



HM Crown Prosecution  
Service Inspectorate

# Report to the Attorney General on the inspection of the Serious Fraud Office

November 2012

# SFO



## HM Chief Inspector's foreword

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### The Rt Hon Dominic Grieve QC

I am pleased to present to you this report on the casework quality of the Serious Fraud Office.

The SFO has a crucial role, on behalf of the public, in investigating and prosecuting cases involving serious and complex frauds, bribery and corruption, that fall outside the capability of any other single UK agency.

Unlike the Crown Prosecution Service and the police, the SFO is not currently subject to mandatory inspection regarding the quality of its casework, and only one such inspection has ever been attempted, back in 2008.

Knowing the value of inspection, in 2010 the previous Director of the SFO, Richard Alderman, invited me to carry out such an inspection with your support. The inspection fieldwork was carried out in the spring of 2012, and this report has been prepared with a view to helping you carry out your superintendence role, and to assist David Green CB QC in his new role as Director of the SFO.

We have taken great care to focus on those casework related issues which are of greatest interest to stakeholders, including SFO staff, and address them. Also, the inspection work has been carried out in the knowledge that SFO staff and stakeholders have a keen interest in seeing the organisation succeed. I must emphasise that we have looked to identify and comment on strengths as well as weaknesses.

At present, the SFO carries out some of its casework to a high standard, but there is clear room for improvement. This is borne out not only through our inspection findings, but also in the views of the many stakeholders we have consulted, whose opinions are summarised throughout the text of the report, and brought together at annex C.

Therefore, much needs to be addressed if the SFO is to become a respected crime fighting organisation which is the envy of the world. The new Director recognises this and is fully committed to driving improvement. With this in mind he has invited me to re-inspect within the next two years, and to assess progress against the recommendations made in this report, which should be viewed as a staging-post on the road to success.



Michael Fuller QPM BA MBA LLM LLD (Hon)  
Her Majesty's Chief Inspector



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## Executive summary

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In recent years, the Serious Fraud Office (SFO) has achieved some significant outcomes to challenging cases, including the successful prosecution of Asil Nadir, and the civil recovery order made against Oxford Publishing Limited. It has also suffered some setbacks, including judicial comment regarding the plea agreement negotiated in the Innospec case, and the recent outcome of the judicial review in the Tchenguiz case<sup>1</sup>.

Overall, the SFO is regarded by most stakeholders as a capable organisation occupying critical ground, under difficult circumstances, however, it needs to improve its performance. Inspectors concur with this view.

The SFO is very good at analysing large quantities of digital material and reducing it to the essence of the case, for effective presentation to a jury. It has improved its victim and witness care very considerably in recent years, and demonstrated an ability to work fast, under considerable pressure. A table of recent outcomes at annex D demonstrates the scale of its achievement in recent years.

Under the previous Director, its reputation with “the City” and overseas law enforcement organisations also improved as it took on the lead for international bribery and corruption. Self-referral was encouraged and alternative resolutions pioneered.

However, this is a critical time for the SFO, because other serious issues remain unresolved, some of which appear to have existed since the establishment of the organisation in 1988. All of these individually present significant risks to casework handling capability, and together they could divert the SFO from the delivery of the new Director’s strategy.

The key risks include the need to control the balance and make-up of the SFO caseload more effectively, by improving the intelligence and case acceptance processes. This is necessary for the new Director to realise his vision of concentrating on the type of case the SFO was originally designed to handle.

Casework systems also need to be streamlined and mandated, with a drive towards standardisation and proper documentary recording being essential. Sound quality assurance needs to be embedded, with clear lines of accountability, and appropriate levels of responsibility settled throughout the organisation.

Overall, the quality of the casework needs to be strengthened, and made more consistent: standards need to be set and enforced. In short, lawyers, accountants, investigators, and all other casework specialists need to be given the means to live up to the cachet which goes with working at the SFO, and then they need to take full advantage. In turn, stakeholder relationships are bound to improve, and reputational benefits will follow.

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<sup>1</sup> Rawlinson and Hunter v Tchenguiz, [2012] EWHC 2254 (Admin).

Just as this is a critical time, it is also a window of opportunity, as the new Director has engendered new levels of confidence in staff and stakeholders alike. His vision is accepted for the time being, and the organisation must use this impetus to drive out the risks mentioned above, and accept that change is necessary, and in the interest of all.

More specifically, the SFO needs to review and update the case acceptance process, including the criteria by which it accepts cases. This will help ensure that the balance and make-up of the SFO caseload reflects the vision of the new Director, focussing on casework which is too complex for other law enforcement agencies to handle, and which has a serious economic impact on the UK.

The SFO has developed its intelligence function in recent years without clear direction. It needs to identify what intelligence can be gleaned from its core casework, link this to its current intelligence needs, both strategic and operational, and fill any shortfall by developing relationships with partners with greater capability in this field. The whole process needs to be centralised, co-ordinated, and aligned to the national intelligence model.

The SFO has some very capable operational staff, but the quality of casework handling, and the capability of the SFO to assure itself of this is significantly undermined by weakness in systems and processes. Its casework handling processes are weak, and need urgent streamlining, including the standardisation of forms and record keeping. Case management compliance levels are currently insufficient, and new processes need to be mandated through effective performance management.

Quality assurance is essential, and the new Director recognises this. Action has been taken to re-structure the SFO accordingly, and to appoint highly regarded key individuals to run this side of the business. They will report to the Director on the performance of the organisation, and senior managers will all be line managed by the Director himself, and accountable to him, from now on. The effectiveness of this structure will depend to a degree on those responsible for quality assuring casework having direct access to key documents, and again this places a premium on the need for streamlined transparent processes and rigorous recording.

Recruitment, training and development need to be addressed, and given real impetus from the top: there is evidence that this starting to happen. If successful, this will drive up the capability of staff, referred to above, and improve overall performance accordingly. There is no doubt that the individuals employed by the SFO, on the whole, have the potential to make its casework the envy of other organisations. They too need to take responsibility to improve their individual capability, by using training opportunities, and engaging with the new emphasis on quality assurance.

It should be noted that the timing of the inspection means that findings relate almost exclusively to casework quality levels and systems under the previous Director. Nonetheless, we have woven into the text a “forward-look”, to take account of the vision of the new Director where possible.



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## Recommendations

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1 The SFO needs to review and update its intelligence function to ensure that it has effective means of capturing, collating, and analysing the intelligence it receives. It should adopt the national intelligence model (page 12).

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2 The SFO should review its case acceptance process, and look into whether there is a continuing need for acceptance criteria, to ensure that the right cases are accepted to reflect the Corporate Strategy (page 16).

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3 The SFO needs to improve the methods by which it assesses the skills, specialism and level of staff commitment required for individual cases, so that it can ensure case investigation and prosecution teams are properly resourced (page 20).

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4 The SFO needs to standardise, streamline, and mandate its casework management processes, including records management structures/templates, and quality assurance (page 23).

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5 The SFO needs to improve the quality of its investigation work by training staff better in basic investigative technique, and providing better resource levels at the investigation stage (page 28).

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6 The SFO should review and update its disclosure guidance, design and mandate updated schedule templates, and ensure that all casework staff are trained accordingly (page 32).

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7 The SFO needs to design and document a transparent process for deciding to pursue civil recovery, and negotiating/agreeing any consent order (page 36).

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8 The SFO should finalise and implement existing plans for intensive training programmes for casework staff (page 38).

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# Part 1: Introduction and background

## 1 Introduction

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1.1 This is Her Majesty's Crown Prosecution Service Inspectorate's (HMCPsi) report on the casework handling of the Serious Fraud Office.

1.2 It is the first report of this type by HMCPsi, and we have attempted to make a series of core recommendations for improvement, which will form the basic scope for follow-up inspection in due course. We understand that Director SFO has accepted all the recommendations and that he will invite follow-up in early 2014.

1.3 Our methodology is detailed at annex B, but it should be stated that the views expressed, and documents viewed as part of the inspection are held confidentially. This includes a summary of the opinions of some stakeholders contained in the paper on stakeholder perceptions which is at annex C, and referred to throughout the text. Efforts have been made to ensure that individuals and cases are not identifiable from the text.

1.4 The report is structured broadly according to the inspection framework which is at annex A. The "inspection questions" relating to the different aspects in the scope are repeated in italics after each chapter heading in the report.

1.5 All the evidence we obtained was drawn from the casework perspective, and most of our findings relate directly to casework issues. Other inferences are unavoidable, relating to aspects of corporate management and process, for example, resource allocation and strategic intelligence handling.

1.6 Similarly, we have not examined the high profile cases of Vincent Tchenguiz and Robert Tchenguiz, which were under investigation by the SFO and subject to judicial review at the time of our inspection. However, we are aware of the issues raised during judicial review proceedings, and we have sought to ensure that these were within our scope too.

1.7 Those readers familiar with HMCPsi reports may notice a lack of reference to outcome data in the text. This is because we have sought to focus on the underlying issues which bear on casework quality. These are not always reflected in outcome data, especially in complex casework, because the quality of the work in such cases cannot easily be characterised by use of statistics alone. This is partly because cases often involve multiple charges against multiple defendants, resulting in a range of outcomes. For example, a multi-defendant conspiracy case which ends in a guilty plea by one defendant to a regulatory charge could be classed as a "successful outcome", but this may mask the reasons why the conspiracy charges were dropped or discontinued. Our inspection was focussed on identifying those reasons so that learning can be identified, and improvement promoted.

1.8 However, we recognise that the SFO has achieved some very positive outcomes, and we have therefore included at annex D a selection of recent cases reported by the SFO on its website. As discussed, however, some of the apparently successful outcomes in this list included charges which were dropped, or discharged by the court.

**1.9** In the text we have referred to SFO casework using “fraud” as a convenient term, not forgetting that a substantial amount of SFO work has, and will remain, in the field of bribery and corruption. So, the reader is asked to understand “fraud” as meaning in most cases, “fraud and bribery/corruption”.

**1.10** We are very grateful to all those professionals in the UK and overseas who generously gave their time to assist us, as well as those members of SFO staff who took the trouble to provide us with very valuable feedback. Also, we would like to acknowledge the trouble taken by SFO administrative and casework staff to ensure we were comfortable, and able to carry out our duties as efficiently as possible.

## 2 Background and context

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**2.1** The SFO was set up in 1988, following the report of the Fraud Trials Committee<sup>2</sup>, to handle a narrow band of highly complex City frauds. Since then it has been reviewed regularly and some of these reviews have led to published reports which are listed at annex E.

**2.2** Most recently, the SFO was subject to a capability review by the Cabinet Office in 2010 which focussed on management and structural issues.

**2.3** Only one report has focussed on casework and that was the Review of the Serious Fraud Office published in June 2008. This was carried out by Jessica de Grazia, who looked at the SFO as a whole, including its casework. We recognise that some of our findings were foreshadowed in the de Grazia report, although we have not referred to the connections specifically.

**2.4** The de Grazia report was published early in the tenure of the previous Director of the SFO, Richard Alderman. Since then there has been wholesale change in management personnel, and Mr Alderman was succeeded as Director by David Green CB QC in April 2012.

**2.5** HMCPST has no statutory remit to inspect the SFO. However, we were initially invited to do so, with specific reference to casework capability, by the previous Director. This was supported by the Attorney General, who superintends the SFO.

**2.6** An inspection framework was agreed in early 2012 between HMCPST, the SFO and the Attorney General. This is set out in annex A.

**2.7** The inspection fieldwork began on 30 April 2012 with a view to reporting to the Attorney General in the autumn of 2012.

**2.8** Therefore, the timing of the inspection means that findings relate almost exclusively to casework quality levels and systems under the previous Director. Nonetheless, we have woven into the text a “forward-look”, to take account of the vision of the new Director where possible.

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<sup>2</sup> See annex E – Roskill Report.



# Part 2: Inspection findings

## 3 Selecting the right cases

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*“Is the case acceptance process aligned to the Corporate Strategy, and applied appropriately?”<sup>3</sup>*

### Introduction

**3.1** The SFO was set up in 1988 to handle a narrow band of high profile City frauds which were thought too specialised and complex for a single police force, or the Crown Prosecution Service (CPS). It was given unique powers to do this.

**3.2** Unlike the police and CPS, the SFO has total control over the individual cases it takes on. It has an intelligence capability to find and attract (by self-referral) cases of potential interest, as well as set criteria and a process for deciding which cases to accept.

**3.3** Stakeholders have commented to us that in recent years the SFO has shifted the focus of its caseload away from the type of heavy-weight corporate fraud and bribery/corruption it was set up to handle, towards the more straight forward, media oriented type fraud and bribery cases which are seen as less challenging to investigate and prosecute, and more likely to produce tangible, positive results more quickly<sup>4</sup>. Our examination of SFO casework, including a sample of recent acceptance decisions, tends to confirm this view.

**3.4** This suggests weakness in the intelligence and acceptance processes, and a possible lack of clarity in Corporate Strategy.

**3.5** The new Director has indicated in clear terms his vision and over-arching strategy and this will inevitably give a strong lead to those involved in the case acceptance process. However, robust structures and processes are needed to ensure that the Corporate Strategy is reflected in the balance and make-up of the SFO caseload, and that the SFO is able to seek out and take on “cases that undermine UK plc in general and the City of London in particular – big frauds, big bribery and corruption”<sup>5</sup>. Specifically, this includes those frauds which represent the biggest threat to the economic well-being of the UK, or have the potential to undermine confidence in the UK financial system.

