

Justice Committee

Oral evidence: [The work of the Serious Fraud Office](#),
HC 1212

Tuesday 29 March 2022

Ordered by the House of Commons to be published on 29 March 2022.

[Watch the meeting](#)

Members present: Maria Eagle (Chair); Ms Diane Abbott; Laura Farris;
Paul Maynard.

Questions 1 - 89

Witnesses

I: Lisa Osofsky, Director of the Serious Fraud Office, and Michelle Crotty, Chief
Capability Officer at the Serious Fraud Office.

In the absence of the Chair, Maria Eagle took the Chair.



Examination of witnesses

Witnesses: Lisa Osofsky and Michelle Crotty.

Chair: I welcome our witnesses to this one-off evidence session on the work of the Serious Fraud Office. Very shortly, I shall ask both of you to introduce yourselves and tell us what your roles are at the SFO, but we must first make our declarations of interest. I am a non-practising solicitor.

Laura Farris: I am a non-practising barrister.

Q1 **Chair:** I do not think there are any other declarations of interest. Welcome, Ms Osofsky, can I ask you to introduce yourself and tell us what your role is at the Serious Fraud Office?

Lisa Osofsky: Thank you for pronouncing my surname perfectly. I am Lisa Osofsky, director of the Serious Fraud Office.

Q2 **Chair:** Michelle Crotty, would you like to introduce yourself and tell us what you do at the Serious Fraud Office?

Michelle Crotty: I am Michelle Crotty, chief capability officer at the Serious Fraud Office.

Q3 **Chair:** What is a chief capability officer?

Michelle Crotty: I am responsible for what would traditionally be called corporate services but also investigations and, importantly for your session this afternoon, technology, as well as corporate services strategy and our investigation teams.

Q4 **Chair:** Thank you. Ms Osofsky, can I begin by asking you for some background information? What impact have the changing economic circumstances we have run into as a result of Brexit and the pandemic had on the types and prevalence of fraud?

Lisa Osofsky: I think it would help the Committee to hear a little bit of background as to what we do, so I can answer the question in that way if that is okay. We focus on the high end, the serious end, of fraud and bribery and corruption. Our mandate is to focus on those two violations and any money laundering that may accompany both of them. Our mission is to deliver justice for victims, punish criminals and encourage corporates to reform so that we have faith in the UK as a good place to do business and in which to invest.

With that backdrop, perhaps I could share a little bit of how we work. We work in groups with different specialisms. We have investigators whose job it is to follow the money. They have that focus and specialty. We have lawyers, prosecutors, former solicitors and former barristers from different backgrounds whose job it is to work with our international colleagues to make sure that we can get at some of the information that may be found around the world in different jurisdictions that may be



HOUSE OF COMMONS

difficult to access. We use powers of compulsion, called section 2 powers. They are ours by mandate. We also work with accountants whose job it is to look at balance sheets, or perhaps even a failed company, to tell us whether the figures add up. We work more and more with data scientists, in answer to your question about what has changed, what we need and how the change in circumstances has affected us.

For us, what has been most prevalent is the fact that we are operating under a system of rules that were enacted in 1996. Fast forward, we are in a post-smartphone era where fraud has moved online and the threats are different from what they were. Cryptocurrencies enable criminals to hide, and we see certain features of new threats as a result of the changes—for example, a lot of fraudsters are selling green-type products. In one of our cases, Solar Energy Savings, six fraudsters were selling solar energy panels, a kind of green product, to 1,500 individuals up and down the country. The individual amounts lost were quite small, but they were people's pensions and livelihoods, so it is not small per se. It was £10,000 to £15,000 per person, but when you added it all together it was closer to £17 million. Those six defendants were convicted and sentenced to significant jail time. We have an ongoing trial involving Global Forestry Investments; that is going on in court as we speak. Again, you can hear from its name that it is selling green-type products. Those are some of the changes.

Q5 Chair: Could you tell me whether there has been an impact, from some of these changes, the pandemic and what has been happening in the past few years, on your ability to identify fraud?

Lisa Ososky: In terms of the pandemic, there has been an impact in having some of our executive actions curtailed; in other words, we could not conduct searches the way we once could. We are back to doing that again. We could not conduct arrests; we could not have face-to-face interviews under PACE, which is one of the key ways we generate evidence. That was impacted. In large part, that is behind us. We did a search last month joining forces with the NCA, one of our colleague law enforcement agencies, so I am proud to tell you that we are back in action to some degree.

What is critical for me as director is that because of the work we do our people have had to come in day in, day out to collect and sift evidence and do our digital forensics. Quite a lot of our staff have come in day in, day out and I salute them. They have done a difficult job under difficult circumstances.

The unavailability of some of the tools I have mentioned can make identifying crime difficult. The fact that fraud has moved online has meant we have had to rethink some of how we conduct ourselves, but remember we are not a volume shop. We are very specifically geared to two violations—fraud, and bribery and corruption—and we operate only when it is serious and complex. Michelle, did I leave anything out that you might want to add?



HOUSE OF COMMONS

Michelle Crotty: I do not think so, Director. I think the point is that, generally during the pandemic, but even before it, fraud was moving online, and data is the kind of fraud crime scene where our evidence will come from, with the challenges of identifying the data and managing it once we have it.

Q6 **Chair:** Ms Osofsky, you have emphasised that you are tackling a small number of very serious and particular offences. By way of giving us background, can you tell us how many prosecutions of individuals there have been in the past 10 years?

Lisa Osofsky: I cannot give you 10 years. I can give you the past four years and then supplement it, if that's okay.

Q7 **Chair:** Let's start with that.

Lisa Osofsky: These are individuals convicted or charged?

Q8 **Chair:** Charged.

Lisa Osofsky: Seventy-three.

Q9 **Chair:** And convicted? Do you have both figures?

Lisa Osofsky: Forty-four.

Q10 **Chair:** Thank you. What is the trend in the number of prosecutions that you have been able to undertake at charging, because obviously not all are successful? What has been the trend over the last period for which you have figures? Is it going up or down?

Lisa Osofsky: I can tell you that this year is the year of the trial. We have eight trials upcoming. Usually, the Serious Fraud Office may have two or three in any one year. We have eight. Six of them are fraud, and two are bribery and corruption with money laundering. We have a very big year ahead of us. We are quite conscious that it is unprecedented. At stake, we have 23 defendants charged in those cases with over £560 million of loss. We are very focused on delivering in those cases. It has meant that we have had to prioritise and focus our work on those cases.

Q11 **Chair:** Can you give us a sense of what your priorities are for the next 12 months?

Lisa Osofsky: First and foremost, I want to deliver justice for victims. That must be our priority. I am focused on jailing criminals and ensuring that companies acting within our jurisdiction that have committed crimes are reformed. They are the ones that have come to the table, have cleaned house and are operating under a rule of law that makes us proud as citizens and members of this jurisdiction that we are fostering good behaviour among our corporate citizens, and that we are a good place in which to invest and do business.

I am also very focused on our collaborations. Locally, the National Economic Crime Centre has a big role to play in making sure that all of us



HOUSE OF COMMONS

understand what the other is doing; in other words, we do not fall over each other. Our collaboration with the NECC makes sure that the cases go to the right place. Nobody wins when a case bounces from agency to agency, so I applaud that collaborative work.

