

Public Accounts Committee

Oral evidence: Excess votes 2020-21: Serious Fraud Office, HC 1099

Wednesday 9 February 2022

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Members present: Dame Meg Hillier (Chair); Shaun Bailey; Sir Geoffrey Clifton-Brown; Mr Mark Francois; Peter Grant; Kate Green.

Gareth Davies, Comptroller and Auditor General, Adrian Jenner, Director of Parliamentary Relations, NAO, and Marius Gallaher, Alternate Treasury Officer of Accounts, HM Treasury, were in attendance.

Report by the Comptroller and Auditor General

Serious Fraud Office Annual report and accounts 2020-2021 (HC 578)

Questions 1 – 66

Witnesses

I: Lisa Osofsky, Director, Serious Fraud Office; Michelle Crotty, Chief Capability Officer, Serious Fraud Office; Liz Corrin, Head of Corporate Services and Chief Financial Officer, Serious Fraud Office.



Examination of witnesses

Witnesses: Lisa Osofsky, Michelle Crotty and Liz Corrin.

Chair: Welcome to the Public Accounts Committee on Wednesday 9 February 2022. Today we have in front of us the Serious Fraud Office, which is at risk of overspending on its budget by £2.5 million. This overspend on its annual budget is as a result of a single failed court case, which went so badly wrong that the judge ordered that the Serious Fraud Office should pay the other side's costs.

Procedurally, when a Department or a part of Government goes over budget, it triggers what is called an excess vote, which means there has to be a request for Parliament to vote to allow more spending money to be provided. Today we are questioning the officials from the Serious Fraud Office about what went wrong and why taxpayers are being asked to foot the bill for the mistakes.

I would like to welcome our witnesses today. We have Lisa Osofsky, the director of the Serious Fraud Office, Michelle Crotty, the chief capability officer at the Serious Fraud Office, and Liz Corrin, the head of corporate services and chief financial officer at the SFO.

Q1 **Shaun Bailey:** As my first question, Ms Osofsky, could you outline the exact failure in the disclosure process?

Lisa Osofsky: Sure. I can talk you through the accounts to give you a little bit of context.

Q2 **Shaun Bailey:** I am just conscious of time. I have read the accounts; we have seen them. I would like to focus specifically on the failure of disclosure in this case. Which part of the CPRs was not followed?

Lisa Osofsky: We were in the middle of a trial and we found a disclosure problem.

Q3 **Shaun Bailey:** What was that problem?

Lisa Osofsky: We, as the prosecution, were meant to give over to the defence—

Q4 **Shaun Bailey:** I am aware of that. What specifically did you not hand over?

Lisa Osofsky: We did not hand over board meeting minutes.

Q5 **Shaun Bailey:** Why was that? What was the reason for that?

Lisa Osofsky: We had looked through 1.9 million documents. We had turned over other board meeting minutes. We had a mismarking of documents. We did not realise that was a document that had been overlooked and needed to be turned over. It was not a matter of hiding anything.



Q6 **Shaun Bailey:** How do you do your marking up of documents? Is that done through a case management system? Is it done by an individual lawyer? How is that done?

Lisa Osofsky: Our cases are really large. We have few cases and they are massive. Would that one individual lawyer could do it, but we have teams of lawyers and teams of disclosure officers who go through bags and bags and bags of materials. We had already gone through 1.9 million. That was something that we overlooked, and we brought it to the attention of the court right away.

Q7 **Shaun Bailey:** In terms of how you manage cases—you touched on it there—do you manage these in-house or do you outsource these cases?

Lisa Osofsky: We manage it in-house. We have a bifurcated system. We do hire the Bar to represent us in the court room. In that sense, we outsource that work to the independent Bar, but we do everything in-house. We are a little different from other agencies, in that we are not just getting a bundle from the police. We are the investigators; we are the accountants; we are the technologists; and we are the lawyers. We work together to investigate the case and then to put it in court.

Q8 **Shaun Bailey:** What is the supervision model? I should just say that I am legally trained myself, and I have spent some time in private practice. In private practice you would have a partner and associates underneath them. They would ultimately be accountable. What is your structure? How are you supervising and overseeing these lawyers and disclosure officers who are managing these cases?

Lisa Osofsky: For every case, we have something called a case controller. That is someone whose job it is to oversee the case. Above that person, we have a head of division who will oversee their work and do quality assurance along the way, testing to make sure the case controller is managing the case appropriately. We also have teams—

Q9 **Shaun Bailey:** Just to check, they are legally qualified; they have practising certificates.

Lisa Osofsky: Not everybody is legally qualified, because we have both investigators and technologists. We have some lawyers. Not all of our case controllers are lawyers, for example. Some of our really excellent case controllers might be investigators.

Q10 **Shaun Bailey:** They would ultimately be overseen by a lawyer who is qualified.

Lisa Osofsky: In the sense that all of our heads of division who oversee our cases are legally qualified, yes.

Q11 **Shaun Bailey:** They would be the route up, basically. That is what I am trying to probe at here. There is ultimately someone with a practising certificate there who is overseeing this work.

Lisa Osofsky: Yes.



