

The Profile and Detection of Bribery in Norway and England and Wales: A Comparative Study

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Abstract:

This paper provides the first significant profile of offenders convicted of bribery in England and Wales (E&W) and Norway, based upon a sample of 75 cases from E&W, and 46 from Norway, which were collected through searches of the media and other relevant sources between 2003 and 2015. The paper provides a profile of bribe payers and takers: illustrating that in both E&W and Norway they are predominantly male and middle aged, involved in a median bribe of between £20k to £30k, with the sector experiencing the most bribes paid: public administration and defence and the sector paying the most bribes, construction. In both countries from the start of the crime to conviction the period was around 6 years. The paper also notes some significant differences between the two countries. In Norway there was a larger percentage of higher grade professionals involved in bribery and in E&W detection by law enforcement was more common, suggesting greater interest by such bodies. The average sentence received by offenders was also slightly higher in E&W. The paper also offers many other insights on the characteristics of bribery in the two countries in a rarely researched area.

Key words: bribery, corruption, profile, detection

Introduction

Corruption is seen as one of the greatest obstacles to economic and social development (World Bank, 2006; Trivunovic, Johnsen & Mathisen, 2011, p.2; Brun et al, 2015, p.1). In the global struggle against corruption, detection and prosecution are regarded as essential measures. One of the most salient examples of corruption is bribery and this has received very little academic research (Lord, 2013; Gottschalk, 2014; Lord, 2015; Lord and Levi, 2016). One study of overseas bribery cases in the UK and Germany found that investigators and prosecutors thought that uncovering the case was the most difficult part of the prosecution process (Lord, 2015, p.583). While there is some research on who detects cases involving overseas cases of bribery (OECD, 2014a), this project investigates both domestic and overseas cases which resulted in a conviction in England and Wales [E&W] and in Norway between 2003-2015.

Fighting corruption is a global concern which remains high on the international agenda. This development has partly been driven by international conventions such as the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions which came into force in 1999. It is seen as a key instrument in combatting global corruption (TI, 2015, p.4) and was one of the reasons for the introduction of the UK Bribery Act (Rose, 2012, p.487). Similarly, the United Nation Convention against Corruption

[UNCAC] has since it was implemented in 2003, contributed strongly to place the fight against corruption on the international agenda (Brun et al, 2015, p.1). Both these conventions promote criminalisation of bribery (Rose, 2012, p.486; U4 Anti-Corruption Resource Centre, 2013, p.2) and successful compliance implies that cases are investigated and prosecuted. In other words, the first step towards complying with these conventions is successful detection of bribery.

Building on criminological theory, it is debateable to what extent corruption can be explained solely through this rational-choice theory or whether it is better explained through behavioural concepts such as social and institutional factors (Sutherland, 1941, p.32; Gilling, 1997, p.36; Dimant & Schulte, 2016, p.56). A case study of bribery committed on behalf of German companies found that high-ranking employees paid bribes in the pursuit of an organisational goal, as opposed to personal gain for themselves (Pohlmann et al, 2016, p.95). Pohlmann and his colleagues go on to argue that bribe takers can be explained through rational choice theory, while bribe payers should to be explained by other mechanisms. The environment of the organisation or individual is also important, as both economic, social and political structures are seen to influence the level of corruption in a country (Fletcher & Herrmann, 2012, p.36). Though there are several possible explanations as to why people commit bribery, it is generally assumed that a low risk of detection and punishment will make corruption more prevalent (U4 Anti-Corruption Resource Centre, n.d). Hence, an increased perceived risk of detection, either by a group or by an individual, could reduce bribery.

Defining bribery

Many of the suggested definitions of corruption are quite broad, like the Asian Development Bank (1998, p.6) who defines it as “the abuse of public or private office for personal gain”. Even more general it could be defined as “the abuse of entrusted power for personal gain” (TI, n.d.) or as ‘selling’ a decision to the benefit of the bribe payer (Søreide, 2014, p.1). These definitions overlap with other crimes, such as fraud (TI UK, 2011, p.1; Button & Gee, 2013, p.10) and embezzlement (Johnson, 2004, p.2).

The legislation in E&W and Norway have different definitions of bribery. The most recent law, the UK’s Bribery Act 2010 is regarded as one of the toughest in the world (Yeoh, 2011, p.50). It defines bribery as an act of offer/give/promise or request/accept a financial, or other advantage (Ministry of Justice, 2011). To be convicted of bribery, there must be an intent to influence someone to perform improperly in a relevant function or activity (Ministry of

Justice, 2011, p.10). The law applies to domestic cases and also forbids bribery of foreign public officials (Maton, 2010, p.37-38). Prior to the Bribery Act, corruption was regulated through several laws, including a common law offence and through three statutes laws (Brown, 2007, p.181). The Bribery Act replaced most of these (Maton, 2010, p.38). However, with the exception of cases committed by persons who are public office holders which also after the Bribery Act often are prosecuted as Misconduct in Public Office (Crown Prosecution Service, n.d; Parsons, 2012, p.183).

In Norway, the legislation is a part of the Norwegian General Civil Penal Code [the Penal Code]. The law was changed in 2003 and the ambition behind the change was to establish the strictest anti-corruption regime in the world (Elgsem, 2014). The Penal Code defines corruption as to: give/offer or request/receive/accept an improper advantage related to position, office, or assignment (Økokrim, 2015a). In contrast to the Bribery Act, it is not a condition that the intention with the bribe is to cause any action or neglect from the receiver of the bribe. The question is if the advantage is improper (Økokrim, 2015a). Similarly to E&W, the Norwegian anti-bribery legislation covers domestic cases as well as corruption committed anywhere else in the world (Elgsem, 2014). The Norwegian legislation refers to 'corruption', but the described offence is comparable to the offence under the Bribery Act, and the term 'bribery' will therefore be used also in the Norwegian context.

Though the legal definition of bribery is quite similar in E&W and Norway, it was due to the complex legislation in E&W necessary to define what is understood with bribery in this project. The applied definition is built on the legislation mentioned above, and consists of three main elements. Firstly, there is a financial or other advantage that is either offered/promised/given or requested/received. Secondly, this advantage is given in connection with a function, office or assignment. Thirdly, there is an intent that these actions will make the receiver of the bribe perform improper or alternatively, the financial advantage is in itself regarded as improper. This definition implies that a bribe paid from one 'ordinary' person to another is not regarded as bribery, e.g. if one accused offers a bribe to a witness in order to make the witness give a certain statement in court. By contrast, it falls under the definition if the accused person, attempts to influence the outcome of the case by offering a bribe to a police, judge or others who are in a position of trust.