For us, it is very much international. Most of our cases have an international component. We are either working with foreign authorities or getting evidence from overseas. We help other countries get the evidence they need, so it is collaboration and working internationally, especially given the fact that crime has moved online and does not stop at borders.

Q12 **Chair:** I want to come back to the international element in a moment. First, can I ask you, Michelle Crotty, what your priorities are over the next 12 months as the capability supremo in SFO?

Michelle Crotty: There are two priorities. One is technology and how we can better use the technology we have, but also plan for the future. I think you have heard from witnesses from our law enforcement partner agencies about the challenges data presents for us, particularly in relation to disclosure. For example, we have recently seized phones where a single phone has had 300,000 WhatsApp messages. The director has referred to the disclosure legislation dating from 1996, which was before the first iPhone was created, in 2007. One gigabyte of data is equivalent to 100,000 emails or half a million text documents, or Word documents as we would call them. Every single investigation involves hundreds of phones. We need to access those phones, download the material and search it; we need to categorise it, and that is before we start to put together the jigsaw pieces of the case and work with the defence as to what we need and what they need access to.

The second priority is around the workforce and the digital skills of our workforce, making sure that we are keeping up to date and that we are recruiting the right people with the right skills. Collectively, the law enforcement community sees the idea of a whole-life career in law enforcement becoming quite old-fashioned. People are moving between the private sector and public sector. There are definitely advantages in that, but we need to make it an attractive offer to recruit the right people with the right skills for us.

Q13 **Chair:** On 5 February 2021, in the KBR, Inc case, the UK Supreme Court ruled that your section 2 power could not be used to compel a foreign company that had no UK-registered office or fixed place of business, and had never carried on business in the UK, to produce documents that it holds outside the UK. What can be done to make it easier, in view of that, to investigate frauds conducted on the UK public from abroad, of which there are very many?

Lisa Osofsky: That is a case where we have alternative methods of getting the information. In terms of what could be made better for us, we would very much seek a revision in the disclosure regime. It does not



HOUSE OF COMMONS

speak exactly to that particular case, but it means that we would be very much in favour of a system where we are embracing of technology and are able to manage the data we hold, as Michelle Crotty talked about in some detail.

On what we would need to do better to manage crime that may come from abroad, we are interested in a change in some of the ways we hold corporates to account. We have a very old-fashioned law that says I cannot get a corporate in the dock unless I can show that I have the controlling mind. The controlling mind made sense 100 years ago when we knew who ran companies. Fast forward, we have global companies that are operating all over the world and may do business in different ways in different parts of the world. We cannot get those corporates in the dock. We have tried. We know that it does not work here. In the wake of the credit crisis in 2008, the Serious Fraud Office tried to get Barclays in the dock and charge the corporate, the CEO, the CFO and the head of sales. We were told, "Sorry, you don't have the controlling mind in the dock." For economic crime, you need the controlling mind, and that was the end of that prosecution. Why? Because the board had some decision-making authority.

We find ourselves faced with a situation where we know the world has moved on, and there are diffuse responsibilities in the global business world, yet we are asked to find the controlling mind in order to pursue economic crime against companies. There is a different way in the bribery and corruption area; we have failure to prevent, which puts the onus on the company itself to put in place adequate procedures to prevent bribery and corruption. We know that it has worked because we have been able to engage the companies. They come to us. That came to pass under the UK Bribery Act, a little more than 10 years ago, in 2010. I was in private practice in the City at the time. Companies ran around trying to make sure that they had all of the preventive measures so that they did not get into trouble, and did not commit bribery and corruption. We need that in the fraud area.

We have it when it comes to facilitating tax evasion; we have had it in the health and safety rules since 1973, so it has been working in other areas of crime. We see that it works. We recently brought a prosecution against Petrofac for its failure to prevent bribery and corruption around the world. We would like to be able to do that in the area of fraud and economic crime. That will require changing the rules. Michelle, do you have anything further to add to that account?

Michelle Crotty: In relation to KBR, obviously it was a disappointing judgment but it related to the exercise of a very specific power. At the moment, we are not experiencing difficulties in getting evidence from overseas. It depends on the collaboration that the director spoke about earlier, in building relationships with foreign law enforcement partners. For example, in the Airbus decision, working with the French and US authorities, among others, we negotiated the largest-ever global



HOUSE OF COMMONS

settlement in relation to fraud. At the moment, we do not anticipate that KBR and the specifics of that will hold us back.

Q14 Chair: In one of our recent evidence sessions, on fraud and the criminal justice system, the CPS talked to us about the impact of Brexit on the speed of international co-operation. To what extent do you find that that has had an impact on your ability to work with international partners?

Lisa Osofsky: We worried when we lost; we were concerned and we wondered whether it would have an impact. We have actually done well in reverting to the tried and tested methods of mutual legal assistance treaties and letters of request. It has worked quite well for us, but some of it is because we invested so heavily in our international relations over the years.

The Airbus example Michelle mentioned is a case in point, where we worked hand in hand with the French authorities and the US Departments of State and Justice. We were very clear that we wanted to enter into a joint investigation team with the French. That worked and continued to work. We have not seen a downside. We have reverted to bilateral relations and have been able to make our cases. We have also invested heavily since the inception of the office in international work. My French counterpart said, "Brexit or not, I'll still answer the phone when Lisa calls." That is the sort of response we have had. I do not mean in any way to minimise it or make it sound tongue in cheek, but we have established good, strong pathways to share information. Some of our partners are outside Europe, so we are still working well with other parts of the world.

Chair: Thank you very much.

Q15 Paul Maynard: Ms Osofsky, last week we saw Paul Bond join Ziad Akle in having his conviction quashed by the Court of Appeal in the Unaoil case. What estimate have you made of the costs to the Serious Fraud Office of the failure of the Unaoil case, including any employment tribunal costs that may arise?

Lisa Osofsky: Those were both very disappointing judgments for us. The Court of Appeal found that our disclosure approach required those reversals, and the Attorney General has asked for a review. It is being conducted by Sir David Calvert-Smith, a former DPP and High Court judge. He is looking at what happened and where the failures lie. At this point, I am very grateful for his efforts. We are supporting that review and are very co-operative. We want to learn to do better. We want to hear his recommendations and respond to them. It is his review, and at this point I am not in a position to answer anything further with regard to the case.

Q16 Paul Maynard: In that case, I will keep asking my questions and maybe you can just say, "No comment," or you may be able to answer them. I do not know whether the Chair is happy with that approach. For what reason did the SFO engage with David Tinsley, and why wasn't the



HOUSE OF COMMONS

relationship initially disclosed?

Lisa Osofsky: I cannot answer that question for the reason I just explained. I must defer to the Attorney General's review.

Q17 **Laura Farris:** Isn't the Court of Appeal judgment a matter of public record? They have made findings.

Lisa Osofsky: Yes, and I am duty-bound to wait for the recommendations of Sir David Calvert-Smith. I am not at liberty to talk about that case now. I do not want in any way to impinge on, or be seen to impinge on, his work. Yes, the Court of Appeal judgment is a matter of public record. I am quite conscious that that was a difficult result for the office, and as head of the office I take responsibility for everything that happens in the office. We are going to see what the review says, learn lessons and work and strive to do even better.

Q18 **Ms Abbott:** We are not asking you to impinge on the work of the review; we are asking you to speak about the findings of the Court of Appeal. If you are head of the office and you cannot do that in front of a House of Commons Committee I would say that is a tiny bit disappointing.

