

## Serious Fraud Office ends its British American Tobacco investigation

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19 Jan 2021 Syedur Rahman.

### **The SFO is no longer investigating bribery allegations involving the tobacco company, citing the evidential test for prosecution. Syed Rahman of Rahman Ravelli outlines the test.**

The Serious Fraud Office (SFO) has closed its investigation into potential corruption at British American Tobacco (BAT).

The agency began its probe into BAT four years ago. The company was believed to be under investigation over allegations that it had paid bribes in east Africa to undermine anti-smoking policies.

In a statement, the SFO has said: "Following extensive investigation and a comprehensive review of the available evidence, the SFO has concluded its investigation into British American Tobacco, its subsidiaries and associated persons.

"The evidence in this case did not meet the evidential test for prosecution as defined in the Code for Crown Prosecutors.

"The SFO will continue to offer assistance to the ongoing investigations of other law enforcement partners. We thank our international law enforcement partners, and in particular the Kenyan Ethics and Anti-Corruption Commission (EACC), for their assistance in the SFO's investigation."

The Code for Crown Prosecutors is issued by the Director of Public Prosecutions (DPP) under section 10 of the Prosecution of Offences Act 1985.

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The Full Code Test, which must be applied when charging decisions are made, has two stages - the evidential stage and the public interest stage. It should be applied when all outstanding reasonable lines of inquiry have been pursued. In the majority of cases, prosecutors should only consider whether a prosecution is in the public interest after they have determined whether there is sufficient evidence to prosecute.

Prosecutors must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge. This has to be based on the prosecutors' objective assessment of the evidence: whether the evidence can be used in court, its reliability and its credibility.

If there is sufficient evidence to justify a prosecution, prosecutors must then assess whether a prosecution is required in the public interest. A prosecution will usually take place, unless the prosecutor considers there to be public interest factors tending against prosecution which outweigh those tending in favour. When making this decision, prosecutors need to consider issues such as the seriousness of the offence committed, the suspect's level of culpability, the harm caused, the impact on the community, whether prosecution is a proportionate response and whether sources of information require protecting.

A former employee of BAT had told BBC's "Panorama" programme in 2015 that he had paid bribes during his 13 years working for the tobacco company because he was told it was the cost of doing business in Africa. BAT told the programme that the company did not tolerate corruption.

On being told the SFO investigation had ended, the company said it "remains committed to the highest standards in the conduct of its business."

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Syedur Rahman is a Legal Director at Rahman Ravelli with a great depth of experience in top-level global investigations and corporate crime. Legal guides have highlighted his achievements in the fields of worldwide asset tracing and recovery, high-stakes commercial and financial disputes and cross-border investigations.

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