



**HMCP SI**

HM Crown Prosecution  
Service Inspectorate

# Serious Fraud Office — progress on disclosure

**A follow up inspection of the  
recommendations made in the  
2024 report Serious Fraud Office —  
disclosure**

**October 2026**

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## Who we are

HM Crown Prosecution Service Inspectorate inspects prosecution services, providing evidence to make the prosecution process better and more accountable.

We have a statutory duty to inspect the work of the Crown Prosecution Service (CPS) and Serious Fraud Office (SFO). By special arrangement, we also share our expertise with other prosecution services in the UK and overseas.

We are independent of the organisations we inspect, and our methods of gathering evidence and reporting are open and transparent. We do not judge or enforce; we inform prosecution services' strategies and activities by presenting evidence of good practice and issues to address. Independent inspections like these help to maintain trust in the prosecution process.

## Our vision

We are part of the solution to improving the criminal justice system through high-quality inspection.

We have four priorities to enable us to deliver this vision:

- we hold the CPS and SFO to account for what they deliver (we make recommendations that drive improvement)
- victims will be at the heart of inspection (where we can, we will use victim experience in our inspection)
- using our 25 years of experience, we will help public prosecutors improve (their legal casework)
- inspection will identify and spread best practice.

## Our values

We act with integrity, creating a culture of respect, drive innovation, pursue ambition, and commit to inclusivity in everything we do.

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# **1. Chief Inspector's foreword**

Disclosure is fundamental to a fair and effective criminal justice system. It is particularly challenging in the complex and document-heavy cases investigated and prosecuted by the Serious Fraud Office. The volume and complexity of digital material, together with the need to identify and protect legally privileged material, create significant pressures that must be properly managed if cases are to progress effectively and public confidence is to be maintained.

In 2024, we inspected how effectively the Serious Fraud Office (SFO) managed disclosure across its casework. We found committed and experienced staff, but that inspection also identified significant weaknesses in governance, assurance, digital disclosure and the management of material subject to Legal Professional Privilege. We made six recommendations to strengthen practice and improve the management of disclosure risk.

This follow-up inspection was deliberately focused. We examined three of the six recommendations: those concerning the Disclosure Management Document, independent review of the disclosure exercise and the management of legally privileged material. These recommendations provided the clearest basis on which to assess whether the SFO had strengthened and embedded its approach to managing disclosure risk.

We did not reassess the other three recommendations.

- The recommendation relating to Deferred Prosecution Agreement material had been addressed through revisions to the Operational Handbook.
- The recommendation concerning incentives for staff undertaking disclosure officer roles had been progressed through measures including financial remuneration, enhanced support and development opportunities.
- The remaining recommendation concerned the development by government of a long-term funding strategy and was therefore not a matter that the SFO could implement on its own.

I am pleased that the Serious Fraud Office is now in a stronger position. Disclosure has become a strategic priority, with greater organisational visibility, stronger leadership oversight and increased awareness among staff of their responsibilities and the risks involved. The revised Disclosure Management Document has been embedded in operational practice and provides case teams with a clearer framework for explaining and recording their approach. The Serious Fraud Office's open and transparent self-assessment was also a positive feature of the inspection.

The SFO has enhanced its peer review arrangements and strengthened other assurance mechanisms. However, it has not yet established the focused, independent review required to provide sufficient assurance about the state of the disclosure exercise immediately before charge. We have therefore made another recommendation requiring the introduction of a pre-charge disclosure review for every case proceeding to the Case Evaluation Board Prosecution process where the decision to charge is authorised.

**Legal Professional Privilege handling therefore continues to represent a significant risk**

The SFO had completed its review of the model for managing legally privileged material and was developing different approaches in response. These included greater use of specialist counsel, technology-assisted review and proposals for a cadre of specialist Legal Professional Privilege counsel. These

developments were positive and demonstrated that the SFO had reviewed its arrangements, considered alternatives and engaged with other organisations, as the original recommendation required. We therefore assessed the recommendation as *achieved* on a strict interpretation.

However, at the time of our inspection, we did not think that the SFO's developing approaches were sufficiently advanced or embedded to mitigate the underlying risk. Case teams and senior leaders did not have consistently reliable visibility of the volume and status of material held in quarantine or undergoing Legal Professional Privilege review. Ownership and assurance arrangements also remained insufficiently clear. Legal Professional Privilege handling therefore continues to represent a significant risk to the SFO and its casework.

For that reason, although the original recommendation has been achieved, we have made a new recommendation. This requires the SFO to introduce a process that enables case teams to understand the status of Legal Professional Privilege review work throughout the life of a case, supported by reliable monthly management information. This additional recommendation reflects the distinction between completing the action specified in the original recommendation and securing the operational outcome needed to manage the continuing risk effectively.

The London Mining case was not itself examined or reinspected as part of this follow-up inspection. Inspectors considered the case only to the extent necessary to understand the learning identified by the SFO and to assess whether the action taken provided assurance against the recommendations within the scope of this inspection. Our report should not therefore be read as

reaching findings or conclusions on the handling of that individual case. The issues and learning identified by the SFO were relevant to our consideration of wider risks relating to system migration, the visibility of quarantined material and the management of legally privileged material.

The Serious Fraud Office has responded positively to our 2024 inspection and has made credible progress. The challenge now is to embed these improvements within clear and sustainable organisational processes.

Given the size and complexity of the cases it handles, no assurance framework can guarantee that a case will not encounter disclosure difficulties. The Serious Fraud Office must, however, put itself in the best possible position to minimise that risk through effective oversight, reliable management information and a clear understanding of disclosure progress throughout the life of a case.

HMCPsi will seek a written update from the Serious Fraud Office 12 months after publication on the implementation of the two new recommendations.

A handwritten signature in black ink, appearing to read 'Anthony Rogers', with a stylized, cursive script.

**Anthony Rogers**

**HM Chief Inspector**

## 2. Summary

## 2024 inspection

**2.1.** HMCPsi inspected disclosure in the Serious Fraud Office (SFO) in 2024<sup>1</sup>. The inspection examined how effectively the SFO managed disclosure across its casework, including governance arrangements, assurance mechanisms, organisational culture, digital disclosure processes and the management of legally privileged material. The inspection considered the extent to which the SFO's systems and processes enabled it to identify, manage and escalate disclosure risks effectively throughout the life of a case.

**2.2.** The 2024 inspection found examples of committed and experienced staff, together with evidence that the SFO had already begun to strengthen aspects of its disclosure arrangements.

**2.3.** However, it also identified significant weaknesses. Disclosure was not always receiving sufficient organisational attention, assurance arrangements were underdeveloped, and there was limited evidence that senior leaders could be consistently assured that disclosure obligations were being managed effectively. Particular concerns were identified in disclosure governance, oversight of disclosure decision-making, digital disclosure processes, and the management of legally privileged material.

**2.4.** The inspection also highlighted the increasing complexity of large volumes of electronically stored material and the risks this created for the effective management of disclosure. It also raised concerns about the attractiveness of disclosure roles and the organisation's ability to develop and maintain a sufficient pool of experienced disclosure practitioners.

**2.5.** The inspection concluded that disclosure required greater organisational focus, increased investment in resources, stronger governance, more effective assurance, improved management of digital disclosure risk and greater organisational priority across the SFO. HMCPsi made six recommendations intended to strengthen disclosure practice, improve oversight and support more effective management of disclosure risk across the organisation.

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<sup>1</sup> *Serious Fraud Office — disclosure*; HMCPsi; April 2024.  
[hmcp.si.justiceinspectorates.gov.uk/report/serious-fraud-office-disclosure/](https://hmcp.si.justiceinspectorates.gov.uk/report/serious-fraud-office-disclosure/)

## Follow-up inspection

**2.6.** This follow-up inspection examined the progress made by the SFO in implementing recommendations arising from HMCPSP's 2024 disclosure inspection. The follow-up inspection focused on the revised Disclosure Management Document template, the introduction of an independent disclosure review process and the management of legally privileged material. These matters were selected because they provided the clearest basis for assessing whether the SFO had strengthened and embedded its approach to managing disclosure risk.