Lisa Osofsky: I do not want to disappoint you, but I—

Ms Abbott: It is not me but Parliament. You have come before a parliamentary Committee. There is a Court of Appeal finding that is in the public domain and you are insisting that you cannot say anything about it.

Q19 **Paul Maynard:** Can I try to give you another chance maybe to disappoint me? In the Court of Appeal judgment, you said that you had met David Tinsley only on two occasions. Mr Tinsley claimed there were nine, with at least four private meetings, one of which lasted three hours. Are you able to explain that discrepancy?

Lisa Osofsky: I will gladly and willingly explain everything to Sir David Calvert-Smith.

Q20 **Paul Maynard:** There is one thing on which I think you can help. It is about the written evidence you submitted to the Select Committee. What is a non-law enforcement influencer? I presume it is not TikTok.

Lisa Osofsky: I am sorry; I do not follow your question.

Q21 **Paul Maynard:** In your written evidence to the Committee, you stressed that, "In all cases, effective cross-agency working domestically (including engaging non-law enforcement influencers) is essential." Just for clarity, I am asking you to define a non-law enforcement influencer.

Michelle Crotty: Chair, can I assist with that?

Chair: Yes, certainly.

Michelle Crotty: That might be a rather convoluted way of referring to some of the non-governmental organisations involved in the fraud space.



HOUSE OF COMMONS

I do not know whether your colleague can help with the context, but I believe that is what we were referring to—organisations that are active in this space in that way. If Mr Maynard could direct me to the paragraph, I may be able to assist further.

Q22 Paul Maynard: It is the penultimate paragraph of your evidence, which I will read again: "In all cases, effective cross-agency working domestically (including engaging non-law enforcement influencers) is essential, as is having an outward-facing stance with regard to cooperation with international partners." I am trying to understand what the word "influencers" covers, because that would give an indication of what the SFO thinks is appropriate and inappropriate in pursuing cases and who it is engaging with in pursuit of those cases.

Michelle Crotty: As it is connected to your question about David Tinsley, I can only—

Q23 Paul Maynard: It is a question about your evidence.

Michelle Crotty: Okay. If I could have a look at our evidence and we could come back to that question, that may assist. Apologies.

Paul Maynard: Shall we come back to that?

Chair: We can come back to that. Certainly.

Q24 Paul Maynard: Let me try another tack. As I understand it, we have about 12 deferred prosecution agreements that have brought in £1.6 billion to the public purse. When you appeared before the Public Accounts Committee, the SNP Member, Peter Grant, said the following: "After the Serco case collapsed, one of the defendants claimed that he and his co-defendant had become the 10th and 11th individuals to be prosecuted by the Serious Fraud Office after the companies had entered into deferred prosecution agreements and that their acquittal meant that all 11 of those individuals had been cleared in court." Mr Grant asked you to confirm this and you did not disagree with his statement. Is that still the case?

Lisa Osofsky: If I could speak about deferred prosecution agreements—

Q25 Chair: Could you just answer the question?

Lisa Osofsky: Sure. Deferred prosecution agreements are agreements with the company; they do not involve individuals. I think there may have been a mixing of apples with oranges, in the sense that deferred prosecution agreements only refer to corporates; they cannot apply to individuals, by law. We do not have deferred prosecution agreements for individuals.

Q26 Paul Maynard: Are there 11 individuals who worked for companies that may have been covered by deferred prosecution agreements who subsequently had their convictions quashed?

Lisa Osofsky: No.



Q27 **Paul Maynard:** Thank you. I think when you started your evidence today you mentioned the importance of bringing justice for victims. It seems from all the written evidence that has been submitted to me that the SFO either intentionally or unintentionally prioritises recovering money for the public purse over securing convictions. Would that be an accurate reflection of the SFO's priorities?

Lisa Osofsky: That is not accurate. If I could explain it this way, we have the example of London Capital and Finance where we have 12,000 victims; we have the solar energy panel case involving sales of green-type products where there were 1,500 victims; we have quite a few cases where we have multiple victims. You may recall some of the testimony of Dame Vera Baird, who praised our ability to keep in touch with a great raft—thousands—of victims.

We seek convictions, and we have convicted. We convicted Petrofac, a corporate, a company that committed in the billions of crime in terms of paying bribery and corrupt practices in the oil and gas industry across the middle east, including the UAE. We have the conviction of GPT, which was involved in supplying telecoms to the Saudi Arabian National Guard. Those are two very significant prosecutions and convictions that we brought this year.

We are interested in bringing cases against individuals. The eight cases we have coming up involve 23 defendants. Those eight cases involve £560 million where the loss at stake is great. We are interested in making sure that our victims are dealt with appropriately. We have gotten good marks from the HMCPSI, our inspectorate, who looked at our systems and the way we manage victims. We have stood up a victim witness care unit and we work very closely to make sure that every one of our witnesses comes in to see a courtroom before they have to testify. We are focused on our victims and we are also very much focused on the proceeds of crime, getting the money away from the bad guys.

In my tenure, we have an 88% success rate in recovering the proceeds of crime. This year alone, we have recovered £45 million. We are looking to make sure we get to the bad guys and try to convict them to the best of our ability, and we also try to make sure that we get our victims seen and that justice is served for them.

Q28 **Paul Maynard:** But you have had a number of high-profile failures in your prosecutions, many of which have related to disclosure failures. Is that why you have written to the Attorney General seeking to water down your disclosure requirements?

Lisa Osofsky: We are testifying very much like some of our other colleagues in law enforcement when we tell you why the disclosure regime is especially difficult. We are not alone in this. It is an issue that is being suffered by law enforcement throughout this jurisdiction, indeed throughout the world. For example, in one of our LIBOR cases there are 2.2 million documents. We spent six months scheduling or listing the



HOUSE OF COMMONS

200,000 documents that we thought might be disclosable. Twenty were used at trial.

We find ourselves in a situation where we are operating in a data and digital first world, but the rules come from the day when an SFO case comprised a number of lever arch files. I believe you heard similar testimony from Mark Steward of the FCA and Greg McGill at the CPS. This is a problem we are facing, so I do not think that is an accurate statement.

Q29 Paul Maynard: But you can confirm that you have written to the Attorney General regarding disclosure.

Lisa Osofsky: I am not familiar with what you are discussing. Perhaps you could turn my attention to it.

Q30 Paul Maynard: I am now reading from page 2, I think—it might be page 3 because there are no page numbers: “The SFO has written to the Attorney General’s office to propose that they consider issuing a specific CPIA Code of Practice, which would apply only to cases of serious or complex fraud, and bribery and corruption.”

I refer to this because one concern I have is that you seem to lack the expertise required to deal with disclosure in these very important high-profile cases. It is either a lack of expertise or, as the inspectorate has pointed out in the past, poor culture, with informal fireside chats and loss of key data, which suddenly disappears. Is it lack of expertise and lack of experience or poor culture?

Lisa Osofsky: It is neither. We asked the Attorney General, and we are asking this Committee, to consider that we get a code of practice that deals with the huge volume of material we find in cases today. It is not a watering down; it is simply a recognition that we are operating in a data-first and digital world, but we have rules from 1996. It just does not add up.

For example, we had a case recently where the defence sought and received adjournments for 14 months. There was another delay when the trial team changed hands. We finally had a date set. We had approached the defence at the very outset, when we were looking at whether material was legally privileged, to discuss search terms to set us on the road to making sure they got the documents they wanted and needed for their defence. We have rules that do not require them, or even encourage them, to engage with us.