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Q12 **Shaun Bailey:** Has the Solicitors Regulation Authority been informed of this?

Lisa Osofsky: No, not to my knowledge.

Q13 **Shaun Bailey:** You can see that there are potential professional conduct issues here, can you not? Failure to disclose is quite a serious breach of 31.6 of the CPRs. I am just conscious that in private practice this would be a professional conduct issue. I am just wondering why that has not happened.

Lisa Osofsky: We are not all qualified solicitors. For example, I am a barrister by training. There may be different regulatory bodies.

Q14 **Shaun Bailey:** I get that. They have their own supervisory models as well, being the Bar Council and the Bar Standards Board. Would it not have been prudent at least to advise the regulator that this had happened and to have sought advice?

Lisa Osofsky: To the best of my knowledge, we did not take that step in this case. What we did was something a little bit different. We did a deep dive into what happened. We have commissioned a report to be done by an eminent QC, Brian Altman, who we enlisted to help us get to the bottom of what really happened here. If there is any reporting to be done, of course we are going to do it. We did go right to the judge; we went right to the defence. We did not try to hide anything. Brian Altman is in the middle of his review.

Q15 **Shaun Bailey:** I appreciate that; I am aware of that. Bringing you back to a point there, just so I am understanding this correctly, in the lines of command, so to speak, there is always someone who has a practising certificate, whether that is a member of the Bar or a solicitor with a practising certificate within England and Wales, I assume. You have not referred the matter to the regulator at this stage for any sort of advice, even though we know that breaches of the CPRs could be classed as a professional conduct issue. Might it be an idea to do that at any point?

Lisa Osofsky: If we are instructed by Brian Altman and others who are looking from the outside that that makes sense, of course we are going to do that. If I could just try to answer your question—please stop me if I am not getting at what you want to get at—the answer is no. We did not do that. We were very well aware that we needed to inform the court; we needed to meet our disclosure obligations to the fullest. We went to the defence right away. We turned over the document. We sought an adjournment to correct the disclosure mistake.

Q16 **Shaun Bailey:** I am aware of the process you went through. I have read the reports about it. I am aware of that. I have studied professional conduct; I am sure you will have as well and be completely cognisant of professional conduct responsibilities.

Lisa Osofsky: Yes.



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Shaun Bailey: We have all known people who have been struck off for severe things like this. In your view, how serious was this?

Lisa Osofsky: Disclosure is a very big issue for all of us in law enforcement. You will probably be aware that over the past year the CPS had 1,643 cases that were not able to proceed due to disclosure failures. We do have these failures. It is not a perfect system. You will know, because you are qualified, that we produce a discovery management document. The whole underpinning of that document is that we revise as we go. We go back to the court to say, "We found something. We did something wrong. We need to correct it. Please can we do so?" It is not set at a point in time that we can never go back to try to correct it.

Q17 **Shaun Bailey:** Just so I am clear, this case was over a number of years, was it not? This was over a seven-year period, I think I read. There was ample opportunity. I appreciate the volume of the documents that you described at the start, but it is not as if you had six weeks to do your disclosure process. As you have just said yourself, it was a fluid process that was a continuous one. In a seven-year period, how was this not picked up?

Lisa Osofsky: Because we went through 1.9 million documents.

Q18 **Shaun Bailey:** I am aware of that. You have had seven years. Given that length of time and, as you have explained, the manpower that goes into this, I am really struggling to understand how that has been missed.

Lisa Osofsky: Given your background, I am sure you appreciate that this is a fluid process by definition. We have ongoing and continuous duties to disclose. We were working for seven years. The initial referral came in October seven years before we ended up in the court room. We were working hard to get it right.

As you will know, being a lawyer yourself, and for all of us, sometimes the defence will become more apparent as the trial goes on. What we thought the defence was getting at on day one, when we were trying to give them all the relevant materials that met our obligations, evolved over time. 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".

Q19 **Shaun Bailey:** Thank you for setting the context, then, but on that basis can I ask why the judge rejected your application to extend that disclosure period?

Lisa Osofsky: What the judge said in her ruling on 26 April was that it had already been too long. It would not be fair to have an adjournment in the case. Believe me: I am very sympathetic to this. Our cases take a very long time to investigate.

Q20 **Shaun Bailey:** When she said it was too long, was that on the basis that you had had enough time that you should have been able to locate this



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document and realised that it needed to be disclosed? Was that her rationale?

Lisa Osofsky: That was not her rationale. Her rationale was that the defendants had had this over their heads for some time and it would not be fair to extend the period during which they were still facing charges. It was not about one document. If I can just tell you the volume we are talking about, we had a Rolls-Royce case where we had 33 million documents. We end up with cases where we have the equivalent of 400,000 lever arch files. That would fill 22 London buses. We are talking about a huge data explosion.

Chair: We are very aware of the challenges that you face.

Q21 **Shaun Bailey:** I am cognisant of that, as well as of the comparisons with private practice, where they equally have to churn through those volumes of paper. I am conscious that this is not the first time this has happened, is it? Is this a systemic failure?

Lisa Osofsky: I do not think it is a systemic failure. What we have is a very challenging disclosure regime, which was built in an earlier day—an analogue day.

