SFO
Serious Fraud Office

Annual Report 2007/08

Front cover picture: the Houses of Parliament viewed from the London Eye

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Annual Report

from 5 April 2007 to 4 April 2008

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Letter to the Attorney General

It is with great pleasure that I present my report on the work of the Serious Fraud Office for 2007/08. During the period covered by this report Robert Wardle was the Director. He retired in April after five years of leading the SFO and I would like to pay tribute to his achievements throughout a career committed to public service and in particular to the criminal justice system.

This year marks the twentieth anniversary of the Serious Fraud Office. The year after the SFO's foundation the World Wide Web began; it was only in the late 1980's that mobile phones became affordable for many people and in 1998 Google was founded. The dramatic advances of technology have had an influence on all our lives and are reflected in the way that fraudsters operate. As legitimate businesses have become global so too has fraud and most of the cases we are currently investigating are not restricted to Britain's shores.

With such changes to the fraud landscape it is right that a review of the SFO was commissioned by our respective predecessors. It was undertaken by former New York prosecutor Jessica de Grazia and made public recently. Those recommendations which relate to the operation and management of the SFO, are still being carefully considered. But I have made a number of changes already designed to strengthen the leadership team in the SFO, to improve staff training and to shorten the time it takes to get our cases into court.

In our twentieth year I think it right too that we review not just the mechanics of what we do and how we do it but the role society wants us to play in the future. In my view to protect society from fraudsters, the needs of victims must be central to what we do. We will focus on:

- pursuit of fraudsters through early identification and investigation
- prosecution of fraudsters
- bringing justice to victims through very early prosecution followed by compensation for the victims
- helping members of society protect themselves from fraud. I am very anxious for instance that we engage with schools and other interested groups on all of this.

All of this matters very much to me personally. I want to build on the skills and expertise of the dedicated staff in the SFO so that in the next 2-3 years we will be recognised as:

- an organisation with top level skills in every aspect of the investigation and prosecution of complex fraud, both within the UK and internationally
- being at the forefront of the identification and prosecution of new complex frauds and ready to cope with any novel attacks
- a much more focused and co-ordinated organisation
- more proactive in identifying and dealing with fraud. We are supporting fully, for instance, the establishment of the National Fraud Strategic Authority (NFSA)
- an organisation which helps people protect themselves

I cannot stress enough how important it is that we make society safer and that the SFO is regarded as playing a key role in reducing the misery and hardship that fraud can produce.

As we look to the future it is important to recognise our achievements over the past 12 months.

Overseas we are investigating corruption. Almost a third of our cases under investigation now fall into this category. Money creamed off through foreign aid initiatives, for example, is money that simply isn't available to the people in those countries that need it most. I am committed to doing all I can about this evil.

There have been significant developments in a number of our fraud cases. Seven trials were completed at court involving 25 defendants and though there were fewer court cases than in previous years the SFO's prosecution endeavours were largely successful. A high profile case in the corporate sector, Independent Insurance Plc, was successfully brought to a conclusion when all three company directors were convicted.

Of course, not all SFO cases hit the headlines but they still require tenacity, skill and determination to bring to a successful conclusion. In all our cases, 17 of the defendants were convicted, and only one case resulted in no convictions. The conviction rate is frequently applied as a measurement of performance and this year it has been 68%, comparing favourably with the previous five-year rate of 61% and matching closely the long term 20 year average success rate of 69%.

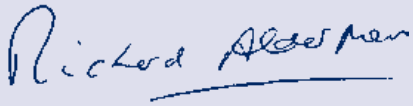
The types of fraud we investigate are as varied as the victims of those frauds: major corporations, small businesses, the investing public, state funded schemes and overseas exchequers. These victims all feel the effect of unscrupulous and dishonest fraudsters. For many people, fraud is still seen as a victimless crime. In my experience this is not the case. The lives of individuals – taken in when they are often at their most vulnerable through age or bereavement – are often destroyed.

The SFO works with other agencies at home and overseas to minimise the effects of fraud. I will be consulting with a wide range of stakeholders and interest groups to see what more we can do not only to bring the fraudsters to account but to develop in society a greater awareness of the threat of fraud. Prevention through education is a new aspiration I have for the SFO.

I have mentioned the technological changes over the 20 years since the formation of the SFO. In the fight against ever more sophisticated fraudsters we constantly rely on technology to help us. This year we launched a new Digital Forensic Unit which uses state of the art techniques to obtain information hidden from us and other law enforcement agencies on computers, mobile phones, i-pods, X boxes and other devices. We use computers too, to help us manage the massive and increasing documentation associated with complex fraud cases. Indeed one of our cases stored on its own computer bank contains 130 terabytes of information – the equivalent of 130,000 truck loads of paper.

Since taking up my appointment in April I have spent much time meeting as many people within the organisation as possible. I am inspired by the level of commitment and satisfaction they have in being part of the SFO's important and challenging work. I am also proud of our contribution to building the capability of other organisations – in Britain and overseas – sharing our experience and expertise with others in the fight against fraud and corruption. But I want to enhance those strengths and develop further the skills we have. I want to see the SFO as an organisation where potential is maximised.

I take this opportunity of thanking all the SFO staff for their hard work and success over the past year. I look forward with them to making the SFO even more successful in the coming year. I would like to thank too those on the Management Board including the non-executive directors in particular for their help and guidance and also to you and your staff for all your support.



RICHARD ALDERMAN

Aims and objectives

The Serious Fraud Office aims to contribute to:

a) reducing fraud and the cost of fraud;
b) the delivery of justice and the rule of law;
c) maintaining confidence in the UK's business and financial institutions.

To achieve these aims the SFO:

a) takes on appropriate cases, investigates them and brings them to a successful conclusion as quickly as individual circumstances allow; and,
b) when a decision to prosecute is made, prosecutes fairly and in a way that enables the jury to understand the issues.

In carrying out its aims and objectives the SFO will:

a) work effectively and efficiently;
b) co-operate with other agencies and overseas jurisdictions;
c) ensure that its activities, and the way they are reported, contribute to deterring fraud; and,
d) work with other law enforcement agencies to help reduce fraud through education.

Criteria for acceptance of cases

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

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

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

The Old Bailey

1 Our work

During the 2007/08 report year seven trials were completed involving 25 defendants, of whom 17 were convicted and eight acquitted by order of the judge; a conviction rate for the year of 68%, which is consistent with the long-term average of 69%. Sentences of imprisonment ranged from eight months to seven-and-a-half years. In addition, 12 were disqualified from acting as company directors and four were made subject to confiscation orders.

Looking at aggregate prosecution results for the past five years (2003-08), 166 defendants have been tried (in 67 trials) and 102 of them convicted; a conviction rate of 61%. While this year saw little change from recent years in terms of numbers of prosecutions there was a substantial increase in the speed with which we were able to get cases to court. This year we transferred eight cases to the Crown Court and on average each case was transferred 25½ months after it had been accepted for investigation – around half the time taken for comparative cases in 2005/06 and 2006/07 (the figure excludes the unusual case of R v Advani). In the coming year we will see an increase in the number of trials too with 14 cases involving 44 defendants expected to be tried in 2008/09.

Major cases

There were significant developments in a number of our major cases: a legal challenge to the pharmaceuticals price-fixing case (Operation Holbein) went to the House of Lords; the SFO was subject to judicial review in respect of the BAe/Al Yamamah case; the trial concerning the investment business Imperial Consolidated Group began. At the year-end the trial relating to RBG Resources, the metals trading firm, was coming to a close and proceedings against Severn Trent Water Limited were also nearing conclusion. In both cases convictions were achieved shortly after the end of the report year.

Cases completed

Completed cases are those that have had a judicial conclusion to the charges brought against the defendant(s). In some cases there may be matters outstanding such as confiscation or an appeal.

Brief summaries of completed cases are provided below. The outcomes have generally already been announced by press release as they occurred (assuming no legal restriction applied). Press releases can be examined at www.sfo.gov.uk or by contacting our press office (tel. 020 7239 7004/7190/7132; press.office@sfo.gsi.gov.uk).

Cases under investigation

This report does not list cases under investigation where no charges have yet been brought. Not all will necessarily result in a prosecution. Investigations are confidential for operational reasons and we also have a duty to consider the reputational or financial risk to individuals, companies or institutions that publicity might attract. Some of our investigations are public knowledge; many are not. Only where we believe that it is in the public interest to reveal the existence of an investigation will we do so.

Completed cases

The key to the case entries:
(a) Case name
(b) Defendant(s)
(c) Court where the trial was heard and judge presiding
(d) Date of judgement or sentencing
(e) Principal allegation
(f) Police force supporting the investigation

Fraudulent invoice discounting

a) EWE
b) Anthony Prudhoe, Michael Bird, Mark Grainger and Linda Straughan
c) Leeds Crown Court, HHJ Durham-Hall QC
d) 17 May 2007
e) Conspiracy to defraud, fraudulent trading
f) Northumbria Police

The EWE (Engineering With Excellence) group of companies was based in Newcastle and controlled by its chairman Anthony Prudhoe. It provided services to companies in the engineering sector, often on projects connected with the UK oil and power generation industries.

The fraud, which operated between 1996 and 2000, involved submitting more than a thousand false invoices (amounting to over £85 million) to invoice discounting facilities with three financial institutions. The net loss to these institutions was more than £7.5 million.

The investigation opened in 2000. Prudhoe, the principal suspect in this case, absconded to Jordan in 2002. He was returned to the UK in 2006 whereupon he and his three co-defendants (all employed by EWE) were charged. In March 2007 Prudhoe and Bird pleaded guilty to all counts of fraudulent trading on the indictment. Grainger and Straughan were tried in April 2007, found guilty on 16 May, and sentenced the next day.

Prudhoe and Bird received sentences of imprisonment of seven years and two years respectively; Grainger received two years and three months, and Straughan two years.

On 21 January 2008 confiscation orders totalling £439,430 were made against all four defendants; these must be paid within 12 months. (Grainger is appealing against his confiscation order.) It was also ordered that two financial institutions who suffered loss should be compensated from the confiscation.

Corruption to secure IKEA contracts

(a) Godfrey & Warner Ltd
(b) Paul Appleby Walker, John Brown, Maria Brown, Adam Hauxwell-Smith, Leisa Hauxwell-Smith and Paul Hoult
(c) Birmingham Crown Court, HHJ Eccles QC
(d) 6 September 2006
(e) Conspiracy to defraud and corruption
(f) Nottinghamshire Police

A supplier and two IKEA executives colluded to avoid IKEA'S 40% turnover rule, designed to prevent suppliers becoming over-dependent on its custom. The supplier, Adam Hauxwell-Smith, set up a number of companies, including Godfrey & Warner Ltd, to trade with IKEA in a way that gave the impression of unconnected suppliers and which masked the fact that virtually all of his trading was with the home furnishings retailer. IKEA executives John Brown and Paul Hoult (responsibile for purchasing and retail sales respectively) accepted bribes from Hauxwell-Smith to help with the deception by approving orders and invoices. Ultimately, through this corrupt arrangement, the supplier was able to dictate which goods IKEA took from him and in what quantities. These events, which involved inducements totalling almost £1.3 million, took place during 1998-2000.

The investigation, which opened in February 2001, was prompted by an IKEA complaint. Charges were brought in July 2004 and, in September 2006, before trial, all three above-named defendants admitted the offence of corruption contrary to the Prevention of Corruption Act 1906. They were sentenced on 11 October 2007: Adam Hauxwell-Smith to three years' imprisonment (and disqualified from acting as a company director for eight years); Brown, two years (and a £15,000 contribution to prosecution costs); Hoult, thirteen months (subsequently reduced to six months on appeal).

All denied the offence of conspiring to defraud IKEA and Hauxwell-Smith denied a charge of witness intimidation. Those charges were left on the file. No evidence was offered against the three other defendants for whom not guilty verdicts were recorded.

Insurance company collapse

(a) Independent Insurance Group
(b) Michael Bright, Philip Condon and Dennis Lomas
(c) Southwark Crown Court, HHJ Rivlin QC
(d) 24 October 2007
(e) Conspiracy to defraud
(f) City of London Police

This case is featured in detail starting on page 11.

Fraud and conspiracy to corrupt a US official

a) Dobb White & Co
b) Shinder Gangar and Alan White
c) Birmingham Crown Court, HHJ Langstaff QC
d) 22 February 2008
e) Conspiracy to defraud and conspiracy to corrupt
f) Devon and Cornwall Constabulary and Leicestershire Constabulary

For more details see page 7.

Bottled gas just thin air

a) Alta Gas
b) Peter Bradley and Peter Stott
c) Liverpool Crown Court, HHJ Globe QC
d) 27 March 2008
e) Fraudulent trading and false accounting
f) Merseyside Police

For more details see page 8.

