

Neutral Citation Number: [2026] EWCR 4

IN THE CROWN COURT AT SOUTHWARK
IN THE MATTER OF S.45 OF THE CRIME AND COURTS ACT 2013

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 1 May 2026

Before :

MR JUSTICE HILLIARD

Between :

The Director of the Serious Fraud Office

Applicant

- and -

Ultra Electronics Holdings Ltd (Previously Plc)

Respondent

Faras Baloch and Trevor Archer (instructed by the Serious Fraud Office) for the Applicant
Katherine Hardcastle (instructed by Simmons & Simmons LLP) for the Respondent

Hearing dates: 23 April and 1 May 2026

Mr Justice Hilliard :

Introduction

1. It is very important that I make clear at the outset that in conducting the exercise that I have in this case, I have not heard evidence from any individual or made any findings of fact against any individual. The SFO has decided not to bring charges against any individual in connection with its investigations in this case. When I make reference to the conduct of individuals so as to explain my reasons for granting the declarations sought, that is on the understanding of what has been agreed between the parties but not by anyone else. In the first paragraph of his judgment in *Director of the SFO v Amec Foster Wheeler Energy Limited*, 1 July 2021, Edis LJ said this about the DPA process:

“the court does not make findings of fact in the present exercise. It is necessary to assess the culpability of the behaviour of a company but no process has taken place by which the culpability of individual people has been determined or assessed. Companies act through individuals, and it is necessary to consider some conduct for that reason, but the court has not heard from any individuals or called upon them for their side of the story. This judgment deals with the culpability of the company Amec Foster Wheeler Energy Limited (AFWEL) and not that of any individual person. That culpability is determined by reference to agreements reached between AFWEL and the SFO and documents supplied by those parties. No individual has agreed any of these facts, or supplied any document to the court about them. I make no findings of any kind against any individual, and my comments below are to be read in that context.”

I respectfully adopt what Edis LJ said. May J, as she then was, made the same point in *Director of the SFO v Bluu Solutions Limited* [2023] EWHC 1976 (KB) at [16].

2. By section 45 of and Schedule 17 to the Crime and Courts Act 2013 (the CCA), a corporate body may enter into an agreement with a designated prosecutor which enables it to avoid prosecution for specified offences if the agreement is honoured.

A Deferred Prosecution Agreement (DPA) of this kind has to be approved by the Court which must be satisfied that the DPA is in the interests of justice and that its terms are fair, reasonable and proportionate. There is a two-stage process as I shall explain. The legal framework was considered and set out by Dame Victoria Sharp P in *Director of the Serious Fraud Office v Airbus* [2020] 1 WLUK 435 at [6] – [10] and applied in that particular case at [58] – [119]. There is no need for me to repeat her exposition.

3. On 23 April 2026, I heard an application in private that I should give preliminary approval to a DPA between the parties in this case. At that hearing, I made a declaration pursuant to paragraph 7 of Schedule 17 that it was likely to be in the interests of justice for such an agreement to be made, and that its proposed terms were fair, reasonable and proportionate.
4. I adjourned matters until 1 May 2026 when I anticipated, in the absence of any significant developments in the meantime, that I would then make a public declaration pursuant to paragraph 8 of Schedule 17 that the DPA is in the interests of justice and that its terms are fair, reasonable and proportionate. I indicated that unless there were any significant developments, my reasons for making the two declarations would be the same. Nothing has happened to change my mind about the view I took on 23 April and these are therefore my reasons for making both declarations.
5. I should acknowledge at the outset the help that I have received from Mr Baloch and Mr Archer for the SFO, and from Ms Hardcastle for Ultra, and their teams.

The Alleged Offending by Ultra Electronics Holdings Ltd

6. A Statement of Facts has been agreed between the parties. A version of the Statement of Facts which is designed to protect the identity of a particular individual

is incorporated into this judgment. This person is referred to as SE1 and some company details which might point to SE1's identity have also been anonymised. I have not been told the name of the individual in question or the company details. The SFO considers that the name should not be published because to do so would put their Article 2 and 3 rights at risk. The reason for this has been explained to me briefly. I did not need to know the anonymised information to be able to decide whether to make the two declarations in this case.

7. The Statement of Facts contains this declaration at the top of the first page:

“In determining whether to approve the DPA, the Court made no findings of fact. There was no process by which the culpability of any individual was determined or assessed. Although the Court observed that companies act through individuals—and therefore considered certain aspects of individual conduct—it did not hear evidence from any individuals or invite them to give their account. No individual has made any admission of any of the conduct set out below and some individuals have denied their involvement in the alleged misconduct. The judgment on the DPA addressed only the culpability of Ultra Electronics Holdings Limited, and not that of any individual. Accordingly, no findings of any kind were made against any individual.”

8. The following abbreviations are used for entities within the Ultra Group:

- a. “UEH” refers to Ultra Electronics Holdings Limited (formerly Plc), which is the subject of this DPA.
- b. “Ultra Group” refers to UEH together with its subsidiaries.
- c. “UEL” refers to Ultra Electronics Limited, a wholly owned trading subsidiary of the Ultra Group.
- d. “UEAS” refers to Ultra Electronics Airport Systems, a former business unit within the Ultra Group.