**2.7.** The purpose of the follow-up inspection was to provide independent assurance on whether the SFO had implemented the relevant recommendations, whether the changes had become embedded in operational practice, and whether current assurance arrangements were sufficient to manage the disclosure risks identified in HMCPSP's earlier inspection. The follow-up inspection also considered risks arising from legacy systems, system migration, digital disclosure and the handling of legally privileged material.

**2.8.** The SFO accepted all six recommendations made in the 2024 inspection and undertook a programme of activity to address them.

**2.9.** Recommendations one, four and five were not included within the scope of this follow-up inspection.

**2.10.** Recommendation one concerned Deferred Prosecution Agreement material and had been fully addressed through revisions to the Operational Handbook.

**2.11.** Recommendation four concerned incentivising staff to take on disclosure officer roles and had been progressed through financial remuneration, enhanced support and development opportunities.

**2.12.** Recommendation five concerned long-term government funding and therefore was not something the SFO could implement alone.

**2.13.** The follow-up inspection therefore considered recommendations two, three and six. Recommendation two required the SFO to revisit the guidance in the Disclosure Management Document template. Recommendation three required introducing a disclosure review process equivalent to a peer review, originally to be conducted post-charge by an individual independent of the case team. Recommendation six required the SFO to review the model for managing legally privileged material and consider whether to implement a different system.

**2.14.** Following further consideration by the SFO, and discussion with HMCPSP in November 2024, the disclosure review process recommendation was amended so that the review would take place pre-charge rather than post-charge. This was intended to allow sufficient time for remedial action before the decision to charge.

## Methodology

**2.15.** This follow-up inspection considered, in respect of each recommendation within scope, whether it had been achieved or not achieved. Inspectors gathered evidence through interviews and focus groups with staff responsible for assurance, operational guidance and casework delivery. They also considered the SFO's self-assessment of progress against the recommendations (see annex C), governance arrangements, relevant guidance and material shown to inspectors during fieldwork.

**2.16.** Interviews were conducted with senior leaders, heads of division, case controllers, disclosure officers, lawyers, investigators, eDiscovery staff and staff involved in assurance and operational guidance. The follow-up inspection also included staff with experience of Personal Storage Table file expansion, Legal Professional Privilege, technology-assisted review, and cases that had transitioned between legacy and current digital systems.

**2.17.** The inspection team comprised two legal inspectors. Jeetinder Sarmotta, Senior Legal Inspector, led the inspection, supported by Gavin Hernandez, Legal Inspector. Lisa Morris, Deputy Chief Inspector, supervised the inspection.

## Findings

**2.18.** The SFO is in a stronger position on disclosure than at the time of the 2024 inspection. There is clearer leadership focus, a more visible assurance culture, and broader organisational awareness of disclosure risk. Disclosure now features prominently in the SFO's business plan and is regarded as a major organisational priority. Staff at all levels demonstrated greater awareness of disclosure obligations and risks than was evident during the original inspection.

**2.19.** This follow-up inspection found evidence of meaningful cultural change. Disclosure is no longer viewed solely as the responsibility of disclosure officers. Instead, disclosure considerations are increasingly embedded within wider case governance and assurance processes. The appointment of three experienced heads of division, enhanced governance arrangements and stronger leadership oversight have contributed significantly to this change. These developments represent some of the most significant improvements identified by the follow-up inspection, despite not being directly linked to any individual recommendation.

**2.20.** The strongest evidence of progress relates to recommendation two. The Disclosure Management Document template has been substantially developed and embedded within the Operational Handbook. Staff reported that the revised template provides greater clarity, consistency and transparency. While some experienced case controllers expressed concerns about the level of prescription within the template, these concerns represented a minority view. Inspectors found strong evidence of organisational compliance and widespread acceptance of the revised approach.

### **Case teams often remain dependent on technical specialists or external counsel**

**2.21.** The position regarding progress on implementing recommendation three is more mixed.

**2.22.** The SFO has enhanced its peer review arrangements and introduced several positive assurance mechanisms. However, the enhanced peer review process does not fully address the recommendation's original intention. The process is broader, more resource-intensive and generally occurs substantially earlier than the point at which disclosure assurance should be assessed.

**2.23.** The follow-up inspection found limited evidence that peer reviews provide assurance about the state of the disclosure exercise immediately before charge, although they may provide greater assurance on other elements of casework. More generally, improvements in disclosure appear to be more closely associated with stronger leadership oversight, case review meetings and disclosure review meeting processes, and the wider organisational focus on disclosure risk than with peer review activity itself.

**2.24.** The most significant residual risk concerns the management of legally privileged material. The SFO has reviewed its arrangements, explored alternative approaches and engaged with comparator organisations. On a strict interpretation, this satisfies the requirements of recommendation six. However, the follow-up inspection found ongoing risks relating to visibility, ownership and management of information relating to cases with privileged material.

**2.25.** Case teams often remain dependent on technical specialists or external counsel to understand the status of legally privileged material. There is no consistent mechanism that enables case teams, managers or senior leaders to obtain a complete picture of the volume, status and risks associated with quarantined legally privileged material across relevant cases.

**2.26.** Given our findings, the next stage of improvement should focus on embedding a focused pre-charge disclosure review linked to the Case

Evaluation Board Prosecution process, strengthening the visibility and management of legally privileged material, improving management information, and ensuring that senior leaders can be confident that disclosure risks are being identified, managed and controlled consistently.

**2.27.** We therefore make two new recommendations:

| Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| By October 2027, the Serious Fraud Office should introduce a pre-charge disclosure review for every case proceeding to the Case Evaluation Board Prosecution process. The review should be completed during the eight-week period immediately preceding the Case Evaluation Board Prosecution meeting. [paragraph 4.30]                                                                                                                                                                                                                                                                                                                                                        |
| <p>By October 2027, the Serious Fraud Office should introduce a process that allows case teams to understand the status of Legal Professional Privilege (LPP) review work throughout the life of a case. That process should provide, on a monthly basis, reliable information about:</p> <ul style="list-style-type: none"><li>• the volume of material held in quarantine</li><li>• the volume of material under LPP review</li><li>• the volume of material awaiting LPP review</li><li>• the volume of material deemed to be non-LPP and cleared for release</li><li>• the volume of material subject to any dispute with the privilege holder. [paragraph 5.43]</li></ul> |

### **3. Recommendation two: disclosure management document and guidance**

### Original recommendation

By October 2024, the Serious Fraud Office should revisit the guidance provided in the disclosure management document template to ensure that it guides case teams to fully explain the disclosure process employed and safeguard their position should their disclosure handling be challenged.

**3.1.** In its March 2026 self-assessment (see annex C), the Serious Fraud Office (SFO) assessed progress against recommendation two as ‘developing’. It considered that the recommendation had been delivered and embedded within operational practice through amendments to the Disclosure Management Document (DMD) template, changes associated with the Southwark Practice Note and the incorporation of additional disclosure guidance within the Operational Handbook. The self-assessment recorded positive stakeholder feedback on the revised template’s enhanced rigour and improvements in disclosure planning and strategic discussion.

**3.2.** However, the SFO noted that it had not conducted a formal assessment of the quality of DMD before and after the changes, so the impact of the amendments was difficult to quantify.

*HMCPSP judgement: achieved*

**3.3.** The SFO has revised the DMD template and embedded it within its Operational Handbook. The revised template replaced the previous version and includes significant additional material on:

- digital disclosure
- data migration
- Axcelerate (the SFO’s electronic document review system)
- search term methodology
- technology-assisted review
- blocklisting
- the procedures for serving disclosure schedules and disclosable material.