Dobb White & Co

Kwadjo Adjepong, case controller for Dobb White and Alta Gas
(see page eight)

February 2008 saw the culmination of a long and complex SFO investigation; hundreds of witness interviews, and evidence collected from ten jurisdictions, had resulted in long jail sentences for two Midlands accountants guilty of participating in a US$200 million investment fraud and a conspiracy to corrupt a very senior official in the US justice system.

Shinder Gangar and Alan White were partners in accountants Dobb White & Co., with offices in Leicester and Nottingham. In addition to providing traditional accounting services they promoted a high yield investment scheme; prospective clients were promised returns of up to 160% and misled into believing that Gangar and White had already signed up celebrity investors, including Lord (Andrew) Lloyd-Webber and Sir David Frost. Victims were further reassured by promises that their money was insured against loss.

But Gangar and White's operation was not a scheme but a scam; a 'Ponzi' fraud in which there is no real underlying investment trading and instead a plausible façade is maintained by using some of the money invested by new 'clients' to finance bogus interest payments to established participants. Meanwhile Gangar and White transferred the rest of the money to off-shore accounts and used it to purchase properties, make speculative investments, and to provide unsecured loans to acquaintances.

In particular, Gangar and White invested in a scheme known as the Vavasseur Programme controlled by an American named Terry Dowdell who claimed to be generating big profits through bond trading. Unknown to Dowdell's victims this scheme too was a Ponzi fraud and the new money he received was used not to invest or trade but to pay 'interest' and capital to existing Vavasseur clients and, of course, to fund his lifestyle.

When Dowdell was arrested by the US authorities the funds in the Dobb White/Vavasseur scheme were frozen; Gangar and White could no longer access accounts needed to sustain their own fraudulent activities. During the course of the US investigation it was discovered that, in a desperate attempt to help free-up the frozen money, the two men had conspired to make payments of more than US$250,000 to Dowdell, in the mistaken belief that he would use the money to bribe the US attorney general!

The SFO investigation that began in September 2002 arose out of action taken by the FSA and another successful SFO case, brought against Michael Summers who had also perpetrated a high-yield investment fraud (details of which can be found in the 2006/07 annual report). Gangar and White were charged in October 2005. The complexity of the case, the sophisticated nature of the scam, and the substantial number of people defrauded, meant that the SFO investigation team – working with Leicestershire Constabulary's economic crime unit – needed to gather evidence from ten countries and to interview hundreds of people. The result, however, easily justified this massive amount of painstaking work. Gangar and White each received custodial sentences totalling seven-and-a-half years – six years for conspiracy to defraud plus a consecutive term of eighteen months for conspiracy to corrupt. Both men were also disqualified from being company directors for 12 years.

In his summing up Justice Langstaff singled out for praise the quality of the SFO's investigation and case preparation: *"I would like specifically to say something about the degree and care of preparation of the case for the Crown. It has struck me throughout as having been comprehensively, carefully and meticulously prepared … it has not escaped my notice that parts of it have taken a very long time indeed to unravel, and those who have been involved in that deserve commendation – and they have it."*

Fictional trades in computer components

(a) Ravelle Limited
(b) Raymond Nevitt, Jeremy Greene and Kay Boardman
(c) Manchester Crown Court, HHJ Steiger QC
(d) 27 March 2008
(e) Fraudulent trading
(f) Greater Manchester Police

The SFO investigation opened in June 2001 and the defendants were charged in February 2005. Boardman pleaded guilty to one count of fraudulent trading in April 2006. The trial of Nevitt (*in absentia*) and Greene opened on 8 January 2008 and guilty verdicts in respect of them both were delivered on 27 March. Sentences were passed on 20 May 2008: Raymond Nevitt (sentenced in his absence – he absconded in 2006) 45 months' imprisonment and disqualification from acting as a company director for ten years; Greene, 21 months suspended for two years and disqualification from acting as a company director for five years (also ordered to make a contribution of £20,000 to Crown costs); Boardman, eight months' imprisonment suspended for 12 months and disqualification from acting as a company director for two years.
(This trial followed the conclusion in October 2006 of a linked case in which Nevitt was convicted of conspiracy to defraud a government training fund. Nevitt was granted bail following his conviction in the first trial and absconded before sentencing. Details of the first trial were not published at the time for legal reasons.)

Alta Gas

For several years after its launch in 1994 the Merseyside bottled gas company Alta Gas, founded by Peter Bradley, appeared to be a thriving and highly profitable business. So convincing was this impression that the company won awards for entrepreneurialism and soon attracted significant amounts of private equity investment.

But behind the façade of legitimacy lay a very different truth. An SFO investigation, which began in late 2001, discovered that the company's rapid growth had been faked by directors who created dozens of bogus customers to give the impression of a full order book and strong cashflow.

From the time Alta Gas was incorporated in 1994, Peter Bradley enjoyed a sumptuous lifestyle; a house overlooking the Royal Birkdale golf course, an apartment in central London, a £5 million villa in Spain. But the only thing that was really growing rapidly was the company's accumulated loss. Fictitious sales were being used to give the impression of rapid and continuous growth. Using bogus company accounts the directors then persuaded three financial institutions to invest: venture capital firm 3i committed £2 million in 1998; in 2000 Mezzanine Management loaned £30 million; and Barclays Capital provided a £6.5 million overdraft facility.

But during 2001 the business's true losses began to take their toll. To mask the problem Bradley sold £10 million of his own shares to Mezzanine and used the money to inject large sums, while hiding the true source of the funds. In a desperate attempt to shore up the operation the directors entered into negotiations for a further £70 million investment from Barclays Capital. The bankers' scrutiny of the Alta Gas accounts during the due diligence phase raised significant concerns and the loan was delayed when PricewaterhouseCoopers questioned the company's solvency. Finally, in late 2001, now deprived of new cash to keep the fraud afloat, Alta Gas collapsed completely.

An SFO investigation opened almost immediately and was conducted in close co-operation with Merseyside Police. Three years of meteoric growth had, in fact, been built on some £27 million of false invoices; much of the gas traded had never existed having been either falsely invoiced or 'sold' to fictitious customers. Creditors lost around £44 million.

When the SFO sought to interview Bradley in 2005 he fled abroad. He was finally arrested in Spain in November 2006 and returned to stand trial alongside his former finance director, an unqualified accountant named Peter Stott. Bradley initially pleaded not guilty to all charges, but at the opening of the trial on 27 March 2008 he changed his plea to guilty (one count of fraudulent trading) and was sentenced to four years' imprisonment and disqualified from acting as a company director for ten years. Peter Stott, having pleaded guilty to six counts of false accounting, was sentenced to two years in prison, and disqualified from acting as a company director for five years.

Case against menswear retailer executives dismissed

a) Ciro Citterio Menswear plc
b) Don Ashford, Gary Stewart, Ian Stewart, Ramesh Sthankiya and Paul Syres
c) Birmingham Crown Court, HHJ Ross QC
d) 18 April 2007
e) Conspiracy to defraud
f) West Midlands Police

Ciro Citterio Menswear plc traded as a fashion menswear retailer and, at its most successful, had one hundred and fifty stores throughout the UK. Sthankiya was the finance director; the other defendants were suppliers. During 2000 it began to encounter trading difficulties and the management accounts for that year showed losses of over £1 million. By March 2001 the company was struggling to meet its cash obligations and creditors were withdrawing credit.
The directors applied for administration. Further investigation by West Midlands Police and the administrators discovered multiple finance deals and the financing of equipment which, they believed, either did not exist or the price of which was grossly inflated. The defendants were charged in January 2005 with conspiring to defraud finance companies through fraudulent invoicing. The case was dismissed on 19 April 2007 as an abuse of process because of the time it had taken to prepare unused evidential material. The defendants were acquitted.

Proceedings underway

As at 4 April 2008

This section lists the cases where proceedings are underway at the end of the reporting year (4 April 2008). *Developments in proceedings that post-date the year-end are appended in italics so as to be as up-to-date as possible at the time of publication.*

Where names and details are not given it is because there are publication restrictions ordered under the Contempt of Court Act 1981 or other legislation.

The supporting police force (or other assisting investigating authority) is named in brackets under each summary.

R v Jared Brook, Lincoln Fraser and Nicholas Fraser

The Imperial Consolidated Group specialised in promoting high yield investment opportunities world-wide. The defendants, former directors of ICG, appeared at Lincoln Magistrates' Court in June 2006 charged with conspiracy to defraud investors. The trial opened at Blackfriars Crown Court on 31 March 2008 and is currently underway.

(Investigated with Lincolnshire Police)

R v John Potts, Peter Gosling, Peter Graham, Natalie Howell and Eric Armstrong

The defendants were the directors of the Practical Property Portfolios group of companies. They appeared at Newcastle Magistrates' Court in July 2007 charged with one count of conspiracy to defraud, alleging that they defrauded investors in relation to a buy-to-let property investment scheme. The trial is scheduled to begin on 5 January 2009 at Newcastle Crown Court.

(Investigated with Northumbria Police)

R v Nigel Heath

Nigel Heath, a solicitor, appeared before Leicester Magistrates' Court on 3 May 2006 charged with conspiracy to corrupt. A trial is scheduled for 22 September 2008 at Birmingham Crown Court.

(Investigated with Leicestershire Constabulary)

R v Jonathan Shulton and James Cahill

The defendants appeared at City of London Magistrates' Court in July 2006 charged with conspiracy to defraud and a number of counts of fraudulent trading. In addition, Shulton is charged with theft and dishonestly retaining wrongful credit. The trial is scheduled for 8 September 2008 at Southwark Crown Court.

(Investigated with Hertfordshire Constabulary)

R v O'Neill and others

In this case (Operation Holbein) nine individuals and five companies appeared at Bow Street Magistrates' Court in April 2006 on charges of conspiring to defraud the National Health Service. The individuals, executives of drug companies, are Denis O'Neill, John Clark, Jonathan Close, Nicholas Foster, Luma Auchi, Michael Sparrow, Anil Sharma, Ajit Patel and Kirti Patel. The companies are Kent Pharmaceuticals Ltd, Norton Healthcare Ltd, Generics (UK) Ltd, Ranbaxy (UK) Ltd and Goldshield Group plc. A sixth company under investigation, Regent-GM Laboratories Ltd, is in liquidation and therefore not charged.

(Investigated with Metropolitan Police)

R v Malcolm Bradley, Christopher Darke, Paul De Rome, Martin Shaughnessy, Frederick Taylor and Ian Whittock

This case relates to the promotion to investors of a high yield bank instrument trading programme (claimed to be backed by insurance and bank guarantees issued by the Panacea Bank of Nauru and the MFC Bank of Nauru). The allegation is that clients' funds were instead secretly invested in a gold ore processing business in the US which ultimately produced no gold and that the insurance and bank guarantees either did not exist or were worthless. The defendants were charged on dates in January and April 2006 with conspiracy to defraud and other offences. A trial is due to open at Liverpool Crown Court in September 2008.

(Investigated with Cheshire Constabulary)

R v Asil Nadir

Asil Nadir was charged in December 1990 with 66 counts of theft from Polly Peck International plc. In 1993 he left the jurisdiction for northern Cyprus from whence he cannot be extradited. In 2000 he made an application to have the indictment stayed on the grounds that to proceed would be an abuse of process. On 30 January 2001 Mr Justice Potts held that Nadir's application was in itself an abuse whilst he remained abroad and refused to submit to the jurisdiction of the court.

(Investigated with Metropolitan Police)

R v Kevin Foster

It is alleged that Kevin Foster purported to operate an investment business, called the KF Concept, which attracted investments worth £35 million to what was, in reality, a form of pyramid scheme. He appeared before Sittingbourne Magistrates' Court in May 2007 charged with offences under the Financial Services and Markets Act and the Theft Act. The case has since been transferred to Kingston Crown Court and a trial date set for 12 July 2009.

(Investigated with Kent Police)

R v Nigel Thorne and Christopher Maguire

The Ken Thorne Group of companies, a motor car dealership, went into liquidation in September 2002. It is alleged that a number of finance companies have been deceived as to the title to vehicles. Nigel Thorne, a director of the business, and Chris Maguire, a supplier, appeared before City of London Magistrates' Court in October 2007 charged with conspiracy to steal, forgery and theft. The case has been sent to Southwark Crown Court. The trial date is set for 2 February 2009.

(Investigated with South Wales Police)

R v Andrew Thorne

This case arose out of the collapse of the **Ken Thorne Group** (see above). Andrew Thorne, a manager at the dealership, is alleged to have asked customers to make out cheques in his name and then paid them into his personal accounts. He appeared at the City of London Magistrates' Court in June 2007 charged with theft. The trial is due to begin on 4 August 2008 at Blackfriars Crown Court.