I appreciate that is the system we are working under, yet think how helpful it might be if we could operate in a way where we better understood earlier on what the defence might want. We would not then have the situation in which we found ourselves in the case I mentioned, with a 14-month delay and a change in trial team, and two months before trial we found out what the defence was interested in by way of disclosure. At vast expense to the public, to the taxpayer, we spent years



HOUSE OF COMMONS

trying to make sure that we were getting the defendants what they needed, yet we did not have clear directions.

We were recently sued in the civil courts by ENRC and experienced a very different kind of scenario. I appreciate that civil is not criminal. We do not yet have the judgment.

Q31 Chair: The Committee does not want to get into things that are sub judice.

Lisa Ososky: Let me turn to a criminal case that is not live. In the Rolls-Royce case that was prosecuted by the Serious Fraud Office, there were 33 million documents. This is not so unusual for the SFO; we have a case now with 48 million documents. The averages have jumped year on year. In any event, barristers went through those 33 million documents for possibly privileged information. It took a team of barristers two and a half years to get through 2.9 million documents. At that rate, it would have taken another 25 years to review them, and that was before they even went to the case teams; that was just looking at the privilege issue.

We were able in that case to use artificial intelligence search terms that were agreed between the parties, because in that case both parties were negotiating a resolution. The case ended in a deferred prosecution agreement, overseen by the court and agreed by the court. What we saw then was that the robot was able to get through 5 million documents in a month. We look at the speed and, frankly, the accuracy with which that can be done. We ask the Committee to be mindful of the fact that, if we are operating with paper rules in a digital world, it does not measure up, and at some point it will make large document cases like ours very challenging to prosecute.

Q32 Paul Maynard: I think we would agree on the role of AI in the future. Perhaps I could put my final question to Ms Crotty to give her another chance to give me a definition of influencers, because I am still fascinated by that.

Michelle Crotty: I am very grateful. Thank you. I have now located the place in the paper. Apologies for being slow to do that. It is in the context of an answer to the question about making it easier to investigate frauds conducted on the UK public from abroad. We talked about the international and then the effective cross-agency working domestically. I take responsibility for some strangulated language. What we are trying to refer to there is working with people who are not part of law enforcement, including MPs and others who may have referrals about how fraud is being committed—either individual constituent cases or broader information. That was what we were alluding to. I am sorry we used such convoluted language in order to explain that.

Paul Maynard: No apology necessary. You have now explained it. Thank you. I will bench myself.

Q33 Laura Farris: I would like to pick up on some of the more high-profile



HOUSE OF COMMONS

cases that my colleague has touched on. The impression the public might have is that the two principal failings of the SFO are very basic: there have been fundamental failures of disclosure and/or there have been inappropriate relationships with important people in cases that have ended up collapsing. Do you recognise that analysis?

Lisa Osofsky: I do not recognise that analysis, and I would like to turn to—

Q34 **Laura Farris:** I am asking a question. For example, in the Serco case I think it is right to say that in the end the SFO was able to provide no evidence at all to support the criminal prosecution of two individuals. Is that right?

Lisa Osofsky: That is not correct. We sought an adjournment from the court. We found a mistake—due to a defence request—in terms of disclosure. We know that disclosure is an ongoing obligation on the part of the prosecution, so we went to the court right away and said that we had found a mistake and we needed some time to correct it. Could we have an adjournment? The court denied the ability to have the adjournment and the case collapsed. That was a—

Q35 **Laura Farris:** It was very critical of the SFO, wasn't it?

Lisa Osofsky: In that case that is not how I read the court's decision. What the court said is—

Q36 **Laura Farris:** The evidence was not sufficient to go before a jury.

Lisa Osofsky: Because we were not able to meet our disclosure obligations at that time. We were very confident that we could fix that. We know that many times cases are adjourned for more than a year to fix disclosure issues, and then we go back and try the case. We were quite confident in our evidence. Remember that was a case where Serco paid £70 million to the Ministry of Justice, initially reported from the Home Office. It also agreed a deferred prosecution agreement admitting fault and going before the judge to say, "We agree we are at fault here; we have done wrong." That was in electronic tagging.

Q37 **Laura Farris:** Let me ask you about the trial itself. I think you appeared before the Public Accounts Committee on 9 February this year.

Lisa Osofsky: Yes.

Q38 **Laura Farris:** On disclosure, you said—I think I am quoting correctly: "There came a point in time when we were asked for a document and we realised, 'Oh, my goodness. They do not have that document. We had better check and see, and give it to them.'" It is right to say, I think, that it has been said by the lawyers on the other side, Peters & Peters, that that was a false statement to the Committee.

Lisa Osofsky: I did not make a false statement to the Committee.

Q39 **Laura Farris:** You are aware that they have made that allegation against



you.

Lisa Osofsky: I am aware that the defence were in a high-risk litigation scenario. There are comments made about how we conduct our work. As I mentioned, we have been at the other end of law suits that might impact more than our operating budget. I accept those risks. We take on cases that are difficult. In that case, I did not misspeak. Due to defence requests, we found that we had not provided what we needed and we asked for time from the court to give us the time we needed.

Q40 **Laura Farris:** What Peters & Peters say is that your version of events is incorrect. They say in the letter that they wrote to you, or the SFO, in 2016, highlighting the importance of board meetings in the case, that they made repeated and early requests for disclosure before the trial. They said you omitted to refer to the judge's concerns about the nature of the SFO's case in last year's ruling. Essentially, they are saying that you were evasive. Isn't that perhaps fair?

Lisa Osofsky: I do not think that is fair. I tried to answer the questions to the best of my ability based on the information I had in front of me. No, I do not think that is fair. I was trying to be as honest as possible given the information I had, as I would always do.

Q41 **Laura Farris:** But it is right to say that a major law firm has levelled substantial criticism against you of misleading a parliamentary Committee. That is true, because it is in the public domain.

Lisa Osofsky: That they—

Q42 **Laura Farris:** That they have made the criticism.

Lisa Osofsky: That they have made criticism, yes. I recognise that they have made criticism.

Q43 **Laura Farris:** On the Unaoil case, you have made it clear that you are deferring to the inquiry being conducted by Sir David Calvert-Smith, but it is right to say, from the Court of Appeal decision—I will not ask you to comment any further—that one of the issues he will have to consider, because it is in their judgment, is your relationship with Mr Tinsley. That was a key criticism.

Lisa Osofsky: I have already answered what I am permitted to—

Q44 **Laura Farris:** I am just exploring the issue of inappropriate relationships. The same point has been taken in the ENRC case: an inappropriate relationship with Neil Gerrard at Dechert. That is the allegation, isn't it?

Lisa Osofsky: ENRC has sued the SFO more than once.

Chair: Please don't answer that because it is a matter that is sub judice, so we are not going to get into it.

Q45 **Laura Farris:** To somebody who has any experience as a lawyer, these



HOUSE OF COMMONS

look like very serious but also very basic errors that are being made in litigation—fundamental failures of disclosure and obvious inappropriate relationships that are not being disclosed to the court. Is that a fair construction of the SFO's failings?

