

Edward Garnier KC leads the corporate teams in two Deferred Prosecution Agreements approved on 19 July 2021

On 19 July 2021, the Serious Fraud Office (SFO) received approval by Mrs Justice May for separate Deferred Prosecution Agreements entered into with two UK-based companies for bribery offences. The two DPAs share a common Statement of Facts. The criminal conduct saw bribes paid in relation to multi-million pound UK contracts.

The two companies will pay a total of £2,510,065, comprising disgorgement of profits and a financial penalty.

The SFO cannot identify the companies for legal reasons. The charges relate to offences contrary to s.1 and s.7 of the Bribery Act 2010.

Both companies co-operated fully with the SFO.

Lisa Osofsky, Director of the SFO, said:

“These companies either actively participated in or failed to prevent the rolling use of bribes to unfairly win contracts.

“The companies were registered and operated in the UK. Their bribery undermined the fundamental principles of fairness and the rule of law that we expect in this country.

“The SFO exists to uphold these principles and DPAs enable us to do this, punishing companies for their crimes but also putting in place measures which ensure they will not flout the rule of law again.”

The DPAs contain an undertaking by a parent company to support a comprehensive compliance programme and obligations to report to the SFO on compliance at regular intervals during the two-year term of the DPAs. The companies have fully co-operated and will continue to co-operate with the SFO in related proceedings.

These are the eleventh and twelfth DPAs secured by the SFO. These two DPAs have recovered £2,510,065 in fines and disgorgement and compelled corporate offenders with UK operations to reform and become better corporate citizens.

Notes to editors:

- Preliminary hearings took place before Mrs Justice May, sitting at the Royal Courts of Justice on 7 July 2021 and 19 July 2021. The final hearing was also concluded on 19 July 2021 at the RCJ.
- Reporting restrictions apply under the Contempt of Court Act 1981 in respect of aspects of these proceedings. The full documentation (Deferred Prosecution Agreements, Statement of Facts and Judgment) will only be published when those restrictions have been lifted.
- The period of each DPA is two years. If either company does not honour the terms of the DPA, the SFO can prosecute and the Statement of Facts is admissible in any trial.
- The full amount of the penalty must be paid within 14 days.
- The DPAs only relate to the potential criminal liability of the companies and do not address whether liability of

any sort attaches to any current or former employee or agent of the companies. Upon determining the issue of approval of the DPAs, the Court did not make findings of fact. No process took place by which the culpability of individual people was determined or assessed.

- Counsel for the SFO: Robert O’Sullivan KC, Trevor Archer, Angus Bunyan.
- Counsel for the countersigning companies: Lord Garnier KC, Jennifer Carter-Manning KC, Ben Isaacs, instructed by RPC LLP.

As reported in *The Times* speaking on the UK Bribery Act 2010, [Lord Garnier KC](#), a former Conservative solicitor-general and the architect of the UK’s DPA regime, argues that the ambit of the failure to prevent regime should be extended beyond bribery and tax offences into areas such as sanctions, economic and financial crime, fraud and money laundering — all of which the Law Commission is considering.