(Investigated with South Wales Police)

R v Philip Bates and Daniel Lesser

Philip Bates and Daniel Lesser traded as **Anderson Owen Limited**. They are suspected of providing false insurance policies in order to obtain commissions from insurance companies. They appeared at City of London Magistrates' Court in July 2007 charged with conspiracy to defraud and three counts of fraudulent trading. The trial, at Croydon Crown Court, is scheduled for 3 November 2008.

(Investigated with City of London Police)

R v Vasant Advani

The defendant left the jurisdiction in the mid-1980s while facing an investigation into companies he controlled and which banked with JMB. Despite efforts to extradite him he did not return to the UK until summer 2007 for medical treatment. He was arrested on 9 November 2007 under an outstanding domestic warrant and appeared before City of London magistrates on 25 January 2008 charged with various offences of fraud. A date for trial has yet to be set.

(Investigated with City of London Police)

R v Severn Trent Water

Severn Trent Water Limited was notified in November 2007 that it was to be charged with offences contrary to the Water Industry Act 1991.

On 8 April 2008 Severn Trent Water pleaded guilty at City of London Magistrates' Court to the deliberate provision of false leakage estimates to Ofwat in its returns to the regulator for the years ending June 2001 and June 2002. The charge relating to the June 2000 return was withdrawn. On 1 July 2008 at the Central Criminal Court the company was fined.

(Investigated with West Midlands Police)

R v Mark Mckenna, David Nelson and Stewart Nicholson

The defendants, through **Market Forces IT Training Consultancy Ltd**, fraudulently obtained Learning Skills Council funding by falsifying student numbers on courses. They were charged in May 2007 with conspiracy to defraud and fraudulent trading. (Extradition of a fourth conspirator, Raymond Nevitt, has been applied for.) *On 3 May 2008 at Manchester Crown Court, following guilty pleas, McKenna was sentenced to 120 hours community punishment, Nelson to eight months' imprisonment suspended for 18 months and Nicholson to 15 months' imprisonment suspended for two years. All three were disqualified from acting as a company director for four, eight and nine years respectively.*

(Investigated with Greater Manchester Police)

R v Njall Hardarson, John Charles Hallworth, Mark Atherton and Gillian Atherton

The defendants have been charged (at various dates earlier this year) in relation to their alleged operation of a number of 'boiler room' frauds, which involve high pressure selling of shares in non-existent companies. Hardarson's trial is set for 8 September 2008 at Ipswich Crown Court.

(Investigated with the constabularies of Norfolk and Suffolk)

R v Anand Jain, Virendra Rastogi, Gautam Majumdar and Jayeshkumar Patel

RBG Resources plc was a metal trading business based in London, controlled by chief executive Virendra Rastogi and other directors including Jain and Majumdar. In May 2002 it went into provisional liquidation owing creditors US$420 million. The SFO commenced an investigation.

Banks in the UK and elsewhere had been persuaded to lend large sums secured, in effect, by money owed to RBG by its own customers. But these debts proved valueless as the transactions were not, as the banks believed, with independent third-party customers but with shell companies controlled by the Rastogi family. The four defendants were charged with conspiracy to defraud and the trial commenced on 3 September 2007 at Southwark Crown Court. *On 22 April 2008 Rastogi, Jain and Majumdar were found guilty. On 5 June Virendra Rastogi was sentenced to nine-and-half-years' imprisonment and disqualified from acting as a company director for fifteen years. Anand Jain was sentenced to eight-and-a-half years' imprisonment and disqualified as company director for ten years. Gautam Majumdar was sentenced to seven-and-a-half years' imprisonment and disqualified as company director for ten years. The case against Patel was dismissed at the end of the prosecution evidence and he was acquitted.*

(Investigated with City of London Police)

Other proceedings prior to year-end

There are two other cases where proceedings have commenced. They cannot be reported for legal reasons.

Proceedings commenced since year-end

- R v Alan Richardson in connection with his credit finance business MFC Finance Ltd.
- R v Alan Edwin Gardner in connection with alleged deception of overseas investors and a non-existent foreign exchange fund.
- R v Saleem Kiani, Christopher Fox, Robert Green and William Lane in relation to the collapse of Wavetown Ltd, Uno Shopfitting and Abbotts Wholesale Ltd.

Minster Court in the City of London, where Independent Insurance had its HQ

Case study:
Independent Insurance

When the truth won't do

It is a feature of the collapse of a major company due to fraud that when the end finally comes it is often so swift it takes the breath away. Frequently the outside world has had little idea that the company was living on the brink, or of how long it has been teetering there. But when that company is a major industry player of 15 years, and its larger-than-life chief executive has just been made the industry's new figurehead, then the shockwaves can last for a decade or more.

On 6 March 2001 the Independent Insurance Group published its 2000 results. Doubtless shareholders and other interested parties were all to some degree relieved. The previous year had been a bumpy one for the insurance industry. But here was 'Indy', the innovative and unorthodox brainchild of a man called Michael Bright, still showing decent returns. Group profits on ordinary activities (ie, minus short-term investment returns) had dropped to £22.2 million from £61.5 million the previous year, but this was still a reassuring performance in trying times.

Independent, now the ninth largest general insurer in the UK, had been built up from modest beginnings over more than 20 years by Bright and his long-time friend and partner Philip Condon. Their paths had first crossed in 1967 at Orion Insurance; Bright was 23-years-old and Condon just 18. Ten years later, when Bright took on a general management role, Condon became one of his senior field managers. They began to talk about what they would do differently if the show was theirs to run. Soon 'Brighty's' team, with Condon now his trusted No.2, was getting noticed. In 1982 the two men moved together to Lombard taking some 50 colleagues with them. In 1986, when venture capitalists bought out the UK business of US insurer Allstate Insurance, it was 42-year-old Bright they turned to to run what would become Independent Insurance. In 1993 Bright steered the company onto the stock market, in the first flotation of a general insurer since the war, and for seven years Independent could do no wrong – or so it appeared.

In 2000 the Chartered Insurance Institute made Bright its new president. His detractors noted that few previous presidents had been quite so eager to wear the chains of office. Big and hearty, radiating a brash certainty, and with his company's seemingly unstoppable rise to his credit, Bright, if not quite a living legend, certainly knew how to play the part.

In his 2000 CEO's review Bright wrote confidently: Independent was a *"quality operator, well-placed in an improving market"* whose unique and long-standing practice of having its reserves vetted by an independent firm of actuaries, Watson Wyatt, continued to provide *"a unique level of comfort to shareholders and policyholders"*.

But six weeks later and he was gone, removed by fellow directors who had lost confidence in him when reinsurance

irregularities came to light. The rapid unravelling had begun.

Finance director Dennis Lomas had worked closely with Bright and Condon for many years. With Bright gone he quickly prepared a document which would come to be known as 'schedule zero'. It carefully detailed a massive hole in Independent's reserves caused by claims data having been systematically withheld from the company's system over several years. It was the first chairman Garth Ramsay had heard of any of this. To survive, Independent now urgently needed something like £220 million of fresh capital. Stockbrokers Collins Stewart set about the fundraising challenge – Operation Kite – reportedly confident of success. But first they needed to be certain that everything was now out in the open. In particular they were concerned about a reinsurance deal, struck just before the 2000 figures were announced. It had provided a huge boost to the company's results but aspects of it had already been Bright's undoing. Ramsay wrote to Independent's long-time reinsurer, Luxembourg-based ERC, asking for details of all active contracts. The reply sealed Independent's fate. Revealed for the first time were four secret side contracts. These in effect negated the benefit of the reported reinsurance contracts which purported to boost the company profits by £100 million. The company's 2000 profits had been illusory; the balance sheet was a mess.

Emma Lindsay, case controller

On 11 June dealing in Independent shares was suspended. By the 14th, Operation Kite had failed completely and the company closed its books to new business. With their billion pound company now almost certainly worthless the Independent board met privately to accept the inevitable. Next morning, Independent was placed in the hands of provisional liquidators PricewaterhouseCoopers (PwC). As the company's 2,000 employees awaited news of their fate the press reported that the collapse had left 40,000 British companies without insurance cover. The debacle would end up costing the government's Financial Services Compensation Scheme almost £400 million.

"Insurance is a complex business and this was an extremely complex case"

Referral

The Financial Services Authority (FSA) had been monitoring the meltdown closely. On 15 June 2001, at the moment Independent became the first collapse of a UK general insurer for 30 years, the FSA's files were quickly passed to the SFO and a criminal investigation launched immediately.

"From the start this was obviously going to be a tough case," says Emma Lindsay who was involved in the case from the beginning and took over as case controller in January 2003. *"We are quite used to dealing with unfamiliar territory here, but this one had it in spades: reinsurance techniques and contracts; actuarial reserving techniques; such things are far from familiar turf even for our most experienced investigators. We knew this was*

going to be a tough test."

Assistant director Graham More joined the SFO in 2001. In 2004 he became head of the operational division responsible for the Independent prosecution. After 17 years as a commercial litigator, whose heavyweight City cases included some related to the collapse of Lloyd's in the mid-1990s, he understood precisely what his new colleagues had faced in those first few years: *"Insurance is a complex business and this was an extremely complex case. The investigation covered three main areas: insurance company reserves; reinsurance; and the third, which was dropped just before trial, related to the company's management accounts. Now you only need to mention those three topics to realise that they are not exactly jury-friendly. It was also tough for experienced investigators to get to grips with the technical detail underlying the case. That said, this was just the kind of high profile City case that the SFO was originally set up to do."*

First steps

When a serious fraud and a corporate collapse are revealed almost simultaneously the SFO must make an immediate decision about who will catalogue and control the company's documentation; the liquidator or the case team. There was no obvious security threat to the Independent evidence and so allowing the liquidator to catalogue the truly massive amounts of documentation generally worked well for both parties.

Financial investigator Kay Rogers joined the case on her very first day at the SFO. She would spend the next nine months based at Independent's prestigious City headquarters in Minster Court: *"The liquidator produced a massive inventory of documents which was very helpful for the executive area. It made it easy to discard files which were patently not relevant and then to concentrate on everything else."*

But investigators occasionally became frustrated by having to work through the liquidator's team which was now acting as *de facto* gatekeepers of the primary evidence. Kay Rogers is herself a qualified insolvency practitioner. She understood the problem perfectly: *"When we are trying to get a real feel for an investigation we need to handle, organise and process the materials in our own way. Frequently this means leaving everything in situ until we have catalogued it in detail. Even the location of an item can make a crucial difference to its evidential value. But liquidators need to act quickly to minimise expenditure. For Independent that meant closing offices and shedding leases. So while we wanted things to stay put, the liquidators wanted them boxed up and shipped out."*

Not surprisingly, the liquidators also from time to time expressed frustration at the amount of time and effort spent by them assisting the SFO.

Reconstructing accounts

Meanwhile, strenuous efforts were being made to get to grips with Independent's surprisingly arcane computer systems.

David Harris spent 15 years on the stock exchange, first as a broker, then as a dealer, and finally as a compliance officer for four years. Having joined the SFO in 1991, and cut his investigatory teeth on the collapse of BCCI, he is now one of the organisation's most experienced financial investigators: *"From very early on we knew that claims data had been withheld from the central system.*

Graham More, assistant director

Experience told us that we would need to be able to show how these operational shortcomings had distorted the final accounts. Being such a large company this was going to be a big task."

Inside insurance

To understand what went wrong at Independent, investigators had to get under the skin of how insurance companies work in detail. No small challenge.

Consulting actuary and Deloitte partner Lis Gibson would not be asked to join the case team until the investigation phase was over and preparations for the trial were already well underway. But when she did, she found that investigators had acquired an impressive command of this difficult material: *"I have a great deal of respect for the individuals at the SFO; for how they can turn their hands to somebody else's discipline and become competent so quickly. I've spent my entire career doing this one thing and they were able to come up to a very good level of competence to be able to prosecute this case successfully."*

Much of the complexity of insurance business springs from one simple fact: whilst an insurance company can readily tot up its revenues (premiums), it can't be certain of costs until policyholders have submitted every relevant claim and the company has settled them all. Even in general insurance this takes time. But in the case of liability insurance – in which Independent specialised – it can take a very long time; five or even ten years. Think of an industrial injury, a case of medical negligence, a plane crash, a natural disaster, or any big claim involving lawyers and with millions of pounds at stake; you have a formula for many years of delay (25-40 in the case of asbestosis claims) before a final figure for the insurer's costs emerges. This is what insurance insiders mean when they talk about 'long-tailed business'.

To accommodate this uncertainty about claims costs insurers are required to maintain reserves. At first these are estimates based mostly on how claims stacked up in previous years. Then, as the underwriting year wears on, real claims data can be drip-fed into the calculations. How the real data compares with the historic trend provides insurers with one of their more tricky conundrums. If claims are down – no problem. But if claims are up, the insurer must decide if this is a harmless blip or a completely new trend which will require extra reserves to be set aside immediately.