Shaun Bailey: The system is wrong.

Lisa Osofsky: It is not that the system is wrong. Believe me: nobody takes our responsibilities more seriously than I do. I stay up nights wondering how we could have missed this. We went through almost 2 million documents. How could it be that this one did not get turned over? It is the sort of thing that worries us, but we are looking at millions and millions of documents. We are human beings. We make mistakes.

We do not have the fabulous tools that you may have found in private practice with digital abilities to cut through documents at speed. We are in a very adversarial position. When you are in private practice, you are trying to resolve; you are both trying to get to a resolution. In our cases, we are coming in in a very adversarial position.

Q22 **Shaun Bailey:** I appreciate that. Again, I am acutely conscious of time. I am aware of what you are saying. From your opener, it sounded like the issue was the system in which you are having to operate. Given that this is not the first time this has happened and given, as we will come on to, you have had a written ministerial statement today in regard to another case with disclosure issues, surely you must accept that there is a real problem in the SFO with your disclosure processes.

Lisa Osofsky: I am going to beg to differ on that. Though both are badged as disclosure issues, there are two very different scenarios. In Serco, the case we have been focusing on, we did not find a document. A document did not get turned over.



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In the Unaoil case, where we have had appointed a reviewer to look at the failings—I am very grateful; they have picked a very hard-charging reviewer, which is great—we had a system that was overseen by a judge. In that case, we gave summaries of certain materials rather than the documents themselves. The judge oversaw that. He heard argument on that more than once. He thought the SFO was handling disclosure appropriately; the Court of Appeal disagreed. It was quite a different scenario.

Q23 Shaun Bailey: A running thread has been around resource pressure, the volume of work and the volume of documents that you have to churn through. Would it not make sense to outsource this? Is it not possible to outsource this work? There are plenty of firms just down the road that specialise in white collar and financial services crime. Why has it never been thought of as a possibility to outsource particularly things like disclosure? We all know that often the trainee in the firm puts the bundle together under supervision. Why has that not been outsourced?

Lisa Osofsky: You are referencing back to my day when they were actually bundles. Now we are talking about terabytes of material. We are talking about a very different digital environment. We find ourselves in a situation where we really have to focus on technology to avoid some of these problems going forward.

Q24 Shaun Bailey: You will know, Ms Osofsky, the development in law tech. Most of these firms have been pioneering it. You cannot tell me that these firms do not have the capabilities, given that most of them are leading in the law tech space. You cannot tell me, on this exact point, that they would not be able to cope with this, given the strides we have seen in the law tech space over the last five or 10 years.

Lisa Osofsky: I appreciate that. That is an area I worked in before I came to the Serious Fraud Office, so I know what you are talking about. I know what is out there. It is not that we would not think about outsourcing, but the criminal world that we inhabit is quite conservative in terms of looking at what our obligations are and what we are allowed to do. Remember that every point we make gets fought over fist to fist.

Q25 Shaun Bailey: The expertise is there, though, is it not? You are not denying that the expertise is there that could do that, though.

Lisa Osofsky: It is expensive expertise. It is not anything that I would be averse to looking at. This is a situation where we are talking about spending an awful lot of public money.

Shaun Bailey: You have spent an awful lot of money.

Lisa Osofsky: If it has not been tested, we are taking a risk. Every time we take a risk in a trial, it is something that may inure to the detriment of our value for money proposition. We need to think long and hard about this. It would be doing something different. It was what you did in private



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practice; it is what I did in the private sector. I understand that is what is done, but we have not been given the blessing of the criminal court to—

Q26 Shaun Bailey: I know other colleagues want to come in. I am conscious of what you are saying. You have incredible volumes and a system that appears to be very rigid. Clearly, there are developments there that would make this a little bit smother for you. I am not getting the impression that you are averse to that in the sense that the expertise is not there, but I am struggling to understand your logic as to why there is not a possibility to either outsource this work or even bring that technology into the SFO. Is that not something you could do?

Lisa Osofsky: I really appreciate that question. That is exactly the focus of our SR bid. We have been looking to upskill in the technology area to get the right tools we need. It is not just the tools: we need the expertise, and we need to be able to hold on to people who are good at that job. We have done all sorts of things to attract who we think are the best and the brightest. We need to be able to keep them. We have retention issues. We can train them up to do that sort of work, and they can walk across the street to all the firms you are pointing to, the EYs, PwCs and KPMGs, and get twice the money.

I am not complaining. I am just saying that we need to think rationally, and long and hard, about the kinds of solutions that will not cost the taxpayer an inordinate amount of money.

Q27 Shaun Bailey: On the value for money point, have you done any work in house at all on the value for money element of outsourcing this work vis-à-vis keeping it in? What does that say? What is the comparator? We are here today because of these two cases, particularly this case, and the money issues there have been as a result. What work have you done on this to try to come up with a value for money solution?

Lisa Osofsky: We are looking at outsourcing in certain situations. We are looking at it. If you want me to provide you chapter and verse on exactly what the comparators are, I can. Suffice it to say that it is a lot more expensive than what we are doing in-house so far. If you do not mind, if I could ask the Committee's leave, I would be happy to give you the figures on what we have found so far about what we might be able to do to outsource this. We are taking a lot of risk, because we have not yet had judicial approval to be doing that in a criminal context. I worry for us, for our public and for justice.