Corruption is a hidden crime (Fletcher & Herrmann, 2012, p.17). Hence, the prevalence of corruption is difficult to measure, but both perception-based surveys and more reliable

estimates have documented that the extent of the problem is severe (Olken & Pande, 2011, p.42). There is very little measurement of the level of bribery in E&W or in Norway. One source is the International Victimization Survey which last collected data in 2003-4 and sought data amongst the general public of bribe seeking by public officials. For E&W the score was 0% and for Norway 0.4%. For London, however, the score was 0.7% and Oslo 0.2%. The highest scoring country in this report was Greece at 13.5% (Dijk et al 2007, p.90). Every year TI also publishes the Corruption Perception Index which ranks countries after the perceived level of public corruption. In the 2015 index, UK had a score of 81 which makes it number 10 out of 167 countries, while Norway is number 5 with a score of 87 (TI, 2016, p.6). Though this is not an accurate measure of corruption, it indicates that people in UK and Norway perceived the levels of public corruption to be at a fairly similar level.

Even though many agencies are involved in investigation of economic crime, the police are of particular importance because they are the gatekeeper into the criminal justice system, including power to arrest, to conduct searches and access to information (Lewis, Brooks, Button, Shepherd & Wakefield, 2014, p.4). Both countries in this study have specialized local economic crime units within the police (National Police Directorate, 2012; Button, Blackburn & Tunley, 2014). Both countries have national bodies for investigation of complex economic crime (Doig & Macaulay, 2008, p.185; National Police Directorate, 2010, p.16) and these bodies have specialised units for the investigation of corruption (City of London Police, n.d; Økokrim, 2015b; Serious Fraud Office [SFO], n.d.). The SFO actively encourage confidential whistleblowing and self-reporting from companies who have uncovered bribery in their organisation (Lord, 2015, p.584-585). The SFO has been criticised for not having the capacity to follow up on the tips they receive (Dunkley, 2015), so it is debatable to which extent these measures are effective. To date, there are no similar arrangements in Norway.

The number of cases investigated by the police can provide a basis for assessing to what extent the strict anti-bribery laws actually are enforced. In E&W there are several cases of bribery which have resulted in a conviction, e.g. the 75 cases which have been identified in this project. However, the data collection is challenging due to the complex legislation, and the overall number of cases is therefore unknown (European Commission, 2014, p.1). In Norway, there are statistics on all cases of bribery reported to the police. The statistics of registered cases from 2003 to 2015 were for the purpose of this research disclosed by the National Police Directorate (T. Eriksen, personal communication, May 25, 2016). This

material shows that for all types of bribery, both national and international, there were 702 incidents of bribery reported to the police. The outcome was registered and of all of these, 366 were registered as dismissed for different reasons. The most prevalent reason was on the grounds of the evidence. Of the cases taken to court, 50 were acquitted and 130 were sentenced to some sort of sanction, including jail and community work. This gives an acquittal rate of 28% which is rather high compared to the all criminal cases in Norway which is 7% , illustrating the greater challenges in securing convictions in bribery related cases (Ministry of Justice and Public Security, 2017, p.126). Of the remaining incidents, 31 resulted in a fine or a waiver of prosecution, and 125 had no registered information regarding the outcome. The data does not, however, provide information on the characteristics of the cases or how they were detected.

Detection of bribery

Central to the understanding of how bribery is detected, is the question of who detects it. Though there is a lack of available data to accurately assess this, there is some research of interest. At a trans-national level, the OECD investigated 427 cases of overseas bribery and found that self-reporting was the authorities' information source in one out of three cases (OECD, 2014a, p.9). Information from whistleblowers was the source in only 2% of the cases (OECD, 2014a, p.9). By contrast, a study from KPMG found that 61% of corruption related fraud were detected because of whistleblowers (KPMG, 2016, p.12). The latter investigated how the case initially was revealed, whereas the OECDs study (2014a, p.12) measured how the case came to the attention of the authorities, and naturally there will be some differences. A study in Norway found that 22 % of people convicted of bribery were detected by journalists (Gottschalk, 2014, p.190), whereas media was registered as the source in only 5 % of the cases in OECDs selection (2014a, p.9). As Gottschalk points out, the category 'media' may hide whistleblowers who gave the information to the journalist. Law enforcement detected 13% of the bribery cases in the study from OECD (2014a, p.9), whereas they only detected 1% of white-collar criminals in Norway (Gottschalk, 2014, p.189). In the UK, referral from companies or other agencies such as the Financial Conduct Authority, were the main source of overseas bribery cases investigated by the SFO (Lord, 2015, p.584). There could be several reasons for these divergent findings, including sample selection and analysing techniques. Though these studies examine different types of cases, the studies show that a variety of organisations and individuals are involved in the detection of bribery.

Methodology

The idea behind this project was to provide basic descriptive data on the profile of bribery cases in the two countries. This objective was achieved undertaking a content analysis of bribery cases resulting in a conviction in E&W or Norway. The cases were found using google, the database Lexis which contains news articles from the UK, the database 'Atekst' which provides news article from Norwegian media, press realises from SFO and their Norwegian counterpart Økokrim were also assessed, as well as reports from Ernst and Young (n.d.) and Transparency International [TI] Norway (2016). By these searches, limited to articles published between 2003 and 2015, 75 cases from E&W and 46 cases from Norway were identified. The methodology used in this study has been previously used in other criminological studies, such as a study of white collar criminals in Norway (Gottschalk, 2014), 'cash-for-crash' insurance fraudsters in the UK (Button et.al, 2017) and an examination of stranger child abduction in the UK (Collie & Greene, 2017). Similarly to these three studies, this study also uses the media as a source to find objective information, as opposed to analysing how a subject is presented by the media. The comparative design of this research, was chosen in order to have a foundation for understanding the findings in each country. Moreover, comparing the two countries could possibly identify which characteristics that are country specific and what could be more general findings. Investigating only two countries naturally has it's limitation as to finding international trends. Nevertheless, when the results are analysed in the light of other studies it can prove to be useful. The assumption in this research is in a positivistic tradition where there is assumed to be some 'universals' in the justice system (Pakes, 2015, p.18). The two countries where chosen because they have a tradition of policy transfer in criminal justice, e.g. implementation of 'KREATIV-model for investigative interviewing in Norway was based on the British PEACE-training (Fahsing & Rachlew, 2009, p.52). This project could serve a starting point for further research on how the criminal justice systems in the two countries deal with bribery-cases and search for successful policies. .

Content analysis should be objective, replicable and the technique is expected to be reliable (Krippendorff, 2013, p.24). A main measure to ensure this is to design a coding manual where all the possible categories for each variable are included with adequate guidance on

how to use them (Bryman, 2008, p. 283). The variables in this project are partly adapted from Gottschalk's (2014) study in Norway, from Dyck, Morse and Zingales (2010) and from some commonly used standards. The classification in this research is superficial when it comes to classifying socio-economic class, because no additional information regarding education and income were collected. Social class is often defined by a combination of education, occupation and income (Rose & Pevalin, 2003, p.29). The category used in this research is adopted from Bryman (2008, p 284) which is based on Goldthorpe's work. His classification combines occupational categories where members are comparable in terms of source and level of income, their degree of economic security and their location within the system of authority (Marshall, Newby, Rose & Vogler, 1988, p.21). Guidelines from the University of Essex was used to distinguish between the classes (Institute for Social and Economic Research University of Essex, n.d.). For the economic sectors, the International Standard Industrial Classification of All Economic Activities Rev. 4 was used (United Nations Statistics Division, 2008).