### Strategic intelligence and Corporate Strategy

#### Context

**3.6** The new Director’s vision, as a statement of principle, can only be converted into clear Corporate Strategy by reference to an effective strategic risk assessment. First, this will help the SFO locate the current fraud related risks to “UK plc”, and allow the prioritisation of key target areas. Secondly, it will allow the SFO to understand better the developing methods and strategies of those committing this type of crime so that it can adjust its own approach to combat them more effectively. It will also allow the SFO to disseminate more accurate information to others, such as the National Fraud Authority, who co-ordinate attempts to prevent fraud, by warning potential victims.

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<sup>3</sup> See annex A: Inspection framework.

<sup>4</sup> See annex C: Paper on stakeholder perceptions paragraphs 10-16 passim.

<sup>5</sup> David Green CB QC *The Times* 12 July 2012.

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## Findings

**3.7** The SFO has recently developed a Strategic Assessment as a working document. This is an advance on the position in 2009, when no such document existed. Considerable effort has gone into the Strategic Assessment and it will help set broad strategic priorities. But, further development is required to give the level of guidance needed.

**3.8** Whilst appropriate stakeholders (including staff) have been consulted in preparation of the Strategic Assessment, there is little indication of a detailed evidence base beyond this, which might have included strategic intelligence arising from casework evaluation sessions or other internal sources. Matters such as “self-invested pensions” have been identified internally as a risk area but are not included in the document. Also, there is reference to concerns over setting the inter-bank lending rate for a foreign currency, but not on the LIBOR<sup>6</sup> issue which appears to have already come to the attention of the SFO at the time the document was drafted.

**3.9** The Strategic Assessment is unnecessarily broad in focus, including types of criminality unlikely to come within the new Director’s parameters, such as “Boiler Room” fraud. Similarly, international carbon credit fraud is included, but on the basis that such matters might fall outside the SFO sphere. Some broad descriptions of economic risk provide little real insight beyond that which can be obtained from a general understanding of other publicly available material. The current process was described by one SFO manager as akin to “doing market research for a commercial company”, and will add little to the work done by others.

**3.10** An alternative approach might be to use the strategic threat analysis prepared by partner law enforcement agencies as a starting point, and to supplement it with the intelligence which falls naturally out of the SFO’s casework, as well as the views of stakeholders. This would require a more focussed operational intelligence function, as discussed below.

**3.11** This approach would allow SFO to ensure that its own Strategic Assessment has a sound evidence base with increased reliability. A further benefit would be greater natural alignment to the strategic risk assessments of other agencies which would help improve efficiency across the counter-fraud landscape, by reducing overlap, and allowing the SFO to identify with confidence those aspects of work which it really needs to concentrate on.

**3.12** Importantly, it would enable the SFO to provide greater evidence based guidance to those, such as the National Fraud Authority, charged with warning potential corporate victims of the methods in use by fraudsters. In turn this would enhance the SFO’s existing role in the prevention of serious fraud, which is a necessary improvement in the view of key stakeholders and inspectors.

## Summary

**3.13** Progress has been made in developing a strategic threat analysis, but it needs to be enhanced and aligned to the work of other agencies. In particular, it needs to be more detailed, and based on hard data and facts. It should identify the main current methods used by organised criminals in fraud and bribery/corruption, so that potential corporate victims can be warned and crime prevented. It should mark out more precisely where the SFO sees the key risk areas, distinct from those adopted by

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6 London inter-bank offer rate.



other agencies, and identify with greater clarity how SFO can best meet them. In turn, this will clarify Corporate Strategy and provide a sounder base for the operational intelligence and case selection processes.

## Operational intelligence

### Context

**3.14** The SFO uses operational intelligence to identify individual cases, and to develop case strategy by focussing investigations and prosecutions.

In both instances, the intelligence can be proactive, as in the collation and analysis of covert or open source (publicly available) information gained through investigation, or reactive, as in the analysis of unsolicited information, including whistle-blower reports and self-referral by corporate bodies, their lawyers or auditors.

**3.15** The perception of stakeholders and staff is that this function is not effective in providing the SFO or partners with the right information to focus investigation or support strategic threat analysis.

### Findings

**3.16** The intelligence function has rightly undergone significant development in recent years. However, this has not been fully focussed, and as a result the intelligence handling process could be significantly improved to assist the translation of the new Director's vision into reality, and to help improve casework efficiency. This conclusion is accepted by most SFO managers and staff, and is evident from the casework.

**3.17** The focus of internal intelligence gathering has lacked clarity in the past, and there is some evidence that the intelligence

function has been allowed to direct itself. For example, identification of potential cases appears to have been driven by referral, media coverage, and very informal intelligence gathering in some cases. None of these sources can be said to be fully reliable, and the SFO needs to be more robust in assessing intelligence leads against an enhanced strategic threat assessment (see above), and in assessing their credibility before accepting them as fully fledged cases.

**3.18** The collation and analysis of open source intelligence needs to be fully focussed and linked to the Strategic Assessment. This type of work is also done by partner agencies, and there would be greater efficiency in a joint approach.

**3.19** In recent years, there has been a move to create an internal covert intelligence capability. Inspectors endorse the decision of the new Director to ask partner agencies to take on this work, so that the benefits can be obtained without unnecessary risk or resource burden. The SFO will need to ensure that the procurement process includes clear reference to the priorities in the Strategic Assessment, and that the product received is of suitable quality, and compliant with the national intelligence model.

**3.20** Overall, intelligence which comes into the hands of the SFO needs to be dealt with more systematically, with an integrated, centralised process known and used by all staff. There is little evidence of any systematic, SFO-wide linkage between casework and intelligence at present. Intelligence collection is currently spread across units, without a central methodology, management system, or intelligence repository.

**3.21** Externally, there is a set process and form for recording, analysing, and communicating intelligence information between most public investigation agencies, known as the national intelligence model (NIM). The SFO does not use this at the detailed operational level, although managers occasionally refer to it to characterise the level of threat perceived. Inspectors do not accept the explanation that “the nature of the SFO’s structure and work entails that it cannot comply with all the requirements of NIM”<sup>7</sup>. Some senior managers agree that NIM needs to be adopted in full, and inspectors are clear that such a move would increase internal efficiency and reliability, as well as make the SFO better able to handle the intelligence product provided by external agencies, and to reciprocate effectively.

**3.22** Intelligence related resourcing needs to be reconsidered in the same context. Previous resource allocation decisions have been demonstrably weak, such as the setting up of the victims’ hot-line, which was de-activated some weeks ago because it was resource intensive for very little product. It also overlapped with work done by partner agencies.

**3.23** We also found a critical lack of analysis capability in the intelligence function. Staff with the appropriate skills and experience are currently deployed elsewhere. Others directly involved in the intelligence function need to be fully trained, and all staff need to be sighted on the importance of their personal role in feeding intelligence into the process.

### Summary

**3.24** The inspection revealed that the SFO operational intelligence function is not sufficiently organised, or aligned to its own business need or that of other agencies. It is too broadly focussed for SFO resource levels and general capability. The SFO needs to focus on handling the intelligence it receives naturally from its casework, and open source intelligence research directed according to the strategic risk assessment. Other types of intelligence should be obtained in packages from other agencies.

**3.25** The intelligence handling process is fragmented, and needs to be centralised to improve its reliability. NIM needs to be adopted. There is a lack of specialised staff to collate and analyse the intelligence, and this needs to be addressed. All staff need to understand their role in feeding intelligence through to those responsible for handling it.

### Recommendation

The SFO needs to review and update its intelligence function to ensure that it has effective means of capturing, collating, and analysing the intelligence it receives. It should adopt the national intelligence model.

### Case acceptance

#### Context

**3.26** Once the strategic and operational intelligence functions have focussed the Corporate Strategy and identified potential cases, there needs to be a transparent process by which cases are formally assessed for acceptance. In straight forward terms, this process currently includes some intelligence and investigative work followed by a proposal by the Tactical Tasking Coordination Group (TTCC), and a decision

<sup>7</sup> SFO Strategic Assessment 2012.

by the Director. The decision is to be made against a set of acceptance criteria, and it is inherently linked to the setting of the initial case strategy.

**3.27** There is a concern expressed by some stakeholders and staff that the SFO has been applying its resources to cases which are really outside its remit, when other more challenging cases are missed. This perception is damaging for the SFO, as it reflects a lack of clarity around the Corporate Strategy. It is also significant that any cases “wrongly” rejected by the SFO are likely to be too big or complex for other agencies to take on effectively.

**3.28** In practical terms, stakeholders are not always clear exactly which matters to refer, because there is a lack of certainty over the type of case the SFO will accept. This is likely to reduce

the number of suitable matters being referred in the first place, or to encourage stakeholders to refer a wider range of cases, which in turn places greater pressure on SFO resources.

#### **Findings - acceptance criteria**

**3.29** The Key Criterion for the SFO to take on a case is that “the suspected fraud was such that the direction of the investigation should be in the hands of those who will be responsible for the prosecution”<sup>8</sup>. This is supported by a number of factors to be taken into account, including value, likelihood of publicity and public concern, the need for specialist knowledge and skills under one roof, an international dimension, and a level of complexity calling for exclusive SFO powers to be used.

8 SFO Key Criterion.

### **SFO Case acceptance criteria**

The Key Criterion for the SFO to take on a case is that the suspected fraud was such that the direction of the investigation should be in the hands of those who will be responsible for the prosecution.

The factors that would need to be taken into account include:

- 1 Whether the sum at risk is estimated to be at least £1 million. (This is simply an objective and recognisable signpost of seriousness and likely public concern rather than the main indicator of suitability.)
- 2 The case is likely to give rise to national publicity and widespread public concern; such cases include those involving Government departments, public bodies and the Governments of other countries, as well as commercial cases of public interest.
- 3 The investigation requires a highly specialist knowledge of, for example, financial markets and their practices.
- 4 The case has a significant international dimension.
- 5 There is a need for legal, accountancy and investigative skills to be brought together as a combined operation.
- 6 The suspected fraud appears to be complex and one in which the use of section 2 powers (Criminal Justice Act 1987) might be appropriate.

**3.30** A number of cases examined by inspectors fell outside the Key Criterion, being capable of investigation by police and prosecution by the CPS. It appears that acceptance of these cases was justified by the application of one or more of the sub-factors alone, particularly that relating to value: in fact, it is hard to conceive of a complex fraud or bribery case which could not be said to have a potential value in excess of £1 million. The international dimension often appears, but this does not always take a case beyond the capability of police forces and the CPS. The need for combined specialist skills is more directly linked to the Key Criterion but harder to describe in clear terms. It is noteworthy that cases of clear potential public concern have been declined in the past, or referred to others.

**3.31** It is also noteworthy that all of the cases examined resulted in a “successful outcome” but this was, on occasion, on a much lower scale than might be expected, and beneath that which would have merited the involvement of the SFO in the first place. Nonetheless, it echoes the view of stakeholders that the SFO tends to take cases where a successful outcome is likely.

**3.32** We saw no evidence in our casework examination that cases were declined at the acceptance stage for lack of resource, or any other reason outside the acceptance criteria. However, the concerns of stakeholders that cases have been rejected on other grounds need to be taken seriously by the SFO. At best, there is a perception issue which needs to be managed.

**3.33** It will help that the new Director has clearly stated his intention that SFO will be re-focussing its resources on the type of case which it was set up to conduct, and which it is uniquely structured to handle. It is perhaps significant that the SFO has now decided to take on the LIBOR case, albeit with case specific additional funding; an investigation which was previously rejected despite clearly meeting the Key Criterion.

**3.34** It is therefore arguable that if the vision of the Director is clear, as it is, and the Corporate Strategy is well founded and communicated, then acceptance criteria play too limited a role to be of value. At worst, they are liable to broaden unnecessarily the range of cases accepted, as appears to have happened previously.

#### **Findings - acceptance process**

**3.35** The mechanics of the acceptance process, including preliminary investigation and the acceptance decision itself, were overhauled and streamlined under the previous Director. Delay between referral and acceptance, which was a previous concern of stakeholders, appears to have reduced in recent years, which is beneficial.

**3.36** Whilst there is little cause for concern over cases which are rejected because they are clearly outside the SFO ambit, weaknesses have been identified elsewhere in the process. In particular, there is a lack of transparency, and there are concerns around the quality of investigation and the settling of initial case strategy, as well as the acceptance decision-making process itself.

**3.37** Inspectors found that the quality and quantity of records concerning the acceptance process vary enormously, so it is hard to assess how far it has been followed in many cases. In the papers we saw, the pre-acceptance investigation work rarely contains detailed legal analysis, assessment of casework risk, or clear reference to the acceptance criteria. This lack of transparency has been a cause for concern to staff and some stakeholders, including partners likely to refer cases and co-operate in investigations.

**3.38** The weakness of the operational intelligence function is discussed above, and this has a significant impact. It is essential that the initial intelligence case is challenged, especially when the interests of the body making the referral may conflict with those of the SFO, and that the strategy for converting it into an evidential case is well founded. Otherwise, the acceptance decision cannot be made in full understanding of the likely issues and outcome, or the resource levels required.

**3.39** This all requires robust, expert investigation at the pre-acceptance stage, but there is clear evidence of weakness here, as pre-acceptance investigations, including formal interviews, requests for material under exclusive SFO powers, and international enquiries are sometimes unfocussed and ineffective. Greater input by case managers and experienced investigators at this stage would assist.

