

Blog: SFO Annual Report shows progress

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David Green CB QC, The Director of the Serious Fraud Office (SFO), recently published his annual report (2013-2014) which gives the opportunity to reflect on the recent past and look to the future concerning the SFO's activities.

The SFO ran 8 prosecutions last year of 18 defendants with a conviction rate of 85%. It is relevant to note however that the numbers are quite small - 11 defendants were convicted of whom 4 pleaded guilty with 7 being found guilty by a jury. The SFO also opened 12 investigations last year and charged 35 defendants. Given the scale and complexity of the SFO's work this can be regarded as a modest success.

As regards the outlook for the future, the Director states that the SFO is "undertaking fewer but much larger and more complex investigations" and that the SFO has "expanded [its] analytical and intelligence capability, and currently [has] significant pre-investigation projects in development."

What will be of particular interest to watch as a development is the use of Deferred Prosecution Agreements (DPAs) that came into operation earlier this year with regard to the SFO's enforcement of the UK Bribery Act 2010. There have as yet been no public announcements of a DPA going through the system. DPAs are a tool for the SFO (and other government crime authorities) to try and reach a form of plea bargain with corporate offenders and thereby shortcut trials, time and cost. It will probably take some time for DPAs to bed down and so only time will tell whether DPAs are judged a success or not.

The SFO also appears to have had some regulatory woes of its own on a different front including a data loss (in 2012), which led to an investigation resulting in a 98% recovery of material. The incident was reported to the Information Commissioner's Office (ICO) as personal data had apparently been inadvertently sent to a third-party. The report states that the ICO undertook a site visit at the end of May 2014 and that the SFO have had a further 10 instances of data handling issues although no more details are given. Data losses are an all too frequent occurrence these days to which even top regulatory authorities are not immune.

Since the SFO's report was published we have seen some additional activity including:

- The settlement of the SFO's long-running civil actions with the Tchenguiz brothers.
- The sentencing of former Alba CEO Bruce Hall for conspiracy to corrupt, in relation to contracts for the supply of goods and services to a Bahraini Aluminium company.
- The laying of criminal charges against a UK subsidiary of Alstom after a tip off from Office of the Attorney General in Switzerland concerning large transport projects in India, Poland and Tunisia.
- The sentencing of 4 men connected with Innospec in connection with their involvement in a bribery scheme in Indonesia and Iraq. Mr. Green said of the prosecutions "This successful conclusion to a long-running investigation demonstrates the SFO's ability and determination to bring corporate criminals to justice." The SFO also secured a guilty plea from the company with fines being imposed in the UK and the US after co-operation between the SFO and authorities in the US, Indonesia, Switzerland and Singapore.

It is clear from both the report and the activity of the last few weeks that those who think the Bribery Act 2010 is dead have spoken too soon. The SFO are right to focus their resources on the most complicated cases and the Crown Prosecution Service (CPS) have also used bribery legislation to bring less complex cases to court. Complex cases take longer to reach court, especially given the need for co-operation with foreign law enforcement agencies. It is likely that the next few months will see more activity as announcements are made in some of the SFO's ongoing investigations.

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