



IN THE CROWN COURT AT SOUTHWARK

Date: 12/4/2024

MR JUSTICE PICKEN

Between :

**R
(SERIOUS FRAUD OFFICE)**

- and -

JEFFREY COOK

Sentencing Remarks

1. Jeffrey Cook, on 6 March 2024 you were convicted of misconduct in public office between 1 September 2004 and 30 November 2008. I must now sentence you for that offence. I note as I do so that – along with your co-Defendant, John Mason - you were acquitted of a further offence, namely corruption contrary to the Prevention of Corruption Act 1906.
2. You were employed by the Ministry of Defence (the ‘MoD’) from 1975 until October 2008, when, then aged 52, you were employed as Managing Director of GPT Special Project Management Limited (‘GPT’), a company in the EADS group of companies.
3. Before leaving the MoD, from 1 November 1999 onwards, you were the Business Manager of the Satellite Acquisition Team, Integrated Project Team (‘SAT IPT’), with dual accountability including to the Defence Procurement Agency. This role was a senior one (MoD level B1; Civil Service Grade 6) with significant leadership and financial responsibility. You held both Deputy Team Leader and Senior Finance Officer functions, including in relation to a project involving the Saudi Arabian National Guard known as SANGCOM.
4. As an MoD employee, you were bound to observe and follow the Civil Service Code and the conditions of your employment incorporated the Defence Council Instructions and the MoD civilian and service personnel employment rules. Each of these prohibited

the receipt of remuneration other than from the MoD in connection with employment, especially from commercial contractors with the MoD.

5. You continued to be bound by these rules when, prior to your ultimate departure from the MoD, you were seconded, first, to Paradigm Services Ltd and then to Paradigm Middle East ('Paradigm'), both other companies within the EADS group, since your secondment agreement stated that:

"For the avoidance of doubt nothing in this Agreement shall constitute Paradigm Secure Communications as the employer of the Secondee and the Secondee shall remain an employee of the Department during the period of secondment and accordingly will continue to be subject, as a Civil Servant, to Civil Service and Departmental rules".

6. Indeed, you yourself recognised this to be the case since in your final interview with the SFO, having been arrested, you stated in a prepared statement that you had always carried out your duties as a civil servant in compliance with your duty to act in the public interest at all times.
7. Nonetheless, although you previously denied that this was the case, as ultimately you accepted in the lead-up to your first trial (the trial before me, in fact, being a retrial), you received a 10% commission on a contract let by the MoD to ME Consultants Ltd ('MEC'), a company run by Mr Mason and Mr Peter Austin, under which Mr Terence Dorothy (himself a former senior MoD civil servant) produced a series of reports on the SANGCOM project recommending, amongst other things, the sale of GPT to EADS. Thereafter, once EADS/Paradigm had taken over GPT, as previously mentioned, you became Managing Director of GPT.
8. The commission took the form of cash payments and two cars over a period of about 18 months between November 2005 and mid-2007. By their verdict of guilty, the jury found that, in accepting this commission, you acted improperly as at the time you were a civil servant employed by the MoD (although on secondment from the MoD at the time). In short, you made a personal gain at the expense of the public purse, receiving money which could otherwise have been used for the benefit of the public, whether in relation to the SANGCOM project or otherwise.
9. I do not propose, in the circumstances, to set out the facts in any great detail. Briefly, however, in 2005 Mr Dorothy was approached (it appears either by Mr Austin or by you, or by both of you) and asked if he could produce reports on a variety of topics to do with the SANGCOM project which would be commissioned for Simon Kershaw, your MoD team leader and immediate superior. As a result, Mr Dorothy drafted an outline proposal dated 12 October 2005, which resulted in the MoD placing contract SAT C1/013 dated 21 October 2005, initially for three reports.
10. Subsequently, on 26 October 2005, Mr Mason confirmed to the SANGCOM Commercial Manager, Mr Colin Evans, that the contract would be undertaken by MEC via their Riyadh office, although administrative and financial matters would be handled in Geneva. Thus, MEC was interposed between the MoD who were commissioning the reports, Mr Dorothy (already an MoD consultant) who was preparing them, and Simec International Ltd ('Simec'), a company operated by Mr Austin and Mr Mason which appears (unbeknownst to the MoD) to have profited from payment for the reports.