Reliability and validity interacts because a measure cannot be valid unless it is reliable (Robson, 2011, p.86). Reliability could be described as the trustworthiness of the data (Krippendorff, 2013, p.268). A research method is reliable when it ensures that the same phenomenon is measured consistently (Robson, 2011, p.85). For the content analysis, this implies that if someone else did the same searches and used the coding manual, they would find the same sample of cases and identify the same characteristics as done in this research. A disadvantage with content analysis is that it is only as good as the documents which are studied (Bryman, 2008, p.291). A drawback with media as a source is that it can be unreliable and suffer from bias (Gottschalk, 2014, p.39). The reliability of the data was improved by using additional sources when possible. This measure does not counter the bias in the selection of cases, and the sample suffers from the inherent bias of media coverage, like focusing on the most serious cases, 'the good story' and famous people (Gottschalk, 2014, p.41).

Another limitation of the sample, was that the researcher had to make judgements on the evidence in each case in order to decide if the case should be included. For the Norwegian sample, this did not cause any major concerns because everyone that was convicted of bribery in accordance with the Penal Code, had committed bribery as it is defined in this research. Because of the complex legislation in E&W, there were several cases which were questionable. For example, several news articles described corrupt officer that had been

convicted of misconduct in public office, an offence which includes much more than bribery. Only cases where the officer had received a financial or other advantage in exchange for the misconduct were included in the sample. It could sometimes be challenging to find the relevant information to evaluate whether or not a bribe had been paid. A potential consequence of this is that cases which are relevant for this study were not included due to the lack of proof of bribery. Moreover, because people were convicted for violating offences that primarily cover other types of behaviour than bribery, the news articles might not mention 'bribery' or 'corrupt' and the cases would therefore not be included in the sample.

A second question related to trustworthiness of the research is if the findings are valid. This refers to the accuracy of the results and to what extent the indicators measure the concept they are intended to measure (Bryman, 2016, p.158). Because the sample in this research is regarded as a convenience sample, it is a non-probability sample (Bryman, 2008, p.183). In this project, the whole population was bribery cases resulting in a conviction. The number of persons and organisation in the Norwegian sample was 127 and as shown above, the number registered in the police statistics from 2004-2015 was 130. This comparison suggests that the Norwegian sample probably is close to containing the whole population of cases and it should therefore also be a valid sample. A similar comparison could not be done for the sample from E&W as the number of the whole population of cases remain unknown. Based on the wide range of sources, it can be assumed that also the sample from E&W is likely to include close to the whole population of cases resulting in a conviction. Given the hidden nature of the crime, however, and particularly bribery related cases it is not possible to evaluate to what extent the population studied in this project is representative for bribery cases in general (those that do not reach the criminal courts or have not been detected).

Profile of bribery cases

The sample consists of 121 cases (75 are from E&W and 46 are from Norway) involving 325 convicted persons/organisations (198 in E&W and 127 in Norway). Some of the findings are presented at case level, whereas others are shown at a person/organisation level. The number of convicted per case varies between one and 18 in E&W and between one and 15 in Norway, an average of 2.6 and 2.8 respectively. When possible, data was obtained from law enforcement or legal sources, such as official transcripts from the legal database 'Westlaws', press releases from the SFO or convictions from Norwegian court. This type of additional information was obtained for 161 of the convictions, 83 of 198 (42%) from E&W and 78 of

127 (61%) from Norway. The additional sources did not necessarily confirm all elements of the case, but the most important such as value of the bribe and characteristics of the convicted. In order to have a sample that also consists of more recent cases, appealed cases were included and they constitute one convicted in E&W and 11 convicted in Norway, divided amongst five cases. The distribution of cases over the years is quite even, though both countries have most convictions in 2010 and 2011, with 13 in E&W in both years, and seven and eight in Norway.

The complex bribery legislation in E&W implies that several offences are included in the sample. Table 1 shows that the categories 'misconduct in public office' and 'other' were the largest in the sample, accounting for 28% and 25% respectively. Within the category 'other', there were 24 convictions for perverting the course of justice and 19 convictions for fraud or conspiracy to defraud.

[Insert table 1 about here]

In the sample from Norway, there was relatively little variation, 113 were convicted after the current legislation, penal code sections 276a, 276b or 276c. Of the remaining convictions, three were convicted after the bribery legislation prior to 2003, two were convicted for other offences and nine were unknown.

The median time from when the crime started to final conviction was six years in both countries. The mean value was 6.4 in E&W and 6.7 in Norway. The median time from when the investigation started to final conviction was three years in both countries. The mean value was 3.0 in E&W and 3.3 in Norway. There was no data for 63 of the 325 convictions (19%). Though this makes the data incomplete, it indicates that bribery case take relatively long time to detect, investigate and prosecute. In both countries, about half of the cases were investigated by local police forces alone [53% in E&W and 49% in Norway]. The other half was investigated by either a national body alone or in cooperation with local bodies. Which police force investigating was unknown for 24 of all case [17 in E&W and 7 in Norway].

Who are the convicted?

In both countries, the vast majority of the convicted were male. Only 17 of 193 (9%) convicted persons in E&W were female. In Norway only 1 of 112 (1%) was female [gender was unknown for 12 convictions]. Of all the convicted, only eight were organisations, five in E&W and three in Norway. The average age of the convicted at the time of conviction was 43.3 years in E&W and 51.1 years in Norway. In the E&W if ‘misconduct in public office’, ‘others’ and ‘unknown’ were excluded from the calculation it rose to 47.7 years. When it comes to the occupational status of the convicted, it was found that 33% of the convicted individuals in E&W and 51% in Norway were higher grade professionals or managers in large companies. Occupational information was unknown for 39 in E&W and for 15 in Norway. Interestingly, these findings are similar to some global studies of fraud which found that most offenders were male (Association of Certified Fraud Examiners, 2016, p.57; van Onna et al, 2014; KPMG, 2016, p.7) in either a management or an executive position (KPMG, 2016, p.8). The similarity in the profile could suggest that a certain share of fraud and bribery is committed by high social status and therefore could be seen as typical ‘white collar crime’ as described by Sutherland (1941). It is also important to note that several studies of fraudsters beyond occupational fraud have noted wide sections of society involved (Weisburd et. al, 1991; Levi, 2008; Button et. al, 2017).