Shaun Bailey: Equally, we have had two people walk away from justice as a result of this, have we not? The jury was directed not to convict these people. Clearly, that is the balance that you ultimately have to strike as a law enforcer, surely.

Chair: Shall we just be clear for the record? They were completely exonerated by the judge. "Walk away from justice" might be misinterpreted.



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Q28 **Shaun Bailey:** There is the risk that people could walk free, in theory, because of procedural failures. As a law enforcer, surely that is the ultimate risk that you have to balance.

Lisa Osofsky: Nobody is more devastated by that result than I am. I had a whole team that had worked on those cases long before I even got to the SFO. They had soldiered on night and day to bring that case to the court room. We asked for an adjournment. Our prediction was that we needed all of three months to correct this. It is not unprecedented. SFO cases have in past years been given a year to correct disclosure issues. That is because the judges understand that we are labouring under a very difficult system where disclosure is not perfect.

Q29 **Shaun Bailey:** No, I can appreciate that. I am conscious that I want to wrap up here, so this is my final question. You are undertaking a series of reviews into this now. Will you ensure that we, as the legislature, as Members of Parliament, get sight of the outcomes of all of those reviews irrespective of—we know the legislation—whether you have a duty to provide those? Will you ensure we get sight of the outcomes of all of those reviews both into Unaoil and into this?

Lisa Osofsky: There are two reviews. One is the one that I have commissioned by Brian Altman.

Q30 **Shaun Bailey:** I just need a yes or no for either or both.

Lisa Osofsky: The other one is being done by the Attorney-General. I cannot speak for the Attorney-General about whether she would be willing to share that report.

Q31 **Shaun Bailey:** You can say whether you would be comfortable with it being shared. Would you be comfortable with that report being shared as the leader of the SFO?

Lisa Osofsky: You mean my report.

Shaun Bailey: You report and—

Lisa Osofsky: Yes. I am comfortable with that for the report I have commissioned.

Q32 **Chair:** Ms Crotty, did you want to be clear on that?

Michelle Crotty: Yes. We cannot commit to the AG's report, because that is the AG's review, but the WMS this morning committed to publishing the findings of that review.

Shaun Bailey: The point I was trying to make, Chair, is that we want absolute transparency on this. That is ultimately the point I am trying to make.

Chair: An extra £2.5 million of taxpayers' money has been requested to be spent as a result of this. Although that sounds small, that is a lot of money that could be spent elsewhere. What we may well do, Ms Osofsky,



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is contact you outside of this Committee. Our sister committee, the Justice Committee, is also interested and oversees the work of the Attorney-General and the SFO more generally.

Q33 Sir Geoffrey Clifton-Brown: Good afternoon, Ms Osofsky. On the subject that Mr Bailey was raising at the end there, can you give us any estimated timings for these reports?

Lisa Osofsky: Yes. Brian Altman has told us that he will be able to produce his report in May 2020. From what we understand, David Calvert-Smith is also aiming for a short review, a three to four-month review. Both of those reviews are scheduled to be produced at roughly the same time this spring.

I am not doing the work, but I will be engaging with them very closely and carefully. I will be doing everything I can to get them everything they need, and nobody wants to see the results more than I do. I want to feed their recommendations into how we do our business. That is their estimate, not mine.

Q34 Sir Geoffrey Clifton-Brown: Are the facts materially different between the two cases? Otherwise it would make sense for the QC to investigate both.

Lisa Osofsky: The facts are different. In no way to minimise it, the Serco case was about a timing issue. We realised the mistake three months after we had the chance to do final adjustments. That meant we missed our window to alert our Treasury colleagues in advance as to what was happening. We got on the phone to them; we let them know, "We think there is something going on here. We are not sure exactly how bad it is". This was before the judge even denied our adjournment. That is that scenario.

In the scenario of Unaoil, it was a case where the judge oversaw and heard argument repeatedly on how to approach disclosure. In that case, we gave summaries and what are also known as sensitive schedules, which are schedules of what you are going to produce rather than all the underlying documents themselves. The judge at the trial level heard argument on that and decided that was an appropriate way to manage disclosure. The Court of Appeal disagreed.

I would say that those are two quite different scenarios. I commissioned the report into one of those, because I wanted to get right to the bottom of what went wrong in Serco and how I can make it better. We have seven trials coming up over the next year. We do not want to be in the position where this happens again. This other report was commissioned by the Attorney-General. It has just been announced today. It is a different scenario.

Chair: We are mainly here to focus on the excess vote issue.

Q35 Sir Geoffrey Clifton-Brown: I am interested to know what happened



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between 31 March and 26 April. Presumably, the judge told you on 31 March that your disclosure was incomplete. Did he tell you why it was incomplete? Why could you not have rectified it by 26 April?

Lisa Osofsky: Mrs Justice Tipples was the presiding judge. On 31 March we began the case. That started off the case. There did not appear to be any problems at that time.

Chair: It ran for three weeks.