**3.4.** Staff reported that these additions promote greater consistency and provide a clearer framework for managing disclosure activities.

**3.5.** The DMD was developed with reference to the Southwark Practice Note (annex B). The SFO worked with the judiciary to develop that protocol, which informed the revised DMD template. Staff told us that the court endorsement of

the template provided greater confidence when responding to challenge and supported the SFO's ability to explain and justify its disclosure approach.

**3.6.** This is important because the original recommendation was not simply about creating a new form. It was about ensuring that case teams could explain the disclosure process and safeguard the SFO's position if disclosure handling was challenged.

**3.7.** We interviewed a range of case team members, all of whom reported that the DMD template was a helpful tool and provided useful guidance throughout the life of a case. Staff told us that the template promotes a more standardised approach to disclosure management and supports consistency across teams. They viewed the communication about the revised template positively, reporting that the SFO intranet disseminated information effectively.

**3.8.** We also received positive feedback from the Disclosure Working Group. They stated that the revised DMD template provides valuable support to staff in managing disclosure obligations and reported that the group had received favourable feedback from staff, who considered the template a useful and practical resource. Less experienced staff were particularly positive and described the DMD template as a useful guide that supports their understanding of disclosure requirements.

**3.9.** Some experienced staff were less positive. A few experienced case controllers considered the template too rigid or preferred approaches they had developed from previous casework. Some expressed frustration that the DMD design could generate additional defence queries, while others suggested that using annexes would make the document more practical. However, these views represented a minority position. Despite some criticism of the template, all teams in the SFO use it consistently.

**3.10.** The SFO has recently introduced the role of senior disclosure lead on an 18-month appointment. The individual in the role explained that the DMD was intended to operate as a flexible template that could be adapted to the specific requirements of individual cases. This reinforces the bespoke nature of disclosure management. However, the evidence suggests further communication may be required to ensure staff consistently understand the template's purpose and the extent to which it may be tailored.

**3.11.** Assurance checks on DMDs take place before and after charge at disclosure review meetings chaired by heads of division. All heads of division confirmed that case teams are using the new template and that there have been no issues with compliance with the Operational Handbook guidance.

**3.12.** Senior staff were also clear that the DMD is a living document and should not encourage a mechanical or unthinking approach. The DMD should support professional judgement, transparency and consistency. It should not replace case-specific analysis.

**3.13.** The follow-up inspection identified a specific issue concerning the wording in the DMD about the Forensic Science Regulator's Code of Practice. The SFO confirmed that it had not yet achieved the relevant accreditation. A stakeholder we interviewed during the follow-up inspection raised a concern that the wording could be interpreted as suggesting accreditation had already been achieved. When we raised this with the SFO, it confirmed it was aware of the concern.

**3.14.** This is a relatively specific point and does not affect our judgement on recommendation two, but the SFO should consider clarifying the DMD wording to avoid misunderstanding.

**3.15.** We also found that there is inconsistency in how case teams understand the relationship between the Disclosure Strategy Document (DSD) and the DMD. Some teams appear to regard the DMD as replacing the DSD, while others continue to use both documents in tandem. This is not significant enough to challenge achievement of the recommendation, but the SFO should provide greater clarity so that case teams take a consistent approach.

## Conclusion on recommendation two

**3.16.** The SFO has revisited the DMD template and strengthened the associated guidance. The revised template is embedded in the Operational Handbook, is being used by case teams and provides a more detailed and transparent framework for explaining disclosure decisions and managing challenge. There is still work to do to clarify the relationship between the DMD and DSD, and to clarify wording concerning the Forensic Science Regulator's Code of Practice. However, the core requirement of the recommendation has been met. We assess recommendation two as *achieved*.

## **4. Recommendation three: disclosure review process**

### Original recommendation

By September 2024, the Serious Fraud Office should introduce a disclosure review process, equivalent to a peer review, to be conducted on every case post-charge by an individual independent of the case team.

- 4.1.** In November 2024, following publication of the inspection report, the Serious Fraud Office (SFO) approached HMCPSI to suggest that we consider amending our position on the stage at which the disclosure review process should take place. We agreed to move the review to before charge.
- 4.2.** The rationale for this change was that any weaknesses identified through the review could be remedied before the charging decision was taken. A review conducted after charge would be significantly less effective in influencing disclosure strategy or addressing emerging risks.
- 4.3.** In this follow-up inspection, we therefore assessed progress against this recommendation on the basis that the peer review would have been undertaken at the pre-charge stage.
- 4.4.** Support for the decision to move the review process to the pre-charge stage was evident across all groups of interviewees. Many considered a post-charge review would be of limited value because any significant disclosure issues identified at that stage would be harder to address and could affect the progression of proceedings already before the court.
- 4.5.** We heard differing views, however, regarding the form such a review should take and who should undertake it.
- 4.6.** In its March 2026 self-assessment (see annex C), the SFO assessed progress against recommendation three as 'limited'.
- 4.7.** The SFO considered that the recommendation had been delivered through the introduction of a revised peer review process, supported by a new role within the Chief Investigator's Office and the addition of a dedicated disclosure section within peer reviews.
- 4.8.** However, the self-assessment also acknowledged that relatively few reviews had been completed, that none of the six cases charged during the relevant period had undergone a disclosure peer review, and that there was limited evidence that findings had been implemented or resulted in measurable organisational improvement.

**4.9.** The SFO concluded that the process was established and gathering momentum, but that further work was needed to ensure that findings were effective and consistently applied.

*HMCPSP judgement: not achieved*

**4.10.** The SFO has enhanced its peer review model since the 2024 inspection. Peer reviews are conducted by a team from the Chief Investigator's Office, comprising a range of specialist skills and experience. There is an increased focus on disclosure. The enhanced process provides structured independent challenge and can generate recommendations at both case and organisational level.

**4.11.** These developments are positive. The enhanced peer review process is a constructive response to the recommendation and is clearly capable of adding value. Although it provides a broader assessment of investigation and casework issues and has increased focus on disclosure, it has not yet delivered the required level of assurance on disclosure at charge envisaged by the original recommendation.

**4.12.** Interviewees expressed differing views regarding who should undertake independent disclosure reviews. Staff involved in the current peer review process considered the Chief Investigator's Office to be the most appropriate location because of its independence from operational case teams. Other interviewees questioned whether disclosure reviews should instead be led by individuals with specialist legal disclosure expertise, while some considered experience and understanding of disclosure issues more important than professional background. There was broader agreement that any reviewer should be independent of the case team and possess sufficient disclosure experience to provide effective challenge and assurance.

**4.13.** None of the cases that had progressed to charge since our 2024 disclosure report had undergone a disclosure peer review process close to the point of charge. Cases that had been peer reviewed had not yet been charged. In some cases where peer reviews had taken place, we found it difficult to measure the quality and impact of those reviews.

**4.14.** There is limited evidence that peer reviews are being conducted at the appropriate stage in the case lifecycle to assess the disclosure exercise. Recent peer reviews have not always been undertaken sufficiently close to charging decisions to assure disclosure progress at the point of charge, which reduces their practical value as a disclosure assurance mechanism.

**4.15.** While interviewees generally viewed the peer review process positively and considered it capable of adding value, few could identify measurable organisational impact from completed reviews. At the time of writing there was no established mechanism to assess the implementation of recommendations, the impact of the reviews or the effectiveness of the process, and there was limited evidence of systematic use by senior leaders as an assurance tool.

**4.16.** Several interviewees considered that the scope of the current peer review process has become broader than originally envisaged. While this has enabled reviewers to identify wider casework and organisational issues, it has also reduced the focus on disclosure readiness.