The financial advantage

A key aspect of bribery is the ‘financial or other advantage’. In the sample, information regarding the value of this advantage was available for 159 of the convictions in E&W and for 124 in Norway. In some cases, this information was only partly available and this implies that the registered value might be lower than the actual amount. One example of this is a case from E&W where a driving examiner demanded a bribe of £1,000 to pass candidates who had failed (Robinson, 2011). The data did not provide information on how many times he accepted this bribe, and the registered amount was therefore £1,000, though it is clear that a bribe were paid by several candidates. Other factors contributed to an increase in the registered value of the bribes. Several people can be convicted for paying or receiving the same bribe, and people are convicted of accessory to bribery. One example is a case from Norway where two employees in a consultancy firm were found guilty of bribing a foreign official with £55,509 (“Norconsult-ansatte dømt [Norconsult-employees convicted]”, 2011). In the content analysis both are registered with this amount, though the bribe was only paid once. This, and the large variation in bribery amounts makes average values less useful.

Though not further analysed, the average value of the bribe was calculated to £498,916 for E&W and £205,756 for Norway. The median value was however £20,000 for E&W and £32,827 for Norway. Rather than analysing average values further, the cases were grouped into categories (Table 2).

[Insert table 2 about here]

As table 2 shows, the sample from E&W has a wider variety in the value of the bribes than the Norwegian sample where the majority of the cases fall within the middle categories. Further analysis of the value of the bribe shows that it tends to be higher when the bribe was paid overseas than when it was paid within the country. Fig. 1 illustrates this by showing the categories of value of bribe split in overseas and domestic. ‘Overseas’ is here defined as cases where a payment in the case crossed a border. A possible explanation to this could be that cases with international elements are resource-intensive to investigate and that law enforcement therefore only investigate cases with a certain severity. Another reason for the larger sums in cases with international elements could be that these cases relate to very large contracts.

[Insert Figure 1 about here]

Studying each country separately, the trend was the same. However, it was clearer in E&W where the majority of convictions over £100,000 were overseas, whereas the majority of the convictions under £100,000 were domestic (Table 3).

[Insert Table 3 about here]

Who benefitted from the bribe?

In addition to the value of the bribe, it was investigated who benefitted from the bribe. This was done by using two main categories, namely the bribe payer and an organisation which he/she was acting on behalf of. Because many of the bribe payers were in a senior position in the organisation they were acting on behalf of, it could be assumed that they have some sort of direct or indirect benefit if the organisation secured contracts through paying bribes. This category can therefore not be used to distinguish between those who were motivated by the

prospect of personal gain and those who did it with only in the best interest of the organisation in mind. No data on the bribe receiver was registered because the bribe receiver in all cases benefits when he/she receives a financial or other advantage. The result of this analysis which was done on a case level, showed that in 37% of the cases from E&W the bribe payer was acting on behalf of others, whereas in Norway this accounted for 54%. This finding is somehow in-line with the finding on occupational status where the sample from Norway had a higher share of cases where the convicted were a higher grade professionals or managers in large companies.

In what sectors did the cases occur?

The cases were analysed to see where the bribe was paid from and to whom (Table 4). There were no cases of bribery within public sector or from public to private sector. In E&W, 29% of the cases happened within the private sector and in 71% of the cases the bribe was paid from the private to the public sector. By contrast, the majority of cases in Norway happened within the private sector. These differences might be a reflection of a variation in what type of bribery cases the country chooses to detect and prosecute. However, the observed result might as well be caused by the inherent bias in the sample, and reflect a difference in what type of cases the media chooses to highlight, rather than an actual difference in what type of cases that result in convictions. Nevertheless, building on the above findings, this could suggest that there is a difference in the type of detected cases in Norway and E&W.

Compared with E&W, Norway seems to detect more cases involving people in high positions within the private sector. This could suggest that E&W are more concerned with bribery within the public sector than Norway. It is here important to bear in mind that this study only examines detected cases of bribery resulting in a conviction. Therefore, it does not measure the true prevalence of bribery, and it remains unknown to what the extent there are differences between E&W and Norway in the level of bribery within private and public sector.

[Insert table 4 about here]

The sector of the bribe payer and the bribe receiver were registered (Table 5 and Table 6). More than 20 categories were used, though only the categories accounting for more than two cases are shown here. As one could expect based on Table 4, in the majority of the cases the bribe was paid to public administration in E&W, accounting for 67% of the cases. Whereas it accounts for 26% of the cases in Norway. The other top sectors were different in the two

countries and caution must be applied when interpreting this result as each category account for few cases and it could therefore be random rather than a trend. A possible explanation to the apparent high prevalence of bribe paid to someone in the category ‘Mining and quarrying’, could be the dominant role of the petroleum industry in the Norwegian economy (Ministry of Petroleum and Energy, 2014, p.10).

[Insert Table 5 about here]

When it comes to the bribe payer, the categories ‘construction’ and ‘unknown’ were among the most prevalent in both counties (Table 6). In E&W, the highest number of cases were found in the ‘unknown’ category with 34 cases. In some of these cases the bribe payer was described as ‘criminal’, ‘gang leader’ or similar descriptions. Many of these cases with unknown bribe payer, 18 of 34 (53%), were conviction of ‘misconduct in public office’.

[Insert Table 6 about here]

Who detected the cases?

Who the case was detected by was registered for 102 of 121 cases (84%). Registering this variable was quite challenging because there was often more than one actor who detected it, but details about all of them were rarely publicly available. Only 27 of 121 (22%) cases contained information about an additional source of detection. Naturally, it will often be in the interest of the whistleblower to stay anonymous and sometimes this could imply that it is kept undisclosed that the case initially was detected by a whistleblower. In almost all the other categories there could be a whistleblower involved. Especially ‘law-enforcement’, ‘media’ and ‘self-reporting’ are categories where it can be assumed that the case is started by whistleblowers, but that this information is kept out of the public domain.

As shown in Fig. 2 most cases were registered as detected by ‘whistleblower’, ‘self-reporting’ or ‘law enforcement’. Existing research has divergent findings for the prevalence of whistleblowers as source of detection, ranging from 61% (KPMG, 2016, p.12) to 2% (OECD, 2014a, p.9). In this research, whistleblowers detected 22 of 75 (29%) cases in E&W and only 7 of 46 (15%) of the cases in Norway. A possible explanation of this could be that whistleblowers in Norway are more ‘hidden’ in other categories than in E&W, for example in

the category 'self-reporting' which is registered as the source for 13 of 46 (15%) cases. This explanation might however not be sufficient since the phenomenon of 'hidden' whistleblowers might be similarly prevalent in the sample from E&W. It is noteworthy that auditors account for detection of few cases in both countries, one case in E&W and two in Norway. This could suggest that audits are less important than other measures when it comes to detection of bribery. However, auditors might as well be 'hidden' in categories such as 'self-reporting', and in reality been involved in the detection of more cases than what is observed here.

