

IN THE CROWN COURT AT SOUTHWARK

Friday, 1 May 2026

BEFORE:

MR JUSTICE HILLIARD

BETWEEN:

REX
(THE DIRECTOR OF THE SERIOUS FRAUD OFFICE)

Applicant

- and -

ULTRA ELECTRONICS HOLDINGS LTD (FORMERLY PLC)

Respondent

MR F BALOCH and MR T ARCHER (instructed by the Serious Fraud Office) appeared
on behalf of the **Applicant**
MS K HARDCASTLE (instructed by Simmons & Simmons LLP) appeared on behalf of the
Respondent

Interested Persons were represented as follows:

MR PENNY KC (instructed by Howard Kennedy LLP) appeared for Mr Bethell
MR ALLEN KC (instructed by BCL Solicitors LLP) appeared for Mr Douglas and Mr
Garbett Edwards
MS HOWARD KC (instructed by Withers LLP) appeared for Mr O'Donnell
MR SAREEN (instructed by MPR Solicitors LLP) appeared for Mr Shirtcliffe

ANONYMITY RULING

Digital Transcription by Epiq Europe Ltd,
Lower Ground, 46 Chancery Lane, London WC2A 1JE
Web: www.epiqglobal.com/en-gb/ Email: civil@epiqglobal.co.uk
(Official Shorthand Writers to the Court)

This Transcript is Crown Copyright. It may not be reproduced in whole or in part other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved.

1. MR JUSTICE HILLIARD: I am going to allow the Serious Fraud Office's application for a Deferred Prosecution Agreement (DPA) in this case, which involves three offences by Ultra Electronics Holdings (UEH) of failing to prevent bribery, contrary to section 7 of the Bribery Act 2010. This ruling should be read in conjunction with my judgment which allows the application for a DPA and with the statement of facts which accompanies it. I am satisfied that a DPA is in the interests of justice and that its terms are fair, reasonable, and proportionate. A distinct point has arisen about whether or not individuals should be identified by name in the statement of facts.
2. The media are entitled to impart, and the public are entitled to receive, information about the bribery which UEH had failed to prevent and how it was able to come about. In the judgment itself, I do not refer to any individual by name, and I say very little about individual actions. If there had been no statement of facts, I would have to have included reference to individuals in the judgment itself to ensure that my decisions could be properly understood.
3. Provisions about DPAs are to be found in Schedule 17 to the Crime and Courts Act 2013. Paragraph 5(1) provides that a DPA must contain a statement of facts relating to the alleged offence. By paragraph 8(7), when the court approves a DPA, the prosecutor must publish the DPA. By a DPA, the prosecutor prefers a Bill of Indictment in respect of the alleged offences in the Crown Court. Those proceedings are suspended whilst the DPA is in force but that suspension may be lifted on an application which can be made if the court terminates a DPA after proof of breach of its terms. Paragraph 13 provides that in any subsequent proceedings for the offence, the statement of facts will be treated as an admission by the defendant under section 10 of the Criminal Justice Act 1967.
4. I drafted my judgment on the DPA application in the knowledge that the statement of facts would be published at the same time as my judgment. I say at the start of my judgment that no individual has been prosecuted as a result of the SFO's investigation, as well as making the point that I have not heard from any individual and am not making any finding against any individual. I explain that I am making my decisions on the basis of matters which have been agreed between the SFO and UEH in an agreed statement of facts. At my request, the statement of facts now includes a statement that no individual has admitted any wrong-doing.