**3.40** Initial investigation lends direction to the case, even before it is accepted, and weakness at this early stage can have long term effects, especially at a time of reduced resource: case teams can be severely challenged by the need to re-set case strategy after the acceptance

decision. In short, the SFO needs to find a way of getting strategic decisions right first time, and the current acceptance process does not assist. It may well be that general counsel and others with responsibility for quality assurance would need to be involved at this very early stage.

**3.41** The pre-acceptance investigation work forms the basis for proposal papers which are placed before the TTCG for decision. These can range from the lengthy and unfocussed, to the “inadequate and flimsy”. Neither assists the decision-making process which, we were told, can result in ineffective and non-inclusive discussion and decision-making. This all goes some way to explain apparently hasty acceptance decisions which lead to strategic problems later.

**3.42** Staff criticise the make-up of the TTCG, for lacking input from those with direct operational responsibility for casework, and there is certainly an argument for more involvement by those on the current case teams. Decisions are perceived by some staff as “pushed through” without due reference to casework risk, and there is some support for this in the limited papers we have seen.

**3.43** The resource implications of accepting cases appear not to be considered in detail at this point, which is surprising given the involvement of managers with corporate responsibility. This can result in delay immediately after the acceptance decision. It also conflicts with the increased pressure to progress cases and there is evidence that hasty acceptance decisions based on weak preparation have resulted in wasted cost as cases have been abandoned due to subsequent delay.

**3.44** It would make sense for cases to be slotted into an SFO-wide resourcing plan at the start, to ensure they get a clean start with appropriate resource allocation, but there is no evidence that such a tool exists at present. This leads inevitably to blockage at the investigation stage, which has led in the past to at least one case being discontinued on delay grounds alone.

**3.45** Aside from the weakness of the process, inspectors were told that in the past the process itself has not always been followed. Authority for acceptance decisions rests ultimately with the Director, and compliance with this principle is therefore essential. Conversely, there is some evidence that the acceptance process has sometimes been by-passed, with decisions being made by the Director and senior managers without formal reference to the TCG, and only limited records of the decision-making process being kept.

#### **Summary**

**3.46** Current processes have reduced delay, but they are insufficiently robust to guarantee that cases are reliably accepted and rejected in accordance with the Corporate Strategy. The acceptance criteria are no substitute for a clear Corporate Strategy, and where this is established there may be no value to them at all. Pre-acceptance investigation strategy is weak, where it is recorded, and investigation techniques need to improve. The acceptance decision-making process is unreliable due to weak preparation and insufficient consideration of the Corporate Strategy, as well as resource issues. This all hampers effective case investigation subsequently.

#### **Recommendation**

The SFO should review its case acceptance process, and look into whether there is a continuing need for acceptance criteria, to ensure that the right cases are accepted to reflect the Corporate Strategy.

## 4 Overall case handling

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*“Are cases properly directed, organised, recorded, and quality assured?”<sup>9</sup>*

### Introduction

**4.1** The handling of legal casework requires a set structure of documented procedures and processes for handling the work, managing it, and quality assuring it. Staff and resources need to be allocated appropriately. All cases need a central strategy. Overall, there need to be processes for handling evidence and unused material, allocating and recording actions and decisions, and controlling and quality assuring the work.

### Staff and resource allocation

#### Context

**4.2** It is clear that when a case is under consideration, and particularly once it has been accepted, appropriate resource needs to be allocated to enable it to be investigated effectively and efficiently, in terms of staff numbers, experience, expertise, and funding for specialist assistance where required, including counsel and independent experts.

**4.3** Stakeholders and some staff perceive a critical reduction in operational staff experience levels in recent years, which has reduced the quality of the casework<sup>10</sup>. This includes a perception that the quality of counsel instructed may have declined<sup>11</sup>. There is no doubt that the SFO annual budget has reduced significantly too. We were referred by stakeholders to the impact of differing resource levels between the SFO and the Financial Services Authority, and on 31 July 2012, the President of the Queen’s

Bench Division said, in the case of *Rawlinson and Hunter v Tchenguiz*: “The investigation and prosecution of serious fraud in the financial markets requires proper resources, both human and financial. It is quite clear that the SFO did not have such resources in the present case”. He referred to work done in 2007-08<sup>12</sup>.

**4.4** Our inspection preceded this statement, and is focussed on casework only, but we are able to draw some conclusions concerning resource levels. The new Director also understands that resourcing is a critical factor, and that this may need to include procurement of expertise on a case by case basis. In the context of an annual reduction in SFO budget, this will be a challenge.

#### Findings

**4.5** Overall, there are too few lawyers, and not all are suitably skilled, experienced, or capable for the quantity and complexity of the work. We found that not all teams have had the benefit of an allocated case lawyer, at key times, and that lawyers called across from other teams to “fill in” and make important decisions have struggled to get to grips with the case in the limited time available. There is strong evidence that junior lawyers are given responsibility beyond their experience and degree of specialism to maintain delivery.

**4.6** The more highly skilled case managers, most of whom are lawyers, are asked to rectify cases which have gone awry, in addition to managing their own workload. Those promoted temporarily to senior roles have retained casework responsibility. Conversely, some case managers are less capable, and some lack the time, or the skill to develop effective case strategies.

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<sup>9</sup> See annex A: Inspection framework.

<sup>10</sup> See annex C: Paper on stakeholder perceptions paragraphs 30-31.

<sup>11</sup> See annex C: Paper on stakeholder perceptions paragraph 28.

<sup>12</sup> *Rawlinson and Hunter v Tchenguiz*, [2012] EWHC 2254 (Admin).

**4.7** On occasion, case teams have also struggled to find an investigator, and team members are often required to fill roles they are not technically qualified for. Some investigators are highly skilled, but some lack basic investigatory skills. We were told of instances where cases were stalled awaiting the release of a staff member with specialist knowledge from other work, and we came across further examples of cases which were significantly delayed by lack of suitable staff. Expertise in demand can range from specialist legal, investigative, and accountancy skills, to foreign languages and knowledge of industry custom and practice.

**4.8** Inspectors understand and endorse the need to procure the services of specialists or experts to fill a known expertise gap in respect of a given case, but in the past temporary contract staff have been employed simply to bring up the numbers.

**4.9** The levels of training and experience of contract staff are always likely to be lower than permanent staff. They are assumed to come with a basic level of knowledge. Some have this, but very few have an understanding of SFO structures, processes, and policy when they join. Little training is available to them. Many junior barristers struggle to integrate as a result, and this has a clear impact on the quality of their casework. More experienced investigators tend to acclimatise more easily, but there is evidence on the case files of a lack of critical training, such as in information technology, immediately following recruitment. There is mixed evidence as to whether all receive a standard induction, and none are subject to performance management.

**4.10** Some cases are staffed by a majority of non-permanent staff, and this carries a significant risk. In any event, there is a clear need to improve recruitment, retention, and training to drive up the baseline quality of operational staff.

**4.11** There is no evidence that the SFO has, or uses, a model or template for allocation of staff to individual cases. This is evident in the decision not to differentiate between the cost of different activities in published resource accounts in recent years. We were told that case teams are less rigid than they were, and that the SFO has moved to a “pooled resource” approach. However, inspectors would expect there to be a clear documented model to assess how much resource, according to specialism and skills, cases of a particular type should require in broad terms. We were told that there has been skills gap analysis work in recent years, but allocation of staff appears to have been carried out by informal decision-making, and swaps between teams have been negotiated between case managers, outside the control of corporate managers.

**4.12** Without a clear resource model, the SFO cannot tell how much resource it requires, and how many cases it can handle. Crucially, it cannot tell whether the apparent resource problems referred to above are wholly due to recruitment, training and corporate inefficiency issues, or genuine lack of operational staff. It is essential that this issue is resolved urgently.



**4.13** Budgetary discipline and controls are improving in some aspects, but they are still insufficient. Budget control documents found on the case files are not always up to date or properly completed. There is some evidence that historically, the cost (and value for money) of self-employed counsel has not been controlled as closely as it should be. More recent cases show improvement and inspectors are aware that processes to control the selection and cost of counsel have been made more robust; the SFO will need to make sure that the controls are operated effectively in future.

**4.14** Barristers are also used in-house, on short contracts to fill specific roles, particularly as “disclosure counsel”. This is not necessarily inefficient, and is essential under certain circumstances, but there is a justified concern among staff that more of this work should be done by SFO substantive staff. This echoes the finding (above) that the capability of the permanent staff establishment needs to be enhanced. However, under present conditions, inspectors support the strategy of using disclosure counsel, as long as they are selected with care, and managed effectively.

**4.15** Self-employed counsel is often instructed to advise from an early stage in the investigation, and new processes are in place to ensure fair distribution of work. A business case is now required in specified circumstances to control costs. The operational handbook purports to limit the role of counsel, but in fact, counsel plays a wide role in strategic decision-making, and there is clear evidence that some SFO case managers and prosecutors act, on occasion, as little more than “post boxes” in passing on difficult decision-making to counsel.

**4.16** Staff and stakeholders, including the judiciary, see the involvement of suitably experienced and skilled external counsel as essential to the SFO casework process. Inspectors agree, although it is critical that case managers and lawyers retain control of the key casework decisions, and use counsel effectively.

**4.17** Conversely, there is some evidence, including the views of some stakeholders that other external experts, such as forensic accountants, are not always used efficiently. SFO managers accept that there is sometimes a lack of clarity over the need to instruct experts, and that there always needs to be a sound documented business case, against which performance and value for money can be subsequently audited. Inspectors were unable to tell from the file, in one sample case, whether the use of forensic accountants contributed in any way to a successful outcome.

**4.18** There is also a lack of recorded business case for other expensive exercises, including trips overseas. Authorisation is sometimes apparent, but the detail of the decision is not.

#### **Summary**

**4.19** From our examination of the casework, and discussions with stakeholders, the SFO appears to be suffering considerable resourcing problems.

**4.20** First, there are insufficient numbers of permanent operational staff. Secondly, and beyond this, there is a lack of relevant expertise and specialism in complex fraud casework. Thirdly, the method used to allocate staff between case teams is insufficiently robust. This magnifies the impact of the first two problems.

**4.21** These resource issues appear to call for increased funding. However, they must be seen in the context of the inefficiencies in the casework process discussed in detail below. Improved casework processes, better recruitment and training would improve performance at current funding levels, by increasing value for money in a productivity sense. However, it is impossible to know how far this masks a fundamental lack of funding, because there is no over-arching resource model or guide as to which skills and level of staff commitment is required for individual cases.

### Recommendation

The SFO needs to improve the methods by which it assesses the skills, specialism and level of staff commitment required for individual cases, so that it can ensure case investigation and prosecution teams are properly resourced.

## The operational handbook

### Context

**4.22** The basic guide to the handling of SFO casework lies in the operational handbook, which is in electronic form on the Intranet, and disclosed in redacted form on the SFO website. It links across at appropriate points to more detailed guidance. In principle, the operational handbook is an essential tool for the guidance of casework staff and those others wishing to check the relevant casework processes and identify templates. Its existence is a clear benefit. However, it could be much more effective.

### Findings

**4.23** It is a matter of concern that some casework staff struggle to find the appropriate section of the operational handbook on the Intranet. Inspectors found that links to key supporting documents were not working at the time of the inspection, and we understand that some staff are not aware of the existence of certain key sections.

**4.24** The content also needs significant work. For example, the disclosure section contains errors of law such as the mis-statement of the current test for initial disclosure in a key part of the document. Supplementary casework guidance such as the good practice guide on disclosure is apparently helpful, if the link works, but is very out of date to the extent that it does not include reference to policy and law which is now three years old.

**4.25** Some processes prescribed on the operational handbook are also weak. It seems that the custody time limit process has been borrowed from the CPS, and references to the CPS have been left in. Further, the process has not been borrowed wholesale, and there are gaps which could prove critical.

**4.26** We were told that there is no clear, robust, process for quality assuring the operational handbook, and this needs to be put in place, with final responsibility lying at a suitably senior level, with a member of staff closely acquainted with relevant law and practice.

### Summary

**4.27** The operational handbook cannot be fully effective until it is made more accessible and the contents are fully updated, and kept up to date on a rolling basis.

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## Case management process

### Context

**4.28** The scale and complexity of SFO cases require them to be handled in teams, with a case manager in the lead, subject to the supervision of the head of business area. There are various tools available to the case manager to ensure that the matter progresses efficiently, in accordance with the case strategy. These include standard systems for allocating and checking task completion, as well as templates for storing key documents.

### Findings - case management process

**4.29** Despite the prescription of standardised case management process and documents in the operational handbook, case managers use various methods to progress work. These stem from differences in management styles between individuals and SFO divisions.

**4.30** All managers and staff are aware of the inconsistencies, and find it frustrating. For example, the Intranet based Task Management System (TMS), promoted and mandated in 2009, is used by some case managers but not all. Those who use it do so to varying extents. Others prefer to use their own bespoke spreadsheet processes. Some use different management systems on each case. There is not always a documented hand-over between case managers. This makes case management, compliance audit and quality assurance significantly more challenging than necessary.

### Findings - casework record keeping

**4.31** The operational handbook also lists the numerous management documents required to be created on any case, a small sample being the investigation plan, policy, correspondence and decision logs, and disclosure strategy. In addition, the SFO has recently reintroduced decision logs in hard copy duplicate books.