[Insert Figure 2 and 3 about here]

When studying the relative share of who detected the cases in each country there are some interesting differences (Fig.3). The role of law enforcement seems to be different in E&W and in Norway. No cases were detected by law enforcement in Norway, a finding which is consistent with a study from Norway that found that the police detected 1% of white collar crime (Gottschalk, 2014, p.189). By contrast, 'law enforcement' was registered as the source of detection in 17% (13 of 75 cases) in E&W. This is a similar finding as the OECD (2014a, p.9) where 13% of the cases were initiated by law enforcement. These findings suggest that law enforcement in E&W are more active in detecting bribery cases than the police in Norway.

Another interesting difference between E&W and Norway is the proportion of cases detected by the media. This research found that media detected 13% (6 of 46) of the cases in Norway. The finding is somewhat supported by Gottschalk (2014, p.190) who found that 22% of persons convicted of bribery were detected by journalists. Though these findings have a discrepancy, they are interesting because both figures are high compared to E&W where media accounted for 4% (3 of 75) and the OECDs study (2014a, p.15) where media detected 5% of the cases. These findings suggest that journalists in Norway might be in a unique position when it comes to detecting bribery. It could possibly explain the small proportion of whistleblowers in the Norwegian sample because whistleblowers could be 'hidden' in this category.

Who detected the most serious cases?

As shown earlier in this chapter, there was a great variety between the cases. When studying detection, it could be interesting to know who detected the most serious cases. Though the

variable ‘value of the bribe’ does not necessarily capture the severity of the case, it is probably the best variable in this project since no further analysis of the consequences of the bribe was conducted. For E&W, there was 36 cases which involved bribes over £100,000 and for Norway it was 16 (Table 7). A limitation with this analysis is that it was conducted at a case-level and there could be convictions for different amounts within the same case [the registered value at case-level was one of these amounts, it was not summarised]. Nevertheless, this analysis provides an indication of who detected the most serious cases.

[Insert Table 7 about here]

Fig.4 shows, similarly to the analysis of all cases, that whistleblowers detect most cases in E&W. The second highest number of cases was however detected through ‘mutual legal assistance’, which includes other countries governments, e.g. US government bodies who report cases to the SFO. This finding is somewhat in line with Lord (2015, p.584) who found that referrals from other agencies were the main source of cases from the SFO. Interestingly, ‘law enforcement’ was registered as the source of detection for only one of the cases over £100,000, in contrast to 12 of the cases with value under £100,000. This might suggest that law enforcement detects the less serious cases. Also for the Norwegian sample, there was a consistency in the analysis of all cases and of the cases over £100,000. Both analyses found that ‘self-reporting’ detected most cases, and ‘media’ was quite high in both analyses. Whistleblowers are also in this analysis a less prevalent source of detection in Norwegian than in E&W.

[Insert Figure 4 about here]

Who reported the cases?

The main question in this research was how the cases were detected. However, in order for a detected case to result in a conviction, law enforcement had to be involved. The case could be reported by someone other than the one detecting it, e.g. organisations might have an internal process before the case is reported to the police. In order to make a distinction between detection and reporting, who reported the case to the police was registered for each case (Fig. 5). Unfortunately, this information is unknown for 30% of the sample, in contrast to 16% unknown for detection.

[Insert Figure 5 about here]

In contrast to the findings on detection, this shows a higher number for 'self-reporting' for both countries, accounting for 30% of all the cases (21% in E&W and 43% in Norway). This might be a reflection of cases which are reported internally by a whistleblower, and then reported to the police by the organisation. The finding is in line with OECDs study (2014a, p.15) where 31% of the cases were brought to the attention of law enforcement through self-reporting.

Sanctions

For 298 of 325 convicted, the cases resulted either in suspended or unsuspended imprisonment (22 resulted in community service or fines, and the sanction was not found for five of the convicted). For the whole sample, the average number of months in prison was 25. Caution must be used when using these statistics since 125 of the 298 [42%] jail sentences include other offences than bribery. For 175 persons in E&W being sentenced to imprisonment, the average time was 27.4 months. For 114 convicted the sentence only included bribery, and the average time was 21.7 for those convicted. For the Norwegian convicted, the average of the 123 cases resulting in imprisonment, was 21.5 months. Only 50 of these were only convicted of bribery, and the average sentence for them was 10.7 months in prison. It seems to be more common in E&W to separate the imprisonment for each offence, than in Norway where the court often sets one sentence for all offences. It is therefore beyond the scope of this project to provide comparable data between the two countries. Nevertheless, these findings do suggest that the sanction level is higher in E&W than in Norway, but overall sentences were comparable to other white collar related offences such as fraud (Levi, 2010).

Conclusion

The papers provides important foundation data on the profile and nature of bribery in two industrialised countries in Europe noted for low levels of corruption, illustrating both similar and different characteristics (Transparency International, 2016). The research has utilised a methodology based upon open source reports in the public domain, which could be replicated in other countries and for other types of white collar crime. It is hoped this paper will stimulate further research in this area and using this technique.

Based on a sample of 121 cases from E&W and Norway, this research found that there was a great variation between the cases, both in terms of severity and complexity. They varied from cases where one person accepted bribes for issuing driving licenses to persons who were not entitled to it, to cases involving millions of pounds in bribes paid to foreign officials. The overall picture for both countries is that public administration was the main bribe receiver, whereas there was found to be a greater variation in the sector of the bribe payers. In E&W most of cases involved a bribe paid from the private sector to the public sector, whereas most cases in Norway happened within the private sector. A relatively large number, 44%, of the bribe payers paid the bribe on behalf of an organisation. This is interesting because it illustrates that bribery could be explained as a social process as much as individuals' consideration of cost and benefit. Moreover, the consequences of bribery, e.g. the decision which is bought with a bribe, could be visible for others, e.g. competing companies who lose a contract because of the bribe. From a detection perspective, this could represent a potential indicator which could be used to incentivise those in position to observe it to report.

The profile of who was involved in bribery provided both similarities between the two countries as well as differences. In both countries those convicted were predominantly male with 91% in E&W and 99% in Norway. They were also largely middle aged with an average age at conviction of 43.3 in E&W, but a slightly older group in Norway at 51.1. The status of those convicted in Norway, where it was possible to determine was higher, with 51% higher grade professionals, compared to 33% in E&W. The average value of the bribe was just under £500,000 in E&W, compared to just over £200,000 in Norway; but when median was considered, however, the values were £20,000 and £32,827 respectively.

There was a variation in who detected the cases. Whistleblowers detected the largest share of the cases in E&W, whereas self-reporting was the most prevalent source of detection in Norway. One interesting difference between the countries was that law enforcement in E&W seems to be more active in detecting bribery than their Norwegian counterparts who did not detect any of the cases in the sample. Another difference, was the role of the media who seems to have a more active role in detection of bribery cases in Norway than in E&W. For the media and several other of the categories, there could be whistleblowers involved without this information being publicly available. This might explain the variation in the proportion of cases detected by whistleblowers. Different level of detail regarding the detection process, might explain why other studies have a massive divergence in the percentage of cases detected by whistleblowers. Another possible explanation to the discrepancy in this and other

studies, is that it can be difficult to define when a case is detected. Some studies, e.g. OECD (2014a), use the time when the case is reported to law enforcement while this study has attempted to distinguish between initial detection and reporting.

