suitable training to ensure that employees are competent in their roles
- Record training undertaken (especially in key topics such as environmental protection, health & safety and anti-bribery & corruption) and expect to provide examples of this to major customers, if requested.

High quality training with a clear route to career progression is an important consideration for many motivated prospective employees, and this is something that most rental companies will need to consider as they work towards a sustainable future. It can also be a differentiator when companies seek to secure staff in a competitive job market.

8. Standards and Certifications

General Sustainability Standards and Certifications

There are a wide range of generic sustainability standards and certifications that rental companies can choose to align to and aim to meet. Broadly, these systems fall into one of three categories:

- Standards and guidelines that specify how sustainability matters should be measured. For example, the ISO14064 standards specify how carbon footprints or inventories should be calculated, while the guidelines from the Taskforce for Climate-related Financial Disclosures (www.fsb-tcfd.org) specify how organisations should conduct climate risk assessment and disclosure and have been incorporated into the international reporting standards of the ISSB¹⁰. Organisations may be accredited against some standards – for example, an ISO-accredited auditor may certify that an organisation’s carbon footprint is compliant with the ISO-14064 standard.
- Standards and certifications that specify how plans and targets should be set. For example, the Science-Based Targets Initiative (www.sciencebasedtargets.org) sets a clear standard for what a good decarbonisation or Net Zero target looks like for a company in a particular sector.
- Standards and certifications that specify how organisations should manage and deliver improvements in their sustainability impacts more widely. For example, ISO14001 sets out guidelines for site Environmental Management Systems.

Formal standards and certifications should not be confused with initiatives or schemes that aim to encourage collective commitments or raise the level of general aspiration, but which are not formal enough to be considered standards or certifications. For example, there are many voluntary schemes that organisations can sign up to, such the United Nations Global Compact (www.unglobalcompact.org), where the commitments and principles are relatively general, making it difficult for an independent third party to assess the adherence of a company to the scheme’s principles.

Similarly, the United Nations Sustainable Development Goals (www.sdg.un.org/goals) is a set of 17 goals for sustainable development adopted in 2015 by all United Nations member countries as part of the 2030 Agenda for Sustainable Development. These goals are very specific (for example, Goal 6 is ‘Ensure availability and sustainable management of water and sanitation for all’, which breaks down into eight well-defined and measurable targets). However, they tend to be targets intended for countries or government bodies to measure and influence, and companies’ impact on many of the targets is incidental. Some of the SDGs are more relevant to companies – for example, SDG 8 ‘Decent work and economic growth’ is a theme where rental companies can have a real impact.

Some of the more important voluntary standards and schemes are described briefly below:

CDP – www.cdp.net

The CDP (previously known as the Carbon Disclosure Project) is a scheme and tool which allows companies to report their carbon footprints (and some other sustainability relevant information, such as

¹⁰ www.ifrs.org/issued-standards/ifrs-sustainability-standards-navigator/ifrs-s1-general-requirements/

carbon reduction plans and water consumption) onto a public platform, in a standardised format. The data can also be released in a controlled way to customers to use for their scope 3 footprinting.

CDP is a chargeable platform, although the costs may be waived for small companies and those headquartered in some developing countries. Please see below for more information about costs of sustainability schemes.

The Science-Based Targets Initiative (SBTi) – www.sciencebasedtargets.org

The SBTi is an initiative to improve and standardise companies approaches to setting Net Zero targets. The SBTi produces extensive guidance and standards for companies to set rigorous and transparent targets for achieving Net Zero, and the organisation will also review and accredit those targets for maximum credibility.

The Global Reporting Initiative (GRI) – www.globalreporting.org

The Global Reporting Initiative is one of the most widely used and best-known corporate sustainability reporting standards in the world. The GRI standard is actually a module set of three standards, which can apply to different types of organisations in different industries, but which totals around 40 separate disclosures across environmental, social and governance issues. Crucially, the GRI standards are focussed on ‘impact’ or ‘inside-out’ issues, rather than pure financial materiality. The GRI standard has also been substantially referenced in the EU’s European Sustainability Reporting Standards that make up the framework of the CSRD legislation.

Construction and Rental Industry Standards and Certifications

ERA Sustainable Supplier Framework

The ERA’s Sustainable Supplier Framework¹¹ is a leading framework that sets best practices across the industry in sustainability assessments of suppliers. The goals of the Framework are to reduce the administrative burden from supplier assessments for rental companies and suppliers and to provide rental company customers with a better understanding of how rental companies approach sustainable supply chains.