5. I have a list of individuals who are presently named in the statement of facts. There are 20 of them. Individual 15 has not been identified and is referred to as SE1 in the statement of facts because the SFO had real concerns for that person's safety if they were identified. At my request, attempts were made to contact the remaining 19 people before this hearing and to invite them to put in any written submissions they wished to about the fact that they were named in the statement of facts, or they could attend in person if they wished to make representations. The media were also alerted. I appreciate that no one has had as much notice as they would have liked. It is not easy to fit the opportunity for submissions of this kind in the situation here into the DPA scheme. But I have done my best to ensure that notice was given to the extent that that was possible.
6. 3 of the 19 are sadly deceased: Mr Benhamadi, Mr Bouteflika, and Mr Roberts. I have received a letter from Mr Roberts' widow. Mr Allache is serving a sentence of imprisonment for bribery and fraud. 9 other people have responded. Mr Bethell has made written and oral submissions by Mr Penny KC. Mr Cliffe does not intend to make any representations. Mr Douglas and Mr Garbett Edwards have made submissions by Mr Allen KC. Mr Khalef has written a letter and attended in person. Mr Levy does not intend to make written or oral submissions. Mr O'Donnell put in representations by Ms Howard KC, saying that he was content to be identified if it was made clear that I had made no findings against individuals. Mr Shirtcliffe has made written and oral representations by Mr Sareen. Mr Stacey does not intend to make written or oral representations.
7. A number of those who have responded have submitted that they should not be identified in the statement of facts.
8. Mr Baloch for the Serious Fraud Office submits that the open justice principle is engaged. There does not seem to be any dispute about that. He says that the parts played by the individuals are important here for a proper understanding of the view taken by me and by the SFO as to why a DPA is appropriate, and that in the interests of open justice, their names should be used. The SFO has considered the representations made but takes the view that the submissions made and/or the material put in does not in any individual's case provide a sufficient counter-balance to the important principle of open justice, so as

to mean that anonymity should be granted. The one exception is in respect of the individual named SE1.

9. The media were alerted to this issue ahead of the hearing but have not in fact attended. I have written submissions from a number of journalists, including Transparency International UK, contending that there should not be any restrictions on what can be published.
10. The principal submission on behalf of individuals has been that it is not necessary to detail individual roles, or if it is, then it is not necessary to provide identities. It said that it is possible to understand the case perfectly well without such information. It is submitted that anyone reading the statement of facts would or might think that named individuals were in some way criminally culpable or responsible for discreditable conduct, and that they would inevitably suffer, at the very least, serious prejudice to their reputations. This is so, it is submitted, notwithstanding the disclaimer which appears at the start of my judgment and at the start of the statement of facts. I accept that there is of course no guarantee that anyone who reports on the statement of facts will include reference to the disclaimer.
11. I am satisfied that it is right to say that the open justice principle is engaged. In *Simms-Davies v Southwark Crown Court* [2026] EWHC 337 (Admin), the Divisional Court considered a claim for judicial review by a Claimant who argued that he should not have been named in a judgment granting an application for a DPA. At [41], Lewis LJ said that the process of a court approving a DPA was a judicial process and was part of the system of open justice, and that the concept of open justice applied. It seems to me that that must include the statement of facts, particularly where, as here, I have relied on its contents to complete what I regard as necessary parts of the picture. As I have said, individuals have not been expressly identified in my judgment. But if there had not been the statement of facts, I would have considered it necessary to spell out the role played by individuals in my judgment.
12. I am satisfied that in general terms, outlining the conduct of individuals is necessary so as to give a proper understanding of how extensive the conduct was which the company failed to prevent. This goes to how bad the failure was, and it goes to how fair,

reasonable, and proportionate the terms of the DPA are. Is the penalty appropriate? Will the terms of the DPA be sufficient to prevent a repetition of what happened before? Are the terms too onerous? If not, why not? Detail of what individuals did is necessary in this case to answer questions such as these. It is important to know, for example, how openly matters were discussed at the time under the UEH overall umbrella, in what terms, between whom, and at what level. I take Mr Penny's point that the charges on the indictment are about corporate failure, but in my judgment, the considerations I have outlined are still relevant. And by the same token, the number of individuals said to have been involved is relevant, as is what their connection was with the company, for example, agent or employee, and how senior they were. How do the parties to the DPA say that what was not prevented was put into effect? How easy or difficult would it have been for the company to have prevented it? If an individual was alerted to a risk, could anything effective have been done about it? How should such an alert be dealt with now? What controls would be needed for the engagement and activities of agents? These are simply examples of questions which arise out of the conduct of individuals. In my judgment, there is a strong public interest in putting the details of the case which the parties to the DPA are agreed upon, into the public domain, subject of course to my being able to raise any concerns about the terms of the statement of facts, if I have any.