**4.17.** Some interviewees, including senior leaders, supported the concept of a more targeted disclosure review conducted closer to charge, focused on issues such as the status of the disclosure exercise, the maturity of the disclosure strategy, the implementation of previous recommendations and the readiness of the case to meet its disclosure obligations. There was less agreement on who should undertake such a review, but broad support for some form of independent challenge immediately before charge.

**4.18.** The intention underpinning the original recommendation has not yet been fully realised. The recommendation envisaged an independent, focused review of the disclosure exercise at a stage when it could provide effective challenge and influence to ensure disclosure was sufficiently progressed immediately before charge. The enhanced peer review process, as it currently operates, does not adequately address that need.

**4.19.** The SFO has, however, strengthened other assurance mechanisms. Case review meetings (CRMs) and disclosure review meetings (DRMs) are firmly in place before and after charge. There are regular one-to-one meetings between heads of division and case controllers. All three heads of division possess substantial operational experience and are held in high regard by case teams. Staff consistently described them as knowledgeable, credible and approachable. Their operational backgrounds enable them to provide informed and pragmatic assurance, which staff viewed as supportive and as adding value to casework.

**4.20.** The Case Evaluation Board Prosecution (CEBP) process also provides a final check before authority to charge. A template has been designed to provide the General Counsel's office with the information necessary to provide authority to charge.

**4.21.** However, the current template provides only limited assurance regarding disclosure. It does not consistently require information that would enable senior

leaders to be assured of the state of the disclosure exercise, including the scale and significance of outstanding material, the status of legally privileged material, key disclosure risks and the likely impact of any remaining work on case progression.

**4.22.** The current evidence suggests that improvements in disclosure are more clearly attributable to stronger leadership oversight, CRM and DRM processes, experienced heads of division and increased organisational focus on risk than to peer review activity itself. Peer review should therefore be seen as a positive element of the assurance framework, but not yet a mature or decisive mechanism for disclosure assurance.

**4.23.** The new senior disclosure lead role has responsibility for developing the disclosure improvement plan, maintaining disclosure guidance, reviewing training provision and considering how existing assurance mechanisms fit together. Several interviewees regarded the role as a positive development and considered that it provided an opportunity to bring greater coherence to disclosure assurance arrangements across the organisation. The creation of the role also reflects an increasing recognition that disclosure assurance should be viewed as a connected organisational system rather than a series of individual processes operating in isolation.

**4.24.** A recurring theme across interviews was that many elements of the disclosure assurance framework have developed incrementally over time. CRMs, DRMs, peer reviews, disclosure forums and other governance arrangements were generally viewed positively in isolation. However, several interviewees described the overall framework as having evolved organically rather than as part of a single integrated assurance model. While assurance activity has clearly increased, it is not always obvious how the various elements interact to provide overall assurance regarding disclosure risk.

**4.25.** The follow-up inspection found that confidence in disclosure assurance was often linked to the experience and credibility of individuals rather than to established systems. Interviewees frequently referred to the knowledge, judgement and operational experience of heads of division when describing how disclosure risks are identified and managed. While this was viewed positively, it also suggests that some aspects of assurance remain dependent on particular individuals rather than being consistently embedded within organisational processes.

## Conclusion and new recommendation

**4.26.** The SFO has made progress. It has introduced an enhanced peer review process and strengthened its disclosure element.

**4.27.** However, the process has not been applied consistently to cases proceeding to charge, is not always timed to provide meaningful point-of-charge assurance, and has not yet demonstrated sufficient impact

**4.28.** While the SFO has strengthened its wider assurance framework through CRMs, DRMs and enhanced leadership oversight, we found that the original recommendation has *not yet been achieved*. A focused pre-charge disclosure review remains necessary to provide independent assurance regarding disclosure risk immediately before charge and to support decision-making within the CEBP process.

**4.29.** Responsibility for disclosure assurance at the point of charge should rest with the head of division, supported by a focused review undertaken by someone outside the case team and with appropriate experience. The review should provide independent challenge and assurance but should not replace the statutory responsibilities of the disclosure officer and prosecutor or be regarded as a substitute for their professional judgement. The CEBP template should be strengthened to provide a better focus and checklist for disclosure, including the number of documents remaining to be reviewed, the status of legal professional privilege work and whether any previous peer review or assurance recommendations have been implemented.

**4.30.** The follow-up inspection has identified the need for a focused pre-charge disclosure review. Such a review should be undertaken by an individual of appropriate experience who is independent of the case team. The purpose of the review should be to provide assurance regarding the state of the disclosure exercise and the extent to which disclosure risks have been identified, understood and are being managed effectively. The review should consider both the volume and nature of outstanding work, including documents reviewed, material still subject to review, quarantined material, legally privileged material and any issues capable of affecting the progression of the case. The review should assess whether the disclosure exercise is sufficiently advanced, and whether any remaining disclosure work is understood, proportionate and capable of being completed within the timescales necessary to support the effective progression of the case. The review should not determine whether disclosure obligations have been discharged, which remains the responsibility of the disclosure officer and prosecutor.

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**New recommendation**

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By October 2027, the Serious Fraud Office should introduce a pre-charge disclosure review for every case proceeding to the Case Evaluation Board Prosecution process. The review should be completed during the eight-week period immediately preceding the Case Evaluation Board Prosecution meeting.

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## **5. Recommendation six: management of legally privileged material**

### Original recommendation

By October 2024, the Serious Fraud Office should review the current model for the management of Legal Professional Privilege (LPP) material. Consideration should be given to whether, due to the risks associated with delivery of the core business by the eDiscovery team, a different system for the management and control of LPP material should be implemented. The Serious Fraud Office should engage with others who have similar requirements to consider how it might manage and control LPP material.

**5.1.** In its March 2026 self-assessment (see annex C), the Serious Fraud Office (SFO) assessed progress against recommendation six as ‘limited’.

**5.2.** The SFO considered that it had reviewed and adapted its model for managing legally privileged material, including increasing the use of counsel to undertake activities previously carried out by eDiscovery. The self-assessment noted that further work was underway to strengthen guidance, training and operational processes and highlighted engagement with other organisations facing similar challenges.

**5.3.** However, the SFO also acknowledged that it had not carried out a central evaluation of the impact of the revised arrangements and that the effectiveness of changes to the model was therefore difficult to assess fully.

*HMCPSP judgement: achieved on a strict interpretation, with a new recommendation*

**5.4.** The SFO seizes vast amounts of material in the course of its investigations, often amounting to many millions of electronic documents. A proportion of this material will contain documents subject to LPP.

**5.5.** LPP material falls broadly into two categories:

- legal advice privilege, which protects communications between lawyer and client for the purpose of giving or receiving legal advice
- litigation privilege, which protects communications made for the purpose of existing or reasonably contemplated litigation.

**5.6.** Both forms of LPP material are protected by law and must be handled accordingly.

**5.7.** Where there are reasonable grounds to believe that material may contain LPP, the SFO is required to quarantine that material and ensure that it is reviewed independently of the case team. It is essential that case teams do not have access to LPP material.

**5.8.** While some LPP material can be readily identified at the point of seizure, a principal difficulty arises when material being reviewed is later found to contain potentially privileged communications. In these circumstances, whole batches of material may need to be quarantined, including material which is not itself privileged. Therefore, promptly identifying non-LPP material and releasing it back to the case team is critical.

**5.9.** Since the original inspection, the SFO has made changes in relation to LPP, including developing approaches using specialist counsel and early use of technology-assisted review (TAR). TAR is a form of artificial intelligence known as a binary classifier.

**5.10.** These developments reflect attempts to address historical capacity and resourcing issues within eDiscovery: the team responsible for managing electronic material obtained during investigations and preparing it so that case teams can search and review it. This team also plays an important role in the management of material that may be subject to LPP, including quarantining material and controlling access to it while reviews are undertaken.

**5.11.** The SFO has also engaged with other organisations, including HM Revenue and Customs, the Insolvency Service, the Financial Conduct Authority and the Competition and Markets Authority, about how they deliver their LPP processes, to identify good practice.