Lisa Osofsky: It ran for just over three weeks. The disclosure problem appeared on 13 April. We then went back into court on 15 April. We had given the documents. The 13th was a Friday night or something like that. We ended up in court on the Monday after and we discussed that we were in this position. We had to give certain materials over. She then reconvened the case on 26 April. We had sought an adjournment, but an adjournment was denied. The case collapsed.

We only learned that the case had collapsed on 26 April. When we came into court on 26 April, we thought we had a workable solution where we would not be facing this quantum of wasted costs. We thought we might be in a situation where we could correct the disclosure mistake and come back again with a retrial, having corrected the problem. We did not let it lie with our Treasury colleagues, because we saw there was an issue in mid-April, the 13th and the 15th. We notified them informally that there was a problem; we just did not know how bad it was.

Q36 **Sir Geoffrey Clifton-Brown:** To cut to the chase, you have not yet had all the defence's costs, have you? How do you know that this excess vote is going to be adequate to cover your out-of-pocket costs, as it were?

Lisa Osofsky: We have actually paid. We paid over the money. We do know the exact amount.

Q37 **Sir Geoffrey Clifton-Brown:** The thing is settled now, is it?

Lisa Osofsky: That has been settled. Yes, it has. I assure the Committee that this is the first time we have had excess against our AME limit. If we had not had the Serco case, with the timing I just outlined, we would have been within our £1 million control limit. It is the sort of thing that is happening all the time at the SFO.

Chair: We are aware, but we are here because we are dealing with the excess vote for this period. That is why you are in front of us. We pick one of the excess votes each year, or more than one if necessary.

Q38 **Sir Geoffrey Clifton-Brown:** Will the excess vote cover all your costs? In other words, you will not be carrying any of the costs of this court case into this year.

Michelle Crotty: Can I just clarify, director? Sir Geoffrey, there are two cases. We are talking about the Serco case.



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Q39 **Sir Geoffrey Clifton-Brown:** Yes, the Serco case. That is the basis of the excess vote. Will the excess vote money, which we are looking at today and which Parliament will vote on, cover all your costs? You will not be carrying any of the cost over and above the excess vote into this year.

Lisa Osofsky: I understood what you were saying. Yes, it will. We will not have any carry-over. It will have been paid in full.

Q40 **Chair:** There is the £1 million control total and the £2.5 million. Is that what you are paying Serco or the defence?

Lisa Osofsky: No.

Q41 **Chair:** Can you give us the figure?

Lisa Osofsky: The figure that we are paying Serco is £2.7 million.

Q42 **Sir Geoffrey Clifton-Brown:** There is a £1 million provision; there is a £2.55 million excess vote. You have provided, in a sense, £3.55 million.

Lisa Osofsky: That is exactly right.

Sir Geoffrey Clifton-Brown: You are actually only paying out £2.7 million.

Lisa Osofsky: Yes.

Chair: Ms Corrin can give us the numbers.

Liz Corrin: There are other provisions that we have that were against our AME. Although the amount we paid to Serco was £2.7 million and that is what we provided against our AME, we do have other existing provisions that were eating into that £1 million AME control total.

Q43 **Sir Geoffrey Clifton-Brown:** We need a little bit of assurance going forward. You have told us that there are another nine cases. That is what you said earlier in evidence to Mr Bailey. You have also told us that the Supreme Court ruled that you had to make full disclosure rather than summary disclosure. That is going to take a huge resource, is it not? Do you have the resources in-house? Is it inevitable, along the lines of the questions that Mr Bailey was asking you, that you are going to have to outsource some of this to the private sector?

Lisa Osofsky: We have seven cases upcoming over the year, which is a lot for us. We are not the CPS. We are not in volume crime. That is a lot. That will require a lot of resource. We are prioritising what work we need to do and when we need to do it. We are focusing very much on the cases that are in court and we need to meet all the disclosure hurdles or requirements, which of course we take very seriously.

I am sorry. I did not hear the second part of your question.

Q44 **Sir Geoffrey Clifton-Brown:** You have seven cases. I am so sorry; I said nine. I will correct myself. It is seven. Given that the Supreme Court



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has now ruled that you are not allowed to give summaries—you have to give full bundle disclosure, in the old terms, though I accept they are probably electronic now—that is going to take a huge resource. Do you have that amount of resource within your organisation? Are you going to be forced to outsource some of it?

Lisa Osofsky: It was the Court of Appeal that said we need to provide more than summaries in this one case.

Sir Geoffrey Clifton-Brown: It only applies to one case.

Lisa Osofsky: I do not anticipate that it will be required in all seven of our cases or any other cases we have in the future to follow that process. That was a case-specific ruling by the Court of Appeal. Scheduling our material is part and parcel of how we manage these huge amounts of material. I would hope that we do not end up in the very situation you have envisaged, which would be absolutely unmanageable, where we have to provide every single piece of paper rather than describing bits of paper that we are turning over. We are not in as bad a position as you might be envisaging in your question.

Q45 **Sir Geoffrey Clifton-Brown:** You have internally learned lessons so far. We do not know what the QC is going to turn up or, indeed, what your own investigation is going to turn up. Can we be absolutely sure that you will do everything in your power to make sure this never happens again?