IBNR

At any point an insurer's current data is made up of claims which have already been settled and those which are negotiating their way towards settlement. Actuaries (technical specialists who use advanced mathematical techniques to make sophisticated predictions about insurers' future claims costs) use these two sources of information to estimate a third; claims which past experience suggests are likely to be made, but news of which has not yet reached the insurer. These are known as 'incurred but not reported'; IBNR to their friends.

Since the quality of any IBNR calculation rests crucially on the accuracy and completeness of the historical data and case estimates, every insurance company maintains a system which allows the shifting assessment of claims handlers (i.e. individual case reserves) to be fed accurately into the actuarial calculations which underlie the company's *aggregate* reserving decisions.

So reserving is very much more than just a cash-flow challenge thrown up by the particularities of the insurance business. Because an insurance company's reserves are a surrogate for future costs unknown, every pound to reserves is a pound off profits. In other words, since reserving decisions feed straight into an insurer's bottom line, the opinions of claims handling staff can, and should, have a direct effect on profits.

Caught by the tail

This tension between reserves and profits lies at the heart of all insurance businesses. It was a famous Bright boast, one that won him few friends around the City, that only Independent got the balance absolutely right. But did it? Ever? Many in the City had long been far from convinced, and not without good reason.

Right from the start Michael Bright had insisted that Independent would concentrate on niche markets where large and hard to quantify risks promised very substantial profit potential. Independent insured such exotic risks as Formula One racing teams, coal mines, game parks and the homes of celebrities. *"The rewards for a well-run insurance company are huge,"* Bright told journalists.

But 'long tail' liability business can sometimes flatter to deceive. Early cash flow tends to be strong, meaning that even an inefficient insurer can appear profitable by using revenues from new business to comfortably cover early claims (which are likely, as is the nature of these things, to be disproportionately small and straightforward).

Bright had also made 'accurate' reserving a point of honour at Independent. Claims

"The rewards for a well-run insurance company are huge," Bright told journalists

Kay Rogers, financial investigator

handling staff were constantly urged to reduce their estimates. The company's in-house staff guidance was almost strident on the subject: 'There cannot be any deficiencies or surpluses in our technical reserves which would ultimately affect the Company's profitability' it said.

So, when Bright, Condon and Lomas began to realise that a very large amount of Independent's pre-1997 liability business was in fact loss-making, and that it would cost the company very much more than had been provided for, it was never very likely that Independent's reserves carried much fat.

Nonetheless, Bright continued to argue that reserves were too low, using a flawed analysis of something called gross case development (GCD) to justify an increasingly bullying approach.

David Harris: *"Put simply, GCD was a set of statistics showing how current claims were developing. When this data started to tell Bright bad news he took the view that it was the data that was wrong. Instead of accepting the signals, and attacking the root cause, he set about manipulating the numbers so they showed something more positive."*

Others tried to explain the GCD error to Bright but the best concession they managed to extract from him was a promise of a thorough investigation into the statistical confusion; in the meantime it was business as usual. Doubtless other insurers have found themselves in similar difficulties. But at Independent the market had come to rely on Watson Wyatt's very public annual endorsement. If Watsons now found out how bad things really were they might withdraw their certificate and plunge the company into even deeper crisis. Independent's proudest boast – its Watson Wyatt certificate – had become its Achilles' heel.

During mid-1998 the three men stood at a fork in the road. *"At that point they could have come clean,"* says Harris. *"They could have explained the risk and reserving errors; faced the embarrassment; but then got on with sorting out the problem which was probably not yet big enough to destroy the company."* Or they could attempt to hush the whole thing up and try to find some secret way out. There was, of course, only one proper and legal course.

The slippery slope

As investigators' confidence with the detailed technicalities of insurance and actuarial science grew, they began to assemble a clear picture of how the dishonest behaviour of Bright, Condon and Lomas had steadily and inexorably stoked the coming crisis.

Having decided not to come clean, Bright's immediate problem was quite simple; since a sufficient legitimate boost to reserves was out of the question, the claims data had to be manipulated to keep them broadly in line with what limited reserves Independent actually had. At first this was not as hard as it might have been; claims handlers were used to being pressurised into keeping reserving estimates as low as possible. But soon Bright had to raise the stakes and, from some point in 1998, claims handlers were prevented from putting certain new claims on to the system without the permission of either Bright, Condon or Lomas.

Whiteboard

If a claims handler has no idea what a claim might end up costing, he or she might write it up on a 'whiteboard' (nowadays more likely a spreadsheet) until enough is known for a proper case estimate to be registered on the central system. At Independent, Bright now used his personal crusade for reserving

accuracy as a cover for keeping claims on the whiteboard long after they were ready for proper registration.

The effect was potentially catastrophic, which a man of Bright's experience must have known. *"Because whiteboard claims are not yet registered on the system, they are not automatically incorporated into reserve calculations,"* explains Harris. *"Once a claim can be estimated it should be moved immediately to the core system. Any delay has the dangerous side-effect of distorting reserving calculations; because the system is under-recording the known likely cost of current claims, it will also tend to under-estimate future claims costs, or IBNR."*

The total value of cases held over inappropriately on Independent's whiteboard snowballed rapidly: approximately £400,000 in December 1997; £5 million in 1998; £18 million in 1999; and £25 million by the end of 2000, the last full year of trading.

Delegated authorities

Given the scale of the problem Bright was trying to conceal it is no surprise that he soon hit upon a second mechanism for suppressing and manipulating claims data.

Like many insurance companies, Independent sometimes authorised certain brokers, solicitors and other agents to issue policies and manage claims on its behalf. Under cover of a perfectly genuine and long-running disagreement about the case reserves being estimated by these 'delegated authorities', the reserves actually allocated to them in the central system were systematically depressed to the point where they were utterly inadequate. By the end of 2000 this shortfall had reached £12 million.

David Harris, financial investigator

Reserve lists

And then there were the 'reserve lists'. Through 1999 Bright began insisting that claims handlers needed permission not only to register new claims, but also to register updated figures for existing claims. Deeply concerned claims managers began keeping their own records of the amounts withheld. The first reserve list was not created until 1999, but, again, the totals grew rapidly thereafter. Harris: *"The reserve lists grew out of a concern among staff that they were not being allowed to do their jobs properly. The lists showed the true figures, while the computer system showed only what Bright, Condon and Lomas wanted it to show. In the early days there was not much difference between the two. But by the end of 2000 it had reached £16 million, having trebled in just twelve months."*

> the reserves allocated in the central system were systematically depressed to the point where they were utterly inadequate

By the time the year-end 2000 accounts were drawn up a total of £50 million of claims data was being withheld from Independent's main system and, therefore, from Watson Wyatt. In other words Independent had no reserves to cover very nearly a third of all its current claims and the independent actuaries who publicly verified the reserves each year

had no idea. The basic figure for withheld data turned the company's year-2000 £22 million profit into a £28 million loss. But such a simple calculation reveals nothing about what the withheld data would have told Watson Wyatt about the reserves Independent needed to cover future claims. Once that £50 million was built into a recalculation of IBNR the shortfall was shown, in the view of the SFO, to be a bare minimum of £150 million, and possibly as much as £250 million, turning that small putative profit into a real loss of at least £128 million.

The reinsurance investigation

During the final months of Independent's operations Bright and Lomas made one desperate, last ditch attempt to shore up the company's crumbling finances. A mysterious reinsurance package – which many observers thought too good to be true – was negotiated just a day or so before the 2000 accounts were published.

Reinsurance is the insurance of insurance business. It can improve balance sheets because net liabilities are reduced when the value of the reinsured policies are removed from the schedule of liabilities to be replaced by the smaller figure of the reinsurance premium. Meanwhile, profits are boosted because the associated reserves can also be removed from costs. But to be sure what precise effects the new contracts had had on Independent's accounts, and whether these had been honestly stated, investigators would need to master a universe of arcane contractual relationships and staggeringly complex technical practices. Kay Rogers led this part of the investigation: *"Those first few months were mind-boggling – I can't think of a better word. At first you are not even sure what questions to ask, which is particularly unsettling when that is your raison d'être. It was a huge intellectual challenge to understand all of the different terms and conditions; how these interact and how the different types of policies affect companies and their accounts; and what these things mean in terms of this year, next year and onward years. Not to mention what the disclosure of these arrangements means and why it matters."*

Independent's long-standing relationship with its reinsurer ERC was based on a gentleman's agreement between Bright and Walter Copping, with whom Bright had worked for many years: ERC was guaranteed never to lose money on the relationship and Independent never had to pay full commercial premiums. But by the beginning of 2001 the gentlemen's agreement was under severe pressure. Things were deteriorating fast at Independent just as Copping's US bosses were taking a more active interest in a 'hardening' European market. This was no time for Bright to seek gentlemanly indulgences from his old friend. Rogers: *"In mid-2000, before they had any inkling of the true state of affairs, Watson Wyatt told Bright that the reserves were low and likely to be inadequate. As a result Bright took out £50 million of additional reinsurance cover for the loss-making London market policies written under the regime of former senior manager Keith Rutter. Bright told Copping that it was just a 'sleep-easy' for an over-cautious actuary, but by the end of the third quarter the facility was completely used up. Copping was not amused."*

At the end of October ERC was approached for an extra £30 million, but by the time Lomas met Copping in mid-January even that looked like a drop in a bucket.

Lis Gibson, consulting actuary

Lomas told the meeting he also needed £50 million of cover for the rest of the London market (i.e. 1998 and forward) and another £160 million for the other side of the business, 'the regions'.

The sheer size of the numbers told ERC all they needed to know. There would be no more business on the nod. ERC now required the protection of binding contracts and Bright had no choice but agree. By the beginning of March he had what he needed: three contracts covering £278 million of risk at a premium of £110 million; a total of £168 million worth of benefit to Independent's accounts, £110 million of which would accrue to the year 2000 figures due to be published any day.

But ERC wanted more; it wanted to be certain of making money on the deal and certain that it would not be left in the lurch should Independent go bust or its ownership change. In short, ERC wanted security and lots of it. The final package of contracts was fantastically complex and would challenge investigators to establish what was, and was not, in force at any given point. It included a group of contracts so disadvantageous to Independent that Bright had to conceal them from his fellow board members. Among them was a 'charge' over Independent's assets to ensure that ERC would be at the head of any future queue of creditors. The original three good contracts were endorsed to limit their effectiveness. There was an agreement dressed up as pukka reinsurance but under which no risk was transferred, so that ERC was guaranteed to make money. There was even a cast-iron, no-loss, 'wrap up' agreement under which Independent's own in-house reinsurer (Novi Re) agreed to cover ERC in such a way that it could simply dump any losses back on the Independent group.

But why would Bright and Lomas agree to such a deal if the bad contracts so comprehensively undid the benefit of the good? The answer came on 6 March when the £110 million benefit of the good contracts were incorporated into Independent's 2000 results – in effect turning a £70 million-plus loss into a small but acceptable profit – while no mention was made of the bad.

Interviewing

Unlike their cousins in the US, UK prosecutors must produce an agreed and signed statement for each witness. The whole process consumes enormous amounts of prosecution time, explains lead counsel Andrew Baillie QC, who joined the team when the case was less than a year old: *"The SFO has good powers for seizing documents and commanding answers to questions but it cannot command timely co-operation in turning that information into signed witness statements. If a witness was a senior employee or officer of a substantial commercial concern, then he will employ substantial commercial solicitors to make sure he doesn't say anything ill-advised. And that process of hawking drafts backwards and forwards until a big City law firm is satisfied can take a huge amount of time."*

> The final package included a group of contracts so disadvantageous to Independent that Bright had to conceal them

"All interviews, but particularly with suspects, are crucial for us," says David Harris who helps train and mentor less-experienced investigators in interview techniques. *"They are almost always long and complex and we will normally get only one shot. So we have to put a lot of work into the preparation."*

"The old saying 'don't ask a question in court to which you don't already know the answer' can't be true for us," adds Kay Rogers. *"We are conducting an investigation; there are lots of answers we can't know yet. Even so we need to have a gut feel for what the true answer should be, and for when we are being fobbed off, misled or simply misdirected."*

Lomas

By the middle of 2003 it was abundantly clear that Dennis Lomas had benefitted relatively little from Independent's continued trading – in 1999 Bright had received remuneration totalling £2.3 million; Condon £1.1 million; Lomas £336,912 – and there was a feeling that he might be about to co-operate. *"We chose to interview Lomas first thinking he was the most likely to assist us,"* explains David Harris, *"but it didn't turn out that way."* On 11 June 2003, Harris and Rogers spent the first of three very hot days in a small airless room listening to an otherwise subdued Dennis Lomas say *"no comment"* to their every question. Lomas's silence was a big disappointment for the case team. His defence strategy would remain a mystery right up to the trial, at which point it would be revealed as not merely a challenge to the prosecution but as a potent threat to the international credibility of the UK insurance industry as a whole.