13. I have had to immerse myself in the detail of this case from before the first hearing on 23 April 2026, and I am satisfied that the information about individual roles is needed so that the seriousness of the offences and the culpability of the company can be properly assessed and evaluated, as well as my conclusions that a DPA is in the interests of justice and that its terms are fair, reasonable, and proportionate. To excise reference to individuals is to leave out a very important part of the narrative in this particular case. It may be tempting to say that the part played by one particular individual can be left out. It is then but a short step to leaving out another individual, and what is then lost are significant elements of the overall picture. Lewis LJ confirmed the potential relevance of the actions of individuals to the principal issues in a DPA in *Simms-Davies* at [41].
14. The next question concerns the naming of the individuals whose alleged conduct is in point. In *Simms-Davies* at [42], Lewis LJ said this:

"In deciding whether to name, or withhold the names of, individuals, within a judgment setting out the court's reasons for approving a DPA, the starting point is that the principle of open justice applies. The courts will make that information available unless the individual concerned can demonstrate that it is necessary to protect their rights such as their right to respect for private life under Article 8 of the Convention, or any relevant common law right."

15. *R (Marandi) v Westminster Magistrates' Court* [2023] EWHC 587 (Admin) concerned an application for judicial review of a District Judge's decision to lift an order anonymising the Claimant in connection with an NCA claim for forfeiture of assets. The Claimant was neither a party to nor a witness in the forfeiture proceedings, but he did have connections with those against whom the proceedings were brought.

16. The judge's conclusions associated him with money laundering. The Divisional Court rejected his application. In doing so, Warby LJ said at [43](2):

"The general principles that (a) justice is administered in public and (b) everything said in court is reportable both encompass the mention of names."

17. Because of the importance of the issue, I have not simply assumed that if someone's role is significant, then their name must also be. But if the role of an individual is important and, having balanced all matters, required to be given publicly, then the reality is that once the role is given and explained, the identity is easily discoverable, and there would be no point in withholding it.

18. It is clear that there are threshold questions - in *Marandi*, whether allowing disclosure of the Claimant's name and consequent publicity would amount to an interference with the Claimant's right to respect for private and family life, and proof that the reputational impact of disclosure would attain a "certain level of seriousness", per Warby LJ at [43]. Assuming this was met, the issue was then whether the consequences of disclosure would be so serious an interference with the Claimant's rights that it was "necessary and proportionate" to interfere with the ordinary rule of open justice - [43(5)]. This question is not to be answered on the basis of 'rival generalities' but by a close examination of the weight to be given to the specific rights that are at stake on the facts of the case; necessity was the test – [43](6).

19. In *Simms-Davies*, Lewis LJ said at [51] that the judge in the Crown Court had adopted the correct approach in determining whether to include the name of the Claimant in a judgment setting out the reasons for approving a DPA pursuant to paragraph 8 of Schedule 17 to the 2013 Act, namely that the principles underlying open justice applied and to consider whether the complainant had established that it was necessary to depart or derogate from those principles to protect rights enjoyed by the Claimant.
20. There is an important passage in *Simms-Davies* at [50] which Mr Penny has drawn to my attention. Lewis LJ said this:

"We express no view on how a judge will balance the considerations underlying open justice against the interests of an individual suspected, but not charged, with criminal conduct in the context of approval of a DPA. That matter is best considered in a case where those considerations arise."
21. It is important to underline that passage. The facts here are very different from the facts in *Simms-Davies* itself. Mr Simms-Davies had been charged and had had a trial. That will not be the case for any individual here. They will not be able to present their side in a public setting. I have that well in mind and give it weight in the balancing exercise.
22. I must deal with the fact that 7 of the 19 named individuals have not responded, or cannot respond, to attempts by the SFO to make contact with them to alert them to this issue. Two are deceased and one is in custody. Of the remaining 4, none is based in the UK. One possibility is that a person has simply chosen not to respond, as would be their right. Another possibility is that the contact details for them are out of date.
23. I have decided nonetheless to go ahead and resolve this issue. If contact has not in fact been made, I have no idea how much time might be needed to do so, particularly if an individual may not be based in the UK. Others who have responded will want to know the outcome, and I want to make progress with the DPA if that can properly be done. And the general point about Article 8 rights and reputational risk has been put very clearly before me on behalf of others, and I have it very well in mind.

24. I have given separate consideration to each of the individuals whose name appears in the statement of facts. That is only fair for those who have made representations, and it is only fair for those who have not been contacted.
25. Mr Aboudil. No response has been received from him. He was an official with SGSIA. He features in the provision of information in count 2. This is a significant part of the narrative for a proper understanding of the issues. If I assume in his favour that he surmounts the threshold questions, there is no material of any significance to set against that which could mean that it was necessary and proportionate to remove his name or to anonymise him in any way.
26. Mr Al Bulooshi. Again, no response has been received from him. He was the chief executive officer of OIC, jointly bidding for the MC6 project. This is a significant part of the narrative, and the same conclusions follow as for Mr Aboudil.
27. Mr Allache is in custody. No response has been received from him. He was the Director General of SGSIA, the Algiers Airport Authority. This is a significant part of the narrative, and the same conclusions follow.
28. Mr Al Maskari. No response has been received from him. Golden Way was 99 per cent owned by him. Ithra entered into the consulting agreement with Golden Way. This was a significant part of the narrative and the same conclusions follow.
29. Mr Benhamadi has died. He was a former minister for MPICT which was responsible for the PKI project. This was a significant part of the narrative, and the same conclusions follow.
30. Mr Berbar. No response has been received from him. He was the Director General of MPICT which was responsible for the PKI project. This was a significant part of the narrative, and again, the same conclusions follow.
31. Mr Bethell is represented by Mr Penny KC. Mr Bethell joined UEL in 2009 as Managing Director of the Oman Airports Programme. He was to lead the MC6 project bid. Between 2011 and 2012, he acted as Ithra's project director. He was reassigned in 2012

but retained some responsibilities for the MC6 project. He resigned from UEL in October 2013. He described to Mr Stacey and to Mr Douglas meeting Mr Al Bulooshi in 2010. Mr Douglas messaged him about meeting Mr Al Bulooshi. He contacted Mr Stacey about Mr Al Bulooshi in July 2011. He was involved in discussions with others about the payment of OMR 800,000 and approved payment of an invoice in the sum of OMR 560,000. This is in summary only, but in my judgment, these are significant parts of the narrative, by which I mean important for a proper understanding of the case.

32. Mr Penny has made submissions on behalf of Mr Bethell to best effect and says that anonymisation is necessary to protect his Article 8 rights. Mr Penny points out that Mr Bethell has not been able to contribute to the statement of facts. He will never have a public opportunity to put his account of events. The decision has been made not to prosecute him, and nothing has been proved against him.
33. Mr Penny says that publication would do damage to his health and reputation. He is in his late 70s and has a number of significant health concerns which I have read about. I have well in mind everything I have read, and I shall not rehearse medical information in public. It looks as if he spends most of his time at home, cared for by a family member. He is not working or looking for work.
34. I do appreciate the concern he would have about publicity in these circumstances.
35. Unfortunately, he has had to live for a long time with the knowledge that he was the subject of an SFO investigation. But in April 2026, he was told that no action would be taken against him. That must have come as a very considerable relief after so long. Of course, further anxiety is very unwelcome for health reasons, but the very recent news that he would not be prosecuted must, I think, have at least relieved some strain.
36. I attach weight to the fact that it has been made very clear that I have made no findings against individuals. At [49] of *Simms-Davies*, Lewis LJ said that the court did not accept in that case that the inclusion of the Claimant's name involved a statement that the Claimant was guilty of criminal offences because the judge had made it so clear that she was not making findings of fact about individuals. I have done the very same here. Mr

Bethell is not named in in my judgment, only in the statement of facts agreed by the parties.