Lisa Osofsky: Yes. We have not waited for the QC. I saw the collapse on the 26th as a real call for change and strengthening our controls. We not only commissioned that report and did the deep dive into everything that we have in court, but we took a belt-and-braces approach to doing quality assurance around our disclosure process and figuring out whether we might have some weak links there in terms of document handlers who might not have quite followed the process in the way we would have hoped. We added a layer of sign-off by the heads of division. We have also rolled out across the organisation an advanced disclosure course for everybody who does disclosure, in other words our disclosure officers and their deputies, as well as a basic disclosure course for anyone who touches anything to do with disclosure.

To the best of our ability, we are doing everything we humanly can to make sure we are guarding against anything like this happening again. I am sure Brian Altman will have other recommendations. We want to feed his recommendations into our work. We are grateful for his time and focus on us. We are a learning organisation. We want to bring those lessons learned back into our organisation and to be better and stronger.

Q46 **Sir Geoffrey Clifton-Brown:** As a final question from me, given the huge workload of those seven cases—you said it was unprecedented—do you have sufficient budget in this year's accounts to be able to deal with that volume of work?



Lisa Osofsky: We believe we do, in the sense that we have had to prioritise our work. There are trade-offs. We may not be able to run every other investigation into every facet that we might want in an ideal world. We have a big job for a small organisation. We are doing the most serious and complex fraud and corruption, and we work with colleagues all over the world.

We have a lot on our plate, but, through our careful prioritisation and our focused work, I would like to think we are going to be able to deliver. We are considering outsourcing, as Mr Bailey elicited from me quite appropriately. We are happy to give you more figures about what our explorations have found, because we do think we are at a critical tipping point. We are operating with lots of digital material in a system that was developed in an analogue age. I am concerned.

Q47 **Sir Geoffrey Clifton-Brown:** I am sorry, Chair; I have one more question. You now worry me a little, because I can see that your workload arising from what has happened with all the various schemes during Covid could considerably increase. It does not sound to me as though you have any cushion in your budget to be able to take on that extra work.

Lisa Osofsky: We do have a 5% contingency that we hold, and we are entitled to make priority calls on what we do and do not do. I would be quite interested in helping solve some of the problems that Covid wreaked on our world, but in a sense we are in a lucky position. I do not have to take on a case at a particular time. I am not dealing with the aftermath of a robbery, a shoplifting or a gun crime. I am in a position where we can make priority decisions about where we think it is best to meet taxpayers' and citizens' needs, the needs of our nation.

If I could add one thing, I apologise that it is not exactly responsive, but I would like the Committee to be aware that, over the past five years, we are net contributors to the Treasury, to the Exchequer, of £1.3 billion. That is four times our budget.

Chair: We are not knocking that figure, but we have seen more loss and fraud in many other schemes, which dwarfs that figure. We are not diminishing that achievement.

Q48 **Peter Grant:** Ms Osofsky, can I pick up your comment from a minute ago when you were talking about the prioritisation of cases? You said that it was not as if you were dealing with the aftermath of a robbery. Could I suggest to you that, for the victims of financial crime, that is exactly what you are dealing with? On reflection, was your comment perhaps a bit insensitive towards the victims of financial crime?

Lisa Osofsky: I really appreciate you pulling me up on that. I totally agree with you. I have been fighting fraud since I was a baby junior prosecutor on the streets of Chicago, where I was first qualified. I have been dealing with the victims of fraud since I was fresh out of law school



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at 22. I could not agree with you more. My mother has been hit any number of times, as an elderly person.

If you were wondering whether we think about the victims of fraud or the victims of crime, we have been inspected by HMCPFI. We came out with a glowing review about how, under my leadership, we have turned things around. We are solicitous of victims; we work more closely with victims. I appreciate you bringing that out. You are 100% correct. If I sounded in any way callous, it is in no way my intent.

What I meant was that the kind of crime we do as an organisation is one where we are not reactive to every single incident. We are looking at, for example, London Capital Finance, where we have 12,000 victims up and down the country. Each one alone may not have lost Serious Fraud Office money, but, when you put it all together, we are talking about millions. More importantly, to your point, we are talking about people's life savings; we are talking about people's pensions at a time when they may be vulnerable. I agree with you 100%.

Q49 Peter Grant: Thank you for that clarification. As we have heard, in April last year you had a significant case that collapsed because of a failure to disclose everything that had to be disclosed. In December, you went to the Court of Appeal and had a conviction overturned, with the failure to disclose adequately again being a key element in that. What did you do after the April case to change the way you approached the upcoming appeal case in December last year?

Lisa Osofsky: In the April case, we commissioned the review by Brian Altman. We did a deep dive into the cases we had and put more controls around our quality control and quality assurance system. We also rolled out an advanced training programme to make sure that everybody who was dealing with disclosure understood the rules.

With the December case, it was on a different track and it involved a different sort of issue. That was a case where the team was proposing a way to deal with disclosure that was sanctioned by the court. The court agreed that we were doing disclosure right, as it were. The Court of Appeal disagreed with the trial court. They would be different lessons learned. In the first case, it was about missing material; in the second case it was the handing over of summaries rather than the actual documents that the Court of Appeal disagreed with.

