

24 January 2019

Hickman & Rose partner Ross Dixon has sounded the alarm about Deferred Prosecution Agreements in the wake of Serious Fraud Office's failure to convict any of the three Tesco directors it accused of fraud.

Ross, who represented former Tesco UK managing director Chris Bush at trial, highlighted the stark discrepancy between the trials' not guilty verdicts and that which the SFO agreed with Tesco in their DPA.

His comments about this being a "fundamentally unfair" outcome which should "concern senior executives working for a company under investigation by the SFO" were featured widely in the serious UK, international and specialist business press.

The Times, Financial Times, Telegraph, Guardian, BBC and many others featured Ross's analysis of how this SFO prosecution – which was the first major test of DPAs in the criminal courts – failed so badly.

Ross told them: "We now have two contradictory outcomes: that of the criminal trial in which the allegations were dismissed for lack of evidence, and the DPA, based on the same allegations, which tells a different story.

"The discrepancy between these outcomes is deeply worrying and should particularly concern senior executives working for a company under investigation by the SFO.

"They may find themselves, as in this case, acquitted of wrongdoing yet have their reputation publicly besmirched in an agreement between the SFO and the company under investigation.

"The problem stems from the fact that while DPAs are seen as a great outcome for the SFO, there is a risk that in pursuit of this goal, the SFO has little incentive to properly test the assertions on which it is based."

<https://www.ft.com/content/b6c2b688-1f29-11e9-b126-46fc3ad87c65>

<https://www.thetimes.co.uk/article/deferred-prosecution-agreement-8zfzqtp9w>

<https://www.theguardian.com/business/2018/dec/06/two-tesco-directors-cleared-of-false-accounting>

<https://www.accountancyage.com/2019/01/23/should-tesco-directors-ever-have-faced-fraud-trial/>

<https://www.bbc.co.uk/sounds/play/m000254m> From 12:00

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