11. The work was divided into blocks known as Work Packages or 'WP', with arrangements for three at first; later extended to provide for the completion of six reports or packages in total. The evidence at trial showed that you, Mr Austin, Mr Mason and Mr Dorothy all had a hand in doing the relevant work, with Mr Dorothy doing the most and you looking at various drafts which he produced and, despite sums being charged to the MoD for teams of researchers and translators, MEC never paid such people to carry out the work.
12. The MoD made five payments, in February (two payments), April, September and December 2006 in respect of the invoices for each of the reports, in the total sum of £702,800, into MEC's sterling Swiss bank account with Credit Agricole, where both Simec and Mr Dorothy also had accounts at the same branch in Geneva.
13. Of that sum, about £250,000 in round terms was retained by Simec, and £382,039.38 (approximately 54% of the total) was paid into Mr Dorothy's account for his work with MEC. As to the remainder, Simec banking records and Simec cash book entries showed cash withdrawals totalling £30,100 in three tranches from the Simec account to Mr Dorothy. However, Mr Dorothy received no cash credits into his account. After the third late-September payment by the MoD, the transfer into Mr Dorothy's Swiss account was completed (in two stages) by Wednesday 25 October 2006. On that same day, Mr Dorothy made (his first) cash withdrawals, namely a £70,000 withdrawal from his account in Switzerland and on the very next day, Thursday 26 October, once home in the UK, he paid £10,000 in cash into your joint (with your wife) Barclays Bank account, the deposit being made in £50 notes near to Mr Dorothy's home in Dartford. On the following day, Friday 27 October, Mr Dorothy made a second cash deposit, this time of £4,650 (again in £50 notes) into the same joint bank account, using a branch in Lewisham. Other deposits were similarly made between October 2005 and December 2007, your joint bank account thereby receiving a further £45,100 in cash payments - usually in £50 notes.
14. On two occasions in the same period, you also received new cars through County Motor Works ('CMW') in Chelmsford, Mr Austin's family car business. The cost of those vehicles was met by a transfer to CMW from Simec: in April 2006 (£14,328.22) and in April 2007 (£18,577.91), the combined value of the vehicles being £32,906 or so. Subsequently, on 28 October 2006, you sold a Nissan Primera EJ53 ZVV to Mr Dorothy. That car had itself been bought for you by Mr Austin, for reasons unknown, via CMW in December 2003 for the sum of £13,800, and registered in your name in 2004. It had acquired personalised plates W25 JCC, which you kept. The sale price of £14,650 which you agreed with Mr Dorothy would have been a considerable overpayment for such a vehicle in 2006 since £8,025 would have been nearer the mark. That accounts for the additional £8,000 of cash payments from Mr Dorothy to you.
15. All in all, as you now accept and accepted by the time of trial, your benefit from the MEC reports amounted to almost exactly 10% of the total paid by the MoD. The sums paid to you were equivalent to a year's salary for you at the time. There is no record of it having been declared to HMRC, so the benefit to you was augmented by non-payment of tax.