Condon

Condon, on the other hand, spent three days answering questions readily and, for the most part, constructively. Unsurprisingly, he denied almost everything without quite blaming Bright – except on one point. Investigators wanted to know more about several memos, attributed to Condon, which contained key

Andrew Ballie QC (seated) with James Pavry and Emily Radcliffe

instructions about keeping claims off the system. They were not his, they were Bright's, he said. Bright would later say *"He would say that, wouldn't he?"*, but a close reading of the style pointed to the truth of Condon's claim.

Bright

When the investigation first began Bright had said he was keen to help. Two-and-a-half years later his attitude was different. Just organising diary dates took an age. When at last the interview sessions began it quickly became clear that progress would be very slow indeed. Bright repeatedly asked to see more evidential documents and then requested more time to read them. A doctor's note asked that he be interviewed for no more than three hours at a time. The recording of Bright's interview filled 50 cassette tapes but, instead of the nine days that they would normally represent, Bright's were spread over 19 weeks.

The former CEO did not take kindly to being asked to account for his actions, recalls Harris: *"I think it was quite a culture shock for him. He didn't like being asked questions and, in replying, he tended to preach at us."* Bright's over-arching position was that he had been kept in the dark by others. In a key exchange, Harris read from an internal memo dated 12 November 1998 and sent to Bright by Stuart Pettet, a senior manager: 'they are keeping lists of increases which will not be processed and this will be managed through'. *"What does that mean?"* asked Harris. *"Don't know,"* replied Bright. *"Were you aware that at that time there were lists of increases ... which had not been processed?"*, asked Harris. *"No,"* replied Bright.

With regard to the reinsurance contracts, Bright denied any knowledge of the so-called 'bad' contracts, saying that he'd so trusted Terry Masters, his highly paid reinsurance advisor, that he'd signed without reading whatever Masters put in front of him.

Bright in denial

It is, of course, very far from uncommon for a defendant in an SFO case to do anything other than issue blanket protestations of innocence. But Bright's defence was genuinely mystifying. Its central plank was that Keith Rutter, not he, was to blame for the collapse of Independent because Rutter had written all that unprofitable business during 1995-97. But, as Emma Lindsay explains, no-one was being prosecuted for causing the collapse of Independent: *"We realised early on that Bright did not seem to be grasping the real allegations against him. The criminality lay in the concealing of claims data and the misrepresentation of the reinsurance contracts."* The persistence of the misunderstanding would dog the case team right through the pre-trial period.

Comic moments in Luxembourg

Diplomatic and procedural obstacles stopped Rogers taking her reinsurance investigation to Luxembourg until after all three defendants had been interviewed. Such visits must satisfy the Home Office here, and the courts there. The consent of the individuals concerned is also required. Finally, on 12 May 2004, after months of negotiations and delay, Rogers (accompanied by Brian Eager of the City of London Police) sat down with Walter Copping: *"I asked my questions in English. An interpreter then translated them into German, Copping's native tongue. And finally Copping answered me – but in perfect,*

unaccented English. Meanwhile a local police officer typed a simultaneous record in French and argued with the translator about what various English terms meant."

The strategic use of language aside, the meeting was very productive. Three months later a large bundle of ERC documents arrived. *"Buried in all that material was the hand-written letter from Bright to Copping, dated 31 January 2001, of which no copy existed at Independent,"* explains Rogers. *"It had been hand-delivered by Lomas, unopened, in a meeting on 2 February. In it Bright promised 'I will sign the slips'. The use of the term 'slip' was very important; it is a technical insurance term for precisely the kind of contract notes that Bright had denied any knowledge of. It was a real Eureka! moment."*

Preparing for trial

On 16 December 2005 Michael Bright, Philip Condon and Dennis Lomas were finally charged with conspiracy to defraud. But as the case team now began to shift its focus away from the investigation phase and towards formalising the prosecution case, its relationship with Independent's liquidator took another twist.

Graham More rang PwC's in-house actuary, who was involved in the civil case against Watson Wyatt, to discuss the possible effects the withheld data might have had on reserves: *"From the evidence available to us we had always believed that £50 million of withheld claims would have had an impact greater than £50 million on the overall reserves"*, says More. *"But the liquidator's actuary said 'no, that's not the case at all – there is not necessarily a gearing effect'. So I said 'but at least the reserving calculations would have been affected by the original £50 million?'. And he said 'no, that's not necessarily the case either – it might have had no impact whatsoever'. At that moment I realised that on a very, very technical basis an actuary could argue that the withholding of claims data would have made no actual difference to the overall reserves."*

As the trial loomed the case team remained nervous about the outcome; could a jury really understand this case?

Expert witnesses

The general wisdom among criminal prosecutors is to avoid using experts if possible; if there is a disagreement between prosecution and defence experts this can sow seeds of doubt in the minds of the jury about the case overall. Nonetheless, the case team had been debating this issue for some time and now their hand had been forced. More: *"We were very conscious that this interpretation suited PwC's civil case, but even so it led us to realise that on this point we might need expert input after all."*

Lis Gibson, consulting actuary and partner in the global accounting firm Deloitte, joined the case team in June 2006, less than a year before the trial was due to open. She was sure she could quantify the impact of the withheld data without getting the court mired in expert disputation. *"An important part of my role was to help the SFO identify and focus on areas in which no two sensible actuaries would disagree,"* she says. In Gibson's view, quantifying the wider impact of the withheld data was just such an area. She was soon proved right. Gibson calculated that for 2000 the total damage to reserves fell within the range £150-£250 million. For the defence Stuart Shepley of Grant Thornton came up with a figure of £130-£230 million. *"Effectively the same answer,"* says Gibson now.

Disclosure

By the end of 2006, with a trial start date of 30 May 2007 now firmly set by Judge Rivlin, the next six months would be dominated by 'disclosure' – which had first commenced back in September 2005 – conducted under a new and, for the prosecution, considerably more burdensome regime.

After a long and complex fraud investigation the evidence the SFO intends to rely on in court is likely to make up only a small proportion of all the potential evidential material in its possession. Disclosure is the legal process by which the prosecution carefully sifts that unused material for anything that might either undermine its own case or assist the defence. For the Independent case team this was their first experience of the new rules and it was not a happy one.

If evidence which should have been disclosed to the defence before a trial opens comes to light later on the implications for an otherwise rigorous prosecution can be disastrous, explains Andrew Baillie: *"There are cases in which the jury never gets to hear the evidence because the prosecution has tripped up over the disclosure process and the case is stayed as an abuse of process."* Like other prosecutors the SFO traditionally protected itself against such slips by allowing defence teams free access to the unused evidence;

Left to right: Michael Bright, Philip Condon and Dennis Lomas

Illustration courtesy of Priscilla Coleman

'handing over the keys to the warehouse' as it was called. But government concern that this laissez-faire approach was costing the tax-payer dear (the whole disclosure process is paid for by legal aid) led the attorney general to introduce, in 2005, a stricter approach under which prosecutors micro-manage defence access.

"Under the new regime we aim to give the defence only what they are strictly entitled to under the law," explains Graham More. *"We no longer give any kind of carte blanche access to the unused material. This necessarily places much greater pressure on our case teams who must ensure that they have looked through everything and disclosed anything that is genuinely relevant and disclosable in accordance with the law. If something gets overlooked there is no longer any 'safety net' for us."*

But what does that mean in practice for case controllers? Emma Lindsay explains: *"For us this was a two-stage process. Initially you must assess whether you are in possession of any material that may undermine your case – that's the comparatively easy part. On receipt of a defence case statement from each defendant you must, by reference to that statement, assess whether any item of unused material aids the defence. Over a period of months, a team of SFO people systematically reviews the unused material by reference to the defence case statements. Ultimately, material that meets the disclosure test is passed to the defence."* The extra workload is considerable and comes just as the case team is trying to get its own case into the best possible shape. Lindsay pays considerable tribute to her assistant lawyer at the time, Hannah Laming, who worked *"tirelessly to manage the disclosure process to the satisfaction of the parties and the judge".*

The trial

As 30 May 2007 loomed, the case team remained nervous about the outcome; could a jury really understand this case?

"The decision to charge had been a long and difficult process with Andrew Baillie producing papers on various issues and us seeking his views on various points of law," says Graham More. *"As time went on we became more and more convinced that we'd made the right decision, but we didn't really become confident of the outcome until the trial was well underway".*

But Andrew Baillie had a different perspective: *"I always thought it would be possible for the jury to know enough to understand the story and to then focus on who had been telling lies, what was the significance of those lies, and who knew what. These are not complex questions – they are not questions which only an actuary could answer. Once they understood the story it was a case for ordinary people to decide."*

So Baillie's opening speech sought not only to introduce the complex material about reserving and reinsurance but also to reassure jurors that this case was well within their competence. Their verdict would not depend

upon the quality of their understanding of 'incurred but not reported' claims, he told them. They would not need to pass exams in actuarial science. Getting to know the technical information that now seemed so daunting would be like getting to know London itself: an initial impression of *"a vast and impenetrable place"* would slowly give way to *"small clearings in the forest";* some of these then merge into larger areas until, after a while, whilst you do not know everything, and never will, you do know enough.

The rest of the case team are unanimous in their admiration for how Baillie made such a difficult case so accessible. *"An important part of getting the jury off on the right foot in a case as complex as Independent is to reassure them about the demands it will make on them. Andrew did this brilliantly,"* says Emma Lindsay.

Expert testimony

Lis Gibson entered the witness box on 20 August, the day before Michael Bright. Her evidence would now prove invaluable in helping Andrew Baillie explain to the court the crucial but very technical 'gearing' mechanism by which the withheld data came to cause a hole several times its own size in Independent's finances. It was a challenge she relished. Having tried out various explanations on the case team she had finally settled on a motoring analogy; a routine drive to work is hampered by unexpectedly heavy traffic (adverse claims development) and an unreliable timepiece (inaccurate claims data) so that the driver struggles to make an accurate prediction of her final arrival time (total reserves). But would the jury 'get it'? There was only one way to find out. "*The best fun I had during the whole case was explaining to the jury how actuarial reserving methods work,"* says Gibson. *"If you take it slowly enough, and break things down into pieces, these things can be understood. The car journey analogy is one we use with our trainees and it seemed to work very well with the jury too. The judge made a comment that he disliked the cartoon style, but he asked a question in the language of the analogy, so he certainly seemed to get it – and that's what matters."*

The SFO team cannot speak highly enough of Gibson's contribution, combining great technical expertise with a rare talent for explaining tricky material in a way that is clear and entertaining even for the uninitiated.

> there was no innocent reason for keeping claims data off the system because the outcome was always the same; it caused the system severely to understate the situation and so to mislead

Bright in the witness box

When Bright came to give his evidence in chief his counsel did all he could to paint the allegations against his client as absurd: as CEO, Bright was a broad brush man, uninvolved in detail; he showed his faith in Indy by buying shares as late as February 2001; in the collapse he'd lost his entire personal fortune and his reputation. It makes no sense to think of Bright as a fraudster, the defence insisted. Where's the benefit? Where's the motive?

"The main shape of the cross examination of Bright," says Baillie, *"was first to get him to acknowledge for the jury that his case was that he had not known about any of the three aspects of the dishonest system; then to go through a series of documents and show that he had known about each; then to get him to admit that that was the case; and finally to say that what he'd said at the beginning had not, therefore, been right."*

When Bright was interviewed by the SFO he had insisted he had no idea what senior staff like Patricia Clarkson and Stewart Pettet meant when they referred to 'lists of increases' being 'managed through'. During his evidence in chief he changed tack, trying instead to portray 'managing through' as simply part of his dogged determination to secure accuracy in reserving. *"Did you think they were being managed through?"* his counsel asked. *"Yes"* he replied. *"And not kept off the system?" "No".*

But during cross examination Andrew Baillie showed that this distinction, between 'managing through' and 'withholding', was a false one. In fact, he said, there was no innocent reason for keeping claims data off the system because the outcome was always the same; it caused the system severely to understate the situation and so to mislead anyone – actuary, auditor, analyst, investor – who relied on its information. What mattered, insisted Baillie, was the time the data spent off the system, not the reason: *"In the evidence in chief Bright and his lawyer between them treated the allegation that he was a party to keeping things off the system as if that meant keeping things off the system for ever. We weren't really saying that; sooner or later they had to pay each claim. What we were saying was that they kept things off the system when those things should have been on the system. I think that was quite deliberately done by the defence, but it put*

Lloyd's of London

Bright in a false position. Then it was easy to show that he did know about cases being kept temporarily off the system."

Regarding the reinsurance contracts, really Bright's case was hopeless, says Baillie. *"It was quite clear that he had had to know about what we called 'the bad contracts' and there were several reasons for that, in particular the hand-written letters, which he was never able to explain."*

Lomas's surprise defence

The press made much of Michael Bright's witness box display of tearful regrets on 23 August, but arguably the true moment of high drama presented itself less ostentatiously two weeks later.