9. The relevant conduct set out in the Statement of Facts concerns alleged bribery by persons associated with UEH, facilitated through local agents in Oman (Count 1) and Algeria (Counts 2 and 3), to secure high-value infrastructure projects in those countries.
10. In overview, in respect of Count 1, UEL, acting through the UEAS business unit and a joint venture company registered in Oman, was engaged in a bid for a major Information Technology and Systems project for Muscat and Salalah airports in Oman called 'Main Contract 6' (the "MC6 Project"). Following a process between 2009 and 2011, the bid was successful. The parties to this DPA are agreed that it can properly be inferred that payments related to MC6, made in May and July 2012, were intended, in whole or in part, to be passed on to an official for assistance provided. However, the contract was later terminated by the Oman Ministry of Transport and Communications, ultimately resulting in a significant financial loss for UEH.
11. In respect of Counts 2 and 3, UEL bid for two projects in Algeria between 2014 and 2017: the first concerned the provision of IT and e-commerce solutions at the Houari Boumediene Airport in Algiers (the "Airport Project"), and the second related to the provision of public key infrastructure (the "PKI Project" and together with the Airport Project, the "Algerian Projects") for the Algerian Ministry of Post and Information and Communication Technologies ("MPICT"). Representation agreements signed in July 2016 included substantial commissions, said to have been intended to facilitate corrupt payments to senior Algerian public officials. However, UEL's attempts to secure the Algerian Projects were unsuccessful and resulted in no financial gain.

12. UEH has accepted that at the relevant time it did not have in place adequate procedures to prevent associated persons from engaging in such conduct.
13. UEH's incorporation and business activities are outlined in the Statement of Facts. In summary, UEH is a former FTSE 250 company that operated as a major defence and aerospace technology group. Its subsidiaries specialised in designing and manufacturing electronic systems, employing approximately 4,150 to 4,850 staff and generating annual revenues of GBP 651 million to GBP 786 million between 2009 and 2017. One of its business units was UEAS which was sold in 2019 and is no longer part of the Group.
14. On 1 August 2022, UEH was acquired by Cobham Ultra Acquisitions Limited ("CUAL"), a subsidiary of Cobham Ultra Limited ("CUL"), an entity ultimately controlled by funds managed and/or advised by Advent International L.P. and its affiliates ("Advent"). However, Advent, CUAL, CUL, and related entities had no involvement in the misconduct under SFO investigation, all of which occurred several years before the acquisition. Advent was also only provided with very limited information in relation to the Algerian Projects and no information on the MC6 Project conduct prior to the acquisition. Following the acquisition, UEH was delisted from the London Stock Exchange and is now privately held.
15. Between 26 October 2009 and 25 June 2011, UEL and Oman Investment Corporation SOAC ("OIC") jointly bid for the MC6 Project. OIC was incorporated in Oman in 2005. It was a bid requirement for UEL to partner with an Omani business. On 3 July 2011, the MC6 Project was jointly awarded to UEAS and OIC, referred to in the letter of award as "Ultra Electronics in collaboration with Oman Investment Corporation".

16. This led to the formation of a joint venture company, 70% owned by UEH and 30% by OIC. The joint venture was registered in Oman on 20 August 2011 as ‘Ultra Electronics Airport Systems (Middle East) LLC’ and was later renamed ‘Ultra Electronics in Collaboration with Oman Investment Corporation LLC’ to match the letter of award. The joint venture was referred to as “Ithra”.
17. Golden Way Trading & Contracting LLC (“Golden Way”) was registered in Oman in January 2009.
18. In 2011, UEH entered into a joint venture (“JV”) with an overseas company (“JV Partner”) as 50% shareholders in a company incorporated overseas.
19. JV Partner was involved in the civil aerospace market. It had several overseas companies affiliated with it. They are identified by the term “JV Affiliate” in the Statement of Facts. Where it was not possible to identify from the contemporaneous documentation whether JV Partner or a JV Affiliate was being referred to, the term “JV Partner X” has been used.
20. The Société de Gestion des Services et Infrastructures Aéroportuaires (“SGSIA”) was the Algiers Airport authority responsible for the Airport Project.
21. China State Construction Engineering Corporation (“CSCEC”) is a Chinese state-owned construction company which was appointed by SGSIA as the main contractor for works for the Airport Project.
22. MPICT was responsible for the PKI Project.

Count 1

23. The indictment has three charges of failing to prevent bribery, contrary to section 7 of the Bribery Act 2010 (BA 2010). The particulars of Count 1 are in these terms:

“Between the 1st of July 2011 and the 31st of July 2012, Ultra Electronics Holdings Limited failed to prevent persons associated with Ultra Electronics Holdings Limited from bribing officials concerned in the award of the Main Contract 6

Project for Muscat and Salalah Airports in the Sultanate of Oman, where the said bribery was intended to obtain or retain business or an advantage in the conduct of business for Ultra Electronics Holdings Limited.”

24. The MC6 Project was a major Information Technology and Systems project for Muscat and Salalah airports, with an approximate value of GBP 150 million to GBP 200 million. As required by local law, UEL engaged a local Omani partner, who was to become the joint venture partner with UEL in Ithra. From late 2009, UEL employees discussed including within the project budget, a payment of 800,000 Omani Rial (“OMR”), (GBP 1.297 million as of 13 May 2012) for a “third man” or “fixer” who could deliver a “knockout blow” and secure the bid for the project in Ithra’s favour. It is apparent from the documents that this “third man” was believed to be in a position to influence the award of the project and may have been an official or connected to an official. In July 2011, the MC6 Project was awarded to Ithra. Following that award, Ithra entered into a consultancy agreement with the Omani company, Golden Way, for which it received a payment of OMR 800,000. Ultra Group employees arranged for this sum to be paid by Ithra in instalments into a personal bank account and the parties to this DPA are agreed that it can be inferred that they did so with a view to some or all of that sum being passed on as payment to an official for assistance provided.
25. Golden Way provided a total of three invoices to Ithra for payments under the representation agreement. Ithra paid a total of OMR 800,000 (GBP 1,297,226) in payments to Golden Way between May and July 2012.
26. The MC6 Project proved to be operationally and financially challenging. On 22 January 2015, the Oman Ministry of Transport and Communications gave 14 days’ notification of the termination of the MC6 Project contract, terminating it on 9