**5.12.** On a strict interpretation of the wording of recommendation six, the SFO has met the requirement to review its current model and consider alternative approaches. However, the underlying risks that led to the recommendation remain.

**5.13.** Assurance over LPP continues to present challenges, particularly around ownership, visibility of material across systems and the completeness of management information. We heard differing views regarding where overall ownership for LPP sits, variously identifying case teams, heads of division, the General Counsel's office, eDiscovery, senior leadership or the Executive Committee. While accountability for individual cases is clearer, the evidence suggests that organisational ownership of the overall LPP model remains less well defined.

**5.14.** Historically, the SFO has relied on independent counsel to review LPP material, while eDiscovery have been responsible for quarantining material, allocating it to counsel for review and ultimately releasing non-LPP material back to the case team. The eDiscovery team are also responsible for processing and preparing large volumes of electronic material for case teams to review.

**5.15.** Concentrating these responsibilities within a single specialist function places significant demands on the team and increases organisational dependency on its capacity and expertise. The 2024 inspection identified this as a risk because delays or difficulties within the process could affect the timely review and release of material and limit visibility of LPP activity for case teams and senior leaders. These pressures, and the associated risks, led HMCPsi to make the original recommendation.

**5.16.** LPP remains a significant risk area, principally because case teams cannot see the material once it has been quarantined. Where material is identified as potentially containing legally privileged communications, it is removed from the case team's view and reviewed independently to determine whether privilege applies. This protects privileged material, but it also means case teams cannot directly monitor the material while that review is taking place. Case teams therefore need a clear understanding of what material has been seized, how it has been processed and where it is held. They depend on eDiscovery for visibility and access to quarantined material where appropriate. Not all case teams possess the same technical knowledge or operational experience, and the extent to which teams understand the status of quarantined material can vary considerably.

**5.17.** The SFO has introduced an eDiscovery business partner role to give case teams a dedicated point of contact, strengthen communication between case teams and eDiscovery, and enable issues to be escalated more effectively. This is a positive development.

**5.18.** However, case teams still need to know what questions to ask of eDiscovery. For example, case teams may need to understand:

- how much material remains in quarantine
- whether material has been allocated to independent counsel for review
- what stage that review has reached
- whether any non-LPP material is awaiting release back to the case team.

**5.19.** We found that not all teams possess the necessary knowledge or experience to obtain this information consistently. In addition, the business partner role does not reduce the underlying burden on eDiscovery associated with managing LPP material.

**5.20.** There is currently no automatic LPP or quarantined material status report available to case teams and there appears to be no dashboard which provides a comprehensive overview of the status of quarantined material. This creates a

risk that case teams may not fully understand how much material remains quarantined, the progress of LPP review activity or the potential impact on case progression.

**5.21.** There is also a risk that material assessed as not containing LPP is not released back to the case team promptly. The process can appear convoluted. LPP counsel cannot release documents directly to the case team. Counsel must notify the case team, and the case team must then request release from eDiscovery. The process is intended to provide centralised control and safeguard against inappropriate release, but it also risks delaying the release of non-privileged material unless the process is clearly managed.

**5.22.** The SFO has developed two separate LPP projects intended to address some of these challenges. Both involve the use of specialist LPP counsel with enhanced training and review manager rights within Axcelerate. Both projects seek to transfer some responsibility for managing quarantined material away from eDiscovery and into the hands of specialist counsel.

**5.23.** The first project, the data driven review project, has been implemented in pilot form and represents a positive development. It involves a counsel team using TAR over quarantined material. A sample of quarantined material is reviewed by LPP counsel to determine whether documents contain LPP. This creates a “seed set”, which is then used to train the TAR algorithm. The system is able to rank documents according to the likelihood that they contain privileged material, allowing counsel to prioritise review activity and focus on documents most likely to contain LPP.

**5.24.** The process is iterative, with reviewers continually refining the algorithm through additional feedback. Manual intervention is used where necessary, including the application of search terms by counsel designed to identify potentially privileged material that may not have been captured through TAR alone. The effectiveness of this process therefore relies heavily upon the experience and judgement of counsel.

**5.25.** The SFO has piloted the use of TAR to assist with a review of material for LPP. This enabled the SFO to deploy the software to review a set of data and through dip sampling confirm the rest of the material did not attract a claim of privilege. This enabled the release of the non-LPP material to the team. The SFO also confirmed that TAR was used within disclosure review activity conducted on a recent successful prosecution and was viewed positively because it enabled the SFO to meet disclosure deadlines in good time and demonstrate to the court how the SFO is actively using technology from the outset of the disclosure process.

**5.26.** This approach appears significantly more efficient than previous methods and also reduces the burden on eDiscovery. However, the quality assurance arrangements still depend on the two lead counsel reviewing each other's work. While this provides some safeguard, the SFO will need to ensure that a sustainable quality assurance process exists if the model is expanded more widely.

**5.27.** The second project, referred to within a draft business case as the LPP cadre submission, has not yet been implemented. The proposal is for the SFO to retain a cadre of specialist LPP counsel who could be deployed rapidly across multiple cases. The original rationale was to provide immediate specialist support where potentially privileged material is discovered during review of non-quarantined material.

**5.28.** Under this proposal, counsel would receive the same enhanced training and review manager rights within Axcelerate and could undertake aspects of the LPP process currently performed by eDiscovery. This has potential benefits, particularly given the resourcing pressures within eDiscovery. However, the SFO has not yet determined where this function should sit organisationally or how it should be managed.

**5.29.** The two projects are promising developments but do not yet constitute a complete assurance model. The projects have considerable similarities but have largely been developed in isolation from one another. The SFO should ensure these initiatives are coordinated, properly evaluated and incorporated into a coherent LPP assurance framework.

## Learning from the London Mining case

**5.30.** The London Mining case<sup>2</sup> provides important learning. In February 2026, the SFO informed Southwark Crown Court that it was no longer proceeding with the prosecution after concluding that the evidence no longer satisfied the Full Code Test. The SFO cited significant delays to trial, difficulties obtaining and reviewing material, and challenges with witness evidence. The issues identified point to a combination of system interaction, migration processes, visibility of material and operational oversight, rather than a single point of failure.

**5.31.** LPP was a far more significant factor than the container issue caused by case migration (see paragraph 5.33). The evidence suggests that the current peer review process alone would not have identified the issues that arose. More

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<sup>2</sup> *London Mining Plc*; SFO; February 2026.  
[gov.uk/sfo-cases/london-mining-plc](https://www.gov.uk/sfo-cases/london-mining-plc)

effective safeguards lie in system clarity, accurate reporting of processed and unprocessed material, and consistent operational grip across the case lifecycle.

**5.32.** The SFO has identified learning from the case failure. This includes the need to exercise particular caution when migrating live cases between systems, ensure appropriate safeguards are in place, ensure clear communication of changes in digital processing responsibilities, and maintain robust strategies for handling large volumes of electronic material. The SFO also identified a need for improved documentation and guidance, including more comprehensive internal guidance on digital handling and disclosure processes to support consistency across cases.

**5.33.** The container issue related to unexpanded Personal Storage Table files which were subsequently discovered to contain many thousands of documents. The SFO confirmed that approximately 19,000 documents required review following the application of search terms. The issue arose from March 2018 because at this point there was a significant change in the SFO's process for determining when unexpanded containers would be subject to further processing. This has been recognised as an important learning point.

**5.34.** Migration from Autonomy to Axcelerate was identified as a factor which caused difficulties for the case team, particularly in relation to quarantined material. This required search terms to be rerun and the resulting material reviewed. The migration caused the de-duplication of material already reviewed for LPP. This required a considerable reconciliation exercise, creating delay and complexity. A dispute over the applicability of the crime fraud exception was also a complicating factor.