Lomas took the prosecution by surprise when, under cross examination, he tackled Gibson's expert evidence head on. Baillie asked Lomas whether he agreed with Gibson's calculation that the minimum consequence of the withheld data was a reserve shortfall of £130 million. Lomas replied *"I would challenge it."* *"As a matter of professional opinion?"* asked Baillie. *"Yes"* replied Lomas, adding that Watson Wyatt did not *"take into account in their calculations the full weakness* [of Independent's reserves] *and they should have been able to identify* [that] *in the data without any reference to the additional data."*

Lomas went on to say that he *had* deceived Watson Wyatt knowingly but that he'd been justified in so doing for three reasons: the actuaries had had enough data anyway; they were already allowing for inadequacies in the Independent data; and, finally, he believed that had Watson Wyatt been told the truth they would have over-reacted, causing the company to collapse needlessly.

"The Lomas defence was really important for the actuarial profession and the insurance industry in the UK," says Lis Gibson. *"If a finance director can legitimately choose to deceive his advisors and manipulate their opinions to mirror his own, just because he disagrees with them and thinks he is right, then the advisors' formal opinions no longer have any meaning."*

The next day Baillie probed Lomas's actuarial defence closely. It did not stand up well. The whole argument rested precariously on the notion that Lomas's opinion was more valuable than Watson Wyatt's, even though it was the actuaries' which the market relied upon. *"Have you ever had any formal training in being an actuary?"* Baillie asked. *"No,"* Lomas replied. *"Did you put pen to paper …[or] cursor to spreadsheet to make an analysis?" "No."*

Lomas's 'reasoning' had done him no favours. Andrew Baillie's close inspection had revealed it to be not much more than an admission of guilt by his own account.

The verdict

On 9 October 2007, with the closing speeches and Judge Rivlin's four-day summing up completed, the jury retired to consider its verdict.

The case that some had feared unprosecutable, and which many had assumed would drag on deep into 2008, was over in not much more than four months. After such a complex and long-running investigation the relative brevity of the trial was a credit to all involved, including the defence, says Emma Lindsay: *"The trial was quite focused, and the defence should share the credit for that; both sides worked well together in trying to have sensible discussions about admissibility and to limit the amount of*

evidence and areas of dispute. We always try to do that, but it doesn't always work."

Baillie agrees, but also emphasises the work that went into trial management by the prosecution: *"There was not one occasion when the jury had to retire for the judge to decide whether or not evidence was admissible. That is extremely rare. But we also went through a drastic pruning of documents and witnesses which, along with focusing the trial on two counts rather than three, meant that it was significantly quicker than it might have been. Of the several million documents collected during the course of the investigation the prosecution relied on 30,000 or so pages, but the documents eventually shown to the jury were whittled down to 1501 pages. That is a huge pruning. Similarly, 238 witness statements were taken from about 180 witnesses, but to avoid duplication only 23 were actually called to give evidence at trial. So there was very little time wasted during the trial, which not only saves public money, I'm sure it also helps the frame of mind of the jury if they think that their time is not being wasted."* As for the plaudits heaped upon him before and after the verdict, Baillie says simply that he was very ably assisted by his juniors, James Pavry and Emily Radcliffe, and that the Independent result was a real team effort.

Graham More agrees: *"This case proved that to succeed in a matter like this you must have a strong and effective team across the board. Without the stability of a strong core team – Emma (Lindsay), who was case controller for most of its life, Kay (Rogers) and David (Harris) who were in on day one – we might not have had the success we had."*

During a trial the logistics of daily life can get very complicated for SFO staff who are by then already working on other cases, says Emma Lindsay: *"I had a cracking team for the trial too. Our law clerk, Susan Johnson, and her assistant, Frances Davis, ran the courtroom with an iron rod, making sure counsel picked up their papers and witnesses were on time and happy. They did a sterling job. Susan was also our case secretary from early 2004 and she was fantastic throughout."*

The outcome was a great relief for the insurance industry too. Just before joining the case team Lis Gibson had been closely involved in rewriting the Institute of Actuaries' reserving guidance, in part to reflect the lessons learned from Independent's collapse. For the industry as a whole the outcome of the Independent trial could hardly have been more significant, she says: *"Ever since the rescue of Lloyd's in 1993 actuarial opinions have been a statutory requirement for Lloyd's under rules determined not only by UK regulators but also by the US. If it had become accepted that UK actuarial opinions aren't worth the paper they are written on, because the Independent trial result showed that UK finance directors are allowed to lie to their actuaries, it would have undermined the international system of confidence in the solvency of Lloyd's. In Europe too, the whole of the new EC regulatory regime, 'Solvency 2', which comes into effect in 2012, is predicated on actuaries giving assurances about the adequacy of provisions of insurance companies. So it would have had enormous consequences for UK insurance globally if the Independent defendants had been acquitted."*

> *"This case proved that to succeed in a matter like this you must have a strong and effective team across the board."*

But they were not. On 22 October 2007, after seven days of deliberation, the jury found all three men guilty of conspiracy to defraud; Bright and Lomas on both the reserving and reinsurance counts, Condon on reserving only.

Two days later, as the three men stood in the dock, suited but with their ties, belts and shoelaces confiscated by warders, Judge Rivlin sentenced them all to significant terms of imprisonment: Michael Bright, seven years on each count (to run concurrently) – the maximum possible in the circumstances; Denis Lomas, four years on each count (concurrently); Philip Condon, three years. They were also disqualified as directors for twelve, ten and ten years respectively.

2

Our people

Human resources and training

The past year has been a very busy and eventful one during which the SFO has continued to develop its skills base to meet evolving caseload challenges. We have also worked with the government's other law officer departments to introduce a new HR database (called TRENT) which will help improve the provision of HR services and management information.

Recruitment was a key focus in 2007/08. To help us attract the best talent we ran a number of recruitment competitions – for financial investigators, investigative lawyers, case controllers, law clerks and support staff – and we continued to support these recruitment efforts with innovative advertising across a range of media. We also employed a number of agency workers and contractors to supplement our in-house talent.

The drive to develop our skills base has involved several training initiatives including the launch of a number of bespoke programmes for SFO people, among them an interactive e-learning package for new entrants and a staff familiarisation programme on our 'dignity at work' policy.

We are also continuing to roll out an accreditation programme for investigators (the programme is modelled on the life-cycle of an investigation) and several staff will soon have succeeded in attaining accreditation.

Overall we ran 86 internal courses and 15 internal seminars. We also ran three networking meetings for new starters (each of which was one-and-a-half training days long) and four management development pilot/launch events (two-and-a-half training days each).

We are constantly trying to make the SFO a great place to work for all our employees. In this we believe it is important that we understand how our employees perceive the SFO as an employer, including indications of those areas in which they think we could do better. With this in mind, and with the help of ORC International, in 2007 we conducted our first employee survey for three years.

The findings from the survey were generally positive but some important areas for improvement did emerge. One extremely

positive sign was the high response rate 79%, demonstrating that SFO people are willing to take the trouble to share their views and help us build a clear picture of working life at the SFO. We were equally pleased that many people often expressed their views in uncompromising terms; such strongly-held feelings about how the SFO is run reflect a deep and widespread commitment to the SFO's collective aims and wider mission.

ORC's detailed analysis also revealed many other positive messages. A high percentage of our staff are proud to work at the SFO, with a clear understanding of what the SFO is here to do and how their own job can contribute to that. Managers are regarded as possessing the necessary skills to manage others effectively, and staff generally feel that their most recent appraisal accurately reflected their job performance. Perceptions of work-life balance are also positive, with an especially high level of satisfaction with the flexible working arrangements.

However, several areas for improvement also emerged. Less than a quarter of respondents feel that the SFO is well-managed; even fewer believe that the management team provides effective leadership. Less than 20% feel that all teams – operational, support or corporate services – work well together.

In the light of these findings, the survey report makes a number of recommendations which we will be considering carefully during the early part of 2008/09. The resulting

action plan will specifically address these recommendations and will form part of our business plan for the year. In the meantime we are already taking steps to improve those negative areas through initiatives such as efforts to ensure that all staff take part in respect training, with follow-up activity to ensure that our dignity at work policy is embedded in SFO workplace culture.

As already mentioned above, we have also done a lot of work on training and career development over the past year, and this will continue. Development of our IT systems will help teams and divisions work together more effectively and to share information more productively.

However, perhaps the most important lesson from the 2007 employee survey is the need to address poor staff perceptions of

> A diverse workforce is a vital part of making the SFO a great place to work for everyone

senior management when it comes to their handling of open and honest communication, leadership and change management issues. Only by addressing these perceptions can we build staff confidence in the ability of senior management to bring about the changes needed within the SFO. As you would expect in an organisation of strong-minded individuals, there are differing views as to how we should organise ourselves, control our cases and work together. So we intend to complete further analysis to see how we can best move forward in this respect. We also intend to repeat our employee survey in the future to check our progress and find new ways to improve.

Diversity

A diverse workforce is a vital part of making the SFO a great place to work for everyone, regardless of race, religion, gender, sexual orientation or any other characteristic that helps make us the unique individuals we are. We have continued to work to improve our diversity profile with a programme of initiatives, including existing and new training programmes, events for members of minority groups, and other community activities.

We introduced two e-learning modules – both tailored specifically for the SFO – covering induction and diversity. This was a first for the SFO and the modules have been very well received by staff. One of the advantages of e-learning is that staff can do it in their own time, at their own pace, and without the need to be away from their desk. The new modules also ensure that right from day one

new staff have an instant introduction to some basic facts about the SFO. This year also saw the completion of our respect training course, which underpins our dignity at work policy. A new one-day programme has also been designed for new starters. This will complement the e-learning and provide our first 'blended learning' approach.

A further pillar of our diversity efforts is a continuing series of minority networking events, focusing this year on lesbian, gay, bisexual and transgender (LGBT) and carers' issues. Our keynote LGBT speaker was Ben Summerskill, chief executive of Stonewall, the well-known lobby group. Ben is amusing and erudite, as well as being very practical and business-focused in his approach. We have continued to develop our relationship with Stonewall and recently became one of its diversity champions. We are delighted to be working with this prestigious and experienced organisation, which is providing us with a wealth of experience and resources on which to draw as we strive to improve our diversity performance.

Having noted the high proportion of our staff who cited their responsibilities as carers in the 2007 staff survey we decided to make this the subject of our next minority networking event. A fascinating presentation from Carers UK led, in turn, to the SFO being asked to participate in an employers' breakfast at the House of Commons, to explore what the government's 'new deal for carers' will mean for employers.

Our community programme also gained momentum during the year. We have been privileged to work as part of a peer support initiative with an inner London borough that has 'beacon' status in relation to diversity (the highest award possible for a local authority). This experience has helped us consider how others see us and how we might engage more usefully with external stakeholders.

As part of this growing engagement we have forged links with a secondary school sixth form. Case controller Seema Popat (pictured) has visited and talked with students about the work of the SFO, the government legal service and the wider civil service. At the same time we are in the process of arranging two placement schemes with the local authority mentioned above. The first will be a graduate placement under the 'skillsmatch' scheme, under which a recent local graduate will come to work with us for 16 weeks; the second will be a non-graduate placement lasting eight weeks.

Finally, the seriousness with which the SFO takes the issue of diversity was underlined this year when John Benstead became our new 'diversity champion'. John approached this role with enthusiasm and made a very positive impact. The new SFO director, Richard Alderman, has expressed his support for all of our diversity initiatives and has relaunched the dignity at work policy with personal messages, both in the director's bulletin and in posters prominently placed around the SFO. The accompanying tables illustrate the diversity of our workforce, both by gender and race, as at 30 April 2008.