Lisa Osofsky: I do not think that is right. I have tried to explain a little bit more about the challenges that not just the SFO but the entire law enforcement landscape faces in terms of our disclosure regime, where we spend years and years sifting through evidence manually and list out all of the unused disclosure and attempt to give it. We are up against a very challenging situation. I have tried to give the Committee a sense of the fact that the rules we are operating under were built in a different era and we find ourselves in a different state of affairs now, so I wouldn't say these—

Q46 **Laura Farris:** Would it be right to say that an overhaul of either your disclosure obligations or the disclosure mechanism, like digitisation, would improve the SFO performance in your view?

Lisa Osofsky: I would say it is worth looking at the CPIA with an eye to some revisions that could address large cases like ours, with millions and millions of documents, and manage those cases in a way that makes sure that we narrow down the issues before we get into court so that we know what we are facing and the defence knows what it has to defend against, and so that the victims in these cases actually get their day in court and justice is served for victims.

Q47 **Laura Farris:** Do your cases not have any case management? Are the issues not defined at a preliminary stage? That would be normal in litigation.

Lisa Osofsky: We define our issues from the start. Remember I gave—

Q48 **Laura Farris:** Isn't there essentially an agreed list of issues? Are you saying that you go to court and you do not know what case you are answering? I do not understand how that happens.

Lisa Osofsky: We are bringing the case, so we know what the charges are. We brought the charges. Remember, we are not like other organisations, in that we are actually investigating from the very start. We get the initial referral from one victim, or a company goes belly up and we hear from administrators. We may have whistleblowers. We are getting the information from the very start, so we have a very good idea of where the information comes from. We investigate and determine whether there is a case to open, and then whether we charge is another question that we answer.

Q49 **Laura Farris:** But by the time you charge, you know what you are charging for and you know what threshold you will have to meet.

Lisa Osofsky: We know what we are charging. We know what the crime is. The problem is that we do not have engagement early enough in the process with the defence to understand exactly where we ought to be



focusing our disclosure effort. For example, we go to them early on, since they are usually the holders of the privileged information, known as LPP, and say, "What kind of information do you want?" In the case of Serco, we were sitting on 1.9 million documents; in our LIBOR case it was 8 million; in the case of Rolls-Royce it was 33 million. We say: "We are sitting on a lot of information and we would like to agree search terms so that we can pull up what you need, what you want, to make your case."

What I am saying here is that we could have rules where it would be of benefit if the parties had more exchange earlier on about what the issues are, and that judges managed the case and embraced AI in a way that made it easier to sift through large volumes of data so that we narrowed the issues and we knew what we are facing in court.

Q50 **Chair:** On Sir David Calvert-Smith's report to the Attorney General, is it your understanding that it is supposed to be delivered by the end of May?

Lisa Osofsky: I do not think the timeframe slipped. I think it was May. It is May time. I think it's May, as far as I know. It is her review, so I am not on top of it; I am very co-operative and we try to help. I am very much looking forward to the recommendations. To the best of my knowledge, it is May. Michelle, do you have a better update on the timing? You may have more information.

Michelle Crotty: We believe it is still planned for the end of May, which is within the terms of reference. We have heard nothing to the contrary.

Q51 **Chair:** When the review was announced by ministerial statement, we were told that the findings would be made public. It did not say that the report would be published; it said that the findings would be made public. Is that your understanding?

Lisa Osofsky: That is my understanding as well. Michelle, I do not know whether you have a different understanding. I want to make sure we are 100% aligned in what we are sharing with the Committee today.

Michelle Crotty: The terms of reference say the findings.

Q52 **Chair:** After those findings are made public, if the Committee is curious about the report in any way, you would not object to us inviting you back to talk in a little more detail once the findings of the report have been published, would you?

Lisa Osofsky: As it is commissioned by the Attorney General and she has asked for the report, I would defer to how she is managing the report.

Q53 **Chair:** The findings are to be made public, so once those findings are in the public domain it would be perfectly reasonable for you to come to talk to us about them, would it not?

Lisa Osofsky: I am not sure I will be able to talk about it in a public setting. I am happy to—



HOUSE OF COMMONS

Q54 **Chair:** It is up to the Committee as a whole at a slightly later stage to decide whether we ask you back, but you should be prepared to be asked back once the report's findings have been published so that we might ask you some questions about them that you might be willing to answer.

Lisa Osofsky: I am willing to answer anything that does not in any way divulge case-sensitive information. Remember that in that case two convictions were overturned, but other convictions still stand. The Petrofac conviction of the company was an offshoot of that investigation. Another deferred prosecution agreement with Amec Foster Wheeler came from that, so I am very conscious that there may be other operational issues that would touch on David Calvert-Smith's report.

Q55 **Chair:** As you are the director of the Serious Fraud Office, a public body paid for by the taxpayer, and we are a parliamentary Committee that is entitled to ask questions of people such as yourself, you should be aware that we may wish to come back to this at some point in the future.

Lisa Osofsky: My profuse apologies if I showed anything that sounds like disrespect. I do not mean that in any way, shape or form. I just do not want to promise anything. I would be happy and honoured to be called back. I want to make it clear to the Committee that there may be some operational matters. Remember, we are an operational division; we exist to investigate and prosecute cases, so if there are sensitive operational matters I may have some limitations. I just want it to be clear.

I do not want to over-promise. I am honoured to be called here today and I would be honoured to be called back. I am glad that you want to hear about fraud. We live and breathe to prosecute fraud and corruption. We do not have a wide remit; there are two violations on which we focus.

Chair: Thank you. I do not think we need to go through those points again. I find the way in which you have dealt with this somewhat strange, so the Committee will perhaps want to consider it once the findings of the report have been published, as we are told they will be.

Q56 **Ms Abbott:** To reinforce what the Chair said, nobody would ask you to come in front of the Committee and divulge case-sensitive information, but as you have refused to answer so many questions because you are—I do not want to be rude—hiding behind Sir David Calvert-Smith's review, once the review is published and is in the public domain, I will certainly be saying that we must have you back. On so many questions you have been asked you keep referring to the review. Once the review is in the public domain, we have to have you back. It is not a question of case-sensitive information at all.

To follow a colleague's question, the argument is that there are two areas where the SFO is failing. One is disclosure; the other is inappropriate relationships, which have been brought up in more than one case. You have responded at length on the disclosure point about all the millions of pieces of information you have. You may feel that you cannot answer this, but what do you think of the commentary that some of the SFO's



cases are collapsing because of inappropriate relationships?

Lisa Osofsky: I do not agree with that commentary. I will be interested in the findings that come. We will be respectful of the findings of David Calvert-Smith, who has been asked by the Attorney General to look at this. I apologise that I am not in a different position. I must defer to his report and process.

Q57 **Ms Abbott:** Very early on, you said you felt that part of your role was to encourage corporates to reform. How exactly do you encourage corporates to reform?

Lisa Osofsky: I think the best way to answer is with an example. We have deferred prosecution agreements that Parliament voted in, in 2014. You cannot jail a corporate, so with a corporate you are talking about either a fine or deferred prosecution agreement. As I mentioned before, in this country it is only for corporates, not individuals. These are agreements where the corporate comes forward.