16. Mr Dorothy's share equated to some 54% of what was paid in respect of the reports. The balance, 36%, was retained by MEC/Simec. Mr Dorothy was originally indicted for the same offence as that for which I am now sentencing you, but on the basis of aiding and abetting because he was not a public official at the time. In the event, however, Mr Dorothy did not feature in the trial because of ill health.
17. When asked about the various payments which you received in interview in March 2016, you said that you had taken money out for trips to Riyadh for expenses, not used it all, and so paid it back into your bank account. You denied receiving any money personally "*from anyone in connection with*" the reports or any personal benefit, denying also that the vehicle transactions had any connection with the reports. Further investigation revealed, however, that the cash that you received amounted to £45,100 whilst the total withdrawn in that period was just £16,010.64 (in cheques) and £8,871.95 (in cash). Your explanation was, accordingly, false and, in any event, your expenses (totalling £8,995.82) were paid by Paradigm in this period.
18. It is against this background that I come on to consider the matter of sentence. I say straightaway that this offence is so serious that only a custodial sentence can be justified. As such, the sentence which I will, in due course, pass will be the least possible sentence that I can impose having regard to the seriousness of the offence. Mr Tom Allen KC and Mr Aaron Watkins, who appear on your behalf today as they did at trial, acknowledge that the custodial threshold has been crossed; their submission is that, in the circumstances, any custodial sentence should be suspended rather than immediate.
19. There are no sentencing guidelines produced by the Sentencing Council for an offence such as that for which I am now sentencing you. The SFO, through Mr Mark Heywood KC and Ms Helen Malcolm KC, suggest, however, that I should have regard not only to the Sentencing Council's General Guideline: Overarching Principles but also to the Bribery Sentencing Guideline. The SFO's position is that it is appropriate to have regard to the latter because there is a "*close analogy*" between an offence of misconduct in public office and an offence under the Bribery Act 2010 to which the Bribery Sentencing Guideline relates. Indeed, they observe, had your offending occurred after 2011, when the 2010 Act came into force, the charge you might well have faced would have been that you were bribed contrary to s. 2(3) of the Act.
20. I am not persuaded that the SFO can be right about this. In any event, even if the Bribery Sentencing Guideline were an appropriate analogy, I do not accept that the SFO's suggested categorisation of your offence as equivalent to a Category 1A bribery offence is realistic. I say this for a number of reasons. First, as Mr Allen KC and Mr Watkins point out, you were acquitted of the offence of corruption - in effect, bribery albeit under the 1906 Act. Secondly, I agree with Mr Allen KC and Mr Watkins that to characterise the misconduct in public office offence in the way suggested somewhat ignores the fact that, on any view, it was the corruption count which the SFO were treating at trial as by far the more significant offence since, had you been convicted of corruption, it is unlikely that the SFO would have been suggesting to the Court that the misconduct in public office offence was of equal gravity to the corruption offence. Indeed, as Mr Allen KC and Mr Watkins point out, the position at trial which was adopted by the SFO was quite the contrary since it was expressly acknowledged that the misconduct in public office offence entailed a lesser allegation.

21. Thirdly, it is evident that the effect of the Bribery Sentencing Guideline is to convert basic elements inherent in the offence of misconduct in public office into factors (not inherent in the bribery offence) that, under the Bribery Sentencing Guideline become particular aggravating features of that offence, resulting in harsher punishment. For example, in the assessment of ‘Culpability’, one of the factors which results in the designation of an offence as Category ‘A’ (high culpability) is ‘abuse of position of significant power or trust or responsibility’. In all cases of misconduct in public office it could be said by the prosecution that this criterion is satisfied by virtue of the nature of the offence itself. Similarly, as to ‘Harm’, in virtually all misconduct in public office cases involving government officials it could be contended that the criteria of ‘Serious undermining of the proper function of local or national government, business or public services’ is met, resulting in the allocation of the offence to Category 1.
22. It follows that I do not consider myself as in any sense obliged to follow the Bribery Sentencing Guideline and nor, in any event, to do so in too slavish a way. I do, however, consider it useful to have some regard to the Bribery Sentencing Guideline when forming a view as to the appropriate level of sentence in your case since I agree with Mr Allen KC and Mr Watkins when they submit that, were the Bribery Sentencing Guideline applicable in a case such as yours, the correct categorisation would lead to the offence being treated as a Category 2B offence rather than a Category 1A offence. Such a categorisation would lead to a result which, even without having regard to the Bribery Sentencing Guideline, accords with the view which I have arrived at wholly independently as to the appropriate level of sentence.
23. Dealing, first, with ‘Culpability’, although the SFO suggest that you should be regarded as having performed a leading role in the creation of the opportunity to provide the reports (for considerable gain) and in their preparation and delivery, as well as in the arrangements for your own substantial commission, I agree with Mr Allen KC and Mr Watkins that you did not play a leading role (as described under Category A – High Culpability) and that instead you would be treated as having played a significant role (as described under Category B – Medium Culpability). I appreciate that you, obviously, were the public official whose conduct was the subject of Count 1, but nonetheless it is not the case that you were the only person involved in the events with which Count 1 is concerned.
24. As Mr Allen KC and Mr Watkins remind me, in opening the SFO told the jury that you “*had helped others, including Mr Mason, to obtain [‘valuable contracts’] from his employers*” (Prosecution Opening at paragraph 4) and that the contracting had occurred “*with Cook’s involvement*” (Prosecution Opening at paragraph 15). In addition, the SFO told the jury that it was “*Dorothy [who] drafted an outline proposal...which resulted in the MoD placing contract SAT C1/013...*” (Prosecution Opening at paragraph 39) and that it was Mr Mason who confirmed to the SANGCOM manager what the key arrangements would be (again paragraph 39). The SFO went on to describe Mr Dorothy as having done “*the bulk of the work ...*” (paragraph 44) and Mr Austin and Mr Mason as having banking experience and Mr Mason as having given instructions for sums totalling £382,039.38 to be paid into Mr Dorothy’s account for his work with MEC, in four tranches between February and December 2006 (paragraphs 46 to 48). Moreover, as previously noted, you received 10% of the proceeds which was somewhat less than others received.