Seema Popat, case controller

Table 1

Grade	AO	PS	EO	HEO	SEO	G7	G6	SCS	Total
Asian	6	0	8	3	1	1	2	0	21
Black	4	2	6	2	1	0	2	0	17
Chinese	1	0	1	0	0	0	1	0	3
Mixed ethnic	1	0	7	2	1	2	1	0	14
White	18	0	44	36	23	39	17	9	186
Other	0	0	4	0	0	1	0	0	5
Not disclosed	8	0	16	4	11	11	8	3	61
Totals	**38**	**2**	**86**	**47**	**37**	**54**	**31**	**12**	**307**

Table 2

Male	Asian	Black	Chinese	Mixed ethnic	Other	BME Total	White	Not disclosed	Not returned	Total Males
AO/PS	5	2	1	1		9	7	2	2	20
EO	1	3	1	2	2	9	28	2	2	41
HEO	2	0	0	0		2	23	3	1	29
SEO	1	0	0	1		2	19	3	5	29
G7	1	0	0	2		3	26	4	2	35
G6	1	2	1	1		5	10	2	2	19
SCS	0	0	0	0		0	5	0	3	8
Sub Total	**11**	**7**	**3**	**7**	**2**	**30**	**118**	**16**	**17**	**181**

Table 3

Female	Asian	Black	Chinese	Mixed ethnic	Other	BME Total	White	Not disclosed	Not returned	Total Females
AO/PS	1	4	0			5	11	1	3	20
EO	7	3		5	2	17	16	4	8	45
HEO	1	2		2		5	13		0	18
SEO		1				1	4	2	1	8
G7	0				1	1	13	0	5	19
G6	1				0	1	7	1	3	12
SCS						0	4		0	4
Sub Total	**10**	**10**	**0**	**7**	**3**	**30**	**68**	**8**	**20**	**126**

Key to grades
A0 Administrative Officer/Personal Secretary **EO** Executive Officer **HEO** Higher Executive Officer
SEO Senior Executive Officer **G7** Grade 7 **G6** Grade 6 **SCS** Senior Civil Servant

A priority in the year ahead is achieving accreditation under ISO 14001, the internationally-recognised standard for environmental management

Our environment

As well as having a diverse and inclusive culture, a great place to work also requires a safe, comfortable and supportive working environment for its people. To this end we continue to develop our accommodation at both Elm House and 200 Grays Inn Road.

The refurbishment of Elm House has included the installation of a suite of high-quality conference rooms, video conferencing facilities and a state-of-the art digital forensics laboratory. These new features will ensure our premises can support the organisation's needs until the leases expire in 2012.

This year will see a review of the capital plant equipment and the development of a post-2012 strategy.

During the year we made further progress towards our sustainable operations targets. Important steps forward included procuring 300,000kw/h of energy from renewable sources for Elm House and ensuring that 200 Grays Inn Road will be using 100% combined heat and power (CHP) by October 2008. A priority for us in the year ahead is achieving accreditation under ISO 14001, the internationally-recognised standard for an organisation's environmental management.

To ensure our people can conduct their work safely and securely we have also focused on improving the security of the SFO's buildings and processes. A new reception area is now equipped with secure entrance barriers, the swipe card access control system has been extended to server rooms and secure areas, and new, higher-quality CCTV cameras have been installed in sensitive areas.

Inside the SFO's digital forensics unit

3 Our systems

Growing our IT capabilities to meet expanding demand

As the SFO's cases continue to increase in number and complexity the need for robust, high-quality information systems becomes ever greater. In meeting this constantly rising demand we continue to use DOCMAN as our core investigation support system and there are currently more than 60 cases running on it. We are also using Introspect for two cases in which we must process particularly large quantities of electronic data. Meanwhile, our new digital forensics unit (see below), now responsible for managing capture and initial processing of all electronic data, can draw on a newly-installed, dedicated, high-performance network linked to very high capacity data storage.

During the past year we have also added several new systems. Among the most important is a new task management system to help case teams manage all their tasks more effectively, including activities carried out by third parties such as counsel and the police. We have also developed and implemented improved communications within the SFO, including e-learning for (primarily) new starters as well as a much more detailed intranet which now acts as *the* central reference point for all staff at all levels.

Sungard, our third-party IT provider, continues to deliver support services that exceed agreed service levels, as well as providing us with additional resources to develop and extend our services and to meet the SFO's changing needs. In line with a commitment to apply industry best practice Sungard is now implementing a continual service improvement plan to deliver increased service efficiency and flexibility.

Turning to environmental sustainability, because IT systems inevitably consume a significant amount of energy we are continuing to seek out new ways to reduce our power usage. These currently range from simply switching off idle equipment to incorporating an energy efficiency objective into all our projects and improvement plans.

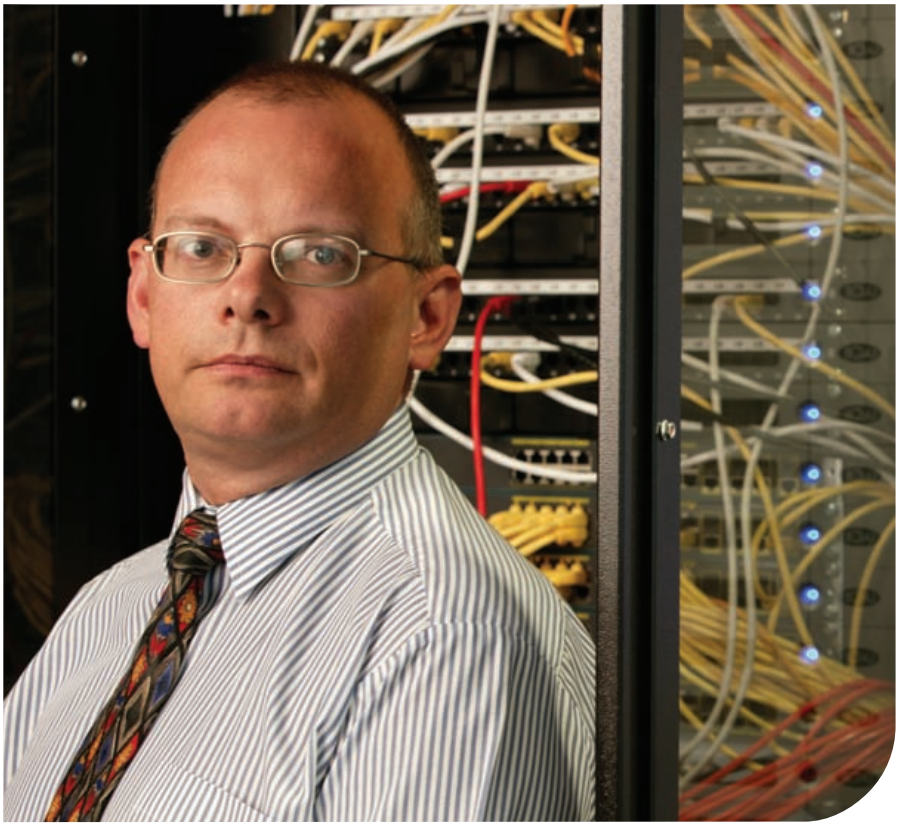
Security is clearly a key concern and rigourous security requirements are, of course, incorporated into every aspect of our systems. During the past year we successfully retained our ISO 27001 security management accreditation via the regular audit process. Encryption software has now been installed on all laptops and we continue to work closely with other government departments to develop and improve all of our security procedures.

With our case teams facing increasingly complex cases, spawning ever greater volumes of information, our systems must evolve continuously to provide them with the support and services they need. With this in mind we have issued an invitation to tender for the development of a new evidence and case management system. This will be *the* major programme of the coming year.

The SFO digital forensics unit: at the cutting edge

Digital information – stored on computers, hard drives, mobile phones and a widening array of other devices – now contributes a substantial and rapidly-growing proportion of all of the evidence SFO investigators must trace and analyse in the course of building each successful case. Managing these vast and increasing volumes of digital information is now the responsibility of the SFO's new digital forensics unit (DFU).

In the past twelve months the DFU has undertaken a programme of change, investment and development that has transformed its ability to support SFO investigations. The appointment of a new head of unit, Keith Foggon, marked the start of this period of rapid development. One of his first priorities was to address the significant backlog of cases preventing the unit from moving forward. Foggon explains: *"A series of investments in people, processes and the network has now transformed the unit's ability to prepare, decrypt and analyse the information that investigators need when working on a complex case, allowing us to reduce our backlog and prepare the way for a programme of future improvements."*



Keith Foggon, head of the digital forensics unit

Investing in processing power

The first step in improving the unit's capabilities was the upgrading of all desktop PCs. These are now the most powerful machines commercially available and have quadrupled the unit's available processing power and speed. The network has also been significantly upgraded, enabling all digital evidence to be stored online rather than on remote disks that have to be manually connected to a user's PC; evidence is now uploaded to the network as soon as it is ready and then made available 24 hours a day, seven days a week. Of course, these changes have also required a massive increase in storage and the unit's servers now have a combined capacity of 300 terabytes of storage; enough to store 150 billion pages of A4, or almost 15 digital copies of the entire contents of the US Library of Congress.

> all desktop PCs are now the most powerful machines commercially available

The unit's network has also been made more secure, more resilient and 'smarter'. All computers attached to it now operate as part of a grid, so that when maximum processing capacity is required (perhaps to crack a password or an encrypted file, working at a rate of millions of attempts per second) the network can automatically detect any spare capacity. On occasions, the unique needs of the DFU also require it to develop its own software, providing team members with access to the most sophisticated forensic tools available anywhere.

Developing the organisation

As well as strengthening the DFU's hardware and software base, the unit has also developed itself organisationally. *"Specialist teams now work on specific aspects (for example, mobile phone analysis or password cracking) and we have all moved onto a single floor of the building,"* says Foggon. *"Everyone was involved in determining how*

we could work most effectively, and we now use workstations specially designed by team members themselves to improve communication and collaboration. There is also now more time for team members to work on research and development projects to ensure that the tools we all use are kept right up-to-date with the rapidly developing investigative environment."

Creating relevant evidence

The amount of data that the DFU works with is unmatched in any UK organisation. Evidence can often consist of millions of individual files and documents, and the main role of the DFU is to make sure that the data presented to investigators is relevant, useful and manageable. To do this effectively means ensuring that rigorous processes are followed for every drive and device that the unit handles.

Often, efficiency begins at the site of the very first physical search. The unit now has a mobile capability that allows it to make a byte-by-byte copy (in the jargon, a 'clone') of a computer hard drive there and then, at the search location. A copy of this clone is then used for analysis so that the forensic integrity of the vital original is preserved and ensuring that, should an error occur, a further exact copy of the original is immediately available to investigators. Hard drives generally contain enormous amounts of information that is not relevant to an investigation; applications, operating software and other system files that are often duplicated. Once these have been stripped away other low priority files, such as photographs, are then removed. Of course, the unit does not make judgements about which files are relevant to the investigation but, by stripping out a range of known files and data types, investigators are then able to work much more efficiently.

Readiness for the future

The increasing sophistication and variety of devices, and the proliferation of forms of encryption, means that the unit's work and the technology it relies on must never be allowed to stand still. But, despite the challenges it faces, the SFO's DFU is determined to continue making strides in enhancing the services it provides to investigators.

Among the unit's key aims for the coming year are, says Foggon, *"Growing and developing the amount of 'intelligence' we provide to the case teams. By giving them information about the computers that may have been used in a suspected fraud, by showing how these might have been linked or how they might have shared the same data, we will be able to provide investigators with a much more complete, and revealing, picture."*

Case management reform programme: giving our investigators world-class support

Emails, spreadsheets, electronic memos, letters and reports, all held on a wide variety of applications, systems and platforms; complex fraud in the 21st Century always generates vast amounts of digital information. As you would expect, much of this data is encrypted and concealed using increasingly sophisticated techniques.

The digital forensics unit now enables us to retrieve all of this information from whatever computers and back-up devices are seized during an investigation. But to handle the sheer volume of digital evidence, in tandem with a similarly vast amount of paper-based evidence, it is vital that the SFO also develops more effective and efficient methods by which to manage its cases. To this end, to deliver significantly improved capabilities and technology to investigation teams, a case management reform programme (CMRP) has been set up. Historically, DOCMAN, or DCS, has provided support to case teams in managing paper-based evidence; now, state-of-the-art technology is required to transform the management of cases throughout the SFO.

The case for change

CMRP was established by the SFO's strategic management board in March 2007. It is a major programme of change that will make significant improvements in a number of areas, with the key objective of supporting the SFO in investigating and prosecuting cases with increased efficiency, effectiveness and speed. By delivering standard operational processes that all case teams will use CMRP will help the SFO to deploy the skills

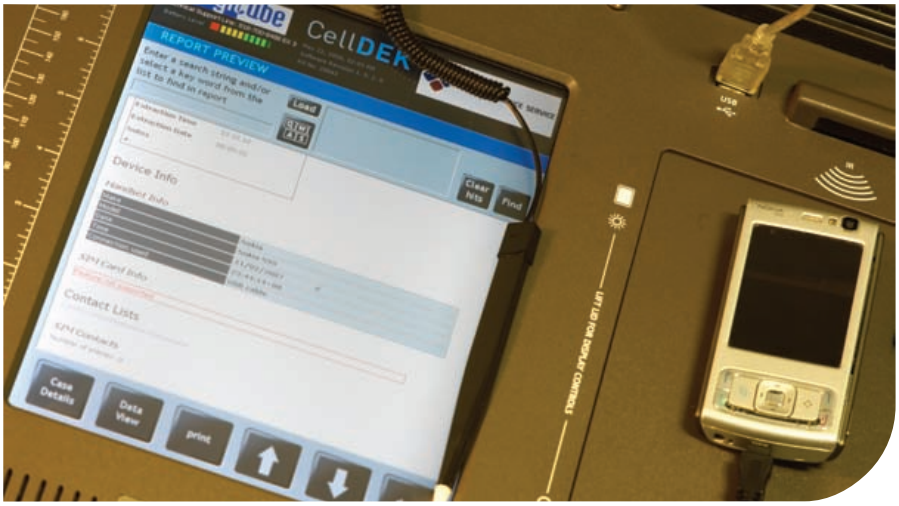
appropriate to each and every stage of the life-cycle of a case.