Let me make it concrete with Airbus. They came forward; they talked to colleagues of ours in Government, UK Export Finance and the Serious Fraud Office, and admitted they had been paying bribes to keep their airlines up in the air. They admitted to conduct in parts of the world where it would have been very challenging for us to get information. The five areas we focused on were Ghana, Sri Lanka, Malaysia, Taiwan and Indonesia. It would have taken a good bit of doing to get information from all around the world. Airbus came forward. They admitted they were wrong, which is very important for victims, as you know. Victims want to hear—

Q58 **Ms Abbott:** Sure, but how were you able to encourage them? Is it the threat of a deferred prosecution that encourages them to reform?

Lisa Osofsky: It is that we will not entertain even the thought of having discussions around a deferred prosecution agreement unless we have evidence that the company is willing to reform. This was a matter presided over by Lady Victoria Sharp. In a nutshell, she said, "Boy, this company has really turned its pockets out." She was not talking about money; she was talking about the fact that they had a new board, new systems and controls, a new general counsel and a way of dealing with bribery and corruption. They had rules that went out across the company that said, "We are no longer committing bribery and corruption as a way to do business." That company showed reform, and that was why we were willing to invite them in even to discuss deferred prosecution in the first place, and was one reason why the president of the Queen's bench at the time agreed that agreement.

As I may have mentioned, the monetary terms there were just under £1 billion to the UK taxpayer, and the company changed the way it did business; it set out different ways to act. That is what we are asking for in the fraud area. That sort of incentive, where the company has to have adequate procedures in place to guard against crime—boy would that



HOUSE OF COMMONS

help with fraud. It means that the company itself would have the onus on it to have the right procedures in place and that they are proportionate, so we do not need an Airbus-style procedure if it is a small company.

Q59 Ms Abbott: I think I understand what you were saying. Earlier, the Chair asked you about charging and conviction rates. You had 73 charges but only 44 convictions. Unlike my colleagues, I am not a lawyer, but that seems to me a relatively low conviction rate. Is there a reason for that? Is there a reason why your cases are collapsing in this way? Your conviction rate is about half.

Lisa Osofsky: I would not call them collapsed cases; they were cases that went before a jury.

Q60 Ms Abbott: You did not get a conviction. I call that a collapsed case.

Lisa Osofsky: They were cases where the jury did not find the defendant guilty beyond a reasonable doubt and the prospect of conviction was not met. We do not bring cases where we think we will lose. We think we have strong evidence. Every loss can be disappointing. On the other hand, we are part of the criminal justice system. If people are exonerated, we accept that as part of the criminal justice system.

We are not in a setting where we win 90% or 98% of our cases; we are in a different setting. Those statistics are not out of the ordinary over the life of the Serious Fraud Office and other prosecuting agencies. We have a different statistic that I invite you to look at. In more than eight out of 10 of our cases—84%—we have a successful outcome; that is, a conviction after trial, a conviction after guilty plea or a successful deferred prosecution agreement where we may have a reformed company, as in Airbus or Amec Foster Wheeler. We do not look at success just in terms of convictions. Remember, we are not a volume shop. We don't have lots of cases.

Q61 Ms Abbott: I am not saying that you are a volume shop and I understand the point you are making.

I have a few questions on Covid-related fraud, which has been the subject of some debate both in the House and among the public. Do you think there was anything in particular about the arrangements in relation to Covid-support schemes and contracts that made fraud more likely? *[Interruption.]* You don't?

Lisa Osofsky: I am just trying to parse your question accurately. One of the main features that made things more likely is that the world moved online. Some people who might have done things in person all of a sudden conducted business online. In a way, that was a sea change that made quite a difference or an uptick in terms of Covid. Rest assured, we are looking at every case and every referral that comes our way if it touches any sort of fraud. We are looking carefully. I stood up an intelligence division so that we look carefully at all the referrals, all the



HOUSE OF COMMONS

whistleblower complaints and anything that comes across our desk. We are quite interested in whether we can pursue it.

Q62 **Ms Abbott:** What priority have you given to investigating fraud in Covid-support schemes and contracts?

Lisa Osofsky: We have only two violations: fraud and bribery and corruption. We give weight to our fraud cases and prioritise them perhaps in a way that even other, more diverse law enforcement agencies do not.

Q63 **Ms Abbott:** You do not give particular priority to frauds in Covid support.

Lisa Osofsky: We look at all fraud cases that come across our threshold and that meet my statement of principle. I want to answer your question and only your question.

Q64 **Ms Abbott:** So you look at all fraud. What criteria need to be met for you to investigate? Is it the volume? What are the criteria?

Lisa Osofsky: We look at the victims and the harm to the country. We look at whether it is a crime that would impact the integrity and prosperity of this jurisdiction. We look at our specialist skills. Remember, we are organised in a slightly different way, where we take things from start to finish with all the investigations being done in-house. We do not take a file from another investigator; we do it all in-house with a group of professionals who have different skills. Those are the sorts of factors we look at, in addition to whether it impacts our vision of our country as a good place in which to invest and do business. Those are the kinds of considerations I make.

Q65 **Ms Abbott:** Are you able to tell us, or perhaps you would write to us subsequently, how many investigations are under way relating to suspected fraud in Covid-related support schemes? Are you able to tell us?

Lisa Osofsky: I am not able to tell you now.

Q66 **Ms Abbott:** Would you write and tell us?

Lisa Osofsky: I am happy to write to the Committee.

Q67 **Ms Abbott:** Thank you very much. As you cannot tell me how many investigations are under way, do you have any idea which Covid-related support schemes are affected, and the quantity, or the level, of potential fraud involved?

Lisa Osofsky: We are an operational division and I am not at liberty to talk about ongoing operations; I cannot do that in public. I am not trying to be difficult or in any way unresponsive, but in terms of our operations I have to maintain the sanctity of our operational independence and ability.

Q68 **Ms Abbott:** But you could tell us broadly, because it is not an operational question, the potential level of fraud that is involved. You could tell us



that.

Lisa Osofsky: The level of potential fraud?

Ms Abbott: Yes.

Lisa Osofsky: I do not know the answer to that question. We have a whole intelligence division that looks at complaints and referrals. I cannot answer with specificity. I cannot give you an honest answer to that question. I do not know the answer. I do not know that we have an answer, in that we are looking at different potential operations.

Q69 **Ms Abbott:** You must know how many fraud investigations you have going on in Covid-related schemes? There must be a figure. I understand you do not have that figure at the moment, but you must have one. If you have that figure, you must be able to make some kind of estimate about the potential level of fraud involved. You do not have to tell me now, but just write and tell us.

Lisa Osofsky: I am trying to give an answer to your question. I appreciate your point. We have an intelligence division that looks at referrals. That is a different stage from whether we open an investigation. We go through different stages along the way. I cannot tell you as I sit here today exactly what is being looked at by our intelligence division versus what has been accepted for investigation.

Chair: But you can perhaps write to us about it. That is absolutely fine. Please drop us a line.

Q70 **Ms Abbott:** That's fine. This is my final question; you may not be able to answer this either. Are you investigating any fraud in relation to contracts for PPE?

Lisa Osofsky: PPE is typically a volume fraud issue. It would not typically be the kind of case that the SFO would turn its attention to unless it involved multiple millions, international aspects or issues regarding the prosperity and integrity of our country. Typically, it is the kind of crime that is looked at more in terms of the volume shops, as it were. I do not know whether Michelle has anything further to add.

Ms Abbott: Sure, but once again, maybe you can go back to the office and ask whether you are investigating any frauds in relation to PPE and give us a figure or some indication of whether you are or not. I understand that you cannot tell me now, but I am sure that if you went back to your office somebody would be able to tell you. Thank you.