**5.35.** A review by the General Counsel's Office identified four issues with wider relevance to SFO casework. First, the LPP protocol agreed with the defence lacked precision, did not provide a mechanism for timely release of material determined not to contain LPP, and contained neither timescales nor a process for resolving disputes. Second, issues relating to the role and oversight of independent counsel. Third, insufficient information was visible to the case team regarding quarantined material, including what documents had hit LPP search terms and what had been allocated to counsel and the status of documents. Fourth, given the case team lacked visibility and control over quarantined material, the case team were reliant on eDiscovery to provide information and conduct the steps required to progress the LPP review.

**5.36.** The internal review made a number of organisational recommendations, including revision of the LPP chapter of the Operational Handbook, provision of guidance on LPP protocols, monitoring of counsels' performance, quality assurance of LPP counsel work, assessment of the sufficiency of information

available to case teams regarding quarantined material, and work to identify and categorise demands upon eDiscovery.

**5.37.** Most recommendations were accepted, although the proposal relating to quality assurance of all LPP counsel work was deferred, and work to categorise demand on eDiscovery was not progressed because it was considered to be superseded by other assurance activity.

**5.38.** The SFO has adopted several positive measures in response. The LPP working group has committed to revising the Operational Handbook to incorporate guidance on LPP protocols, including a template protocol, and to provide guidance on the crime fraud exception. The group is also reviewing the information currently available to case teams regarding quarantined material to assess whether improvements are necessary. Finally, the SFO has recognised the need to provide practical guidance to case teams on how to monitor LPP counsel performance.

**5.39.** These are positive developments. However, managing LPP material remains a significant risk to the SFO and future cases, as acknowledged by the SFO in its self-assessment at annex C.

**5.40.** We remain concerned that many case teams lack the technical knowledge or operational experience to maintain sufficient awareness of the volume of quarantined material, the status of that material or the progress of LPP review activity. Until the SFO can provide case teams and senior leaders with greater visibility and assurance in these areas, LPP will remain one of the most significant risks to disclosure faced by the organisation.

**5.41.** These matters demonstrate why recommendation six should be assessed as *achieved* only on a strict interpretation. The SFO has reviewed its model, considered options and engaged with other organisations. However, the continuing risk now requires a new recommendation focused on ownership, visibility, management information and assurance.

## Conclusion and new recommendation

**5.42.** The SFO has reviewed its LPP arrangements, considered alternative approaches and engaged with other organisations. On a strict interpretation, *we assess recommendation six as achieved.*

**5.43.** However, the model remains incomplete. Ownership is not sufficiently clear, case teams and senior leaders do not have consistent visibility over LPP material, and assurance arrangements are still developing. Accordingly, HMCPSP makes the following recommendation.

| New recommendation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>By October 2027, the Serious Fraud Office should introduce a process that allows case teams to understand the status of Legal Professional Privilege (LPP) review work throughout the life of a case. That process should provide, on a monthly basis, reliable information about:</p> <ul style="list-style-type: none"><li>• the volume of material held in quarantine</li><li>• the volume of material under LPP review</li><li>• the volume of material awaiting LPP review</li><li>• the volume of material deemed to be non-LPP and cleared for release</li><li>• the volume of material subject to any dispute with the privilege holder.</li></ul> |

## 6. Wider findings

**6.1.** The follow-up inspection found a clear improvement in disclosure culture. Staff described disclosure as a shared responsibility and noted stronger internal mechanisms, better support for disclosure officers and more open discussion of risk. Case review meetings, disclosure review meetings, disclosure officer forums and working groups are being used to share learning and support case teams.

**6.2.** The improved culture appears to be driven by the senior leadership, the experience and credibility of current heads of division, stronger routine governance and greater organisational awareness of disclosure risk. Case teams were consistently positive about the contribution made by the heads of division and frequently identified them as an important source of support, challenge and assurance. They viewed their operational experience as particularly valuable in helping them identify and manage disclosure risks at an early stage.

**6.3.** Inspectors found less evidence that the improvement was directly attributable to peer review activity, primarily because relatively few reviews had taken place and because improvements were more commonly linked to leadership oversight, case review meetings, disclosure review meetings and wider governance arrangements.

**6.4.** This is an important distinction. The Serious Fraud Office (SFO) has improved, but the improvement is not yet fully secured through systems. A future change in personnel, leadership focus or operational pressure could weaken assurance if processes are not sufficiently embedded.

**6.5.** The follow-up inspection found that case review meetings and disclosure review meetings provide important oversight. Heads of division and deputy heads of division are more engaged in disclosure issues, and case teams receive more challenge than was evident in the earlier inspection.

**6.6.** However, the Case Evaluation Board Prosecution (CEBP) process does not yet provide sufficient assurance on disclosure. The template is designed to give the General Counsel's office the information needed to authorise charge, but it currently provides limited assurance on disclosure. It should be strengthened so that senior leaders receive clear information on the state of the disclosure exercise, including the volume, nature and significance of material remaining to be reviewed, the status of Legal Professional Privilege (LPP) work, key disclosure risks, and whether any earlier assurance recommendations have been implemented.

**6.7.** Before charge, the SFO should be able to demonstrate that the progress of the disclosure exercise is understood, that outstanding work and associated

risks are known, and that there is a realistic and properly managed plan to meet future disclosure obligations. Current arrangements do not always provide that assurance in a structured and independently evidenced way.

**6.8.** Technical and digital disclosure risks remain significant. All SFO cases require strong technical understanding and effective communication between case teams and eDiscovery. Risks may be heightened in cases involving legacy systems, Autonomy to Axcelerate migration, Personal Storage Table (PST) expansion, exception processing, quarantined material and LPP material.

**6.9.** The container problem stemmed from a lack of understanding of a technical issue with Autonomy. There is always a risk that any electronic platform, including Axcelerate, may have unknown or poorly understood aspects. There can be no guarantee that future technical issues will not emerge. However, the SFO should be able to demonstrate that it has systems capable of identifying, escalating and mitigating such risks as far as reasonably possible.

**6.10.** The introduction of eDiscovery business partners is positive. It provides case teams with a dedicated point of contact and should strengthen communication between case teams and eDiscovery. However, it will need to be embedded and evaluated. It does not remove the need for reliable dashboards, reports or management information on the status of LPP and quarantined material.

**6.11.** A recurring theme across interviews was the importance of case teams maintaining a detailed understanding of material throughout its lifecycle. Several interviewees considered that the most significant disclosure risks arise when case teams lose sight of what material has been obtained, how it has been processed, where it is held and what decisions have been taken in relation to it. This theme was evident in discussions concerning PST files, digital disclosure, legally privileged material and the lessons from the London Mining case. The issue was viewed less as a technology problem and more as a challenge of maintaining effective operational grip over complex datasets.

## Serious Fraud Office self-assessment

**6.12.** The SFO's self-assessment was a positive feature of this inspection. It showed openness, transparency and organisational maturity. It acknowledged progress but also identified areas where work remained developing or where impact had not yet been fully evidenced. The self-assessment is published in annex C.

## Follow-up action

**6.13.** HMCPSI will seek a written update from the SFO 12 months after publication on the implementation of the two new recommendations:

- the implementation of the pre-charge disclosure review process
- the process for providing case teams with monthly information regarding the status of LPP review work.

## Conclusion

**6.14.** The SFO has made credible progress in strengthening its approach to disclosure since 2024, particularly through increased leadership focus, the introduction and embedding of the Disclosure Management Document (DMD) template, and the development of a more robust culture of assurance. Disclosure has greater visibility, case governance has strengthened, and staff have demonstrated a clearer understanding of disclosure as a shared responsibility.