25. As to the other ‘Culpability’ A factors, specifically, first, abuse of position of significant power or trust, it is an inherent aspect of the misconduct in public office offence that a defendant will have acted in breach of trust. It follows that I would not consider it right to treat this as an additional factor making it appropriate to regard the offence as a ‘Culpability’ A offence. As to ‘intended corruption of a senior official performing a public function’, this is a factor which is directly relevant to bribery and less obviously relevant to the offence for which I am sentencing you; in any event, if the factor is relied upon by the SFO (as would appear to be the case) as far as Mr Kershaw is concerned, he was not a particularly senior official, albeit that he was more senior than you and obviously not a junior civil servant. As for, thirdly, ‘sophisticated nature of the offence/significant planning’, your own conduct was not especially sophisticated since it essentially entailed authorisation for the production of reports being obtained and those reports then being produced in the way that they were, but whether that amounts to sophistication in the sense contemplated by this factor in the bribery context is open to some doubt. As to the offending being ‘conducted over sustained period of time’, I recognise that your offending was not short-lived. However, whether this would justify treating the offence as falling within ‘Culpability’ A is something about which I am doubtful given that yours is not a bribery offence. The same applies to the last factor identified by the SFO, ‘Motivated by expectation of substantial financial, commercial or political gain’, since, whilst the amount was far from minor (equating to your annual salary), again in the context of a bribery offence, I am not confident that it amounts to substantial.
26. Turning to ‘Harm’, once again I agree with Mr Allen KC and Mr Watkins when they submit that to describe you as a senior public official represents something of an overstatement – at least if by this is meant that you were a Senior Civil Servant as recognised by the Civil Service hierarchy and, indeed, Mr Heywood KC has confirmed today that it is not being said that you were in that category. As Mr Allen KC and Mr Watkins point out, whilst you had a responsible position and a long period of service behind you, you had functional responsibility for just 25 people. Nor, in truth, do I consider it appropriate to conclude, so that I can be sure, that what was done with the reports was, as the SFO submit, to manipulate the process of succession in the ownership of GPT to the potential detriment of other bidders, since there is no real evidence to show that there were other possible contenders which were truly viable, sufficiently interested or ultimately better suited than EADS to succeed Ericsson. Therefore, I am unable to conclude that there was a ‘serious undermining of the proper performance’ of a central government function. As Mr Allen KC and Mr Watkins put it, this was not bribery of a foreign government threatening the operation of government or the economy, or causing a mass pollution event. On the contrary, an identified sum of money was paid for a series of work reports. This would, accordingly, not be a ‘Harm’ Category 1 case but a ‘Harm’ Category 2 case involving ‘significant’ (as opposed to ‘serious’) detriment or undermining.
27. For these various reasons, my assessment is that, to the extent that the Bribery Sentencing Guideline is of assistance, the appropriate categorisation would not be Category 1A (as the SFO contend) but Category 2B. Under the Bribery Sentencing Guideline and before coming on to consider aggravating factors, this would attract a 3-year starting point and a sentencing range of between 18 months’ and 4 years’ custody.