Q71 **Paul Maynard:** My ears pricked up when you said you had an intelligence unit, which clearly gathers intelligence, information and facts. When you write to us, could you possibly draw on the wisdom of your intelligence unit, because we would be very interested to know what it is finding out about Covid-related fraud, not the details of investigations but the thematic patterns that are emerging? Do you think you would be able to do that when you write to us?



Lisa Osofsky: If it pleases you, I would like to identify some of the threats we are seeing. As we mentioned before, they include fraud increasingly moving online. We see cryptocurrencies and bad actors hiding behind the opacity of some of those currencies. We are looking at an uptick in fraud in green products. I mentioned the ongoing case against Global Forestry and the case relating to solar energy panels. We are seeing those sorts of trends. We are also looking at the extractive industry, which has often been a source of bribery and corruption-type cases. As we move to situations where extractives are changing in nature, we are looking to different renewables and a continuing focus on carbon. Those are some of the trends we are seeing.

Q72 **Chair:** Thank you, but perhaps you can write to us in respect of the questions you have been asked about Covid-related fraud. Some of it is reported to be very high volume, if you look at some of what has been published in the newspapers about PPE contracts, for example. There has been expenditure of many millions of pounds on PPE that is currently being burned because it does not work and is not fit for purpose. We will be interested to know to what extent you are looking at any of that. It is absolutely fine for you to write to us. That is not a problem.

Let's move on. In 2019, you introduced what was referred to as a cultural change programme to try to ensure that "leadership behaviours and working culture make all staff feel valued as part of an inclusive workplace." When Her Majesty's inspectorate looked at it, it found that you had a culture of delivery that had led to "neglectful approaches to management" and "unacceptable behaviours". What progress has been made in your organisation since those findings were made, and how are they being addressed?

Lisa Osofsky: Thank you for the question. Those were findings that greeted me when I arrived at the office. I used them as a platform for change. I worked with the inspectorate, and we developed a programme to try to increase our leadership capabilities. We devised a three-year programme. We have managed in many ways to make some good progress. I will call out a couple and then ask Michelle Crotty to focus on it a little bit to give you some fuller context.

One of the things I found 100% unacceptable was bullying and harassment. Those figures have gone way down. We have a workforce that is deeply committed to the mission. They really believe in what we do and they are pleased with what they get up to do in the morning. That is quite gratifying. We have seen movements on the positive side in terms of our leadership and response to issues being raised.

Perhaps I could turn to Michelle, our chief capability officer, to address with more detail some of the improvements we have made in our culture at the SFO. I had the help of the inspectorate. One of the inspectors was seconded to the SFO to work with us on that culture change programme, because I thought it was so important to make sure that each of our



employees felt valued in their work. I am sorry, Michelle. I turned to you and then added a point. Could you assist further?

Michelle Crotty: Thanks, Director. It is fair to say that any organisation that starts on culture change accepts that it will be a long period. As the director said, we have been working on this for two and a half years. We have seen some improvements, particularly around leadership and managing change. It is also fair to say that the first year of the culture change programme started in November and the pandemic hit the following March, so we probably have not made as much progress as we would have liked, but we are encouraged by the signs we are seeing in improving the culture. There is always more to do, and under the director's leadership we are very committed to doing it.

Q73 **Chair:** What steps are you taking in response to staff survey results that show high levels of dissatisfaction over pay and conditions among your workforce? Obviously, retaining highly skilled staff must be tremendously important to your effectiveness. What are you able to do about that?

Lisa Osofsky: One of the things we did, which I found gratifying, was to put together materials about what people were getting beyond just pay. We had internal fairs. We had packages put together where people understood that they got more than just the pay packet. For example, we made available NHS help online; we made available certain medical and other benefits. We let people know that it was not just a matter of the pounds they were being paid. We found the following year that our staff survey results went up in that area. People understood what they got from being at the SFO.

You are pointing to a really important area, which is retention of staff at a time when people often get paid quite a bit of money for various sorts of skills that we need—for example, in the area of data. We have talked from the start about the explosion of data. We need those skills and we need that expertise.

Q74 **Chair:** Are you able to pay adequate salaries?

Lisa Osofsky: We think we are able to pay adequate salaries, and we are also able to offer something different. People come to us from the private sector because they are drawn to the mission. They want to do something good for the world; they want to feel that they are doing something rewarding, not just going for the next financial promotion.

Q75 **Chair:** But there is nothing like a pay rise, is there? Are you going to be able to remunerate your staff to a higher level?

Lisa Osofsky: We are focusing very much on technology. In the spending review—

Q76 **Chair:** Are you going to be able to pay your staff more? That is the question.



HOUSE OF COMMONS

Lisa Osofsky: The reason I am answering it this way is that we are trying to get at technology that will make things run faster, better and cheaper, so that we have more available for human beings. We are trying to focus our spending review. We have been given £4.2 million to enhance our tech capabilities and £8.4 million to enhance our information, communication and technology. We are trying to make sure that our staff are reserved for the more interesting work, and that what can be done technologically and quickly is done technologically and quickly. Michelle focuses on technology, so perhaps she will have something to add in this regard. You also mentioned workforce.

Michelle Crotty: In relation to pay, Chair, we are reviewing it quite closely with our civil servants. We are subject to pay freeze. We will be working with Treasury colleagues on a pay case over the coming 12 to 18 months to look at pay rates. We know that across Government pay for lawyers is being looked at, and we will work closely with colleagues to look at that. As the director says, in relation to technological skills, while we might not pay as much as the private sector, we attract people because of the nature of the work, which is something they cannot get anywhere else in either the private or the public sector, but we are very conscious of pay and are working hard to resolve that for our people.

Chair: Thank you.

Q77 **Laura Farris:** Do you think the huge differentials in pay between the kinds of lawyers companies can afford and the public sector salaries that will be paid at the SFO affect the quality of representation?

Michelle Crotty: I do not think so. We are recruiting some of the brightest and best lawyers directly from the private sector to work on these cases.

Q78 **Laura Farris:** Where would a typical lawyer who joins the SFO begin their life?

Michelle Crotty: Without being glib, I do not think there is a typical lawyer. For example, we recruit people from magic circle firms who have worked on big cases and have worked against us. We also recruit from private sector companies; for example, we have the former chief compliance officer at Rolls-Royce. We also recruit from the public sector. There is a broad range of areas from which we recruit people in the legal sector.

Lisa Osofsky: We have just had one very excellent and enthusiastic hire from the Bar who has come from a very well-regarded set and is excited to be at the SFO. When asked, "What made you come here after 10 years at the Bar?", he said, "I'm excited to be at the heart of white collar crime prosecutions; I'm excited to be here to work on the cases I have been reading about and to be part of that."

Q79 **Laura Farris:** Do you have any QCs at the SFO?



Lisa Osofsky: We do. Our general counsel is Sara Lawson QC. She has spent 30 years-plus prosecuting fraud cases in the courts. She has been an amazing general counsel. She too is motivated by a mission and the feeling of dedication among our staff of really believing in what we are doing and wanting to do justice, to deliver justice to victims and to approach our work with pride. I am proud to say that she has been a very strong general counsel and I am pleased to work by her side.

As you know, we hire from the Bar. We are represented in court by Queen's counsel. Typically, our cases are headed by at least one QC, sometimes two.