**6.15.** The strongest progress relates to recommendation two. The revised DMD template is embedded in the Operational Handbook, is being used by case teams and provides a clearer framework for explaining disclosure decisions. There are residual issues regarding the relationship between the DMD and the Disclosure Strategy Document, and the wording relating to the Forensic Science Regulator, but these do not undermine achievement of the recommendation.

**6.16.** Recommendation three is *not achieved*. The enhanced peer review process is positive and may add value, but it is not yet the focused pre-charge disclosure review envisaged by the original recommendation. The SFO needs a clearer mechanism to provide assurance at the point of charge, linked to the CEBP process and supported by information about disclosure progress and LPP status.

**6.17.** Recommendation six is *achieved* on a strict interpretation. The SFO has reviewed its LPP model, considered alternative approaches and engaged with other organisations. However, LPP and digital disclosure continue to present significant risks. The SFO now needs stronger arrangements to give case teams, managers and senior leaders reliable visibility of LPP activity, quarantined material and outstanding work.

**6.18.** Overall, the SFO is moving in the right direction. It has responded positively to HMCPSI's 2024 findings and has made important changes.

**6.19.** However, key elements of the assurance framework remain at an earlier stage of maturity. The next stage of improvement should focus on:

- embedding a focused pre-charge disclosure review
- strengthening LPP visibility and assurance
- improving management information
- ensuring that disclosure risks are identified, managed and controlled consistently across all cases.

# Annex A

## Scope

## HMCPsi Inspection Scope: Serious Fraud Office Disclosure Follow Up 2026

### Background and context

This inspection will examine the Serious Fraud Office's progress in implementing key recommendations from HMCPsi's 2024 disclosure inspection<sup>3</sup>. This inspection will provide independent assurance on the effectiveness of the Serious Fraud Office's current disclosure arrangements. Public reporting indicates that a number of cases are being reviewed following disclosure issues linked to legacy systems and historic case handling practices.

### Purpose of the Inspection

The inspection will assess progress against three recommendations from HMCPsi's 2024 disclosure inspection to provide meaningful assurance on whether the Serious Fraud Office has strengthened and embedded its approach to managing disclosure risk.

The report made the following recommendations:

Recommendation 1: By September 2024, the Serious Fraud Office to update the Operational Handbook with guidance in relation to the handling of a Deferred Prosecution Agreement (DPA) and its related material on prosecutions of individuals in which a DPA has been entered into with the corporate entity.

Recommendation 2: By October 2024, the Serious Fraud Office to revisit the guidance provided in the Disclosure Management Document template to ensure that it guides the case teams to fully explain the disclosure process employed and safeguard their position should their disclosure handling be challenged.

Recommendation 3: By September 2024, the Serious Fraud Office should introduce a disclosure review process, equivalent to a peer review, to be conducted on every case post-charge by an individual independent of the case team.

Recommendation 4: By September 2024, the Serious Fraud Office should consider ways in which staff may be incentivised to take on the roles of disclosure officer and deputy disclosure officer to increase the pool of able and experienced candidates and improve staff retention in those roles.

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<sup>3</sup> *Serious Fraud Office — disclosure*; HMCPsi; April 2024.  
[hmcp.si.justiceinspectorates.gov.uk/report/serious-fraud-office-disclosure/](https://hmcp.si.justiceinspectorates.gov.uk/report/serious-fraud-office-disclosure/)

Recommendation 5: By October 2024, the government, through its economic and finance ministry must develop a long-term funding strategy to support the Serious Fraud Office to discharge its disclosure obligation to allow it to compete in the open market to secure enough experience to deal with its cases.

Recommendation 6: By October 2024, the Serious Fraud Office should review the current model for the management of Legal Professional Privilege (LPP) material. Consideration should be given to whether, due to the risks associated with the delivery of the core business by the eDiscovery team, a different system for the management and control of LPP material should be implemented. The Serious Fraud Office should engage with others who have similar requirements to consider how it might manage and control LPP material.

The Serious Fraud Office accepted all six recommendations and undertook a programme of activity to address the issues identified.

This follow-up inspection will focus on recommendations 2, 3 and 6, as these provide the clearest basis on which to offer independent assurance regarding the effectiveness of the Serious Fraud Office's current disclosure arrangements.

Recommendations 1, 4 and 5 are not included within the scope of this inspection. Progress updates provided by the Serious Fraud Office indicate that recommendation 1, which relates to material concerning Deferred Prosecution Agreements, has been addressed through revisions to the Operational Handbook. Recommendation 4, which concerns incentivising staff to undertake disclosure officer roles, has been progressed through a range of measures including financial remuneration, enhanced support and development opportunities. Recommendation 5 requires the development of a long-term funding strategy by government and therefore falls outside the remit of this inspection.

Following publication of our recommendations in 2024, the Serious Fraud Office undertook further consideration of recommendation 3 and its implications, alongside a wider review of its disclosure assurance arrangements. This work identified previously unforeseen timing-related risks associated with an independent peer review process conducted post-charge, given the constraints imposed by court timetables and initial disclosure obligations. These matters were shared with HMCPSI in November 2024, and it was agreed that the recommendation should be amended to provide for a pre-charge peer review process.

In light of the issues highlighted by the London Mining case, which resulted in a review of disclosure at the pre-trial review stage, this inspection will examine disclosure assurance arrangements both prior to charge and post-charge. The

inspection will assess whether the actions taken by the Serious Fraud Office in response to the recommendations have been implemented and embedded within day-to-day operational practice, and whether the assurance mechanisms currently in place provide sufficient safeguards to address the disclosure risk factors identified through that case.

## Methodology

The inspection will consider, in respect of each recommendation within scope, whether it has been achieved or not achieved. The methodology set out below explains how evidence will be gathered and evaluated to reach those judgements.

The inspection will be conducted through a series of interviews and focus groups with key members of staff, alongside limited examination of the Serious Fraud Office Operational Handbook.

There will be no document requests and no file examination. Where necessary, interviewees may show material on screen. The methodology reflects the approach previously used in the Serious Fraud Office Covid inspection.

Interviews will be conducted with staff responsible for assurance and operational guidance, alongside selected case team staff with experience of PST file expansion and cases transitioning between 2018 and 2021, to assess how transitional arrangements affected digital material handling and disclosure assurance. A brief pro forma will be issued to case team staff to complete prior to interview to facilitate discussions.

### Assessment of Recommendation 2

The Operational Handbook and associated disclosure guidance will be examined to identify updates made following the 2024 inspection. Interviews will be conducted with key members of case teams across the three operational divisions, together with senior staff, to assess understanding, usage and compliance with the revised guidance. The inspection will also consider how the Disclosure Management Document has evolved from the Disclosure Strategy Document and how this has contributed to the operation of disclosure decision logs, including the effectiveness of senior oversight.

### Assessment of Recommendation 3

Interviews will be conducted with key members of case teams across the three operational divisions and senior staff responsible for assurance to assess whether the independent disclosure peer review process has been implemented and embedded. Additionally, the inspection will assess the level of cultural acceptance of assurance at key stages of a case.

Although the inspection will consider disclosure assurance arrangements both prior to charge and post-charge, the assessment of whether recommendation 3 has been achieved will be measured against the agreed revised approach relating to the introduction of an independent pre-charge disclosure peer review only. In considering assurance more broadly, the inspection will also examine the steps taken by the Serious Fraud Office post-charge, including planned independent reviews, to understand how assurance arrangements align with the intent of the original recommendation.

### **Assessment of Recommendation 6**

The inspection will review how the Serious Fraud Office responded to this recommendation and the actions taken following the 2024 inspection. Interviews with senior staff will explore the approach adopted and the extent to which arrangements for managing legally privileged material were reviewed, with a focus on the effectiveness of the assurance framework supporting those arrangements. This will include consideration of whether the actions taken provide appropriate assurance to senior leaders and stakeholders that risks associated with legally privileged material are being consistently identified and managed.