**4.32** However, on the case files, most of which are electronic, there are various records structures in place, and on those with more than one case manager over time (a common occurrence) different structures appear superimposed on each other. Some cases examined demonstrated attempts to maintain accessible, clear, comprehensive records of casework communications, decisions and actions, but this was not achieved consistently. In all cases examined, inspectors had difficulty assuring themselves that they had obtained access to all relevant case management documents.

**4.33** However effective these individual processes may appear to the primary user, the lack of uniformity creates a risk, particularly in terms of resilience at times of staff turnover, and it hampers the capability of the SFO quality assurance arrangements. This is perhaps a critical issue when the effectiveness of general counsel as an inward facing quality assurance point will depend on him having access to relevant case materials.

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**4.34** This needs to be resolved by settling on a smaller number of key documents integrated into the case management and quality assurance processes. It is likely that an electronic case management system would also help improve compliance, and take on the time recording process as well as TMS, casework audit, and management processes. Most legal organisations, certainly those moving towards use of the digital file, use such a system.

**Findings - casework management structure**

**4.35** The previous management structure appeared overly cumbersome in some respects, with the decision-making process sometimes lacking clarity, and involving up to four levels of management. Combined with chronic communication problems across divisions, case teams, and particularly between senior managers and casework staff, this created delay and inefficiency, disengagement of staff, and extra subsequent work for managers who need to be concentrating on their own casework decision-making.

**4.36** Under the new structure, there is much greater delegation of accountability and responsibility at all levels, and there is evidence that communication has already improved significantly. It is essential that lines of communication are opened up further, and that proper briefings, and de-briefings are exchanged at appropriate moments.

**Summary**

**4.37** Case management structures and processes need to be standardised and mandated across the SFO. Lines of accountability and communication have improved very recently, and this needs to continue.

**Handling evidence and unused material**

**Context**

**4.38** Much work and resource has been allocated, under the previous Director, to designing and standardising the processes for the handling of evidence and unused material in hard copy and digital format. The centrepiece of this work was the Digital Forensic Unit (DFU).

**Findings**

**4.39** There are clear processes for converting case material into digital records, analysing it and recording it logically. The DFU is a critical tool for the SFO, enabling the analysis of material to assist case preparation, and laying the ground for effective handling of the all-important disclosure process. Inspectors were encouraged by the positive approach to improving DFU performance recently, following justifiable concerns over delay.

**4.40** This will help deal with the lingering concern of some staff that the DFU and case teams do not always integrate well, and that they speak a different language which causes inefficiency and delay. Also, there has been a concern among prosecutors and accredited financial investigators that undertakings<sup>13</sup> given to the court are overly reliant on assurances given by the DFU.

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<sup>13</sup> Any lawyer found to be in breach of an undertaking to the court, or to have misled the court in any other way, might be in breach of their conduct rules.

**Summary**

**4.41** It is right that the specialised skills and process needed to analyse the volume of data received by SFO require a dedicated unit. The unit appears to work well, but it needs to continue to integrate with the casework teams, reducing delay and allowing them access to all case material. Also, managers must work with the DFU to ensure that it can fully support the case teams.

**Casework quality assurance**

**Context**

**4.42** Most legal organisations have a form of casework quality assurance, involving processes for checking that decisions are justifiable. The SFO has attempted to create a casework quality assurance process, including case conferences at key points, monthly electronic reports by case managers, and less frequent reviews by senior managers. The new Director has made clear his commitment to robust quality assurance and senior appointments have been made to provide this capability.

**Findings**

**4.43** Unfortunately, the existing structures and processes for quality assurance are relatively complex, not fully understood by all staff and managers, and their application has been inconsistent. They need to be streamlined, and made effective.

**4.44** Inspectors were concerned to find that monthly reviews are not always recorded, and where there are records the reviews are not always robust. In particular, they do not always refer to the risks arising in a case. Staff told us that they were seen as an administrative burden rather than a benefit, and that they are not always taken seriously. In any event, the forms used in the case management system have the feel of a management consultancy type document rather than a tool for legal and evidential analysis and quality assurance.

**4.45** There appears to be little effective performance management, and little evidence of casework being enhanced by intervention, although we were told that it does happen. Managers are sometimes unable to explain the process by which they decide to intervene in cases, relying more on their experience and knowledge of the case than on the quality assurance process to get involved.

**Summary**

**4.46** Quality assurance is therefore compromised by the inconsistent and incomplete approach to records management referred to above, and the inconsistent application of the quality assurance process itself. This needs to be rectified so that those appointed to fill the quality assurance role can do the job effectively.

**Recommendation**

The SFO needs to standardise, streamline, and mandate its casework management processes, including records management structures/templates, and quality assurance.



## 5 Case strategy

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### Context

5.1 Complex fraud cases require a coherent over-arching strategy to convert efficiently the intelligence case into a persuasive evidential case, easily understood by a jury. Stakeholders are critical of SFO case strategy, suggesting that it sometimes lacks focus and flexibility, with the appearance of having been designed by committee<sup>14</sup>.

5.2 Case strategy needs to be sufficiently flexible to survive foreseeable changes in circumstances as the case develops, yet sufficiently contained to limit the amount of material seized to a practical level. These principles are accepted within the SFO, and are evident in some case strategies. However, they are not always applied.

### Findings

5.3 The SFO has some very skilled professionals capable of setting a suitable strategy for the most complex cases, often with the assistance of suitably experienced counsel. The most capable case managers are well known internally, and to stakeholders, and they are rightly given the most demanding cases. Inspectors saw evidence of well thought-out strategies which helped focus activity, elicit guilty pleas, and ensure convictions after trial.

5.4 However, we were not always able to identify a clear strategy, and on some cases there was an evident lack of controlling direction. This needs to be eradicated, and those newly responsible for quality assurance will want to ensure that there is a recorded, coherent strategy in every case.

5.5 In a third category, the approach to case strategy exists but is less coherent, and can vary between two extremes. The more common of these appears to be the risk adverse approach, seeking to prove every last point which could be in issue, when a realistic prospect of conviction is what is required initially. There is a tendency for serious and complex fraud cases to “sprawl”, if not managed properly. This approach can lead to a case involving a handful of main suspects expanding to take in their professional advisers, which broadens the scope and the volume of material greatly. Equally, a tendency to sprawl is evidenced by cases taking on international dimensions, later deemed to be unnecessary, or by insufficient focus on the central criminality.

5.6 Less common, but carrying greater risk, is the approach which relies overly on the accuracy of the intelligence case, using it as more than a guide, only to find that the evidential case is much less persuasive. This can cause problems later, and has been referred to in a recent High Court judgement. Again, quality assurers will want to check for signs of both extremes.

### Summary

5.7 Case strategies are sometimes very well prepared, and sometimes updated appropriately. However, in some cases there is little evidence of a guiding strategy. Where there is a strategy, it can be overly cautious in seeking to prove every last point, and in others overly accepting of the intelligence case, without sufficient element of challenge.

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<sup>14</sup> See annex C: Paper on stakeholder perceptions, paragraphs 22-25 passim.





## 6 Investigation

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*“Are cases properly investigated?”<sup>15</sup>*

### Context

**6.1** The SFO is unusual amongst investigation agencies within the public service, in that it combines investigation with prosecution, involving lawyers (and accountants) directly in the investigation. Once a case is accepted and allocated to a case team, it is investigated by the team as a whole. Some stakeholders were very positive about the ability of the SFO to narrow the issues for trial, and focus the investigation accordingly. Others are less positive, citing the over-use of unique powers available to the SFO<sup>16</sup>, and our case file examination supported the view that some aspects of investigative work need improvement.

### Findings

**6.2** Investigators work hard under pressure to obtain detailed evidence from witnesses, and submit large amounts of material for analysis by the DFU. They work with case managers, lawyers, experts and counsel to frame the case, and prepare it for the charging decision. This often involves mutual legal assistance, which can be tortuous and protracted, as well as appropriate liaison with those responsible for the asset recovery aspects of SFO casework.

**6.3** However, as with case strategy overall, some strategic decision-making on investigations can be weak. We saw questionable categorisation of eventual suspects as witnesses, weak decisions to obtain material under section 2 powers, rather than by other means, and the investigation of major criminal charges when the foreseeable outcome is a regulatory offence, which might have been achieved with less resource input.

In a case evaluation meeting, the SFO case team criticised its own strategic focus and lack of appropriate prioritisation during the investigation. While the team and case manager are to be credited for such candid evaluation, their conclusion is consistent with our findings on some cases.

**6.4** In particular, the issue of case sprawl which is referred to above often begins with an investigation which is set too widely, or lacks clear focus. Common causes include pressure on resources, and the fact that case strategy is often set prior to acceptance, as well as significant training and case management issues. A partial solution would be more accurate and focussed intelligence to help narrow the issues and identify what evidence is likely to exist and where it is to be found.

**6.5** The main obstacle to this is the common lack of a clear, documented investigation plan, aligned to an overall strategy, in cases examined by inspectors. This a mandatory document, and its absence makes it harder for the case manager to focus efforts, and for all members of the investigative team to understand their individual role, and its significance to the case as a whole. There is evidence that some investigators have never seen an investigative plan, and that they are not all aware that one is required.

**6.6** Experienced investigators, often with police training, demonstrate their ability to convert intelligence into admissible evidence through painstaking witness interview and analysis of large amounts of financial material. Inspectors saw evidence of well conducted international enquiries. These demand some justification given the potential delay and cost, although in at least one case, the decisions to make overseas enquiries were not clearly linked to the case strategy, with no obvious justification from the file.

<sup>15</sup> See annex A: Inspection framework.

<sup>16</sup> See annex C: Paper on stakeholder perceptions, paragraph 27.

**6.7** In some cases, basic investigative techniques were found to be weak, and whilst this may not always undermine the case, it reduces efficiency and can create extra work and cost. For example, inspectors were told of, and saw examples of PACE<sup>17</sup> interviews which were overly long, and lacking clear focus, with interview plans running to more than 100 pages, and interviews lasting up to 40 tapes. Inspectors were also told by staff that section 2 notices<sup>18</sup> and covering letters are sometimes drafted more widely than necessary, resulting in the provision of excessive volumes of material. Witness statements are sometimes drafted to cover more ground than necessary, mainly due to a lack of focus on the case strategy. Whilst we saw examples of informations<sup>19</sup> which are fit for purpose, this is not always the case<sup>20</sup>, and there are various other examples of weak investigation technique.

**6.8** This brings the need for training into clear focus. There is evidence that some investigators have not had investigative training beyond basic induction. Many felt the need for training in interviewing techniques, and unused material handling, among other subjects. The SFO has provided evidence of investigative training, but SFO managers need to make sure that staff have access to it, and take full advantage.

**6.9** There are signs of recent improvement triggered by specific events, particularly around applications for warrants, but more work needs to be done to design and embed a process for ensuring that the risk of misleading the court is reduced to a minimum.

**6.10** All of these issues tend to broaden the range of investigations, rather than narrow them, and they all lead back to case sprawl. At the very least, they expand the volume of material obtained, which adds pressure to the DFU, the case teams, the case management processes, counsel, and eventually the defence and the court. The impact on the disclosure process alone can be very substantial, and is discussed below.

**6.11** Some cases are investigated expeditiously, but a number of those examined demonstrated delay during the investigation stage, and some have taken years longer than apparently necessary. The transfer of staff from cases under investigation to those already subject to a court timetable is one reason. Another quoted cause of delay is that international enquiries inevitably take time, and carry additional disclosure issues concerning material supplied from overseas.

### Summary

**6.12** Many SFO investigations are carried out effectively, and it is clear from the outcomes listed in annex D that they tend to identify the evidence necessary to prosecute defendants, and lay the foundations for successful outcomes. However, there is weakness around some strategic decision-making and investigative technique, although this is more likely to cause inefficiency and delay than adverse outcome in most cases. The new chief investigator needs to improve the impact of training in investigative technique.

### Recommendation

The SFO needs to improve the quality of its investigation work by training staff better in basic investigative technique, and providing better resource levels at the investigation stage.

<sup>17</sup> Police and Criminal Evidence Act 1994.

<sup>18</sup> Under section 2 Criminal Justice Act 1987, Director SFO can require the production of material.

<sup>19</sup> The document which forms the basis for an application for a warrant.

<sup>20</sup> See *Rawlinson and Hunter v Tchenguiz*, [2012] EWHC 2254 (Admin).

## 7 Prosecution

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“Are cases properly prosecuted?”<sup>21</sup>

### Initiation and review of proceedings

#### Context

7.1 The first point in any prosecution is the initiation of proceedings, usually by charge. Such decisions must be made by application of the two-stage test in the *Code for Crown Prosecutors* (the Code) which is binding on the SFO. Any decision to drop a charge must also comply with the Code.

7.2 There is general duty of ongoing review, to check that the case strategy is appropriate, that previous decisions are still valid, and that action plans are up to date and amended where appropriate.

7.3 There is a general perception among stakeholders that the quality of decision-making and case progression varies widely, and that the early involvement of appropriately skilled counsel is essential<sup>22</sup>.

7.4 Some members of the judiciary say that SFO post-charge case progression is better than that of other prosecution agencies<sup>23</sup>.

