



## UK's Serious Fraud Office Issues Guidance On Deferred Prosecution Agreements

June 16, 2021 | [The GEE Blog](#)



**Tabitha K. Meier**  
Partner

Although we may be familiar with the concept of deferred prosecution agreements (DPAs) in the United States, they are not solely a U.S. construct. The United Kingdom's Serious Fraud Office (SFO), for example, first announced its plans to introduce DPAs as part of case resolutions in October 2012, although its first DPA was not utilized until 2015. Since then, the U.K. SFO has [entered into eight DPAs](#).

So far, deferred prosecution agreements in the U.K. have been used in cases involving conspiracy to defraud, money laundering, fraud, bribery, and failure to prevent facilitation of foreign tax evasion offenses.

As the use of DPAs has increased by the U.K. SFO, it has taken steps to [provide more transparency for companies](#) interested in cooperating with the U.K. SFO during investigations. The agency noted the benefit of DPAs as a "[v]aluable tool in the fight against serious fraud, bribery and corruption, capable of not only punishing corporates for criminality but also making sure the company rehabilitates and becomes a better corporate citizen. This helps us foster a business environment where everyone plays by the rules."

So, what does corporate cooperation look like? At a minimum, [key indicators of cooperation](#) as noted by the U.K. SFO include:

- Self-disclosure, within a reasonable time, of wrongdoing not already known to the prosecutor

### RELATED PRACTICE AREAS

Corporate  
International Services

### RELATED TOPICS

Corporate Fraud  
Bribery

- Taking remedial actions including, where appropriate, compensating victims
- Preserving available evidence and providing it promptly in an evidentially sound format
- Identifying relevant witnesses and disclosing their accounts and the documents shown to them
- Where practicable, making witnesses available for interview when requested
- Providing a report in respect of any internal investigation including source documents
- Waiving privilege over any privileged materials, though the company can neither be compelled to waive privilege nor penalized for not waiving privilege

A decision as to whether to enter into a DPA is not based solely on the cooperation of the company, however. As a threshold matter, the prosecutor must also satisfy both the evidential test and the public interest test. An overview of this two-prong requirement will be discussed in our next update.