February 2015. Ithra's anticipated gross profit at or around termination was GBP 865,000. Separately, as reflected in available accounting records, UEAS made a gross profit of GBP 369,000 from a subcontract it entered into with Ithra and an estimated gross profit of GBP 3.447 million from the sale of a licence to Ithra, in each case as part of the MC6 Project. Ultimately, however, the contract was significantly loss-making: through its joint venture share of Ithra, UEH reported a loss of GBP 31.8 million in its 2014 accounts.

Count 2

27. The particulars of Count 2 in the indictment are in the following terms:

“Between 1st of May 2016 and 31st of August 2017, Ultra Electronics Holdings Limited failed to prevent persons associated with Ultra Electronics Holdings Limited from bribing others in order to secure a project for Information Technology and E-commerce solutions at the Houari Boumediene Airport in Algeria, where the said bribery was intended to obtain or retain business or an advantage in the conduct of business for Ultra Electronics Holdings Limited.”

28. UEAS was invited to bid for the Airport Project by CSCEC. UEH and the JV Partner agreed to cooperate in the preparation of the bid through the joint venture. SE1, whilst employed by UEL, arranged consultancy agreements between JV Partner X and Algerian agents. These agreements stipulated substantial commission payments to be made by a JV Affiliate to the Algerian agents on the award of the project. The parties to this DPA agree that it can properly be inferred that the purpose of the agreements was to facilitate the corruption of senior officials who would influence the tender. SE1 made several payments to an agent to reimburse him for bribes he claimed to have paid. The bid was ultimately unsuccessful. Throughout the bidding process, SE1 worked for UEL and was the CEO of JV.

29. On 30 May 2016, SE1 emailed to the agent a proposed consultancy agreement for the JV Partner to engage his services through Algeria Advice Corporation in relation to the Airport Project. In his response, the agent explained the agreement was necessary for progress to be made with UEAS's bid for the Airport Project.
30. The parties to this DPA are agreed that it can properly be inferred that the consulting fee was to facilitate a disguised payment to a senior official.
31. On 13 September 2016, SE1 made a payment of GBP 21,933 to the agent's bank account. The funds were paid through AB Ltd, an overseas company under SE1's personal control. The parties to this DPA are agreed that it can properly be inferred that SE1 directed this payment to reimburse the agent for money he claimed he had spent on corruptly pursuing the bid.
32. On 15 September 2016, SE1 paid another agent a further EUR 5,485.
33. In August 2017, an agent requested money from SE1, saying that he had a government member waiting for him in Algiers. He said that the Ultra case had gone from the ministry to the Algiers airport authority responsible for the project. SE1 transferred a total of GBP 15,000 to the agent which he said he would hand over in cash.
34. In January 2018, SE1 was told that the airport project had been awarded to another supplier.

Count 3

35. The particulars of Count 3 are in these terms:

“Between 1st of July 2016 and 31st of July 2017, Ultra Electronics Holdings Ltd failed to prevent a person associated with Ultra Electronics Holdings Ltd from bribing others in order to secure a project for the provision of public key infrastructure works for the Algerian Ministry of Post and Information and Communication Technologies, where said

bribery was intended to obtain or retain business or an advantage in the conduct of business for Ultra Electronics Holdings Ltd.”

36. In 2016, the MPICT launched a tender for the PKI Project. JV bid on the PKI Project as part of a consortium. The parties to this DPA agree that it can properly be inferred that SE1, whilst employed by UEL, purchased an Apple iPhone for an official at MPICT, as a reward for his providing the Request for Proposal outside of the standard bid prequalification process. SE1 arranged a consultancy agreement between a JV Affiliate and Algeria Advice Corporation, which included a USD 4 million fee and a separate agreement between the JV Affiliate and a former MPICT official for USD 1.5 million. The parties agree that it can properly be inferred that the purpose of the consultancy agreement was to facilitate corrupt payments to senior officials who would influence the tender in favour of the consortium; and that SE1 arranged for an agent and the former official to apply to open bank accounts overseas to receive corrupt payments and created false employment contracts to disguise the reason for such payments. The consortium failed to secure the award of the PKI Project.
37. UEH accepts that during the indictment period, it did not have in place adequate anti-bribery and corruption policies and procedures to prevent their associated persons from engaging in the conduct set out in the Statement of Facts.

The Investigation

38. Details of the SFO’s investigations are set out in the Statement of Facts. In summary, in early 2018, UEH initiated an internal investigation after receiving communications from a business partner of an Algerian agent, who threatened legal action over unpaid fees relating to the PKI Project and referred to “dubious”

payments made in Algeria. Around the same time, Algerian media began reporting allegations of corruption involving UEH and officials at SGSIA.

39. On 23 March 2018, UEH's then solicitors submitted a self-report to the SFO, which prompted the SFO to open a criminal investigation in April 2018, to carry out searches, seize materials, and arrest a senior executive.

40. Throughout 2018, UEH conducted a comprehensive internal investigation into the Algerian projects, collaborating closely with the SFO and providing extensive documentation, waivers of privilege, and a detailed narrative report in early 2019.