#### Findings

7.5 From the cases we saw, inspectors are satisfied that most of the charges laid by the SFO were Code compliant at the time, in that there was sufficient evidence for a realistic prospect of conviction, and it was in the public interest to initiate proceedings. The same is true, conversely, of decisions to drop charges

We also saw evidence that the threshold test<sup>24</sup> is applied properly to charging decisions.

7.6 Where inspectors identified a weak charging decision, it usually related to a single charge when the others in the case were sound. Nonetheless, these weak charges, some of which ended in adverse outcomes including findings of “no case to answer”, were indicative of inherent inconsistency in the quality of legal decision-making and the quality assurance process.

7.7 Commonly, but not invariably, the decision to charge is taken following counsel’s written advice and a case conference involving counsel<sup>25</sup>. This approach is sound, as long as counsel is fully briefed, appropriate records are kept, and the final decision to charge (or refer it to the Attorney General’s Office) genuinely rests with the SFO prosecutor.

7.8 However, it is not always clear that the Code is properly applied because records of such decisions are sometimes missing, and where they are on file, they do not always refer to the Code. Sometimes they mis-refer to it, and sometimes, they imply a mis-application of the Code. This criticism also applies to counsel’s advice on charge.

7.9 The same applies when the decision is to drop a charge. If records are kept and reasons given, they are not always coherent, and Code compliance cannot be always complete or fully reasoned.

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21 See annex A: Inspection framework.

22 See annex C: Paper on stakeholder perceptions paragraphs 28-30.

23 See annex C: Paper on stakeholder perceptions paragraphs 26 and 36.

24 The threshold test (defined in the *Code for Crown Prosecutors*) is applied in serious cases where key evidence is not yet available and where the prosecution seek a custodial remand to protect the public from offending and/or to secure the attendance of a defendant for trial.

25 In some cases the consent of the Attorney General is required, and the decision to charge can only be made when this is obtained.

**7.10** Therefore, the common lack of a clear, comprehensive endorsement by the prosecutor is a serious process issue, which suggests that the final decision to charge (or discontinue) sometimes rests, in effect, with counsel, and that the case team may not be taking a critical approach to counsel's advice.

**7.11** SFO staff report a lack of clarity over the decision-making chain concerning charging decisions which needs to be clarified and resolved as a matter of priority. In one case seen by inspectors, the evidence points to a decision not to charge having been taken by a non-lawyer, and the review process needs to prevent this happening. Our understanding is that the new structure and decision-making process will deal with this problem, but managers need to ensure that there is clarity.

**7.12** Cases are generally reviewed according to the process of case conferences, monthly reviews and case review panels, in addition to bespoke arrangements which have existed on some cases. There is clear evidence of strategic thinking and casework grip, post-charge, to a greater level than is evident at the pre-charge stage. This is very likely due to the focussing of resource on cases subject to prosecution, and case management by the court.

**7.13** Counsel is usually involved in this process, to an appropriate degree. In general, this adds value, although we saw some evidence of weak advice. If anything, counsel's advice is accepted too readily and we saw clear evidence of the "post box" approach from prosecutors. Counsel is generally instructed at the right time, although there are concerns over the costs control side of casework, referred to above.

**7.14** Post-charge case progression is generally very sound in terms of action dating and task completion: staff work hard to ensure that cases move forward as efficiently as possible and ensure that timetables laid down by the court are met. Where substantial delay occurs, and we saw evidence of this, it is commonly the result of weak case strategy at the pre-charge stage, rather than administrative failure or lack of grip post-charge.

#### **Summary**

**7.15** Most charges are properly brought, and when charges are dropped it is generally the right decision. However, records of key decisions are sometimes insufficient to confirm that the Code has been applied properly, and occasionally, inspectors are clear that it was not. The review process needs to be tightened up and made central to the casework process, with strategy and key decisions kept under close scrutiny. Administrative case progression is very good.

## Disclosure

### Context

7.16 Complex fraud cases generate enormous amounts of documentation, in hard copy and electronic format. Only a small proportion will ever be used in evidence. However, the court and the defence have a right to know about any “unused material” which might affect the case.

7.17 The handling of unused material is governed by statute, and by other protocols and guidelines. However, the prosecuting body has a degree of independence in the detailed process used. The SFO sets out its process and templates in the operational handbook and other related documents.

7.18 Stakeholders are well aware that the volume of unused material generated presents a casework risk to the SFO, not least because the defence are often keen to challenge the integrity of the process, with adverse outcomes, including substantial costs awards, being the possible result.

### Findings

7.19 The attitude of SFO managers and staff to the handling of unused material varies widely. Some see it as an area of significant risk, and others do not.

7.20 Inspectors saw evidence of case managers and prosecutors working hard to demonstrate to the court that all disclosable material was available to the defence. This includes the preparation of detailed disclosure protocols, declarations to the court, and letters outlining the rationale behind strategic disclosure handling decisions. However, we also saw strong evidence on one case that important items were in fact missed at an early stage in the examination of unused material<sup>26</sup>.

7.21 The basic process is in the guidance booklet (2009), linked to the relevant section in the operational handbook. These documents are now well out of date and require revision. There is no reference to the *Supplementary Attorney General’s Guidelines on Disclosure - Digitally Stored Material*, and the template schedule of unused material is based on the old (out of date) CPS version.

7.22 More importantly, inspectors did not see the prescribed process used fully on any of the case files examined, and we were told that some casework managers and staff are not even aware of the existence of the booklet. The scheduling and categorisation of material varies, case by case, as a result and it is impossible to say with confidence that the detailed process is fully effective.

7.23 The basic quality assurance tool for SFO managers, the defence and the court are the schedules of unused material produced under the terms of the Criminal Procedure and Investigations Act 1996. On every case examined, different versions of the schedule of unused material were used. Not all numbered the items sequentially, which is a breach of the Attorney General’s guidelines, and none required the form to be endorsed with the identity of the decision-maker. Some are labelled incorrectly, and inspectors found evidence of non-sensitive items being wrongly entered onto sensitive schedules. On one case, inspectors could not find the sensitive material schedule at all.

7.24 Some schedules of non-sensitive material include all relevant material, with disclosable items being marked accordingly. This accords with the guidance, and inspectors endorse this approach as a minimum requirement. On one case however, the schedules included only those items marked for disclosure, which leaves

26 We are satisfied that the omission was identified and dealt with during the currency of the case.

the defence with little opportunity to challenge a decision not to disclose any given item. On another, the disclosure schedules are combined with schedules prepared to sift material including used documents. This represents the other end of the spectrum, and may suggest to the court that the disclosure process is incorporated into case preparation generally, rather than carried out as a discrete process.

**7.25** The handling of unused material begins with receipt or seizure (including images of data held electronically). There is some evidence that investigators are not fully trained to handle unused material, and there is a general view among casework staff that disclosure is not considered until charges are laid. It is essential that investigators are mindful of their disclosure duties when preparing the case and interviewing witnesses, to ensure that they obtain relevant material in the possession of the witness. However, on the positive side we found that the descriptions of unused material on the schedules were of good quality, and this is to be encouraged.

**7.26** The handling of material subject to legal professional privilege (LPP) in SFO cases has been the subject of recent judicial comment which suggests that any lawyer charged with reviewing material potentially subject to LPP should be entirely independent of the SFO, not just the investigation team<sup>27</sup> and the SFO will need to re-consider its approach.

<sup>27</sup> Rawlinson and Hunter v Tchenguiz, [2012] EWHC 2254 (Admin).

### Summary

**7.27** The SFO generally carries out disclosure to a satisfactory standard, but there are real risks. The internal process and guidance needs complete overhaul, and compliance with standard process needs to be mandated and quality assured in future. We understand that this work has started.

### Recommendation

The SFO should review and update its disclosure guidance, design and mandate updated schedule templates, and ensure that all casework staff are trained accordingly.

### Case presentation at trial

#### Context

**7.28** SFO cases are inherently complex, but need to be readily understood by a jury. Even if they do not reach trial, the SFO needs to be able to explain the case effectively to elicit a guilty plea.

#### Findings

**7.29** The SFO puts emphasis onto presenting its cases effectively at trial. The role of counsel is key, in finalising the case theory and liaising with the case team and graphics experts to develop a way of linking it to the evidence and expressing it concisely. Some stakeholders were very complimentary about the effectiveness of this process, and make the link between sound presentation and successful outcome.

**7.30** Lots of work goes into the preparation of jury bundles and witness “batting orders”, and the graphics team ensures that electronic aids are not only useful, but sufficiently robust to resist defence challenge. In fact, the SFO takes full advantage of electronic presentation of evidence (EPE), where appropriate, although some stakeholders suggest there should still be a core bundle of hard copy material for the judge and jury.

#### **Summary**

**7.31** The SFO appears good at condensing complex cases into a format readily digestible by a jury. Case presentation at trial is thoroughly planned, and inspectors were shown an impressive example of electronic presentation of evidence. Case presentation at trial was also complimented by members of the judiciary, and should be regarded as a strength.

### **Care of victims and witnesses**

#### **Context**

**7.32** Some stakeholders told us that there is very little information on victim care at the intelligence/acceptance stage. Whilst the SFO has formally adopted policy, including the Victims’ Charter, which in most cases has been taken wholesale from the CPS, few have any idea as to the victim experience of the SFO before a decision is made on acceptance. There is concern that victims are given as little information as partner agencies<sup>28</sup>.

**7.33** In recent years there has been a clear focus, within the criminal justice system, on the rights and care of victims and witnesses. The SFO was slow to take this up, but has now made good high level commitments to supporting victims of fraud, and set up

processes to meet them. These include the appointment of dedicated witness care officers and a closer focus on witness needs including special measures at court, as well as better communication throughout the case.

#### **Findings**

**7.34** The SFO’s practical service to victims and witnesses is delivered through a victim strategy for each case and dedicated witness care officers (WCOs). This is a good model. The WCOs in particular demonstrated strong commitment to meeting the needs of witnesses.

**7.35** The SFO website offers a substantial range of general and specific information to victims and witnesses and usefully has separate areas for individual and corporate victims. It is used to encourage the engagement of victims to frauds already under investigation, and this has proved beneficial. A section on current cases also provides easily accessible investigation and prosecution updates for victims.

**7.36** Other positive aspects of support for victims include examples of victim requirements being considered at an early stage of the investigation, e-mails and phone calls, and the provision of a named contact in cases with numerous victims. There was evidence of good recording of complex witness needs on a spreadsheet in one case examined, followed up by timely application for special measures in court, good provision of information through a comprehensive witness pack to those witnesses who were required to actually attend court, and a WCO being in attendance at each day of the hearing working with members of the case team to provide practical support and answer queries. Case teams are also mindful of the need to save vulnerable witnesses being called to give live evidence if their statement can be read in court.

<sup>28</sup> See annex C: Paper on stakeholder perceptions.

**7.37** However, there is room for further improvement. As in other aspects, there is a lack of standard approach, with the role of the WCO unhelpfully differing between cases, depending on the preferences of the case manager. Inspectors also found some evidence of a defensive approach to some victims, including weak explanations following the decision to drop charges, and confusing explanations about whether witnesses were actually required to give live evidence. Some of the guidance on the website has clearly been lifted from CPS guidance without being fully adapted, using terms that do not apply to SFO cases. Inspectors were concerned to find incorrect and out of date court related information is sometimes provided, and some updates are infrequent, with the website failing to provide an update on one case for 12 months due to an internal error.

**7.38** Significantly, it is not always clear that the interests of victims are taken into account when deciding to drop a charge by application of the public interest stage of the *Code for Crown Prosecutors*. Inadequate explanation of reasoning (referred to in paragraph 7.8 above) actually prevents proper explanation to victims and therefore undermines the capability of the SFO to comply with its duties under the Victims' Code.

**Summary**

**7.39** The SFO has done considerable work to embed victim and witness care into its core processes, and there is clear evidence that this has been effective. However, there is more work to be done, particularly to improve the quality of the communication with victims and witnesses.



## 8 Asset recovery and alternative resolution

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*“When cases are not taken down the prosecution route, is the decision-making process aligned to the Corporate Strategy, and applied appropriately?”<sup>29</sup>*

### Context

**8.1** Under the Proceeds of Crime Act 2002 (POCA), there is provision for the SFO (and other agencies) to seek a civil recovery order from the High Court in recognition of criminal conduct, where there has been no prosecution. In a number of cases, notably MacMillan Publishers Ltd, and more recently Mabey & Johnson and Oxford Publishing Limited (see annex D), self-referral by the offending corporate body (or its agents) has led to the SFO obtaining consent orders for large sums of money.

**8.2** Various aspects of the MacMillan decision have been criticised by stakeholders, because it appears to enable a corporate body and its key staff to avoid criminal prosecution on satisfaction of a civil recovery order.

**8.3** There are joint guidelines, roughly equivalent to the Code, which must be taken into consideration in any decision to pursue a civil recovery order under POCA. However, whilst there are clear guidelines for the handling of plea negotiations on fraud cases, which is roughly equivalent, there is no policy or process for the handling of self-referral by corporate bodies, or the handling of negotiations for a civil recovery order.

**8.4** There is a perception among some stakeholders that there needs to be greater certainty of outcome to encourage self-referral<sup>30</sup>. It needs to be made clear that the new Director has said that self-referrals with civil recovery in mind will lead to consideration of all options including prosecution, and that consent to a civil recovery order will only be granted where it can be fully justified according to the guidelines.