A general limitation of this project is the time covered. Although this is a study of historical data, the hope was that the findings could give an indication of the current situation. During the period from 2003 to 2015 there have been changes in legislation and increased attention regarding bribery in both countries as well as on the international level. This could imply that the situation as of today is significantly different than the situation described in this study. Another limitation of the sample is that it does not contain cases that resulted only in a civil recovery order or a fine for an organisation. Many cases where a company is investigated for bribery are settled with these kinds of sanctions. Self-reporting is found to be a quite frequent type of detection/reporting in this research. It is beyond the scope of this research to investigate the considerations within an organisation as to whether they decide to report a case themselves or not. For the future, research regarding how risk of later exposure is evaluated in this decision making process and how spontaneity organisations self-report would be welcome. If the aim is to detect more cases of bribery, more should be done in order to encourage people to bring their concerns forward. A remaining question is who they should report to. Police budgets in UK police are decreasing, particularly the SFO (Lord, 2015, p. 582). The literature reviewed in this project shows that the available resources for investigation of financial crime are quite similar in the UK and in Norway. This research has found that in both countries it typically takes three years from the start of the investigation until there is a final conviction. This suggests that prosecution of bribery cases is resource intensive, and a question for further debate and research is whether prosecution is the most effective measure in countering bribery.

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Table 1. Number of convictions by offence, England and Wales (2003-2015).

Type of offence	Number of convicted
Anti-terrorism, Crime and Security Act 2001	2 (1%)
Bribery Act 2010	5 (3%)
Conspiracy to corrupt, the Criminal Law Act 1977	36 (18%)
Misconduct in public office	55 (28%)
Prevention of Corruption Act of 1906 and 1916	23 (12%)
Public Bodies Corrupt Practices Act 1889	10 (5%)
Other	49 (25%)
Unknown	18 (9%)
Total	198

Table 2. Number of convictions divided in categories of value of bribe.

	England/Wales	Norway
Less than £1,000	38	
£1,000 – 9,999	26	41
£10,000 – 99,999	40	45
£100,000 – 999,999	30	35
More than £1m	25	3
Unknown	39	3
Total	198	127

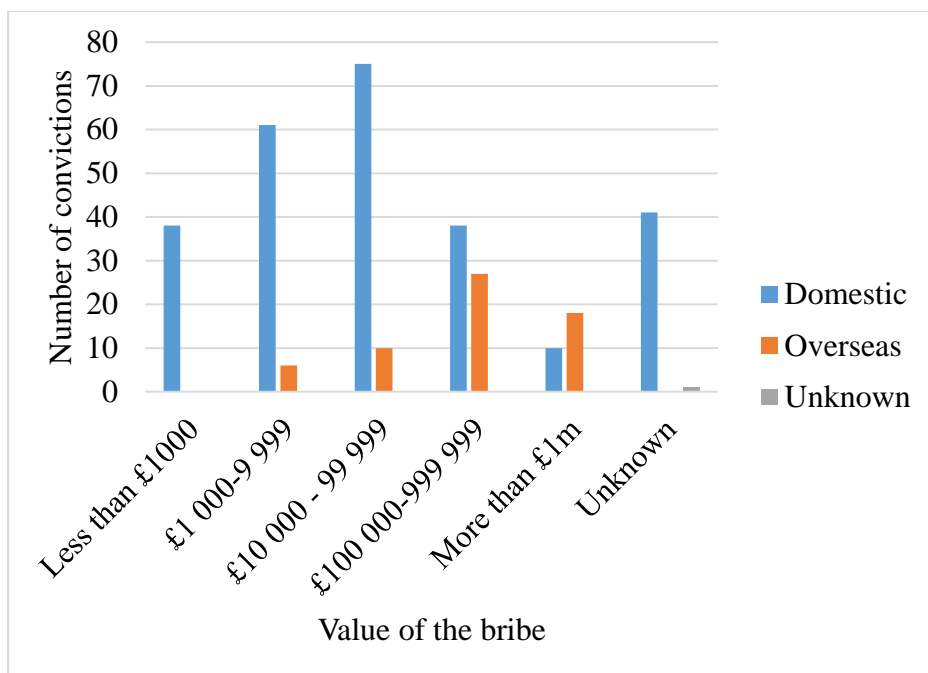


Figure 1. Number of convictions divided in categories of value of bribe, split in domestic and overseas cases.

Table 3. Number of convictions with value of bribe over/under £100,000, split in domestic and overseas (2003-2015).

	England/Wales		Norway		Total
	Bribe under £100,000	Bribe over £100,000	Bribe under £100,000	Bribe over £100,000	
Domestic - number of convictions	99	22	75	26	222
Domestic - percent	(95%)	(40%)	(87%)	(68%)	
Overseas - number of convictions	5	33	11	12	61
Overseas - percent	(5%)	(60%)	(13%)	(32%)	

Table 4. Number of cases divided in categories of direction of bribe.

	England/Wales		Norway	
	Number of cases		Number of cases	
Private to public	53	(71%)	19	(41%)
Private to private	22	(29%)	27	(59%)
Total	75		46	

Table 5: Top sectors of bribe receivers for England/Wales and Norway.

	Number of cases	Percent of all cases
England/Wales		
Public administration and defence	50	(67%)
Education	7	(9%)
Arts, entertainment and recreation	3	(4%)
Financial and insurance activities	3	(4%)
Wholesale and retail trade	3	(4%)
Norway		
Public administration and defence	12	(26%)
Mining and quarrying	6	(13%)
Construction	5	(11%)
Financial and insurance activities	4	(9%)
Water supply, waste management and remediation activities	4	(9%)

Table 6: Top sectors of bribe payers for England/Wales and Norway.