41. In February 2021, the SFO invited UEH to enter DPA negotiations concerning failures to prevent bribery in Algeria. However, in July 2022, at a late stage in negotiations, and shortly before the acquisition on 1 August 2022 by CUAL, UEH disclosed information regarding the conduct of Ultra Group employees in Oman. UEH informed the SFO that an internal investigation into this conduct in 2015 had not identified evidence of bribery and corruption. UEH subsequently provided (i) the internal investigation report (subject to a waiver of privilege for the purposes of the investigation), and (ii) certain underlying documents relating to the conduct.

42. The SFO did not accept UEH's analysis of the material and withdrew from the DPA negotiations in November 2022. The SFO's investigation was subsequently expanded to include suspected corruption in Oman and, later, the historical conduct of UEH across additional jurisdictions.

43. Following the acquisition, the Ultra Group's new owners, Advent, replaced the previous management of the Ultra Group, brought in new internal and external legal counsel and installed a new compliance team. The newly appointed external solicitors, Simmons & Simmons LLP, carried out extensive investigations into the Ultra Group's activities across Oman, China, and other jurisdictions. Between early

2024 and early 2025, UEH repeatedly presented detailed findings to the SFO, including narrative reports supported by waivers of legal professional privilege for the purposes of the investigation.

44. The SFO's investigation into the Ultra Group has been extensive, involving a review of seized materials, an examination of internal investigation reports, interviews with numerous former employees and witnesses in this jurisdiction and overseas, targeted evidence requests, and the use of statutory powers to obtain international material, such as mailboxes and bank records.
45. Documents brought to the SFO's attention by UEH following UEH's internal investigation post-acquisition show that, as early as 2005, UEH staff involved agents in China who may have used bribes to help secure high-value contracts. This behaviour occurred before the commencement of the BA 2010 and was not considered to meet the evidential test or threshold test for the purposes of inclusion within a DPA. The staff involved with the suspected offending are no longer employed by Ultra Group.
46. Constructive engagement between UEH and the SFO resumed after the withdrawal from earlier DPA discussions. UEH's new management has demonstrated what the SFO accepts is exemplary co-operation. This has included facilitating interviews, identifying relevant individuals and documents, offering waivers of privilege, providing detailed reports and presentations, granting access to overseas records and legacy entities, and advancing significant compliance reforms. Further detail is set out in the Statement of Facts. In parallel, UEH has undertaken extensive remediation measures, including replacing senior management, appointing an experienced Chief Compliance Officer, overhauling compliance frameworks, significantly reducing the use of intermediaries, enhancing policies and procedures,

delivering extensive Anti-Bribery and Corruption training, and auditing financial controls. Again, further details are set out in the Statement of Facts.

47. Separately, the Royal Canadian Mounted Police conducted a parallel investigation into a former Canadian subsidiary of UEH regarding alleged bribery in the Philippines. This resulted in a Canadian Remediation Agreement (the Canadian equivalent of a DPA) in February 2023. UEH divested the subsidiary later that year. The subsidiary's conduct and the Canadian investigation were disclosed to the SFO in a timely manner and did not influence the SFO's withdrawal from earlier DPA negotiations.

The Interests of Justice

48. In accordance with para 1.2 of the Deferred Prosecution Agreement Code of Practice, the SFO had to be satisfied in order to enter a DPA that there was sufficient evidence to prosecute in respect of the 3 offences in the indictment and that it would be in the public interest not to prosecute but to enter into a DPA instead. They were satisfied about both matters. They considered public interest factors in favour of and against prosecution by reference to paras 2.8.1 and 2.8.2 of the Code. The factors they identified in the application for the DPA are relevant to my consideration of whether a DPA is in the interests of justice. And paragraph 9.4 of the Code, and Criminal Procedure Rule 11.3(3)(i)(i) require the prosecutor to explain in an application for a para 7 declaration why a DPA is likely to be in the interests of justice.

49. The prosecution drew attention to the following matters as supporting a decision to prosecute:

- a. UEH failed promptly and fully to disclose the Oman misconduct following its initial self-report in relation to the Algeria Projects.

- b. The conduct on the indictment includes corruption of foreign public officials.
 - c. The conduct spans multiple jurisdictions.
 - d. The suspected bribery was endemic and longstanding and part of an established business practice of using agents embraced by senior employees across a wide range of functions.
 - e. The conduct is likely to have caused reputational damage to the UK and adversely impacted national and international economies, and the integrity of foreign governments.
 - f. The conduct occurred when UEH's compliance programme was ineffective.
50. The prosecution drew attention to various matters (with reference to the provisions of the DPA Code) as tending in favour of a DPA:
- a. UEH in its current form is effectively a different entity from that which committed the offences and from that which engaged in previous DPA negotiations (DPA Code, Paragraph 2.8.2(v)):
 - i. Following the acquisition, UEH operates with entirely different management and new ownership that has no connection to the historical misconduct:
 - UEH's Board of Directors and senior management have been entirely replaced.
 - UEH has divested itself of UEAS, the business unit central to the misconduct, which was sold to ADB Safegate in February 2019, prior to the acquisition.
 - None of the Ultra Group employees associated with any of the misconduct which has come to light during the course of the SFO investigation remains employed by the Ultra Group.