### Findings

**8.5** Civil recovery consent orders in cases settled before April 2012 are not disclosable, due to a provision in the orders themselves. Inspectors have not been allowed access to them, and we are therefore unable to comment on them.

**8.6** The result is a concerning lack of transparency, and stakeholders such as Transparency International and the OECD<sup>31</sup> raise the suspicion that corporate bodies and their Directors have been allowed to escape criminal justice on acceptance of a financial penalty. Cases such as Mabey & Johnson and BAE Systems have been criticised for this.

**8.7** Some senior professional and executive stakeholders told inspectors of their perception that the lack of a set, transparent process for handling self-referral makes the negotiation process harder to navigate for the SFO and those making the referral. Further, there are few accessible records of the negotiation and decision-making process.

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<sup>29</sup> See annex A: Inspection framework.

<sup>30</sup> See annex C: Paper on stakeholder perceptions, paragraph 20.

<sup>31</sup> Organisation for Economic Co-operation and Development.

**8.8** In some cases, SFO staff have welcomed civil settlement as a suitable case outcome, and the current Director has clearly indicated that it is an outcome which will sometimes be appropriate. However, some have criticised the disinclination of those making the decisions in the past, within the SFO, to refer to case investigation teams, and consider the strategy in light of all the evidence. Inspectors were told of a number of instances where decisions to accept a settlement were not communicated to the team by managers, but by employees of the corporate body with whom the agreement had been made. There is clear reputational risk to this, and it has served to undermine staff confidence.

**8.9** There is also the considerable risk that exclusion of the case team from the process, and inclusion of others who are less acquainted with the case, could lead to disadvantageous resolution. Whilst there is clearly good reason for the erection of a “firewall” between the substantive investigation and the POCA based investigation which runs parallel to a criminal prosecution, there is no legal or policy reason for such a firewall between the case team and those taking strategic decisions on a POCA civil recovery order, because this can only be considered when a criminal prosecution has been ruled out.

**8.10** The SFO now accepts the need for a transparent process to govern the conduct of such cases, and has taken the first steps towards this by publishing the consent order in the case of Oxford Publishing Limited. The reasons for the decision to obtain a civil recovery order, along with the key pleadings have been placed in the public domain, so that they can be tested against the reasons stated, and the public interest test set out on the *Code for Crown Prosecutors* generally. Inspectors endorse this approach as being a step forward.

**8.11** The SFO will also need to consider the strategic approach to entering negotiations which do not end in a consent order. It has yet to seek or obtain a contested order, but the initial decision to enter negotiations may well prevent a successful prosecution in the criminal courts, should the negotiations fail.

**8.12** Other aspects of asset recovery are apparently handled well, and stakeholders are generally complimentary about it<sup>32</sup>. There are appropriate firewalls to prevent contamination of the main case, and decisions regarding confiscation appear to be rational, although inspectors had little opportunity to examine these to the same level of detail as case files. Inspectors rely to an extent on the endorsement by the court of the decision to pursue, or not, confiscation proceedings.

### Summary

**8.13** The SFO has stated its intention to use civil recovery orders under appropriate circumstances, but there needs to be a clear process for handling self-referral and negotiations for such an order. Otherwise, asset recovery appears to be handled well.

### Recommendation

The SFO needs to design and document a transparent process for deciding to pursue civil recovery, and negotiating/agreeing any consent order.

<sup>32</sup> See annex C: Paper on stakeholder perceptions paragraph 35.

## 9 Continuous improvement

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**9.1** Whilst it is right that better process, management, and quality assurance can reduce casework risk, there is no substitute in complex litigation for skill, experience, specialisation, energy and commitment. There is no doubt that the defence deploy these virtues to good effect when preparing and trying cases, and the President of the Queen's Bench Division has recently referred explicitly to the need for an equality of arms between the SFO and its opponents.

**9.2** Some SFO staff exhibit these qualities, but aside from the process and funding issues mentioned in the main body of this report, the main apparent hindrance to improving casework performance is insufficient numbers of very high quality permanent staff across the board. While there are some extremely capable casework staff, others are not as strong. This has been identified by stakeholders from all backgrounds, including SFO staff and managers, and our examination of the casework confirms this view.

**9.3** The solution would appear to lie primarily in recruitment of high calibre investigators and lawyers; and intensive development of new and existing staff coupled with effective performance management.

**9.4** The new Director has taken steps to refresh the SFO with the recruitment of high quality individuals at senior management level, and a recruitment drive for high quality operational lawyers is currently under way. Relationships with partners including City of London Police and the Financial Services Authority are also improving with a view to skills and experience being shared.

### Learning and development

**9.5** Significant concerns were raised about the quality of learning and development (L&D) opportunities by staff across the organisation. These are supported by the 2011 Civil Service People Survey, and the evidence on the case files which is referred to throughout this report. The SFO has provided evidence of training programmes for investigators and lawyers, but these have had little impact to date.

**9.6** Examples of specific training needs relating to case strategy, investigation technique, and legal decision-making are clear within the text of this report. Some of these are addressed in principle by training courses and sessions which have been prepared. However, those who have reviewed the material, and in some cases attended the courses, suggest with justification that they were not as effective as they might be. Some training courses on aspects of fraud work are too specialist to be of general use, and knowledge gleaned would probably have withered by the time it is called upon.

**9.7** There needs to be a core training structure, tied demonstrably to the core business need, which ensures attendance, participation, and effective follow up, all linked to the performance management process. The materials and courses need to be prepared and delivered by those with genuine expertise, and credibility in the eyes of staff. This requires a significant resource commitment, but not beyond that accepted by City law firms, which is an appropriate bench mark.

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**9.8** Plans have been laid for implementation of a Legal Excellence Board to control and guide the training and development of lawyers, but these were apparently side-lined at the beginning of 2012. This model for identifying and meeting core and specialist legal skills could be extended to other SFO roles in the form of an “Investigative Excellence Board” for example. The tools are therefore available, and the SFO needs to commit to embedding ongoing training into its business, and link it to the performance management framework. Hard pressed staff must find the time to take advantage of the opportunity to improve, as this is key to the future success of the organisation.

### Recommendation

The SFO should finalise and implement existing plans for intensive training programmes for casework staff.

### Knowledge management

**9.9** Continuous improvement also requires an effective process to capture and disseminate learning from each investigation and prosecution. The SFO’s Case Learning Event (CLE) process does not meet this need effectively. The events are held, but not on all cases. When they are held, there is evidence that they tend to be honest and open, with self reflection and clear learning points, although there are exceptions. However there is no real supporting infrastructure to disseminate learning, and points are therefore lost.

**9.10** Another key tool to promote continuous improvement is broader knowledge management. Communication problems have been referred to above, and these have served to undermine the effective collation and re-dissemination of important information. The main tool for this is the KIM<sup>33</sup> portal, an internal Intranet which also contains the operational handbook. Several interviewees stated that they did not find the KIM site easy to navigate, nor did they understand the functions or operational contribution of knowledge management staff.

**9.11** The lack of an effective and accessible way to link casework learning to developing guidance together with communication blockages horizontally and vertically hampers improvement. A new Policy Director has been appointed, and she will want to look at these aspects to ensure urgent improvement.

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<sup>33</sup> KIM is an online tool based on Microsoft SharePoint. KIM allows users to gather, categorise, share and update documents, tasks and material in one central location.

## 10 Conclusion

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**10.1** There are challenges ahead for the new Director and SFO staff, not least because the SFO has recently accepted the Barclays/LIBOR case, under close public attention, following heavy criticism in the Administrative Court in the Tchenguiz case.

**10.2** However, there is cause for optimism. The outcomes listed at annex D give a clear indication that the SFO can deliver under pressure, despite its reducing budget. It has the capability to analyse enormous amounts of material and reduce it to the essence of the case for presentation to the jury. Victim and witness care is improving and this too will have a positive impact on case outcomes.

**10.3** The less positive findings in this report should be viewed in the context that the new Director has a rare opportunity to bring about real change in the coming years by harnessing the good will that his appointment has brought, from staff and stakeholders alike.

**10.4** This has already started with the re-structure including the appointment of new General Counsel, and His Honour Judge Geoffrey Rivlin who will be responsible for quality assuring casework. Others have now been appointed to senior positions, in a reformed structure which is clearly intended to give true accountability and responsibility for casework conduct to heads of division, and casework managers.

**10.5** New lawyers and managers are being recruited to drive up capability at operational level, and assuming this is successful, the SFO will be well placed. However, in order to assist these new recruits at all levels to add real value, the structural and process issues

mentioned in this report need to be addressed. The recommendations, accepted as they are, need to be acted upon to ensure that the value of this inspection is realised, and the SFO has the best opportunity to improve significantly in the coming years.

**10.6** The new Director has set his focus clearly on quality, and there is a demonstrable appetite for enhancing the training and development framework aimed at empowering individuals, as well as streamlining the casework process.

**10.7** Stakeholder relationships are being mended, and communication with other Whitehall departments appears to be improving. Internal communication too, has improved, with the new Director keen to demonstrate his vision to staff.

**10.8** Therefore, the ground has been laid for the SFO to improve significantly the quality of its casework in the next two years. Clear direction has been given, and we look forward to finding substantial progress when we return.



# Part 3: Annexes

## A Inspection framework<sup>34</sup>

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### A The overall inspection question:

*“How effective and efficient is the SFO at conducting its core business?”*

- Core business includes casework and surrounding structures and processes. It specifically includes fraud, bribery and corruption
- Effectiveness and efficiency includes an assessment of quality and value for money

### B Aspects for inspection:

#### 1 Case acceptance

*“Is the case acceptance process aligned to the Corporate Strategy, and applied appropriately?”*

- a Identify the overall Corporate Strategy
  - i Use of intelligence?
  - ii Strategic threat analysis
- b How far do the acceptance criteria and processes adhere to the Corporate Strategy?
  - i Acceptance criteria fit for purpose?
  - ii Acceptance process effective?
    - 1 Suitable use of intelligence?
      - a The model in use
      - b Training/process
    - 2 Appropriate use of sources?
      - a Other agencies
        - i Domestic
        - ii International
      - b Public
      - c Self-referral
    - 3 Proper initial case analysis?
      - a Legal
      - b Evidential (DFU?)
      - c Resource requirement?

- 4 Strategic relationships with partners taken into account?
  - a Transparency?
  - b Efficiency and speed?
- 5 Rejection
  - a Referral out
  - b Victim care

#### 2 Overall case handling

*“Are cases properly directed, organised, recorded, and quality assured?”*

- a Overall case strategy?
  - i Developing suitable case strategy for achieving a successful outcome and value for money
  - ii Victim and witness strategy
  - iii Asset recovery strategy
  - iv Media strategy
- b Practicalities?
  - i Ensuring compliance with the strategy: quality assurance and performance management on cases
  - ii Organisational efficiency: timely and effective case progression
    - 1 Tools
      - a Operational handbook
      - b Process
    - 2 Recording of decisions and endorsement generally
    - 3 Resource allocation/strategy
      - a Team size and structure
      - b Management role
      - c Skills allocation
      - d Use of specialists (e.g. counsel)

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<sup>34</sup> The inspection framework is a tool to guide the focus of inspectors. It is neither exhaustive, nor mandatory.

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3 Investigation

*“Are cases properly investigated?”*

- a Proportionate use of appropriate techniques to ensure compliance with case strategy
  - i Intelligence
  - ii Other covert
  - iii Overt
  - iv Analysis
  - v Section 2 powers and warrants
- b Timeliness and efficiency

4 Diversion

*“When cases are not taken down the prosecution route, is the decision-making process aligned to the Corporate Strategy, and applied appropriately?”*

5 Prosecution

*“Are cases properly prosecuted?”*

- a Decision to charge
- b Evidential analysis
- c Case progression efficiency
- d Case presentation
- e Disclosure handling
  - i CPIA<sup>35</sup> compliance
  - ii LPP
- f Asset recovery

6 Pervasive topics

*“Are there properly applied structures and processes surrounding the casework function to ensure that performance improves?”*

- a Continuous improvement
  - i Performance management
  - ii Quality assurance
  - iii Wash up
  - iv Feed back to intelligence and Corporate Strategy
  - v Knowledge management
  - vi Training/competence
- b Prevention
- c Internal communication
- d Technology
  - i Case management systems
  - ii Planning for future technology
- e International assistance
  - i Liaison with international bodies
  - ii Joint investigation teams
- f Working with partners/ stakeholder relationships
  - i Exchange of cases

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35 Criminal Procedure and Investigations Act 1996.



## B Methodology

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The HMCPSI inspection team was made up of nine inspectors, in addition to HM Chief Inspector. Five of these are qualified barristers and solicitors employed by HMCPSI. One of these is also a chartered accountant. Two are business management inspectors, also employed by HMCPSI. Two specialist fraud investigators were seconded to the case team. In addition, our main findings were peer reviewed by Jonathan Fisher QC, a highly regarded practitioner in the field of fraud, who was appointed for the purpose.

We carried out background interviews with a series of senior stakeholders in early 2012, to identify issues of greatest concern, and used these to prepare a report to the Director SFO and Attorney General. The views expressed, on a confidential basis, were reduced into a broadly couched report which is at annex C: "Paper on stakeholder perceptions". This is referred to throughout the text.

Further stakeholders, many of whom were suggested by the SFO, were interviewed during the inspection fieldwork, and their views have also been folded into the evidence base. Where appropriate, these are referred to specifically in the report to provide useful background and context, as well as to confirm the relevance of the issue in question.