37. If he were to be left out of the picture, I am sure that that would be to deprive the public of a proper opportunity to look at what happened here, at what was not prevented, and to make their assessment of the DPA. I have sympathy for Mr Bethell's health position, and I understand his concerns for his health and reputation, and his family's concerns too. But having weighed all matters in the balance, I do not think that regard for his rights means that it is necessary and proportionate to interfere with the principle of open justice. I am satisfied that such interference would not be necessary and proportionate.
38. Mr Bouteflika is deceased. The only mention of him is in the context of concern expressed by Mr Khalef about SE1 mentioning that Mr Benhamadi had been an advisor to Mr Bouteflika, who was a former president of Algeria. No aspersion is cast upon Mr Bouteflika himself at all.
39. Mr Cliffe was promoted to divisional Finance Director in May 2009. He reported for the most part to Mr Stacey. He was a director of Ithra from September 2011 to September 2012. He was copied into an invoice from Mr Stacey advising that an invoice from Golden Way was on its way and of the nature of the services provided by Golden Way (government access). Mr Cliffe does not wish to make any representations.
40. Mr Douglas has been represented by Mr Allen KC. I am grateful to him for his submissions, as I am for all the submissions I have received. In January 2010, Mr Douglas became a managing director of UEAS, reporting to Mr Stacey. He was a director of Ithra in 2011 to 2012. Mr Bethell summarised to Mr Stacey and Mr Douglas his meeting with Mr Kalat Al Bulooshi. Subsequently, Mr Douglas emailed Mr Bethell saying that Kalat's third man wanted a single payment which Kalat thought was too high; Kalat was pushing for evidence of 'intel or influence'. Mr Bethell, Mr Douglas and Mr O'Donnell facilitated payment to the 'third man' of OMR 800,000. Mr Douglas was one of those who was sent the agreement signed by the agent. These were, in my judgment, significant parts of the narrative of what was happening and of what was not prevented.

41. Mr Allen relies upon the Article 8 rights of Mr Douglas. He points out that he has been told that there will be no proceedings against him and that he has never been identified publicly as a suspect or named in any court proceedings. It is accepted that the starting point is that open justice applies unless an individual can demonstrate that withholding their name is necessary to protect their rights and a proportionate step. Mr Allen submits that naming Mr Douglas has no public benefit. The court's conclusion about the DPA can be understood without knowing who he was. Mr Allen does not say that his role should not be set out in the statement of facts, but he does submit that he should not be named. He says that providing his name adds nothing, and it will affect his reputation and standing to a very significant degree. It could affect his ability to obtain work and to provide for his family. It will be thought that he may very well be guilty of something somewhere on a continuum from stupidity to crime. If I am not prepared to grant anonymity, Mr Allen asks me to make it clear in the judgment that he has not been charged with any offence, no finding of fact has been made against him, and he has not been able to address the facts set out in the DPA.
42. It is necessary for me to carry out a balancing exercise in his case. Open justice means that ordinarily his name would be disclosed because his role is important and his name would follow. In my judgment, there is a very speculative element to the consequences for Mr Douglas of publication. The continuum that Mr Allen spoke of could begin with the possibility that Mr Douglas was not even stupid at all but was taken advantage of in some way. To my mind, an important point is that the judgment does effectively include the points that Mr Allen asks for, and I am satisfied that they are sufficient to counter the concerns he has raised as regards Mr Douglas' Article 8 rights. I am satisfied that anonymising Mr Douglas would not be a necessary and proportionate interference with the principle of open justice.
43. Mr Garbett Edwards also has the benefit of being represented by Mr Allen. Mr Garbett Edwards was the company secretary of UEH. The statement of facts narrates an exchange between him and Mr Stacey in October 2011 which ended in Mr Garbett Edwards asking how he knew that OIC had acted in a wholly ethical and proper manner in all their dealings with the Oman government. Mr Stacey's response was to say that he did not know. A comment about the possible implications of this has now been taken

out of the statement of facts, but neither of them can have taken action which was sufficient to stop what happened.