- The new owners, Advent, and the new management team at UEH have been highly visible and actively engaging with the SFO case team, demonstrating an exemplary level of cooperation.
- ii. UEH's ultimate owners, namely the funds managed and/or advised by Advent, acquired the business via CUL and its subsidiary CUAL after the misconduct had ceased. Although the SFO's investigation had been announced four years prior to the acquisition, the new owners had very limited knowledge of the historical misconduct. The DPA negotiations were well advanced at the time of the acquisition but were not disclosed during the acquisition process, owing to the confidentiality restrictions then in place. The SFO are satisfied after investigation that no discount was applied to the acquisition price as a result of either the Oman misconduct (which the new owners had no knowledge of) or the SFO's investigations more generally.
- b. The offending is not recent (DPA Code, Paragraph 2.8.2(v)):
- i. The misconduct in Oman occurred in 2011-2012.
 - ii. The misconduct in Algeria occurred in 2016-2017.
- c. UEH proactively cooperated with the SFO (DPA Code, Paragraph 2.8.2(i)) before and after the acquisition. More detail is given in the Statement of Facts.
- d. UEH operated a corporate compliance programme, but it failed to be effective (DPA Code, Paragraph 2.8.2(iii)):
- i. UEH had a corporate compliance programme in place at the time of the suspected offending, but it failed to prevent the misconduct in Oman and Algeria.
 - ii. UEH has since taken extensive steps to overhaul its business culture including its compliance programme, to minimise the risk of repeat offending,

with the implementation of measures to address all concerns identified by the SFO during the previous DPA negotiations, including:

- The creation of a new Group-level executive position, a Chief Compliance Officer, who reports directly to Ultra Group's Board of Directors which includes senior Advent professionals.
- Commissioning an independent external risk assessment of UEH's compliance programme by a reputable and experienced law firm, sharing the resulting report, assessment and findings under a waiver of privilege for the purposes of the investigation.
- Implementation of recommendations made by the external law firm that conducted the risk assessment.

e. A conviction is likely to have disproportionate consequences for UEH (DPA Code, Paragraph 2.8.2(vi)):

- i. While serious criminal offending warrants serious consequences, if UEH is prosecuted and convicted, the people who will suffer most will not be the individuals responsible for the offending but rather the post-acquisition owners, who were not involved with UEH at the time of the alleged offences.
- ii. UEH failed to secure either contract in Algeria, so it made no financial gain from them. UEH's joint venture company was successful in its bid for the MC6 Project, but the contract was terminated on 9 February 2015. Proceedings in Oman are ongoing. As a result, UEH has incurred a significant reported loss (GBP 31.8 million), which could increase as a result of the ongoing proceedings in Oman.
- iii. On balance, prosecuting UEH in its current form would be a disproportionate response when a DPA is available.

f. A conviction is likely to have collateral effects on the public (DPA Code, Paragraph 2.8.2(vii)):

i. A conviction would have a substantial impact on the company, which in turn would risk wider effects on the UK public.

- UEH holds substantial multi-year defence contracts with the UK and other Western (“Five Eyes”) governments. UEH is a British defence and aerospace company specialising in mission-critical electronics, sensors and control systems for aircraft, ships, and vehicles.

- Certain Ultra Group entities undertake work classified as SECRET and TOP SECRET to support critical sensitive capabilities.

- UEH has made representations to the SFO that a conviction for a bribery-related offence might affect its ability to trade within its core jurisdictions, where public-sector procurement rules could debar it. Notwithstanding those representations, the SFO noted that section 7 of the BA 2010 is omitted from the list of offences that warrant automatic mandatory debarment from public tenders under Schedule 6 to the Procurement Act 2023. Any debarment in this jurisdiction would therefore be discretionary. Nevertheless, were a conviction likely to result in debarment in this or any other core jurisdiction, that would risk:

A) Repercussions for innocent third parties in supply chains.

B) Impairment of competition in the defence industry at a time of heightened risk, where UEH has a critical role in supplying maritime, intelligence, communications and precision control systems.

C) A potentially significant loss of commercial partner confidence, which is likely to be made more dramatic by the debarment consequences of a conviction (for example, leading to more limited access to available financing options).

D) Possible group-wide redundancies of staff worldwide, but primarily concentrated in the US and the UK, where the company has approximately 1,500 employees.

51. In the light of all these matters, the prosecution submitted that a DPA would be in the interests of justice in all the circumstances here because it achieves the legitimate aims of the criminal justice system at least as effectively as a prosecution, and indeed more so, whilst avoiding harm to those who bear no responsibility for what happened.

52. The prosecution say that the proposed financial penalty will punish UEH for its offending and deter others from engaging in similar conduct. Requiring UEH to pay the full financial penalty and SFO costs within 30 days will send a clear message that such offending is serious and attracts immediate and significant consequences; and that if a company wishes to mitigate such consequences, it should begin by engaging positively with law enforcement and be prepared to sustain that co-operation over a period of years.

53. Furthermore, it is argued that the requirement that UEH must maintain an effective corporate compliance programme throughout the term of the DPA, accompanied by regular reporting to the SFO, will ensure that the changes UEH has made remain embedded after the prospect of immediate prosecution has been removed. Such a requirement would not be available following a prosecution and conviction. The compliance programme would help to make UEH a model of good

practice within the defence industry, setting high standards against which competitors can be assessed.

54. Finally, the prosecution contend that approving a DPA as an alternative to prosecution and conviction will acknowledge the positive steps that UEH has taken to self-report, to cooperate fully with the investigation of individuals, and to cleanse and remediate its systems and culture. Such recognition encourages other companies to take similar steps, thereby improving the detection of offences which, by their nature, are often highly secretive. Collectively, these measures will help to reduce the risk of future offences within UEH and more broadly.