Inspectors examined a series of SFO case files and related documents. This task was necessarily carried out on a confidential basis, and the report has been drafted in such a way that none of these should be identifiable from the text.

Inspectors sought the confidential views of a proportion of anonymous SFO staff selected at random, and we received written feedback from others. None of the comments made to us are attributed in the text of this report, and care has been taken to avoid the possibility that any member of staff can be identified.

Managers were also interviewed, confidentially, but not anonymously.

There has been a robust process of quality assurance and validation, and we are satisfied our findings are sound. They have been considered for legal issues by Jonathan Fisher QC, and emerging findings have been delivered and accepted by the Director SFO, and the Attorney General. The report has been read by Professor Stephen Shute<sup>36</sup>, acting as a "critical friend".

The materials obtained by HMCPSI concerning its case file examination, discussions with stakeholders and SFO staff, and all other aspects of its inspection methodology are held confidentially.

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<sup>36</sup> Professor of Criminal Law and Criminal Justice, University of Sussex.

## C Paper on stakeholder perceptions

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# Inspection of the Serious Fraud Office

Paper on stakeholder perceptions

1 This paper is an overview of stakeholder perceptions of the SFO collated by HMCPSI before the main inspection started. It is based on views obtained from 29 stakeholders, representing the judiciary, financial corporations, City lawyers, criminal defence (fraud) firms, the self-employed Bar, international partners, police fraud investigators, Whitehall and academia. Further stakeholders were subsequently interviewed during the course of the main inspection: their views are not included in this paper, but are incorporated into the evidence base on which our full findings are founded.

2 We took stakeholder perceptions into account when focussing our examination of SFO casework. All stakeholders were told that their views would not be attributed, and that the source of any opinion reported would not be named without their consent or an over-riding legal or ethical duty.

3 It follows the broad structure of the inspection “scope”, focussing on casework quality and efficiency, and the effectiveness of the governance structures and processes which support casework.

4 Whilst a significant proportion of the detailed comments and views which inform the following summary are negative in nature, it is important to emphasise that many stakeholders see a clear need for an independent SFO, and that it should continue in its current form. It is also generally recognised that the SFO does a valuable job in very difficult circumstances. It is seen by many to be capable of excellent work. Others disagree.

## Case acceptance

*“Is the case acceptance process aligned to the Corporate Strategy, and applied appropriately?”*

## Corporate positioning

5 Those who view the SFO from the criminal justice perspective state that there is currently a lack of clarity over the SFO’s strategic position. Whilst the SFO was set up to deal with corporate level fraud of the Blue Arrow type and to protect UK plc from this type of fraudulent activity following the Roskill Report<sup>37</sup>, there is a common view that its role has now diversified to the extent that some stakeholders are less clear as to the SFO’s actual corporate priorities.

6 This impacts on its corporate credibility. For example SFO has taken on the lead for bribery and corruption, which involves a self-adopted educative role, and profile raiser, as well as the traditional investigation/prosecution role. Some feel that SFO does not itself know whether it wishes to be “educator” or “fraud-buster”, and while some applaud the move towards prevention, some criticise the apparent transfer of resource and management attention away from the traditional activities of investigating and prosecuting fraud. There is a common view that the SFO has gone too far down the “education”/“prevention” path, and needs to concentrate more on its core traditional work.

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<sup>37</sup> See annex E.

7 On the range of fraud work conducted, stakeholders report that there is also a lack of clarity over strategic objectives. SFO has increased its quasi consultancy role, inviting self-referral on bribery and corruption matters. It has also handled very large scale, politically sensitive casework. However, it still takes on “Ponzi”, “Boiler Room” and “advance fee” type frauds, many of which appear complex on the surface (and so meet the criteria), but which are within the capability of police forces and the CPS to handle. The perception is that this range of work is much wider than might be expected for an organisation of the SFO’s size, constitutional position, and resource levels.

8 Conversely, some of those who view the SFO from the corporate stand-point, and the international perspective, have a much clearer idea as to the SFO’s developing role. There is no doubt that the SFO has prioritised, and succeeded in engaging effectively with many international partners. The SFO was also closely involved in the publicity surrounding the Bribery Act 2010, and has actively raised its profile in the City and overseas in its new lead role.

9 There is therefore a view expressed by some corporate stakeholders that SFO is a very well defined brand, and City corporations are more clear than ever as to its positioning. As a result, they are more likely to engage, and self-report to the SFO.

#### **Acceptance criteria and process**

10 Stakeholders report without exception that the case acceptance criteria are of little meaning, as they can be made to fit most cases which are referred or considered. This, combined with the lack of apparent Corporate Strategy in criminal justice terms, enables SFO to apply pragmatism to its case selection and acceptance. This accounts for the broad range of work referred to above, and in a competitive fraud landscape where resource is scarce, this leads to some suspicion among other agencies that SFO picks cases which might be better suited elsewhere. This flexible approach is said to enable the SFO to accept a case, then reject it later if it looks “too difficult”. This may be a further cause of apparent delay, and certainly if accurate, appears to run contrary to the interests of justice.

11 There is a perception that undue weight is sometimes given by SFO to matters outside the acceptance criteria when vetting cases, and that some of these are self-serving. They are thought by some to include likely benefit from asset recovery (financial benefit to SFO), likelihood of a high proportion of early guilty pleas (reputational benefit to SFO), or because there will be significant opportunity for profile enhancement.

12 It has been suggested that SFO has enhanced its influence, and sought to fight off competitors by making “land-grabs” in relation to overseas bribery and corruption work, without accepting the same role regarding “politically exposed persons” in the UK, which is left to other agencies to handle. The perception among those who take this view is that this is not necessarily consistent with the SFO’s intended role, or good for the UK.

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**13** Some senior stakeholders gave examples of cases which should never have been accepted as serious or complex fraud. Others pointed to SFO cases which were not complex at a superficial level, but which were rightly conducted by SFO because of the volume of material and number of private victims involved.

**14** Most stakeholders complained of delay in acceptance decisions. Some gave examples of cases handed to SFO for consideration which went cold over the period of months and years when SFO was said to be considering it. We were told that cases do not reappear, or are rejected when the trail has gone cold and it is too late for any other agency to pick it up. One example was given of a case re-surfacing after ten years.

**15** There have been mechanisms for joint consideration of case allocation. None of these have been thought effective by a number of stakeholders.

**16** Aside from the reported lack of effective joint decision-making, and delay, SFO is thought to be unnecessarily secretive about its acceptance processes. They say that very little feedback is given, and other agencies have little knowledge of which cases are being actively considered, and which are in abeyance.

### **Intelligence**

**17** Stakeholders have noted that intelligence plays an increasing role at SFO. However, it is thought to lack sophistication, experience, or adequate resource. There is said to be limited compliance with the national intelligence model, which reduces the SFO's capability effectively to identify and quantify fraud related risk in national and corporate terms. It has been noticed that most of the high profile investigations undertaken by SFO are referred from other agencies – not identified by SFO itself.

**18** So, there is the perception of a misalignment with other fraud investigators. The SFO intelligence function is said to lack scale and resource, and is criticised for having no output metric. Strategic threat analysis is thought to be weak, and as a result, the presumed objective of informing investigation and acceptance decisions by intelligence has yet to be achieved.

**19** Also, there is said to be little in the way of outward intelligence exchange from the SFO, and there is a lack of confidence that intelligence packages supplied by the National Fraud Intelligence Bureau are handled appropriately. The SFO is also criticised for working against national fraud policy regarding intelligence by, for example, setting up its own victim reporting line without suitable processes for handling and disseminating the information received.

**20** The SFO may seek to obtain intelligence by encouraging self-referral, but there is a consensus among stakeholders that corporate bodies and individuals will not self-refer without some certainty of outcome. This is said to be lacking with the SFO, and the fraud landscape generally. There is a view that this approach would be a complete failure, and that resource would have been better used by concentrating on casework.

**21** There is very little information on victim care at the intelligence/acceptance stage. Whilst the SFO has formally adopted policy, including the Victims' Charter, which in most cases has been taken wholesale from the CPS, few have any idea as to the victim experience of the SFO before a decision is made on acceptance. There is concern that victims are given as little information as partner agencies.

### **Overall case handling (including investigation, diversion, and prosecution)**

*"Are cases properly directed, organised, recorded, and quality assured?"*

#### **Case strategy**

**22** There is consensus that there is a weakness around the strategic planning and control of cases from the point of inception. The intelligence and evidential foundation of the case are often not laid particularly well, and strategic decisions concerning executive action, such as arrest and search, as well as section 2 orders, are not always sound in a strategic sense. There is a sense that some case strategies are "designed by committee", and therefore lack coherence and flexibility. Stakeholders told us that confusion over the basis for such action can lead to disaster in

the courts for the SFO, injustice for suspects, defendants, victims and witnesses, and severe reduction of the confidence of partner agencies in the competence and efficiency of the SFO.

**23** There is a view that process is given primacy over the need for lawyers and investigators to accept responsibility and use their professional skills to get to the heart of the case by the most direct route. Some feel that investigators lack sufficient guidance from lawyers, especially since the total number of employed lawyers has reduced, and investigators have become case managers in their own right. Others feel that investigators are prevented from taking a streamlined approach by "risk averse" lawyers.

**24** In any event, the consensus is that SFO investigations could be more focussed. The development of the intelligence function may help in future, at the pre-arrest stage, to ensure that searches are more contained, and that excess material is handed back as soon as practicable.

**25** It is accepted by some that there is often good reason for investigating, arresting, and even charging professional advisers if only to cut off a line of defence to the main player(s). However, it is thought that the cost is often substantial in terms of time, money, and strategic casework risk when the extra material that comes with this decision needs to be incorporated into the factual matrix and/or considered for disclosure. This approach also tends to involve legal professional privilege material, which brings its own problems. Stakeholders are of the view that the SFO has created problems for itself in the past in this respect.

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**26** We have been given examples of apparently weak decision-making in individual cases. We have also been given examples of strong decision-making. It is important to note that the SFO has a stronger reputation than the CPS with senior stakeholders in terms of its case preparation and presentation. Many stakeholders reported that some SFO staff, named lawyers in particular, and some senior managers, are very capable indeed, but some are said to be weak (this is explored further from paragraph 30 below).

**27** There are mixed views on the value and use of section 2 powers, with a view expressed that they are over-used (perhaps to maintain the justification for the continued existence of the powers and the SFO itself) which adds to the weight of material incorporated into the case.

**28** A common view is that the effectiveness of strategic decision-making depends on the involvement of the right counsel at a sufficiently early point in the case. In fact, some stakeholders are concerned that reduced resource has had an impact on the quality and number of counsel used. This includes decisions regarding appointment of disclosure counsel.

**29** This apparent reliance on counsel clearly comes at a cost, and carries risk. It is thought that the cost of the early instruction of good quality counsel would lead to a considerable saving in the life of the case. A number of stakeholders were very complimentary about individual counsel instructed, and their positive impact on the case.

**30** There may be a risk that intensive use of counsel reduces the role of the case lawyer to that of “post box” which in turn reduces the incentive for staff to develop and take responsibility for controversial decisions. As noted at paragraph 26 (above) there were some very positive comments about individual SFO lawyers, but some stakeholders expressed the view that lawyers commonly have not read papers before sending them to counsel, and do not fully understand the issues or concepts in the case. Counsel might accept this state of affairs in general, but feel it becomes problematic when their opinion is rejected, especially when the force of the advice is to narrow the issues in the case.

**31** Specific criticisms of some SFO legal work is that it can be “weak on PACE”, and general legal principles. The stated implication is that SFO lawyers need help to make the right decisions, which perhaps undermines the assumption that all SFO lawyers are high quality. A recurring theme from stakeholders is that the SFO corporate culture involves a disinclination to work late or weekends to meet deadlines: a common occurrence in private practice.

**32** There is a view that the importance of experts is over-played. Rarely do they make the difference, and the cost can be very significant.

**33** Stakeholders were not able to give any specific views on the SFO case strategy regarding victim/witness care.

**34** SFO media strategy has been criticised, for raising the profile of the SFO at the expense of partner agencies, sometimes when partners have committed more resource to a case. Also, some partners feel that SFO undermined investigations carried out by others by making high profile announcements.

**35** Asset recovery strategy is seen as generally appropriate, although greater use of restraint orders could be made.

**36** There is general criticism of delay, especially at the vetting/acceptance stage, but administrative case progression is said to be better than equivalent agencies such as the CPS. Cases are presented well, with appropriate use of Electronic Presentation of Evidence, and the SFO gives the impression of being efficient at court.

**37** We have received very little feedback regarding internal case control mechanisms or quality assurance processes. There is some criticism of the lack of case risk analysis, organised case review papers, and decision-making records. It is thought by some that the preparation of warrants can be haphazard, with little management involvement. There is a perception that structures and processes in place to handle RIPA<sup>38</sup> and CHIS<sup>39</sup> issues are said to be too weak to be effective.

#### **Diversion**

**38** There were many mixed views on the handling of diversion. The use of civil recovery orders is seen to have achieved successful outcomes against corporate bodies which are very hard to prosecute. On the other hand, there are views that this enables companies to buy their way out of trouble. There is also a concern that where a company negotiates an agreement, the former Directors may escape liability for their criminal conduct. Overall, there is the view that decision-making needs to be more transparent.

