Petrol Limited is an oil marketing company based in the United Kingdom (the **UKCO**) and has subsidiaries in Kenya (**KECO**) and Canada (**CANCO**). The Company’s core business is the importation and distribution of petroleum product. KECO was recently awarded a tender to be the sole supplier of petroleum product to the Kenyan government (the **Tender**).

It is rumoured that UKCO directors often wine and dine Kenyan ‘top government officials’. It is also rumoured that during the recent wedding of one of the children of a Kenyan ‘top government official’ CANCO through its directors gifted the newly married daughter in law of a Kenyan ‘top government official’ with an over water villa in Mauritius, just a few days after the award of the Tender.

R Newspaper, Kenya’s most read daily, recently published an explosive investigative article alleging that KECO bribed ’top government officials’ in Kenya to win the Tender. The Director of Public Prosecutions has requested Kenya’s Ethics and Anti-Corruption Commission to investigate the matter.

Aware that the UK based Serious Fraud Office (the **SFO**) may investigate the matter in collaboration with Kenya’s Ethics and Anti-Corruption Commission, UKCO’s Chief Executive Officer, whom you report to as KECO’s General Counsel requests you to investigate the allegations.

**Questions**

1. Whom would you engage to carry out the investigations among (a) internal audit team, (b) internal legal function or (c) an external team?
2. Why would you engage (a), (b) or (c)? What are the pros and cons
3. What steps would you take to ensure that the integrity of the data collected is protected in the case of findings by (a), (b) or (c)?
4. What steps would you take to ensure that ancillary offences such as witness tampering and violation of self reporting obligations are not committed and or mitigated?
5. What is the importance of engaging an external legal counsel?
6. Would external forensic support be of any help? If yes, how?
7. You are aware that the SFO has commenced investigations into the matter and has reached out to UKCO.
8. What would your advice on self-reporting and co-operation with the SFO be?
9. Would your advice change if it were the Royal Canadian Mounted Police investigating the matter?
10. How would you respond to the newspaper article?
11. Are there any compliance measures you would recommend?

In light of the discussion, is there a need to make policy changes in your organisation?

**POSSIBLE TWISTS**

As you negotiate with an external team, you immediately request the internal forensic team to help you and they inform you that:

1. they have noted several payments to Kenyan ‘top government officials’, the payments though significant have not been reflected in the KECO books.
2. they have also come across email correspondence that clearly links KECO, UKCO and CANCO to corrupt dealings in the award of the Tender.
3. the Deputy Director of KECO’s forensic team is convinced that the payments are suspicious and or corrupt and has informed you that he intends to comply with Kenyan law (as per his understanding) and report the same within 24 hours.
4. the next day, you learn that all the KECO records (accounting and email) have been sanitised and the KECO internal forensic team can longer find any evidence of wrong doing. The Director of the forensics team is suspected of sanitising the records considering that he was implicated.
5. The Deputy Director subsequently resigns from work and cannot be reached thereafter.

**QUESTIONS**

1. Was it a good idea to seek the help of the internal forensics team? Pros and cons
2. What would have been the pros and cons of outsourcing the investigation work?
3. Are there any steps you could have taken to preserve the data obtained by forensics team?
4. Are there any system and institutional changes that you would recommend?