55. In my judgment, there is force in the points made by the prosecution. The offending is obviously serious for all the reasons they have given, and the more serious the offending, the stronger the interest in a prosecution rather than a DPA. But there are also factors present which have been acknowledged in other cases as meaning that a DPA can be in the interests of justice in an appropriate case. In the *Bluu Solutions* case, May J itemised them at [76], although of course the list of factors is not closed.

56. In this case, I attach particular weight to the fact that the organisation at the time of this DPA is effectively a different entity from the one that committed the offences, and it is operating in a completely different way and with different personnel. What has happened in the past does not taint the modern company. The DPA will help safeguard the position of innocent employees and the public from adverse effects on the UK defence industry. Such factors were given weight by Sir Brian Leveson P in *SFO v Rolls Royce*, 17 January 2017, at [56] and [57]. In addition, incentivising companies to self-report by the imposition of a DPA in an appropriate case has a very substantial benefit to the interests of justice, bringing

conduct to light which might otherwise have gone undiscovered, and making it easier to investigate and pursue such cases. I have not overlooked the element of late reporting of the Oman misconduct but that can be reflected when assessing the financial penalty. I have also had regard to the fact that the terms of the DPA can include requirements that would not be available as punishment following a conviction. I have set these out in later paragraphs because they are significant. I have also explained what the requirements are designed to achieve. It is also relevant when considering the interests of justice more generally that it has been possible, as I shall explain, to agree fair, reasonable and proportionate terms. The terms have an important role in the future as regards public confidence in a case of this kind. In all the circumstances here, I am satisfied that this DPA is in the interests of justice.

The Terms of the DPA

57. The prosecution have explained why they say that the terms of the DPA are fair, reasonable and proportionate. I am satisfied that that is a correct assessment. It is clear to me that considerable care has been taken as regards the appropriate terms by a specialist prosecuting authority and by those representing UEH. That is the starting point.

58. The proposed duration is three years. That period is fair, reasonable and proportionate to ensure that the terms accomplish their legitimate aims.

59. The proposed terms require that the financial penalty and costs be paid within 30 days. The DPA will remain in force for three years to ensure UEH's continuing cooperation with the SFO and other law enforcement agencies both in this jurisdiction and internationally. This period also aims to ensure that, once the immediate threat of prosecution is removed, the cultural changes and improved

compliance programme are fully embedded and continue to develop in line with recommendations from UEH's external legal advisors.

Additionally, the three-year period allows the SFO to evaluate the effectiveness of the ongoing processes.

Co-operation

60. Paragraph 5(3)(f) of Schedule 17 to the CCA 2013, together with paragraphs 7.8(iii) and 7.10(iv) of the DPA Code, anticipate that future co-operation will form part of a DPA. The DPA Code further emphasises that such ongoing cooperation is "normally" required.

61. Future co-operation of UEH is provided for in paragraphs 11 to 16 of the DPA:

- a. Co-operation with the SFO: Paragraphs 11 and 12 require UEH to retain, for the term of the DPA, all material gathered as part of its internal investigation or in connection with the SFO's investigation, and to co-operate with any and all SFO pre-investigations, investigations, and prosecutions.
- b. Co-operation with other agencies: Paragraph 13 requires UEH to co-operate with any other domestic or foreign law enforcement and regulatory authorities and agencies in connection with any investigation or prosecution which is the subject of the indictment in this matter.
- c. Future self-reporting: Paragraph 16 requires UEH promptly to report to the SFO any conduct by UEH, any UEH Associated Person, or any UEH subsidiary (including a joint venture, bidding partner, or member of a consortium with UEH) that is known to the Chief Compliance Officer or any Director, and that would constitute serious bribery or fraud and meet the criteria for case acceptance by the SFO.

62. These terms will ensure that UEH continues to cooperate with the SFO and other law enforcement and regulatory agencies, and that UEH will, as appropriate, report evidence and allegations of serious or complex fraud. They are fair, reasonable, and proportionate as they seek to achieve legitimate aims without placing a disproportionate burden on UEH or, indirectly, its affiliates.

Compensation

63. Paragraph 5(3)(b) of Schedule 17 to the CCA 2013 provides that a DPA may include a requirement to compensate victims of the alleged offence, a fact that is reiterated in paragraphs 7.2 and 7.9 of the DPA Code.

64. This DPA concerns three offences, each involving a contract bid. The bids for two contracts in Algeria (Counts 2 and 3) were unsuccessful, so there is no direct victim to compensate. The bid for a contract in Oman (Count 1 - the MC6 Project) was successful. That contract was partially fulfilled before being terminated by the Omani Ministry, leading to extensive arbitration proceedings and substantial awards against UEH's joint venture company, Ithra. Related proceedings in Oman remain ongoing. Given that the Omani government is already pursuing a resolution against UEH and UEL, with likely substantial awards if UEH and UEL are unsuccessful in defending the case, it would not be appropriate to seek to address compensation as part of this DPA.

Disgorgement

65. Paragraph 5(3)(d) of Schedule 17 to the CCA 2013 also provides that a DPA may require the subject to disgorge any profits it made from the alleged offence. See also paragraph 7.9 of the DPA Code.

66. As set out above, the bids for the two Algerian Projects were unsuccessful, and UEH obtained no financial benefit. The MC6 Project was secured but ultimately

resulted in a significant financial loss for UEH. As UEH did not ultimately profit from any of these contracts, the DPA makes no provision for the disgorgement of profit.