28. As for aggravating factors, Mr Heywood KC and Ms Malcolm KC point to various features, as follows: first, the fact that the offence was committed as part of a group; secondly, the planning of the offence, entailing payments being made into Mr Dorothy's Swiss bank account, the manner in which money was brought into the United Kingdom, the separate payments in of cash and the hiding of payment by way of cars; thirdly, the fact that the commission of the offence was for financial gain; fourthly, the high level of profit from the offence; fifthly, the abuse of trust involved; sixthly, the fact that the 'victim' was the public purse; seventhly, the actions after the event including but not limited to attempts to cover up/conceal evidence; eighthly, the fact that the offence was committed across borders; and lastly, the fact that blame was wrongly placed on others, specifically Mr Kershaw whom you claimed agreed to your receiving the commission.
29. The first seven of these stem from the General Guideline: Overarching Principles, whilst the others (and the seventh) arise out of what is contained in the Bribery Sentencing Guideline. However, as the SFO acknowledge and as Mr Allen KC and Mr Watkins observe, it is open to real doubt whether all of these are factors which it is appropriate to take into account given that - with the exception of the sixth, seventh, eighth and ninth - they tend to arise out of the nature of the offence itself. I do not, in these circumstances, take the first to fifth factors separately into account. I do, however, consider that the sixth, seventh, eighth and ninth factors justify the treatment of the offence as more serious than would otherwise be the case.
30. I turn, then, to your personal mitigation, which should, of course and as appropriate, be balanced against the aggravating factors.
31. The first point which I take into account is the fact that you have no previous convictions. Although the SFO submit that in the context of the offence for which you are being sentenced, this is a factor of limited assistance because it was your good character which enabled you to occupy the position of trust which you abused, nonetheless I take it into account.
32. Secondly, there is the fact that you are not a young man. You are 67 years old, retired and live with your wife. The effect of any sentence of imprisonment will have an impact both on you and on her; I have, indeed, read what your wife has had to say about the prospect of your going to prison. I also take into account that the prospect of rebuilding your life after any immediate custodial sentence will be similarly impacted by the stage of life which you and your wife are now at and your inability to go back into the marketplace and earn, other than small amounts.
33. Thirdly, I have seen medical reports concerning your state of health. You are not in good health. A cardiologist, Professor Stephen Brecker, notes that you previously suffered a stroke and that you have a past history of atrial fibrillation associated with heart failure, as well as that you have diabetes. He goes on to say that, whilst you have improved to the point where you would now no longer be considered to have heart failure, that condition previously involved severe impairment. In the light of your history, Professor Brecker notes that there is "*a future risk of recurrent atrial fibrillation which would need further treatment with cardioversion and possible ablation*". He refers also to your having uncontrolled hypertension requiring management with appropriate diet and exercise, combined with management of

appropriate medication, and to the fact that, in view of your previous heart problems, you remain “*at higher than average risk of developing atrial fibrillation in the future*”.