Q50 Peter Grant: I want to look briefly at the use of deferred prosecution agreements. 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.

First of all, are you able to confirm that? Assuming the person got his



facts right, does that point to a systemic problem either in the way you use deferred prosecution agreements or in the practice of going after individuals after you have come to an agreement with the company?

Lisa Osofsky: I do not recognise his facts. I would take issue with his facts. They do not resonate and they do not reflect anything that I know about the case. I can tell you that the deferred prosecution agreement is something that Parliament enacted. It is a tool that Parliament enacted in 2014, and it allows us to hold companies to account for their actions.

You cannot put a company in jail. You can fine a company, which is what happens when we end up with a conviction as we had in GPT or Petrofac. Where we have convicted a company, it pays a fine and goes about its business. When you come to a deferred prosecution agreement, the corporate first of all has to agree to co-operate with us. They often save taxpayers' money, because it is an early phase. We do not have to be at the same standard of evidence when we enter into one of those agreements.

It was a brilliant move. It was authored by Edward Garnier, now Lord Garnier, when he was Solicitor-General. He understood that there was a benefit to following a system—I am getting too complicated. In the ordinary course of a case, we have to have a realistic prospect of conviction and it has to be in the public interest or we cannot bring an individual into court. With a DPA, we only need a reasonable suspicion that more investigation would yield that high standard. We can save many years of investigation and the uncertainties of trial, which we are talking about now. I know them as well, and the Committee is facing one today.

We are also able to exert certain influence over corporates to clean up their act. They have to come to us. In fact, Dame Victoria Sharp, who was the president of the Queen's Bench in the Airbus case—it was the biggest corporate corruption resolution of its kind; it netted the Exchequer just under €1 billion—said, "Look at what you have done. The company has turned out its pockets". She did not mean money. She said, "You have a new board, a new executive, new rules and lots of better behaviour".

Chair: When it goes well, we are all pleased to see that.

Peter Grant: It is not the remit of this Committee to look at the use of the DPAs. My concern and the Committee's concern is to get assurances that we are not seeing a regular stream of cases where either a lot of public money is spent on prosecuting individuals who are innocent or, alternatively, a lot of public money is spent on prosecuting people who are guilty but are acquitted in a court of law. From a justice point of view, it is a bad idea; as a way of spending public money, it is a bad idea as well. That is the kind of assurance that we are looking for on that.

Q51 **Chair:** Ms Osofsky, this situation has led to the taxpayer being asked to



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foot the bill to the tune of £2.5 million. Do you have anything to say to the taxpayers who might be watching today?

Lisa Osofsky: Yes. I am top of the house. I take responsibility for what happens in my organisation. I am desperately sorry. Whenever we spend a penny that is not in service of justice and bringing the people who are guilty of crime to book and to account, that is not the right result. It is certainly not what I have given my life to. My life's work has been in prosecution and law enforcement, trying to rectify bad behaviour by banks, for example.

I am deeply sorry that we find ourselves here today with—it is even worse—a £2.55 million overspend. I did not want to correct you, but I wanted to tell all. We wish we had been given that adjournment. We feel very strongly that we had a good case. We wish that case had been able to see the light of day. We think too few people are brought to book for fraud in this jurisdiction and, frankly, the world over; it is not just here. We played a part in making that less likely.

Q52 **Chair:** You are the main body to bring the big frauds to court. You have talked a lot about the lessons you have learned. How much money are you spending on this new training to make sure people do disclosure properly? Maybe Ms Corrin can give us that figure.

Lisa Osofsky: I do not have an exact figure.

Q53 **Chair:** Is it an additional cost, Ms Corrin, or is it considered as part of business as usual?

Liz Corrin: It is absorbed within our current budget. We have not spent additional money. A lot of the resources that we put into it are using internal experts and people who have lots of experience. They have been coaching, guiding and teaching other disclosure officers.

Q54 **Chair:** Looking back, Ms Osofsky, with the benefit of hindsight, what would you have done differently before this disclosure issue came to light? Could you have seen it coming?

Lisa Osofsky: I did not see it coming, but I am bound and determined to make sure that we are being very careful in our performance management, and making sure that everybody who is supposed to be doing a particular job is doing that job fully and to the best of their ability. I worry about situations where we have good controls but we perhaps find a weak link where a control has not been really backed with firmness and with real backbone.

Q55 **Chair:** Should you have seen it coming? As the head of the organisation, should you have seen that there might be weaknesses in the system?

Lisa Osofsky: I appreciate that I came into an organisation that was not perfect.

Chair: We knew that. That was probably one of the reasons why you



were appointed.

Lisa Osofsky: Yes. I have had a mission to try to change our organisation. I brought in two very able women and others who make up a very committed top team. We began a change programme shortly after I got there. We began a culture change programme, because I came to an organisation that was reputed—I was not there—to have had problems with bullying and silencing people.

Chair: Yes, we know some of the history about the SFO.

Lisa Osofsky: I have been committed to trying to change things for the better. There is not a single change that I thought should be made that I did not do. Believe me: if I had seen it, I would have done it. Every time I see a problem, we are working around the clock, 24/7, to try to get all of our changes put through to the best of our ability.