Financial Penalty

67. The proposed DPA provides that UEH shall pay a financial penalty of GBP 10,083,150 within 30 days.

68. The DPA Code at paragraphs 7.8.i. and 7.9 envisages that a financial penalty will normally form part of a DPA. Paragraph 5(4) of Schedule 17 to the CCA 2013 provides that a DPA must include a financial penalty that is “broadly comparable to the fine that a court would have imposed on P on conviction for the alleged offence following a guilty plea”. In *Director of the Serious Fraud Office v Amec Foster Wheeler Energy Limited*, above, Edis LJ stated at paragraph 50 of the judgment, “I consider that the 2013 Act means that a DPA cannot be approved unless the court considers that it includes an agreed financial penalty which is ‘broadly comparable’ to the fine”.

69. Paragraph 7.9(iv) of the DPA Code provides that “there should be a transparent and consistent approach to the setting of a financial penalty that is analogous to the sentencing framework for setting fines”. Paragraph 8.4 also reminds parties that “the extent of the discretion available when considering a financial penalty is broad.”

70. Sentencing guidelines set out a multi-step process for determining the appropriate fine for a corporate offender that has committed a bribery offence, including failing to prevent bribery, contrary to section 7 of the BA 2010. The steps are as follows.

71. Steps 1 and 2: Compensation and/or confiscation. As explained above, such orders are not appropriate in this case.

72. Step 3: Determining the offence category by reference to culpability and harm.

73. Culpability - The SFO has assessed UEH's culpability as 'high' given the presence of the following high culpability factors:

- a. Corruption of national government officials or ministers.
- b. Offending committed over a sustained period of time.

74. Whilst one factor indicating 'lesser culpability' is also present, namely that UEH made some effort to put bribery prevention measures in place, that single factor does not reduce UEH's overall culpability to a lower category.

75. Harm – The Sentencing Guideline provides that for offences under the BA 2010, “the appropriate figure will normally be the gross profit from the contract obtained, retained or sought as a result of the offending [...]”. The Sentencing Guideline provides that generally in cases of fraud, bribery, or money laundering,

“Where the actual or intended gain cannot be established, the appropriate measure will be the amount that the court considers was likely to be achieved in all the circumstances. In the absence of sufficient evidence of the amount that was likely to be obtained, 10–20 per cent of the relevant revenue (for instance between 10 and 20 per cent of the worldwide revenue derived from the product or business area to which the offence relates for the period of the offending) **may** be an appropriate measure. There may be large cases of fraud or bribery in which the true harm is to commerce or markets generally. That may justify adopting a harm figure beyond the normal measures here set out.”

76. The SFO point out that in real terms as regards Count 1, UEH ultimately incurred a loss of approximately GBP 31.8 million on the contract after it was terminated, leaving UEH with liabilities due to unpaid invoices, liabilities predating

termination that still had to be paid, and additional costs arising from the termination (e.g. legal fees, liquidation fees etc.).

77. The SFO concluded that there was insufficient reliable evidence of the intended gain at the time the contract was entered into. They took the view that the only reliable basis upon which to estimate the intended gain was to use Ithra's anticipated gross profit at or around termination, agents' fees attributable to UEH (treated as disallowable costs), UEH's subcontract profit as reflected in available accounting records, and the estimated profit share from the sale of a licence fee by UEAS to Ithra. These figures were supported by contemporaneous business performance reports. The result was a harm figure of GBP 5.329 million for Count 1.

78. On Counts 2 and 3, the 'harm' figures represent the intended gross profit on the unsuccessful bids for the two Algerian projects. The combined intended gross profit figure for the Algerian projects is GBP 1.461 million.

79. Step 4: Starting point and category range. A multiplier of 300% has been applied across all counts, which is the starting point for a high culpability offence. That level of multiplier accords with the assessment of culpability at Step 3.

80. The SFO have concluded that the aggravating and mitigating factors broadly balance, so no adjustment has been made to the multiplier.

81. Step 5: Adjustment of fine. This step invites the court to step back and consider the overall effect of its orders, particularly whether any adjustment to the level of the fine is required to ensure that the objectives of the removal of gain, punishment, and deterrence are met fairly. The fine should be set at a level that is "substantial enough to have a real economic impact which will bring home to both management and shareholders the need to operate within the law" whilst also

“proportionate, having regard to the size and financial position of the offending organisation and the seriousness of the offence”. I am satisfied that the fine will have such an impact, noting at the same time the observation of Edis LJ in *Amec Foster Wheeler* at [50], that there is no purpose in undermining unnecessarily the commercial position of a company which has entirely reformed and has cooperated to a very significant extent.

82. In this case, no separate adjustment was considered necessary.

83. Steps 6 and 7: Consideration of any factors which would indicate a reduction, such as assistance to the prosecution, and a reduction for a guilty plea. A defendant who pleads guilty is ordinarily entitled to a one-third discount on sentence. However, in *Director of the Serious Fraud Office v Sarclad Limited* (judgment for preliminary approval of a DPA), 8 July 2016, Sir Brian Leveson P stated at paragraph 69 of the judgment,

“given that the admissions are far in advance of the first reasonable opportunity having been charged and brought before the court, that discount can be increased as representing additional mitigation. In the circumstances, a discount of 50% could be appropriate not least to encourage others how to conduct themselves when confronting criminality as XYZ has”.

This principle has been applied in subsequent DPA cases.