34. In addition, I have seen a report from Dr Alan Mitchell, who is a qualified GP with experience as a prison doctor and in other detention facilities. He expresses the view that, given your age and current medical circumstances, it would be preferable for you to manage your health at home and in the community where you have the additional benefit of a long-term GP and your wife. Whilst not unmanageable within the prison estate, Dr Mitchell considers that it would clearly be a less favourable setting, particularly were there to be any deterioration.
35. Again, I take this material into account. I do not, however, consider that it should lead to the conclusion that your sentence should be any less than it would otherwise have been and nor, as will appear, is it relevant to the decision whether to suspend since my conclusion is that the appropriate sentence should be longer than would permit suspension.
36. Next, Mr Allen KC and Mr Watkins refer to the fact that your conviction will inevitably have a very significant financial impact. You face confiscation proceedings, an application for costs and a request that compensation be ordered. I will address these matters separately, but you accept that a confiscation order should be made in a substantial sum. You and your wife have one main asset: your house which has a current approximate market value of £500,000. You also have cash set aside for your retirement amounting to some £145,000. Beyond that, there are no assets or funds available to you. I am unclear, nonetheless, whilst noting also that this is an aspect which is addressed in the Pre-Sentence Report, how it is suggested that this is a matter which impacts on the length of the sentence which you are to receive. That said, I recognise that these are aspects with which, as a result of your conviction, you must now grapple and that they will impact on how you and your wife will hereafter live.
37. Lastly, it is suggested on your behalf that the Court should take into account the fact that these proceedings have been hanging over your head for a long time. Count 1, the offence for which you are being sentenced, after all, involves activity on your part dating back to between 2005 and 2006, and the formal SFO investigation into GPT began as long ago as 2012, with your first interview taking place in December 2014 and the first trial (before Bryan J) happening in 2022 before it was aborted because of disclosure issues.
38. Mr Allen KC and Mr Watkins observe, in the circumstances, that there was therefore a period of over 9 years between you first being arrested and interviewed and your being convicted - in respect of matters that occurred 19 years ago. They go on to note that the prosecution of Count 1 was always contemplated as a small part of the same trial as Count 2 and that, as a result, its progress has essentially depended on the timetable of Count 2. They highlight, in particular, the three-year period of time that elapsed whilst the matter was in the hands of successive Attorneys General.
39. Mr Allen KC and Mr Watkins go on to submit that, in view of your acquittal in respect of Count 2 (the corruption offence), the fact that for a long time you denied receiving a commission in respect of the MEC contracts is not a factor which should count against you when considering the question of delay. The difficulty with this, however, is that it

was always open to you to acknowledge your guilt in respect of the misconduct in public office offence, yet you chose not to do this by first denying that you received a commission at all and, then, after acknowledging that you did receive a commission, then, claiming that what you received was approved by Mr Kershaw – a defence which the jury rejected through their verdict in respect of Count 1.

40. I am unpersuaded, in these circumstances, that delay and the antiquity of the offence are factors which should reduce the sentence that you receive very much. I do, nonetheless, take them into account in arriving at the sentence which you will receive since I recognise that you have had not only Count 1 but also Count 2 (of which you were acquitted) hanging over your head for a long time and that you have been through two lengthy trials.
41. I should refer also, before announcing the sentence, to the fact that I have also had regard to the various authorities to which I have been taken by counsel for both the SFO and you. However, other than *R v Collins; Lewis; Jaffar* [2023] 1 Cr. App. R. (S) 4, in which at [7] Dame Victoria Sharp P. referred to *Attorney General's Reference (No. 30 of 2010) (Bohannan (Mark Edward))* [2010] EWCA Crim 226; [2011] 1 Cr. App. R. (S.) 106, describing at [8] the principles set out in that case as representing “*a good starting point for sentencing in misconduct cases*”, I have not found the other authorities to which I have been taken to be of any great assistance, not least because they involve very different facts (typically misconduct by police officers) and are somewhat old. I have, nonetheless, considered the decisions and asked myself whether, in the circumstances, the view that I have formed (whether through consideration of the Bribery Sentencing Guideline or more generally) concerning the appropriate level of sentence is affected. I have decided that it is not. Therefore, I say no more about them.
42. I would ask, Mr Cook, that you now stand up.
43. Having considered all the matters which I have dealt with in these sentencing remarks, having regard, in particular, to the seriousness of the offence and to the mitigation which I have described, the sentence which I pass in respect of Count 1 (the misconduct in public office offence) is one of imprisonment for 30 months.