Q80 **Laura Farris:** Are they recruited from the Attorney General's panel of counsel, or do you go out as you want to?

Lisa Osofsky: We have our own process where we vet counsel who want to represent us. We have made great efforts to try to increase the panel, so that it is as diverse and inclusive as it can be. Our general counsel has been absolutely critical, as have I, in wanting to make sure that we invite a range of talents to represent us in the courts. They do not work for us. As you will know, being a former barrister—I am a barrister as well—they are independent, yet they work with us. We get QC-level opinion and advice, and they work with us on our cases, in addition to the general counsel who is in-house.

Chair: Thank you. Mr Maynard.

Paul Maynard: I think we have disclosed all we can about disclosure; we have disclosed it to death, so I think we can move on from my second set of questions on disclosure.

Q81 **Ms Abbott:** I want to ask a little bit about the treatment of victims of crime. In your 2021-22 business plan, you had a number of commitments to victims, including the fact that every case would have a victim and witness strategy. Have your commitments to victims, including the victim and witness strategy for each case, improved victim care?

Lisa Osofsky: First of all, we stood up our victim witness care unit, which is excellent and I am glad we have it. We have a very gifted head. I meet with her and talk about how she is catering to the victims. As Dame Vera Baird mentioned, sometimes we have thousands of victims in our cases, so it can be a challenge, but we do our best. We have a victim witness strategy for every case.

Q82 **Ms Abbott:** I know; that is why I asked you about it. I know you've got one.

Lisa Osofsky: I got there eventually; I wrote it down. We have a strategy for engaging our victims. When we have fewer victims in a case, it is obviously easier to pick up a phone. When we have rafts of victims, sometimes we have to resort to online discussions. When we have victims who are testifying, we make a special effort to bring them into the



HOUSE OF COMMONS

courtroom in advance and let them see where they will be sitting and what sorts of questions they may be asked by the judge. You will appreciate that, given the international nature of our work, sometimes we have victims from another country, so we work with them through interpreters and language to make sure that they are comfortable in our process.

You heard testimony on 22 February that we were praised for our ability to keep in touch with great rafts of victims involving thousands of people. We are proud of that.

Q83 Ms Abbott: Finally, what steps are you taking to increase the recovery of proceeds of crime in order to increase victim compensation?

Lisa Osofsky: We are quite good at recovering the proceeds of crime. In my tenure, we have an 88% rate of recovery of the proceeds of crime. We rank quite well. The Home Office keeps statistics. Over the past four years, we have come in fourth for being able to recover the proceeds of crime. You might think I would not be proud of being fourth, but we come behind behemoths like HMRC, the Met and the NCA, which is 10 times our size, so we punch way above our weight in recovering the proceeds of crime.

I am sad to say that does not always translate into compensation for victims because in many of our cases we get there when the money has gone. We may learn about a crime after the criminals have spent a lot of the money, so our first order of business, where I have put our efforts, is getting in as early as possible to freeze assets before they can be dissipated. You will see that the most recent inspectorate report on us and our proceeds of crime division gives us full marks for being a very critical and important part of the criminal justice system, with high morale and a great success rate.

We focus where we can, yet for me every penny that does not go back to the victim is a sad penny. I feel for the victims, especially those who may have lost life savings in cases like the solar energy case that I mentioned earlier, where we were able to make some recovery, but oftentimes the criminals have spent the assets.

Q84 Chair: You were talking a little earlier in our session about your problems in respect of corporate criminal responsibility and the issue of having to prove controlling mind—the controlling mind test. You talked about some proposals you might have to change that. What steps are you asking the Government to take to improve your ability to hold companies with complex governance structures to account for fraudulent conduct? Are you making proposals to the Government to change the law?

Lisa Osofsky: The “failure to prevent” offence, which I have outlined.

Q85 Chair: Just that? Would that be enough for you?



Lisa Osofsky: That would be a sea change for economic crime. If that were delivered, and we were able to produce the results that we see in the bribery and corruption context, it would be an absolute sea change.

There are other areas where we would find it helpful. As you mentioned, we have talked an awful lot about disclosure. I have made that point. There is another area where we have more powers in the bribery and corruption area, and that is in our compulsion powers. Section 2 is the main compulsion power. Section 2A allows us to do a pre-investigation and get in very early to decide whether we have anything there. Is this a live one? Is it something we can do something with and ultimately bring to court?

We would like to see that in the area of fraud as well. We would consider that a very big plus. We would like to see more money back in compensation, in the form of uplift orders. That would be another plus. Frankly, that is the wish list. Michelle, I do not know whether I have missed out anything critical, but if I have please feel free.

Michelle Crotty: There are some details that sit under disclosure, but we have covered those.

Q86 **Chair:** Fine. What kind of response have you been getting when making these pleas to the Government to change the law in particular ways that would assist you in doing the job you are doing? Are you getting any positive response or indication that they might be going to extend those section 2 powers?

Lisa Osofsky: We work with our superintending Ministers. We meet regularly with the Law Officers, and we have discussions with our colleagues in the Home Office.

Q87 **Chair:** The powers have not been introduced yet. Are you hopeful that there might be plans to change the law in this way? I am not asking you to reveal the details of the Queen's Speech. We have other ways of trying to find out what they are.

Lisa Osofsky: I am sure you have vastly superior ways to find out. All I can tell you is that we are an operational department.

Q88 **Chair:** Are you pushing at an opening door? Despite any criticisms you might have detected in the session today, your organisation has produced a 400% return on the money that is spent on your organisation, largely because of DPAs. I know that much of that is the proceeds of crime that one would wish to get back to the victims, but you would have a pretty strong argument to go to a Whitehall Department and say, "Give us a percentage of this and we can do so much more." You are only scratching the surface of the amount of fraud that is out there. That is not a criticism. It is just a fact, isn't it? If you had more money you could do more, could you not?



HOUSE OF COMMONS

Lisa Osofsky: The problem with your DPA idea is that we have in-year spending and we have to be able to plan. For example, on 31 January 2020 when Airbus paid the cheque within 30 days of signing the agreement, as the president of the Queen's bench said, it covered more than all the fines and penalties that the criminal justice system got the year before. That is not money we can plan around and spend in-year, so we would have that challenge if we were to ask for it. In addition, when I determine whether to invite a company in for a deferred prosecution agreement discussion, I have to consider the public interest.

Q89 **Chair:** Of course. I am not suggesting that your behaviour should be affected by that kind of thing. I am just making the point that if I were the leader of an organisation that made 400% more than I was spending on the service I was providing, or on doing the job I was doing, I might use that as a lever when talking about what my budget ought to be.

Lisa Osofsky: I appreciate your perspective, and I am grateful for it.

Chair: I am not going to ask you to tell me what response the Government might have given you about changing laws that could assist you in your job of preventing a lot more fraud and bringing to justice those who commit it, whether inside or outside the jurisdiction. Clearly, you have said that there are legal changes that would make your job a lot easier. Perhaps we will get a chance to ask the Minister at some point whether they might be considering doing that.

Thank you both very much for coming to the Committee today. It has been illuminating. I think you owe us a letter or two in follow-up to some of the requests for information that we have made. We look forward to receiving those from you. Perhaps in due course, after the end of May or whenever, when Sir David has reported his findings to the Attorney General, you might even have the pleasure of coming back. We will see at a later stage, but thank you very much for coming today. We appreciate it. That is the end of this evidence session.