#### **Disclosure**

**39** Stakeholders agree that disclosure is a major issue because of the cost and the complexity/volume of the material. Some stakeholders reject the “keys to warehouse” model as unworkable, and regarded volume as being the main issue. Some others feel that wholesale disclosure with the burden on the defence is the right approach. In any event, this issue is linked to the commonly held view that section 2 powers and search terms need to be rationalised and made more focussed to reduce the volume of material seized.

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<sup>38</sup> Regulation of Investigatory Powers Act (2000).

<sup>39</sup> “Covert human intelligence source”.



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### **General points**

**40** A number of stakeholders see the SFO as exclusive and hard to communicate with, and they feel this sometimes works to the benefit of suspects and defendants.

**41** A number also said that there is a disconnect between senior staff and others, with the decisions of case managers being overridden by less well informed senior managers. This has had a serious impact on morale.

**42** Finally, it is worth re-stating the point made at paragraph 4 above, that whilst most of the detailed views expressed by stakeholders have a negative slant, there is a general acceptance that the SFO plays a necessary role, and that it achieves a great deal under very difficult circumstances.

## D Digest of recent SFO case results summarised from SFO website

Year of outcome	Case reference	Summary
2012	Poly Peck	Asil Nadir, founder and CEO of the collapsed Poly Peck International, was convicted of ten counts of theft in relation to £29 million stolen from the Poly Peck company between 1987 and 1990. He was sentenced to ten years' imprisonment.
2012	Gilher Inc	John Hirst, Richard Pollet and Linda Hirst of the bogus investment company Gilher were sentenced to nine, six and a half and two and a half years' imprisonment respectively for their roles in an investment fraud investigated by the SFO, West Yorkshire and Surrey Police. Two other defendants were acquitted on money laundering charges.
2012	Kaupthing	As a result of an SFO investigation into the collapse of the Icelandic Bank, Kaupthing, Robert and Vincent Tchenguiz were arrested and their businesses subjected to searches in March 2011. The Tchenguiz brothers successfully sought a judicial review of the lawfulness of the searches and arrests, which took place in May 2012. The SFO conceded that there were errors in the information used to obtain the search warrants and they should be quashed and documents returned. In June 2012, the SFO announced that Vincent Tchenguiz was no longer considered to be a suspect in the investigation and his bail conditions cancelled after a review by the new Director.
2012	Innospec Ltd	Paul Jennings, former Innospec CEO, and Innospec Sales and Marketing Director Dr David Turner pleaded guilty to charges of conspiracy to corrupt Iraqi officials and other agents of the Government of Iraq.
2012	Innospec Ltd	The company Innospec Ltd pleaded guilty to bribing employees of an Indonesian state owned refinery and other Government Officials in Indonesia and as part of a global settlement have been ordered to pay \$12.7 million.

Year of outcome	Case reference	Summary
2012	Oxford Publishing Limited	(Civil Recovery Order) The SFO obtained an order in the High Court that Oxford Publishing Limited (OPL) pay £1,895,435 in recognition of sums it received, which were generated through unlawful conduct related to subsidiaries incorporated in Tanzania and Kenya. OPL is a wholly owned subsidiary of Oxford University Press (OUP), and in November 2011, OUP voluntarily reported certain concerns to the SFO in relation to contracts arising from a number of tenders concerning its Kenyan and Tanzanian subsidiaries.
2012	Invaro Ltd	Terence Lindon, former Director of Invaro Ltd, pleaded guilty to one count of failing to keep accounting records which were sufficient to show and explain the transactions of Invaro Ltd. He was sentenced to six months' imprisonment, suspended for one year and disqualified from acting as a company Director for seven years. The remaining (nine) counts against Lindon (theft and forgery charges) were not proceeded with and remain on file. The prosecution against another Invaro employee (Hutchinson) was discontinued.
2012	Ministry of Defence (Northern Ireland)	Two MoD employees and a contractor pleaded guilty to a number of corruption and money laundering charges, in relation to tendered CCTV contracts in Northern Ireland. The contractor received a three year suspended sentence, the two civil servants received nine month and two year suspended sentences respectively.
2012	Secure Trade and Title Ltd (STL)	Brian O'Brien and his wife Lynn Dalbertson, the founders and controllers of a Boiler Room operation, Secure Trade and Title Ltd, were found guilty of a series of counts, including conspiracy to defraud and money laundering. They were sentenced to eight and four and a half years respectively. Two further defendants, who managed operations in Spain and Ireland, pleaded guilty and were also jailed.

Year of outcome	Case reference	Summary
2012	Operation Navigator	Four men were convicted of conspiring to corruptly obtain payments by supplying confidential information about a series of high-value engineering projects in the oil and gas engineering industry. Andrew Ryback, who was considered the ring-leader of the corruption, was sentenced to five years' imprisonment and disqualified from acting as a company Director for a period of ten years. The other three defendants also received prison sentences, one suspended.
2012	Forgery fraud on EFG Private Bank of Zurich	Three conspirators have been jailed for their roles in defrauding EFG Private Bank of Zurich of €22 million through a loan application that was supported by a false claim in 2008 that over £76 million was held on deposit at a Guernsey bank as security. The three defendants, Kevin James Christopher Steele, Michael Andrew Shephard and Mark Terence Pattinson were sentenced to five years and six months, six years and three months, and 18 months' imprisonment respectively for their roles in the conspiracy.
2011	Xclusive	Terrence Shepherd and Alan Scott Terrence Shepherd were convicted of offences including fraudulent trading and money laundering in relation to an online fraud involving tickets for the 2008 Beijing Olympics. Shepherd was sentenced to eight years' imprisonment and disqualified from acting as a company Director for 15 years. Scott was sentenced to seven years' imprisonment and disqualified from acting as a company Director for ten years. Allan Schaverien pleaded guilty to aiding and abetting fraudulent trading before the trial and was sentenced to two years and eight months' imprisonment.
2011	GP Noble Trustees	Graham Pitcher, manager of GP Noble Trustees (a pension fund), was convicted of conspiracy to defraud in relation to the transfer of £52 million in funds into two offshore bonds. He was sentenced to eight years' imprisonment. Two other defendants in the case were acquitted of conspiracy to defraud charges.

Year of outcome	Case reference	Summary
2011	Crown Corporation Ltd/Langbar	Stuart Pearson, former Chief Executive of Crown Corporation Ltd, was convicted of three counts of making misleading statements in relation to company assets and sentenced to 12 months' imprisonment and disqualified from being a company Director for five years. Ten other counts (relating to September-October 2005 events) were dropped. The SFO made the decision not to pursue a confiscation order against Pearson, however he was ordered to pay £40,000 costs instead.
2011	Gresham Ltd	Six defendants were convicted and jailed in relation to an advanced fee fraud business, Gresham Ltd. Edward Davenport and Peter Riley, who directed and operated the fraud, were each sentenced to seven years, eight months' imprisonment and disqualified from acting as company Directors for ten years. Borge Anderson, who was also involved in the running of Gresham was sentenced to three years, three months and disqualified from acting as a company Director for seven years. Three other defendants, who acted as advisors, were also given custodial sentences.
2011	MacMillan Publishers Ltd	The Director of the SFO obtained a High Court Order for the company, MacMillan Publishers Limited (MPL), to pay in excess of £11 million in recognition of sums it received which were generated through unlawful conduct related to its Education Division in East and West Africa. The initial enquiry commenced following a report from the World Bank. Prosecutions were not pursued.
2011	Operation Anderson	James Muir Baird, Paul O'Leary and Omar Shorif Choudhury were sentenced to a combined nine years' imprisonment after pleading guilty to running a Boiler Room fraud. The operation, based in Spain, targeted investors in the UK between 2009 and 2010 and took in over £1.3 million.

Year of outcome	Case reference	Summary
2011	Sky Properties	<p>Shaun Kiely, Director and shareholder of Sky Properties (Northern) Limited, a property development and real estate business, was convicted of defrauding seven investors in deals exceeding £1.3 million. He was sentenced to three years' imprisonment and disqualified from being a Director for seven years.</p>
2011	Oil for Food	<p>The SFO obtained convictions against a number of British citizens for breaching United Nations sanctions during the Oil for Food Programme. All of the individuals prosecuted made illegal payments to Saddam Hussein's Government.</p> <p>Mark Jessop was sentenced to 24 weeks' imprisonment and ordered to pay compensation and costs.</p> <p>Riad El-Taher was sentenced to ten months' imprisonment.</p> <p>Aftab Noor Al-Hassan was sentenced to 16 months' imprisonment, suspended for two years.</p>
2011	DePuy International Limited	<p>The SFO obtained a Civil Recovery Order against DePuy International Limited. DePuy International Limited is a subsidiary of DePuy Incorporated and was bought by the company Johnson &amp; Johnson in 1998. The company has been ordered to pay £4.829 million, plus prosecution costs, in recognition of unlawful conduct relating to the sale of orthopaedic products in Greece between 1998 and 2006.</p>
2011	Vintage Hallmark plc	<p>Robin Grove was acquitted of one count of false accounting in relation to a series of frauds involving wine investments. The SFO are not seeking his re-trial in relation to further counts of conspiracy to defraud. He has been disqualified from acting as a company Director for a period of 15 years and prohibited from undertaking investment business in the UK.</p> <p>Richard Gunter was already sentenced to five years' imprisonment for his part in the fraud.</p>

Year of outcome	Case reference	Summary
2011	Weaving Capital	<p>After a two year investigation into the collapsed hedge fund, Weaving Capital, and the fund founder, Magnus Peterson, for fraudulent activity, the SFO concluded that there was not sufficient evidence to prosecute and discontinued the investigation in September 2011.</p> <p>In July 2012, the investigation was re-opened by the new SFO Director, David Green.</p>
2011	Johnson Mathey Bank collapse	<p>Vasant Advani, owner of companies including the Grovbell Group and the Staxford Group, pleaded guilty to 14 counts of dishonesty, which included ten counts of false accounting. He was sentenced to 16 months' imprisonment and was also disqualified from acting as a company Director for six years.</p>
2011	Worldwide Bio Refineries Ltd	<p>Seven men, who collaborated in a Spanish based Boiler Room operation to sell shares in Worldwide Bio Refineries Ltd (WBR) were sentenced to a total of 39 and a half years' imprisonment for conducting an £8 million investment fraud. The men included Dennis Potter and Redmond "Ray" Charles Johnson, who were the Directors of WBR. Following a trial, six defendants were convicted by the jury. Another pleaded guilty at the start of the trial.</p>
2011	Azfal Mortgage fraud	<p>Saghir Ahmed Afzal and Ian McGarry pleaded guilty to a number of conspiracy counts as well as counts of obtaining a money transfer by deception in relation to a £50 million mortgage fraud. They were sentenced to 13 and seven years' imprisonment respectively.</p> <p>Six solicitors were also tried in relation to their role in the fraud. However, three were acquitted of the charges and the jury was unable to reach a verdict in respect of the other three. Following the verdicts, the SFO determined it was not in the public interest to proceed with a re-trial of the remaining three defendants.</p>

Year of outcome	Case reference	Summary
2011	Torex Retail	<p>Edwin Dayan and Christopher Ford, both former Directors at the Torex subsidiary XN Checkout Ltd, were found guilty of conspiring to defraud shareholders of Torex. They were found to have caused over £1.65 million in fictitious profits to be recognised within the published accounts of Torex.</p> <p>Dayan was sentenced to 12 months' imprisonment, disqualified from acting as a company Director for four years and ordered to pay prosecution costs of £75,000. Ford was sentenced to six months' imprisonment, suspended for two years, a community service order of 200 hours, disqualified from acting as a company Director for two years and ordered to pay prosecution costs of £2,000.</p>
2011	MW Kellogg Ltd	<p>The SFO obtained a High Court order for M.W. Kellogg Limited (MWKL) to pay just over £7 million in recognition of sums it is due to receive which were generated through the criminal activity of third parties. These were share dividends payable from profits and revenues generated by contracts obtained by bribery and corruption undertaken by MWKL's parent company and others. The SFO recognised that MWKL took no part in the criminal activity which generated the funds.</p>



## E Published reports on the SFO

Publication date	Report title	Description
1986	Fraud Trials Committee, 1986. (Roskill Report) London: HM Stationery Office	A wide-ranging review on the prosecution of fraud in the UK, undertaken by a Fraud Trials Committee headed by Lord Roskill. The review was prompted by the collapse of a series of major fraud trials and was the impetus behind the creation of the SFO.
July 2006	Fraud Review: final report	A Government inter-departmental review of arrangements for the detection, investigation and prosecution of fraud, commissioned by the Attorney General.
June 2008	Review of the Serious Fraud Office: final report. London By Jessica de Grazia	A review comparing the SFO to two prosecutors' offices in the US whose caseload of serious and complex fraud is comparable to that of the SFO. This review was commissioned as a follow-up to the Fraud Review, 2006.
December 2009	Capability Reviews, Serious Fraud Office: Baseline Assessment	An assessment of the SFO's capability for future delivery, particularly focusing on the areas of leadership, strategy and delivery, by the Cabinet Office Capability Review Team.
March 2010	Roskill Revisited: Is there a case for a unified fraud prosecution office?	A report looking at the current fraud prosecution landscape and the arguments for the creation of a Unified Fraud Prosecution Office (UFPO), incorporating the current prosecution work of the SFO.

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