The framework helps rental companies to define minimum sustainability requirements and aspirations for all their suppliers to rental companies:

- Human rights and working conditions
- Health and safety
- Responsible sourcing of components and raw materials
- Environmental performance
- Business ethics
- Product sustainability performance

¹¹ <https://erarental.org/wp-content/uploads/2021/02/Sustainable-supplier-framework-requirements.pdf>

Rental companies and their suppliers wishing to use the ERA Sustainable Supplier Framework do not need to be members of the European Rental Association or one of national rental associations, but can access resources freely on the ERA website at www.erarental.org/sustainable-suppliers.

Fleet Operators Schemes

There are several industry schemes which encourage fleet operators to meet particular levels of sustainability, and which may offer badges to organisations who comply with the scheme. For example, the Fleet Operators Recognition Scheme (www.fors-online.org.uk) in the UK is a voluntary scheme that aims to raise the level of quality in the industry, and which includes sustainability considerations within its coverage.

CESAR Emissions Compliance Verification¹². This is a process to show the EU Stage emissions class of construction equipment.

SafeHire. SafeHire is a voluntary scheme for European rental companies set up by the Hire Association Europe to demonstrate the quality of their offering and engage in continuous improvement. SafeHire has now been endorsed by the British Standards Institutes as a 'private standard'. The stated benefits of SafeHire are:

- Demonstrating competence in safety, health, environment and quality
- Meeting client demands for high standards of service
- Demonstrating a well-trained workforce to support customers
- Participants can receive a 10% discount from the liability section of the rates/premiums on HAE EHA insurance policies

Supply Chain Sustainability School (SCSS) Plant Charter¹³. This is a public declaration that construction companies can sign up to in order to demonstrate their commitment to addressing climate change. Signatories commit to adhering to the minimum standards published by the Supply Chain Sustainability School, which aim to reduce tailpipe emissions, educate employees on sustainability topics and engage clients and suppliers. Signatories can be awarded either a Gold, Silver or Bronze badge depending on relevant activities they have engaged in.

There are also many standards and certification systems across the built environment and construction, some of which may have relevance to equipment rental companies. For example, wherever scheme carbon footprints are being produced (for example, to contribute to a LEED or BREEAM rating), the emissions from rental equipment and equipment will be a key input into the measurement for the scheme rating. While an overview of built environment sustainability standards such as BREEAM and LEED is beyond the scope of this Guide, rental companies should be aware that construction clients may require equipment emission data for this purpose.

Costs of Standards and Certifications

¹² www.cesarscheme.org/ecv.php

¹³ <https://www.supplychainschool.co.uk/partners/leadership-groups/plant-group/plant-charter/>

The costs of different standards and certification schemes vary widely, partly due to different schemes offering different things. Some schemes provide only limited support or oversight before providing their kitemark, while others provide access to comprehensive tools, resources and guidance.

CDP is a common scheme for companies to join, as it allows them to disclose their carbon footprints and other environmental data to customers and other interested parties. CDP costs vary depending on several factors, including the exact services the company wishes to access, where the company is headquartered, and whether the company has been asked to disclose by an organisation who is a member of another initiative. As a general guide, most European companies will pay €2,825 to disclose via CDP under the Foundation Tier 2024 pricing¹⁴, with a higher price of €6,850 payable for the Higher Tier which provides additional benefits such as listing on the DCP website, access to regional events and screening of the company's supply chain.

SBTi is also a chargeable scheme, with the scheme operators providing a review and validation against the published standards for companies wishing to declare that they are SBTi-compliant. The full Net Zero target validation service is normally \$9,500, but a discounted option is available for companies with fewer than 500 employees¹⁵. This is only available to companies that are independent (are not a subsidiary of a larger company).

Some standards are free to access (such as GRI and TCFD), while others must be purchased (such as ISO 14064 or ISO 14001). In general, even when the standard is free or inexpensive to access, companies should budget for implementation and independent audit or verification costs. For example, the ISO 14001 standard can be purchased for around €160, but implementing the required management system and having it audited is likely to cost at least €20,000.

Proprietary and private schemes such as FORS, SafeHire and SCSS often vary in pricing depending on the size of the organisation, so interested companies should enquire directly with the scheme operators.

¹⁴ <https://www.cdp.net/en/info/admin-fee-faq#11559392008bfd1d2d575f794758416>

¹⁵ <https://sciencebasedtargets.org/faqs#how-much-does-target-validation-cost-what-does-it-pay-for>