Q56 **Chair:** You have heard today that the Committee is very interested in this. We will be working with our sister committee, the Justice Committee, to make sure we are watching what we do. We have a system here where members of our Committee can sit on that Committee and vice versa. We both have our beady eyes on you.

Turning to my final question for you, Ms Osofsky, there has been some speculation in the media, particularly at the end of last year, about your future at the SFO. Will you be seeking an extension to your term of office?

Lisa Osofsky: We have an 84% success rate in our cases. I am not walking back and feeling in any way anything other than pride in what we have been able to deliver.

Q57 **Chair:** Will you be seeking an extension?

Lisa Osofsky: I have not decided.

Q58 **Chair:** Thank you for your honesty. Just before we finally finish, you mentioned Covid cases. Cases will have to pass your test of benefit to the taxpayer and to the public. Have you been asked to look at any Covid fraud cases to date?

Lisa Osofsky: We have. We built an intelligence division—that was part of my change programme—so we can spot trends, work in new areas and make our own rain, as it were, rather than wait for referrals and be reactive. What has come into our intelligence division includes some references to Covid. Remember that a lot of what we are seeing is volume crime—PPE overselling and that sort of fraud. Some of our type of cases may take a little longer to germinate, but I am keeping my beady eyes out for those types of cases.

Q59 **Chair:** Have you been asked by any other part of Government to take a particular look at any areas around Covid fraud?



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Lisa Osofsky: I see weekly reports from Whitehall about what sort of possible leads there might be in this area. It is not that I have been asked. I am part of a group—

Q60 **Chair:** You are seeing the dashboards of issues coming through.

Lisa Osofsky: Yes, dashboards of issues, some potential referrals and some deconflicting about which agency might be the right one for a particular sort of case. I am keeping an eye on what is coming through the pipeline on Covid and what might be out there. If there is one for us, I am going to grab it. It is very important.

Q61 **Chair:** With the seven cases you have, as Sir Geoffrey said, you are quite stretched. Will you have the capacity to deal with Covid fraud?

Lisa Osofsky: We are going to have to make prioritisation decisions. The seven cases that are going to court are going to court, period, the end. We cannot make any decisions there. In terms of what we take on in the future, I would be lying if I said we could do everything. We are going to have to make some decisions about what is the most pressing matter and what we are best equipped to do in our speciality area.

Q62 **Sir Geoffrey Clifton-Brown:** Again, I am concerned about this answer. I hope you will not let this afternoon's experience scar you. If you needed to go for a supplementary vote, rather than an excess vote, because you saw that there was work, for example, connected with Covid that needed your office's investigations, I hope you would not hesitate to do so.

Lisa Osofsky: I am very grateful. That could not be a better way to make an overture of a sort that makes me feel very supported. We do not want to ever say no to an important case. Thank you very much. We are very grateful.

Q63 **Chair:** Thank you very much. I just wanted to double-check what your contingency is for this financial year, Ms Corrin. You had the £1 million spare capacity for any problems last year. What is it this year? It is just to bottom out the number, which I am not quite clear that we got bottomed out.

Liz Corrin: This year we have both some contingency within our RDEL and the AME cover. As part of our supplementary estimate, we have asked whether we could up that AME cover to £3.5 million. We have asked for an extra £1 million in our AME. Within our own budget, within our RDEL budget, we have created a contingency for any unforeseen items that might come up.

Q64 **Chair:** Can you just be clear about what that extra annually managed expenditure capacity is for? Is it to do with this case?

Liz Corrin: It is not to do with Serco, no.

Q65 **Chair:** That is what I thought. I just wanted to be absolutely clear. What is it for?



Liz Corrin: The director has referred to the Unaoil case. We are currently working out the financial implications of that. We raised it with Treasury as soon as we got the judgment. That is one of the reasons we looked to increase our AME. We do not know at this particular point in time what our costs may be on that case. As we go through the process, we will keep Treasury and our NAO colleagues informed as to what the figures may be and whether that will be an AME provision at year end or a contingent liability. All of that needs to be worked through.

Q66 **Chair:** We are in February now. We are coming to the end of the financial year 2021-22. Will that additional AME cover you or are you expecting to come forward with an excess vote request?

Liz Corrin: At the moment, we believe that AME cover will be sufficient. However, we are in the hands of the court to a certain extent. 3 March is the next hearing.

Michelle Crotty: We are in litigation in relation to costs.

Liz Corrin: We will learn more. As I say, we have started to build some contingency into our RDEL and we asked for an uplift in our AME. Of course, there are other pressures on our AME; it is not just this case.

Chair: We hope—I hope and you hope—that you are not in front of us again next year on an excess vote request. It is important that we keep track of this, because it is the taxpayer who works hard and funds everything you do. We acknowledge that you do give money back to the taxpayer when things go well. Nevertheless, this is extra money that the taxpayer did not expect to be spent by the SFO.

Thank you for your time. The transcript of this session will be up on the website uncorrected in the next couple of days and our report will be coming out fairly soon. We have to report to Parliament by 23 February. Our report will be published in the days ahead of that. Thank you very much indeed for your time.