Improving the technology used for evidence and case materials management will ensure that automation and standardisation can reduce the burden of administration and so free-up experts to use their core investigatory and professional skills to maximum effect. The CMRP will also allow case information to be managed better and more consistently across all teams, providing improved intelligence across all our cases. A major training programme will ensure that all staff are fully equipped to get the best out of the new systems and procedures.

Broad consultation

In developing its proposals the CMRP team has worked closely with a large number of representatives from the various operational aspects of the SFO. The requirements that arose out of these consultations have now been reviewed and approved by 'the design forum', a group established under the CMRP to recommend standardised processes for adoption and then to manage the transition to the new technology and procedures.

This work has now provided the basis for an invitation to tender for the new case management system. In due course, the design forum will work with the successful supplier to ensure that the new technology is appropriately configured to support the SFO's operational processes and that it can deliver all of the operational benefits envisaged by the programme.



Standardising for speed and quality

Greater standardisation will provide a significant improvement in the speed with which investigations proceed, whilst also ensuring that where a prosecution is required a strong case is prepared robustly. One of the major benefits that the CMRP will deliver is that, by automating many routine but time-consuming tasks, investigators and other professionals will be freed to concentrate on deploying their skills, flair and knowledge optimally to build the strongest cases possible.

Boosting the power of investigations

In addition, these new technologies will transform investigators' abilities to interrogate evidence. For example, in recent years an explosion in the corporate use of email now means that the number of files that may be of potential relevance to an investigation can run to many millions. But searching through them remains an onerous and largely manual task. New tools will now allow investigators to quickly carry out highly detailed searches of digital files, creating a comprehensive view of relevant associations between specific individuals and the information they have exchanged, helping investigators to build a clearer picture of the evolution of the fraud as it happened.

Case-wide improvement

All elements of case management will benefit from major improvements delivered by the new technology. Technological support will extend to all case materials, so that items such as witness statements, case conference notes, etc. can be organised and tracked appropriately into workflows. The new platform will also revolutionise our ability to ensure the continuity and integrity of data through 'disclosure' (see the case study starting on page 11 for more on the heavy burden that disclosure places on state prosecutors like the SFO) and ensure that the involvement of witnesses and other key participants in a case can be managed more consistently and effectively.

Much work has already been carried out to improve the SFO's processes and working methods. In Autumn 2008 the award of a contract to develop the new system will build on that work. Development, testing and roll-out will then take place over the course of the next year, with the system becoming operational in mid-2009.

> All elements of case management will benefit from major improvements delivered by the new technology

Elm House

4

Key facts and figures

This section contains the principal data relating to the workload of the SFO and trial results during the year.

Workload

Our workload represents cases that are either under investigation or where proceedings have commenced. (Other investigations undertaken to assist overseas authorities are accounted for elsewhere.) Fig. 1 shows the caseload flow during the year. The 65 cases on-going at the year-end, when assessed for the aggregate sum at risk, represent £4.8 billion.

Fig. 1

Active cases at start of year	64 (sum at risk £2.38 billion)
Referrals accepted (from 60 made)	16
Re-opened	1
Cases worked on during year	81
Investigations closed (not prosecuted)	9
Cases completed at court (see Fig. 2)	7
Total cases concluded	16
Cases on-going at year-end	**65 (sum at risk £4.8 billion)**

Trial results

Seven trials involving 25 defendants resulted in 17 convictions and eight acquittals. The cases are listed below.

Fig. 2

Case name	Defendants	Convicted		Acquitted			
		jury	plea	jury	dismissed	npa*	stayed
EWE	4	2	2	-	-	-	-
Godfrey & Warner Ltd	6	-	3	-	-	3	-
Independent Insurance plc	3	3	-	-	-	-	-
Ciro Citterio plc	5	-	-	-	5	-	-
Dobb White & Co	2	2	-	-	-	-	-
Ravelle Ltd	3	2	1	-	-	-	-
Alta Gas plc	2	-	2	-	-	-	-
Total	**25**	**9**	**8**	**-**	**5**	**3**	**-**

*npa – not proceeded against

Restraint and confiscation

During the year 11 restraint orders were obtained for SFO cases, with five more to assist overseas authorities. At the year-end a total of £201 million of suspects' assets were under restraint. Eight confiscation orders were made in the year, amounting to more than £42 million.

Fig. 3

Name	Case name	Date of Order	£
Stuart Spacey	Barnsley College	19 Apr 07	470,053
Georgina Welcher	Ironfirm/Mars	2 Jul 07	82,764
Anthony Welcher	Ironfirm/Mars	2 Jul 07	286,243
Gerald Smith	Izodia	13 Nov 07	40,956,911
Anthony Prudhoe	EWE	21 Jan 08	1p
Linda Straughan	EWE	21 Jan 08	125,000
Mark Grainger	EWE	21 Jan 08	262,491
Michael Bird	EWE	21 Jan 08	51,938
		Total	**42,235,400**

Sentencing

Fifteen defendants convicted in this year received immediate custodial sentences. Two others were given suspended sentences. Sentences ranged from eight months to seven-and-a-half years. Twelve of those convicted were also disqualified from acting as a company director.

Fig. 4

	05/06	06/07	07/08
Defendants convicted	13	15	17
– custody immediate	*12*	*14*	*15*
– custody on appeal	*-*	*1*	*-*
– custody suspended	*1*	*-*	*2*
Disqualified as a company director	4	7	12

Progress of proceedings underway

Following the commencement of proceedings nine cases were transferred or sent to the Crown Court. Three of these have either had, or had scheduled, a preparatory hearing. Fig. 5 shows the average time taken (in months) for these cases to reach transfer after the opening of an investigation, and then from transfer to the preparatory hearing. *(Note: one case – R v Advani – is excluded from the calculation because extradition difficulties caused it to become inactive in 1990 before being re-opened in 2007 when the suspect returned to the UK and so could be charged.)*

Fig. 5

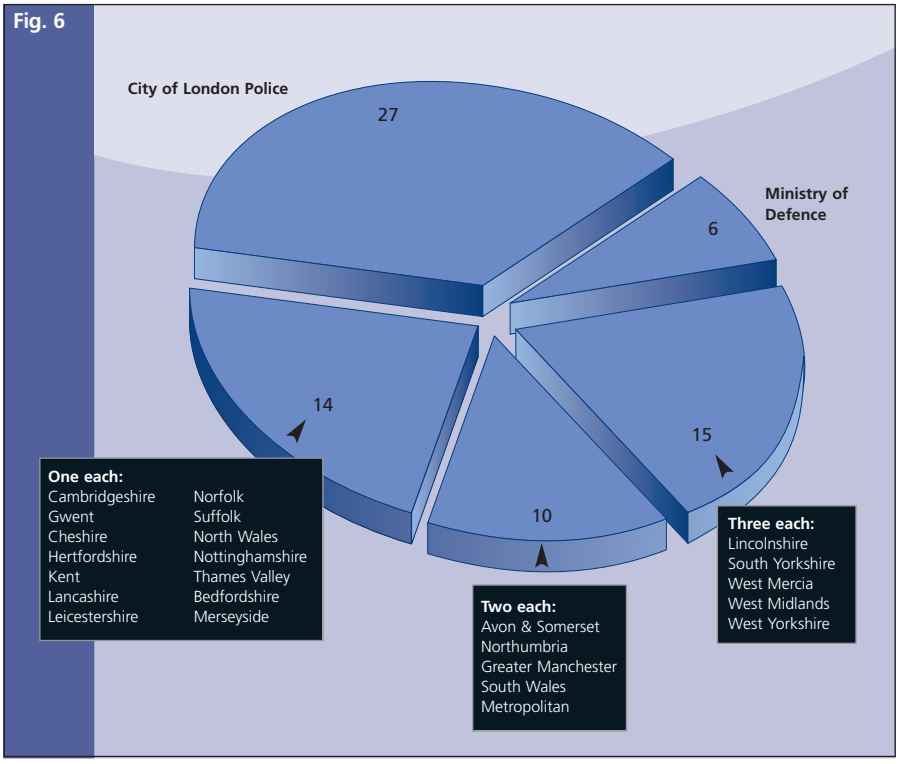
	05/06	06/07	07/08
Cases transferred to the Crown Court	5	8	9
(of which) – preparatory hearings arranged	*3*	*6*	*3*
– preparatory hearings to be arranged	*2*	*2*	*6*
Average duration (in months):			
– case acceptance to transfer/send	*45*	*51 1/2*	*25 1/2**
– transfer to preparatory hearing	*2*	*5 1/2*	*5 1/2*

* Calculation excludes R v Advani

Geographic distribution of cases

The 81 cases that were active during the year (either as investigations or as proceedings underway) are in the jurisdiction of England, Wales and Northern Ireland. (Fraud cases in Scotland, the Isle of Man and the Channel Islands are dealt with by the relevant authorities in those jurisdictions.) Fig. 6 shows the frequency with which individual police forces are involved in SFO investigations. The City of London Police is the SFO's main policing partner, particularly in overseas corruption cases. There are 72 cases with police involvement. 14 investigations had no police force. There were 4 cases where more than one police force was involved.

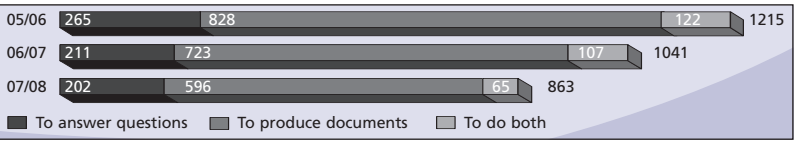
Fig. 6



Use of statutory powers

A section 2 notice (issued under the Criminal Justice Act 1987) is a power available to the SFO to obtain information through interview or acquisition of documents (including electronically stored data). Non-compliance with a notice can result in a criminal prosecution.

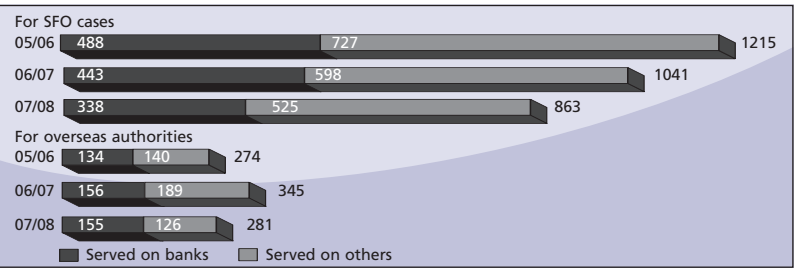
Fig. 7



Recipients of section 2 notices

During the course of an investigation section 2 notices can be served on suspects and other parties, individual or corporate. Not surprisingly, banks, as keepers of their clients' account and transaction records, receive a high proportion of notices. Section 2 notices are also routinely used to assist overseas authorities by locating evidence in the UK. During the year we issued 863 notices for our own cases and 281 to support foreign investigators. Figs. 7 and 8 provide the detailed statistics.

Fig. 8



Mutual legal assistance (MLA)

Under the mutual legal assistance arrangements we received 45 new requests (from 30 jurisdictions) to use our investigative resources and powers to obtain information in the UK to assist overseas investigations. Seventeen jurisdictions were in Europe (Italy, Switzerland, Germany, Ukraine, Sweden, Portugal, Belgium, Czech Republic, Bulgaria, Poland, Netherlands, Jersey, Spain, Russia, Monaco, Luxembourg and France). The others were: Argentina, Bahrain, Kazakhstan, Namibia, South Africa, Thailand, Iran, Kenya, Pakistan, Canada, Russia, Malaysia and Zambia. Satisfaction of an initial request frequently leads to a supplementary request, of which there were 33.

During the year a total of 81 requests were completed, with 68 others still open at the year-end. These enquiries undertaken for foreign authorities represent cases being investigated in foreign jurisdictions with a combined sum at risk of more than £27½ billion

Fig. 9

	05/06	06/07	07/08
Number of countries assisted	23	24	30
Requests made:			
–– new referrals	*41*	*53*	*45*
– still being considered at year-end	*1*	*0*	*0*
Requests accepted;			
– active at start of year	*51*	*57*	*71*
– new requests accepted	*40*	*53*	*45*
– supplementary requests accepted	*40*	*50*	*33*
– worked on during year	*131*	*160*	*149*
– completed in the year	*74*	*89*	*81*
– active at year-end	*57*	*71*	*68*
Section 2 Notices issued for MLA	274	345	281
Search warrants executed	**0**	**7**	**7**

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