84. In *Director of the Serious Fraud Office v G4S Care and Justice Services (UK) Limited*, 17 July 2020, the discount was limited to 40%. Giving judgment in that case, William Davis J stated at paragraph 40,

“the discount of 50% as applied in other instances where the court has approved the DPA has been where the cooperation of the company concerned has been extraordinary or otherwise exemplary. As I have outlined, there were aspects of the company’s cooperation in this case which were less than full at the outset. Until October 2019 it could not be said that the level of cooperation was exemplary. This affects the level of discount

to be applied to the financial penalty. The SFO’s position is that a discount of 40% is appropriate taking into account all of the circumstances. I agree with that proposition.”

85. In this case, a discount of 45% has been applied to reflect the fact that UEH self reported to the SFO in March 2018 and provided valuable cooperation over the following four years and after the acquisition. However, the level of cooperation prior to the acquisition cannot properly be described as truly “exemplary” due to the late disclosure by UEH in 2022 of conduct related to operations in Oman. However, following the acquisition, and within a short time of resuming constructive discussions with the SFO following the SFO’s withdrawal from DPA discussions, UEH’s new management adopted a renewed cooperative approach. Since that point, the SFO accept that UEH has provided exemplary cooperation.

86. Step 8: Ancillary orders. This step does not apply to the calculation of the financial penalty in this case.

87. Step 9: Totality. As the alleged offences involved similar conduct committed by joint venture entities under UEH, and there is a degree of overlap between them, a 10% reduction was applied by the SFO to ensure that the total penalty is just and proportionate to the offending as a whole.

	Count 1	Counts 2 & 3
Jurisdiction	Oman	Algeria
Harm	GBP 5,329,000	GBP 1,461,000
Multiplier	300%	300%
Discount (Admissions of Guilt)	45%	45%
Discount (Totality)	10%	10%

Subtotal	GBP 7,913,565	GBP 2,169,585
Total Financial Penalty	GBP 10,083,150	

88. Whilst the proposed financial penalty of GBP 10,083,150 might not precisely match the fine that a court would impose if it were sentencing UEH for these offences, I am satisfied that the approach to calculating the penalty is “analogous to the sentencing framework”, and the penalty is “broadly comparable” to such a fine, bearing in mind the wide discretion available to the court.

Costs

89. Paragraph 5(3)(g) of Schedule 17 to the CCA 2013 provides that a DPA may require the subject “to pay any reasonable costs of the prosecutor in relation to the alleged offence or the DPA”. Paragraph 7.8 of the DPA Code envisages that such a requirement will “normally” form part of a DPA.

90. Part D of the proposed DPA requires UEH to pay the SFO’s reasonable costs of GBP 4,804,831.12 within 30 days.

Corporate Compliance

91. Paragraph 5(3)(e) of Schedule 17 to the CCA 2013 provides that a DPA may require the subject “to implement a compliance programme or make changes to an existing compliance programme relating to [the Company’s] policies or to the training of [the Company’s] employees or both.” Similarly, paragraph 7.10 of the DPA Code provides that a DPA may require the Company to “put in place a robust compliance and/or monitoring programme.”

92. Since identifying the matters outlined in the Statement of Facts, the SFO points out that UEH has substantially strengthened its Compliance Programme and in particular its Anti-Bribery and Corruption (“ABC”) Programme, which includes,

among other measures: instructing a leading specialist law firm to assess its compliance programme and provide recommendations; implementing those recommendations; improving its policy framework; reviewing its approach to the selection and management of third party agents and intermediaries; adding Advent representatives to its principal Board with oversight of ABC matters and engagement with third parties; taking measures designed to terminate all legacy joint ventures – including, but not limited to, those referenced in the Statement of Facts – and radically reducing the number of intermediaries used by the Ultra Group; removing individuals suspected of involvement in the misconduct; appointing a group-level Chief Compliance Officer who reports directly to the principal Board; establishing ‘Compliance Champion’ roles within each business unit; implementing a mandatory training programme for all relevant staff; commissioning a leading external accountancy firm to conduct an independent risk assessment in response to the Economic Crime and Corporate Transparency Act 2023 and upon which to base subsequent policy enhancements.

93. The SFO conducted an assessment of UEH’s compliance programme in order to determine whether it was appropriately designed, effectively implemented, and operating in accordance with principles set out in the DPA Code and guidance issued by the SFO, the Ministry of Justice, and other relevant authorities. This assessment included a review of ABC-related policies, employee training records, expense claims, and line management structures. UEH cooperated in providing the material required to support the relevant review and by providing the SFO with presentations outlining the changes implemented in its ABC processes and procedures. The SFO concluded that these presentations demonstrated that UEH

had addressed many of the deficiencies previously identified in its compliance programme. Nevertheless, there would be ongoing assessment.

94. Part E of the proposed DPA requires UEH to continue reviewing and enhancing its ABC programme whilst providing annual reports to the SFO. Such reports will include:

- a. Notification of any changes to UEH's Board of Directors, the Chief Compliance Officer, or relevant reporting structures.
- b. Information as to the operation of UEH's processes and procedures relating to: intermediaries, joint ventures, consortia, and teaming agreements; implementation of risk assessment processes, particularly in relation to countries with an identified bribery and corruption risk and/or in countries where UEH does not have offices and/or employees; management of business through joint ventures, consortia and affiliations.

95. Part E also provides that, at the SFO's request, UEH will supply the SFO with copies of the risk assessments and recommendations, along with explanatory notes detailing progress in implementing such recommendations.

Decision

96. I am satisfied that this is a case where it is right to make paragraph 7 and paragraph 8 declarations for the reasons I have given.