

## “I Will Be a Different Kind of Director”: Lisa Osofsky Outlines Her Priorities as New Director of the Serious Fraud Office

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On 3 September, Lisa Osofsky gave her inaugural speech as the new Director of the UK Serious Fraud Office (“SFO”)<sup>1</sup> to the annual Cambridge International Symposium on Economic Crime.

After a long period of transition following David Green’s departure in April this year, Osofsky’s speech was a clear marker in the sand. She addressed early on the any uncertainty about the status of the SFO going forward, promising to “[maintain] *the independence and prominence of this organisation*”, and noting the recent increase in core funding<sup>2</sup>.

With the confidence of a (relatively) secure future – both financially and politically – Osofsky has ambitious plans to develop the SFO over the coming years. She places much emphasis on co-operation, and an “*active and engaged approach*”. This, Osofsky believes, is the way to make “*strong cases – cases with impact*”. This does not just mean co-operation with local and international law enforcement agencies, but also with NGOs, the regulatory sector (including the Financial Conduct Authority), and the private sector.

Osofsky acknowledged that in order to deliver this collaborative and joined-up approach, the SFO’s use of technology must keep pace with changing times. She noted the particularly urgent need for the SFO to use technology to manage cases involving thousands – sometimes millions – of documents. One case in the SFO’s pipeline involves over 100 million documents; almost ten times the number of documents leaked in the Panama Papers. The SFO has spoken often about its efforts to use artificial intelligence in document reviews. In the recent Rolls Royce case, the SFO also used artificial intelligence to identify material subject to legal professional privilege (the “*LPP robot*”). Osofsky hopes to develop this technology further, so they can be more widely used. The SFO are also aiming to use artificial intelligence in a more substantive way, to identify and map out patterns in communications that would be challenging for human reviewers to detect<sup>3</sup>.

In addition to improving review technology, the SFO is also looking to enhance its intelligence gathering capabilities. Osofsky also plans to work with technology companies to address the issues posed by encrypted devices and platforms.

On the subject of DPAs, Osofsky noted that these were “no longer a US only phenomenon”.

However, she was also keen to pre-empt any suggestion that her background as a US prosecutor would automatically increase a company's chances of securing a DPA. As she pointed out, a DPA is not always the right tool for prosecution, and they will be offered only "*if appropriate – if in the public interest*". What this means in practical terms is that a company must demonstrate "*proactive efforts to clean house and to reform...backed by demonstrable commitment at the appropriate level*".

Osofsky was keen to establish at this early stage that she will be "a different kind of Director". By extension, we may find ourselves dealing with a different kind of SFO. Her vision is certainly wide-ranging. However, several key questions about the future of the agency remained conspicuously un-addressed. Despite the emphasis she placed on international co-operation, no mention was made of the potential impact of Brexit on the effectiveness of that co-operation. With many open investigations, some dating back almost 5 years, Osofsky made no reference to improving the efficiency and speed with which SFO cases are conducted. Although the SFO has received an increase in core funding, cases running to more than a £2.5 million annual spend will still require an application for 'blockbuster funding'. This means the largest, most complex cases – those which arguably the SFO should be concentrating on – could be on financially unstable ground. Osofsky's speech painted a picture in broad strokes, but the answers to these questions have a more practical bearing on the future shape of the SFO.

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<sup>1</sup> "*Ensuring our country is a high risk place for the world's most sophisticated criminals to operate*" (3 September 2018); <https://www.sfo.gov.uk/2018/09/03/lisa-osofsky-making-the-uk-a-high-risk-country-for-fraud-bribery-and-corruption/>

<sup>2</sup> "*Changes to SFO funding arrangements*" (19 April 2018)  
<https://www.sfo.gov.uk/2018/04/19/changes-to-sfo-funding-arrangements/>

<sup>3</sup> "*A digital game or a powerful weapon against boardroom crime?*" (4 September 2018);  
<https://www.bbc.co.uk/news/uk-45399995>