44. Mr Allen says that there is no need to name him; that it will be very damaging for him; it may damage his work prospects. In my judgment, the exchange with Mr Stacey does constitute a significant part of the narrative. The failure of either person to take effective action after having had the explicit exchange that they did is a significant part of the overall picture. He has not had and will not have a public opportunity to put his side of the story. But again, the disclaimer at the start of my judgment and at the start of the statement of facts applies. Mr Garbett Edwards asked a very stark question. Mr Stacey said in effect that he could not give a satisfactory answer, and yet the project carried on. The exchange was between managing director and company secretary. Again, I am satisfied that the disclaimer I have referred to means that it would not be a necessary and proportionate interference with open justice to leave out the identity of Mr Garbett Edwards.
45. There has been no response from Mr Kerkache. He was involved with the airport project and a company called Mega Cooling. His actions are also a significant part of the narrative, and open justice must prevail.
46. Mr Khalef has attended in person and asked for anonymity. He was a consultant with Algerie Advice Corporation and involved in both Algerian projects. He says that all these events have caused him very serious damage and upset, and publication will bring more of the same. But his actions are, in my judgment, a very significant part of the narrative, as is his role in understanding how things happened and how they were not prevented. And I am satisfied that the balance is firmly in favour of open justice.
47. No response has been received from Mr Kheider. He was an official in the Algiers Airport Authority who was in contact with Mr Khalef for significant parts of the narrative. The balance is clearly in favour of open justice.
48. Mr Levy succeeded Mr Bethell as project director for the MC6 project. He had an email exchange with Mr Stacey in April 2012, which is, in all the circumstances, a significant

part of the narrative. Mr Levy has said that he does not wish to make any representations. The balance is in favour of open justice.

49. Mr O'Donnell joined UEL in August 1998 as a commercial manager. He emailed a spreadsheet with reference to an allocation of OMR 800,000 in respect of the MC6 project. He had subsequent involvement with this. It is a significant part of the narrative. He accepts that the disclaimer sufficiently protects his interests.
50. Mr Roberts was the partner of Mr Khalef in Algeria Advice Corporation. He was a chartered accountant. He has sadly died. In a claim he made in 2017, he made reference to dubious payments to an agent in Algeria. Mr Roberts was to assist with Algeria Advice Corporation's organisation and structuring of the bid. In my judgment, that is significant in terms of what went on and in assessing it properly. His widow has written to me expressing her concern for his reputation. I very much understand that. I conclude that his position is dealt with by what I have been referring to as the disclaimer and I am satisfied that the balance lies in favour of open justice.
51. Mr Shirtcliffe is represented by Mr Sareen. Mr Shirtcliffe was group accountant for UEL and was seconded to Ithra for a 2-year period. He was emailed by Mr Stacey in April 2012 about an invoice for Golden Way. The extent of Mr Stacey's emails is significant, and this was to the group accountant. It is an email which raises questions, but everything went ahead notwithstanding. The email and his role are, in my judgment, significant parts of the narrative when it is all put together. If his role as group accountant is made plain, his name is very easily found out. I understand his concerns about possible effects on his employment, but I do not find those concerns sufficiently cogent to displace the open justice principle. I have looked carefully at the statement of facts as Mr Sareen invited me to, and I do not think that there is anything unfair about it.
52. Mr Stacey had legal representation but did not wish to make representations. I have referred to him sufficiently at different stages. And again, I am satisfied in his case that the open justice principle clearly prevails.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

Lower Ground, 46 Chancery Lane, London WC2A 1JE

Email: civil@epiqglobal.co.uk