	Number of cases	Percent of all cases
England/Wales		
Unknown	34	(45%)
Construction	9	(12%)
Manufacturing	5	(7%)
Real estate activities	4	(5%)
Arts, entertainment and recreation	3	(4%)
Information and communication	3	(4%)
Mining and quarrying	3	(4%)
Wholesale and retail trade	3	(4%)
Financial and insurance activities	3	(4%)
Norway		
Construction	12	(26%)
Unknown	9	(20%)
Mining and quarrying	4	(9%)
Transportation	4	(9%)
Financial and insurance activities	3	(7%)

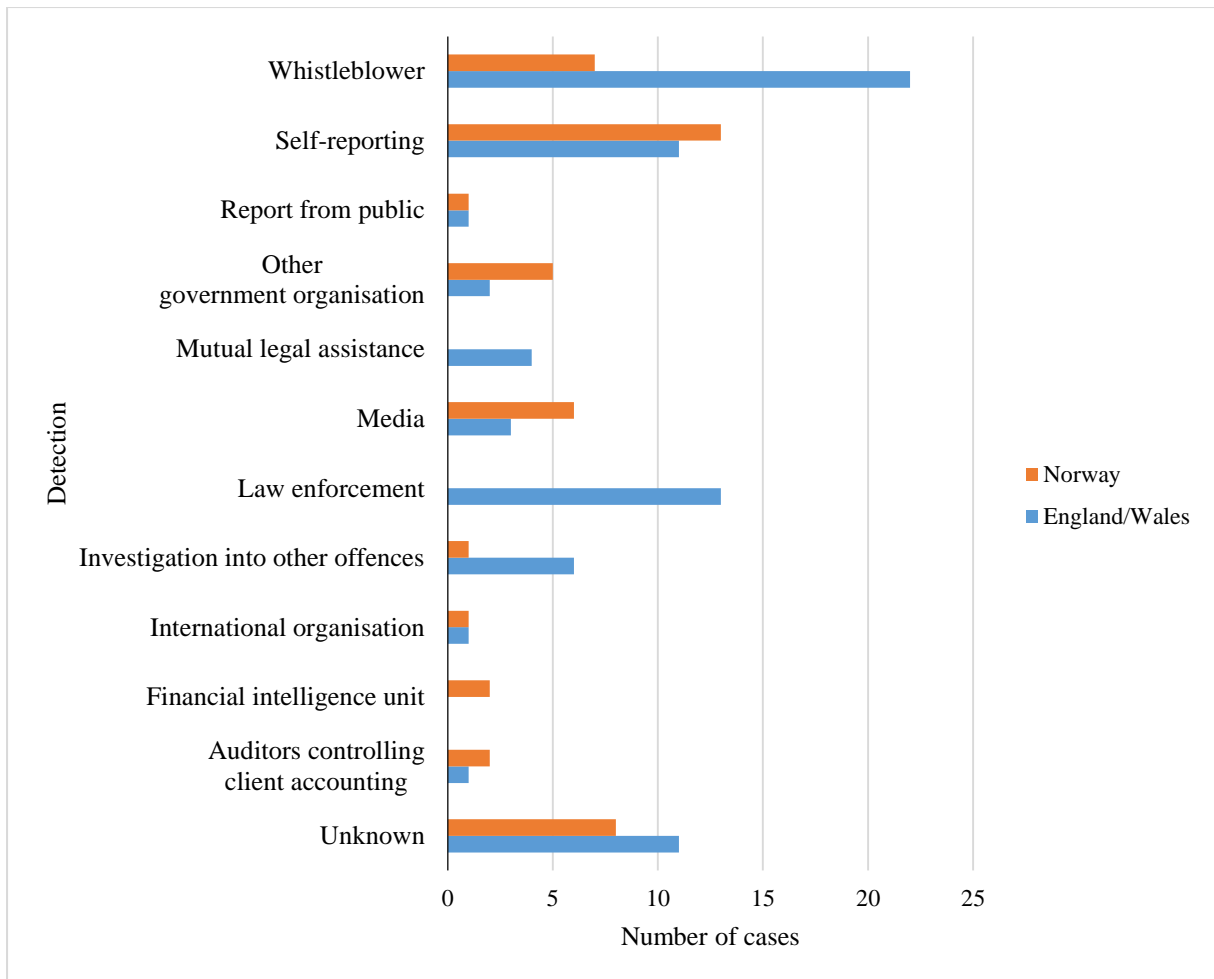


Figure 2. Number of cases divided in categories of who detected the case, England/Wales and Norway

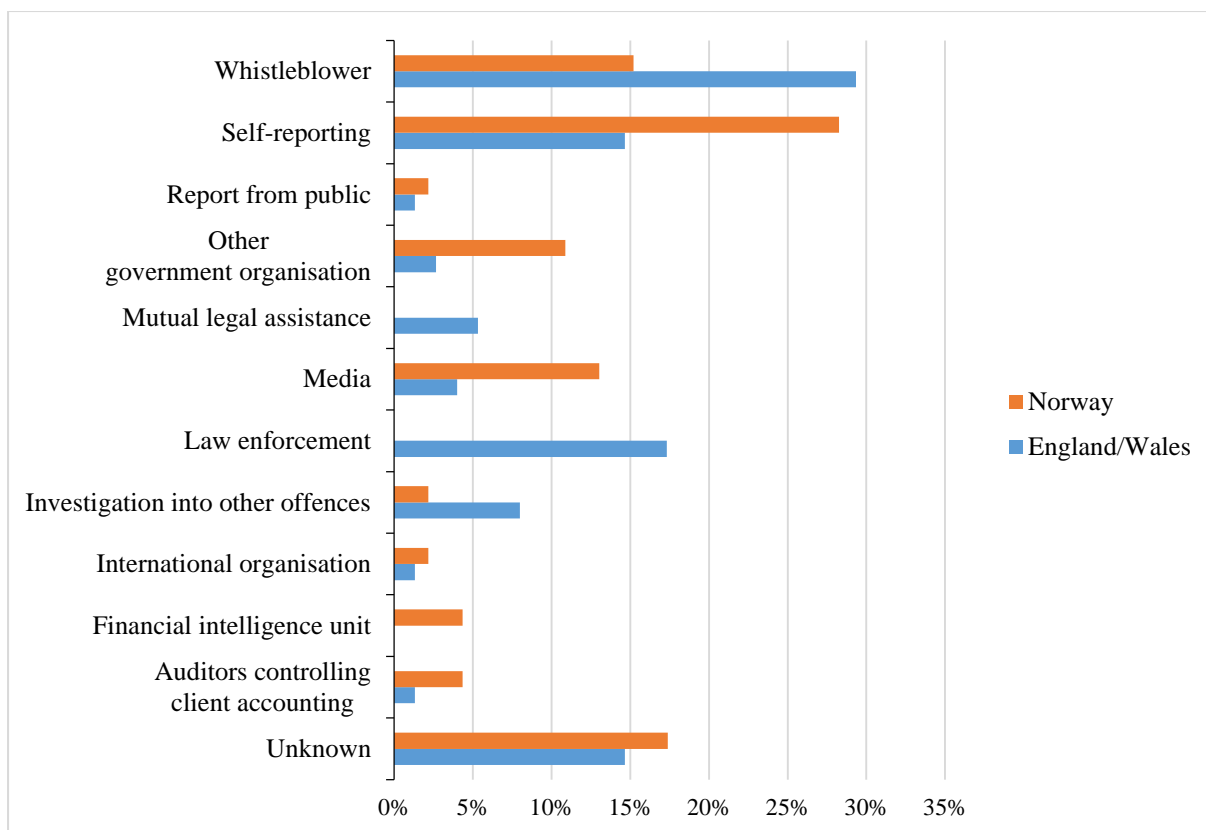


Figure 3. Percentage of cases in each category of who detected the case, England/Wales and Norway.

