

Matthew Grey  
Judicial Policy and Criminal Trials  
Justice Policy Group  
Ministry of Justice

**Ministry of Justice Consultation on a new enforcement tool to deal with economic crime  
committed by commercial organisations:  
Deferred Prosecution Agreements  
(Consultation Paper CP9/2012)**

Submission by the Bond<sup>1</sup> Anti-Corruption Group  
comprising Article 19, CAFOD, Christian Aid, Corruption Watch, Global Witness, One, Public Concern  
at Work, Tearfund, The Corner House, TIRI, Transparency International UK

The Bond Anti-Corruption Group is made up of likeminded British NGOs who, through their work, witness the devastating effects of corruption on developing countries every day. Our experience has taught us that corruption continues to be one of the biggest obstacles to development, poverty alleviation and good governance. Our aim is to draw attention to the impact of corruption on developing countries and provide a platform for the voice of our partners and southern civil society organizations to be heard in the UK.

As an over-riding principle, the Bond Anti-Corruption Group believes that bribery is a serious crime, for which companies and individuals should be prosecuted and punished. It is important that the Ministry of Justice avoids creating a situation in which DPAs become a soft option for companies or a cheap option for prosecutors. We also take this opportunity to re-iterate our long-standing concern that sufficient human and financial resources need to be committed by the government to the investigation and prosecution of bribery offences.

The Bond Anti-Corruption Group broadly supports the introduction of DPAs, but believes that DPAs should be part of a wider set of changes in the way that bribery-related offences are investigated, settled or prosecuted if they are to work effectively in the interests of justice. The Bond Anti-Corruption Group is not supportive of the introduction of DPAs as a stand-alone measure without these accompanying reforms.

The principles that should underpin a wider set of reforms are as follows:

1. **Transparency:** there needs to be full transparency over the offences committed, the reasons for using a DPA rather than proceeding to prosecution and the mechanism by which the sentence was calculated.
2. **Acceptance of guilt:** before a DPA is agreed, the company involved needs to make an admission of guilt. We do not believe that a genuine change in corporate behaviour is likely to happen unless a company's board and employees fully recognise that they have committed a serious crime.

---

<sup>1</sup> Bond is the membership body for UK international development organisations. Established in 1993, Bond has 360 members ranging from large bodies with a world-wide presence, to smaller, specialist organisations working in certain regions or with specific groups of people.

3. **Judicial scrutiny:** there needs to be judicial oversight over plea discussions such that it can clearly be demonstrated that a DPA is in the best interests of justice.
4. **Penalties:** DPAs can provide companies with a swifter and certain outcome; in return, it should be expected that the penalties will be significant, reflecting both the seriousness of the crimes and the size of fines and disgorgement in comparable jurisdictions. Penalties should include fines, restitution, disgorgement and a properly-monitored commitment to reform.
5. **Prosecution as the default option:** it should be clearly understood and embedded into the DPA procedure that bribery is a serious crime and that prosecution is the default option.
6. **No immunity:** individuals should not be granted immunity from prosecution even if a company reaches a settlement involving a DPA; companies should never be granted blanket immunity for other bribery offences.



Eric Gutierrez  
Chair, Bond Anti-Corruption Group