Table 7. Number of cases divided in categories of value of bribe.

	England/Wales	Norway
Less than £1,000	8	
£1,000-9,999	12	14
£10,000 – 99,999	19	16
£100,000 – 999,999	16	15
More than £ 1,000,000	7	1
Unknown	13	
Total	75	46

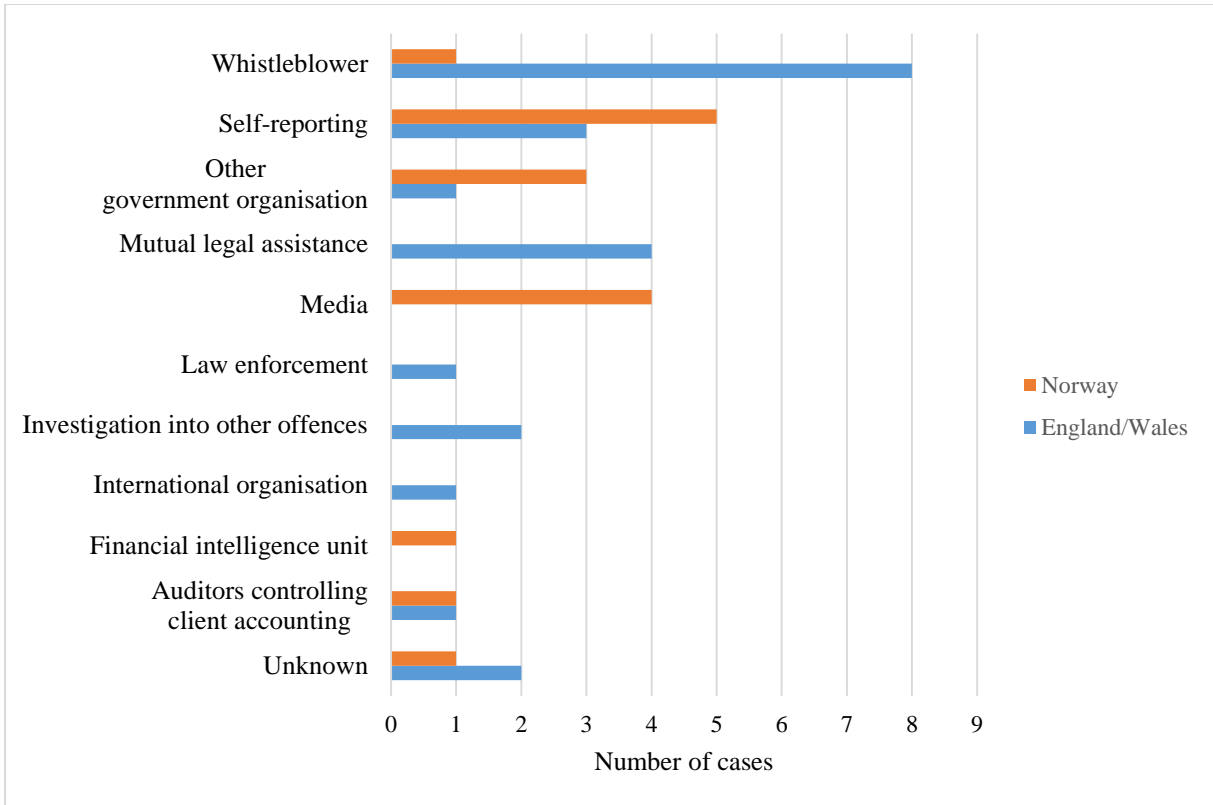


Figure 4. Number of cases with value of bribe over £100,000, split on who detected it, England/Wales and Norway.

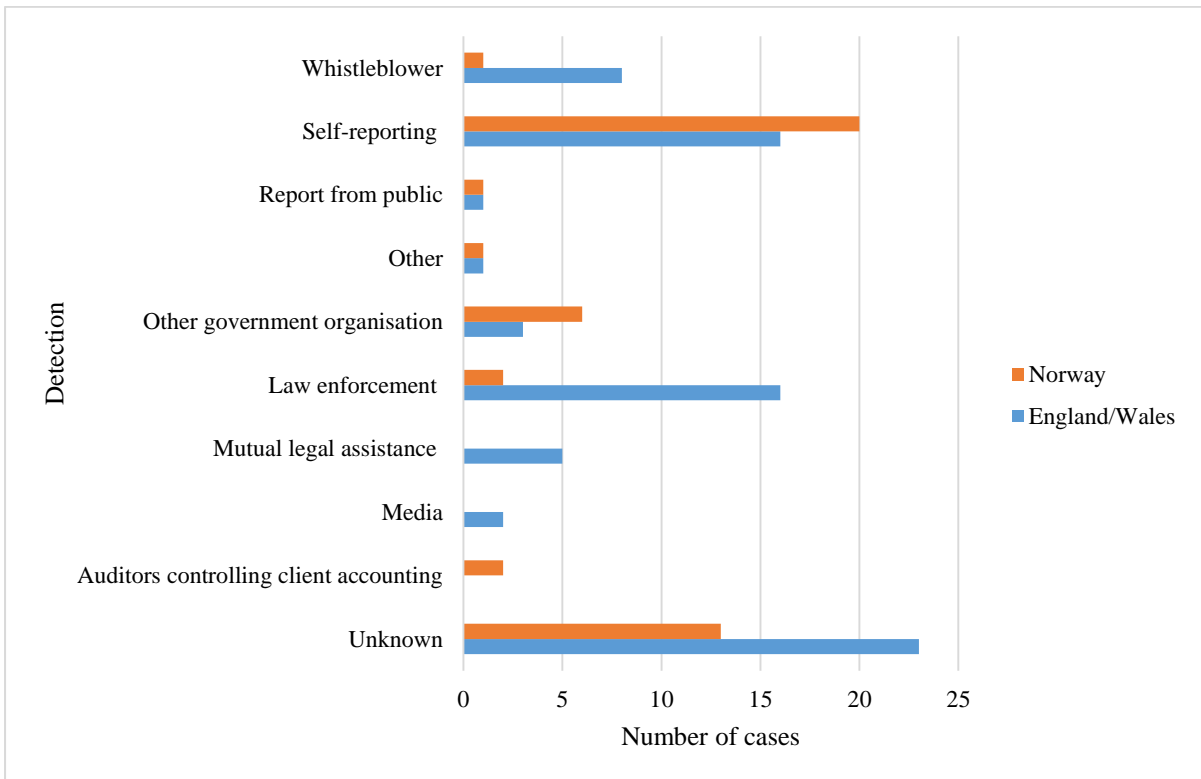


Figure 5. Number of cases divided in categories of who reported the case, England/Wales and Norway