### **Timeline and resources**

The inspection will be led by a senior legal inspector, supported by one legal inspector. Interviews will commence in May 2026, followed by a two-week dedicated drafting period. Publication is planned for Summer 2026.

### **Equality Impact Assessment**

A preliminary evaluation of the need for an equality impact assessment has been undertaken. The potential effects of the inspection on disadvantaged groups or individuals with protected characteristics have been considered. Based on the nature of the inspection and the methodology to be used, there is no indication that any protected groups are likely to be impacted by the outcome. As no impacts were identified during the screening process, a full equality impact assessment is not anticipated to be required. This position will be kept under review throughout the course of the inspection.

# **Annex B**

## **Southwark Practice Note**



**IN THE CROWN COURT AT SOUTHWARK**

1 July 2024

**SOUTHWARK PRACTICE NOTE NO.1/2024**

**JUDICIAL CONTROL AND MANAGEMENT OF HEAVY FRAUD  
AND OTHER COMPLEX CRIMINAL CASES**

**1. INTRODUCTION**

- 1.1 This Southwark Practice Note is principally directed towards jury trials which are likely to last four weeks or longer or which include complex disclosure issues.
- 1.2 The Practice Note comes into effect on 1 July 2024. Southwark practitioners must familiarise themselves with its contents. It does not create a local practice, but merely reminds, and in some cases informs, practitioners of the way in which judges might exercise their case management powers, and the relevant law and Criminal Procedure Rules (“**Crim.PR**”) and Practice Directions (“**Crim.PD**”) that must be complied with in dealing with heavy fraud and other complex criminal cases.

**2. PRE-CHARGE STAGE**

- 2.1 During the investigation of a case which is likely to result in a long and complex trial, regard should be had to the following criteria which will be applied by the judge:
- (a) **Defendants:** a realistic assessment of how many defendants are prosecuted, or prosecuted together, to avoid a trial which is too long or too complex.
  - (b) **Interviews:** should avoid irrelevant topics and unnecessary repetition, having in mind that Courts are unlikely to allow interviews to be played/read in full.
  - (c) **Witnesses:** the exclusion of witnesses as part of the Prosecution’s served case who are of marginal relevance or who repeat the same evidence with no benefit to the Prosecution’s case. Witness statements which do not form part of the Prosecution’s served case should be listed as “unused” on the Form MG6C Schedule of Relevant Non-Sensitive Unused Material (“**Form MG6C**”).
  - (d) **Exhibits:** irrelevant or unnecessary exhibits should not form part of the served case. Where one page out of a bundle is relevant and context is unimportant, the other material should be listed as “unused” on the Form MG6C.
  - (e) **Indictments:** charges should reflect what the Prosecution’s case really is; alternative charges based on hypothetical views of the evidence or additional counts which do not affect the criminality alleged will be scrutinised carefully by the trial judge. Exceptionally, the judge may leave a series of charges on the Indictment to reflect the seriousness of the overall offending for the purposes of sentencing (see *A-G’s Reference Nos.44 and 45 of 2013* [2013] EWCA Crim 1640).

- (f) **Case Summary:** a full summary should begin with a short statement of the Prosecution’s case, the role of each defendant and the case against them, and any defence known at that stage. The Case Summary must be served in advance of the Plea and Trial Preparation Hearing (“PTPH”) (see paragraph 4.6 below).
- (g) **Disclosure Management Document:** the Disclosure Management Document (“DMD”) is an essential tool in case management, and sets out the Prosecution’s approach to relevant non-sensitive material in the case. All material on the Form MG6C must be inspected by the disclosure officer, unless indicated otherwise. The DMD should be served at the point of charge or as soon as possible after charge, and in any event and at least 7 days before the PTPH. Parties to heavy fraud and other complex criminal cases at Southwark should consider adapting the example DMD in the Appendix.

### **3. ALLOCATION OF THE TRIAL JUDGE**

- 3.1 In any complex case which is expected to last more than four weeks, the trial judge will be allocated under the direction of the Presiding Judges or the Resident Judge at the earliest possible moment.
- 3.2 The allocated trial judge should manage the case throughout. Because Southwark has a large turnover of heavy cases this objective may not always necessarily be achieved. Where a judge has not yet been allocated, one judge should handle all the pre-trial hearings until the case is allocated to the trial judge.

### **4. CASE MANAGEMENT**

- 4.1 Well-prepared and extended management hearings at all stages leading to the trial will save Court time and costs overall.
- 4.2 It is incumbent on the Defence to engage with the Prosecution at an early stage in order to identify the real issues in the case and to actively contribute to a proper approach to disclosure. The parties have a continuing duty to engage with each other pursuant to the Crim.PR.
- 4.3 Effective case management of heavy fraud and other complex criminal cases requires the judge to have a detailed grasp of the case, case, including the approach to disclosure and the early identification of the real issues in the case; the need for pre-reading time is dealt with below.
- 4.4 The judge will try to generate a spirit of co-operation between the Court and the advocates on all sides so as to focus on the real issues in the trial to the benefit of the Prosecution, who can put forward a clear and concise case, and the defendant(s), who can ensure that their good points do not become lost in a welter of uncontroversial or irrelevant evidence.

### **Plea and Trial Preparation Hearing**

- 4.5 In an appropriate case, the judge may consider it necessary to allocate more than a day for the PTPH or to adjourning the PTPH to a date by which time all parties will be able to more effectively engage with the relevant evidence and identify the real issues in the case. Particular focus will need to be given to disclosure and the DMD. The judge may

require reading time before the hearing, or they may be able to use the gaps which will inevitably arise while the advocates are exploring matters raised by the judge. In some cases the judge may think it appropriate to hold a Further Case Management Hearing (“FCMH”) specifically to deal with disclosure issues.

- 4.6 The **Case Summary** must be served at least one week in advance of the PTPH. It may assist the judge, the Defence and the defendant(s) to hear the Prosecution highlight the key points of the case orally at the PTPH by way of a short outline of the case. The Case Summary should not be considered binding on the Prosecution, but the Prosecution case must at all times be established by evidence: see, *e.g.*, *Evans v Serious Fraud Office* [2015] EWHC 263 (QB) at [161].
- 4.7 The Defence advocate will be properly instructed in accordance with their obligations pursuant to s.5 of the Criminal Procedure and Investigations Act 1996 (the “**CPIA 1996**”) and ss.33-39 of the Criminal Justice Act 2003 (the “**CJA 2003**”).
- 4.8 The expectation at Southwark is that it will be the trial advocates that attend the PTPH.
- 4.9 Delays in obtaining the VHCC Legal Aid contract should not be a bar to proper preparation by the Defence at an early stage, nor should any application for King’s Counsel or two or more counsel.
- 4.10 The following issues should be dealt with at the PTPH:
  - (a) **Discussions in Advance of Orders Being Made** will assist the judge who still feels that they do not have sufficient information to identify:
    - (i) the focus of the Prosecution case as set out in the Case Summary;
    - (ii) the common ground;
    - (iii) the real issues in the case (Crim.PR r.3.2);
    - (iv) **Initial Disclosure** by the Prosecution pursuant to s.3 of the CPIA 1996; and
    - (v) the Prosecution’s approach to disclosure as set out in the DMD.
  - (b) **Pleas of Guilty:** The Court should identify whether any pleas of guilty can be entered to the Indictment (if drafted, where a paper case) or whether any pleas are likely to be forthcoming. The judge will be in the best position to make their own assessment as to the appropriate credit after the plea has been entered. The judge should order a basis of plea to be served on the Court and Prosecution where relevant to do so.
  - (c) **Trial Date and Length:** Where pleas of not guilty are entered, the Court should set a date for trial leaving sufficient time for preparation and to allow the Court to set a realistic timetable. Trials should not be scheduled to last longer than three months except in exceptional cases and where the length can be justified by the parties. Trials can usually be kept to three months by following the guidance given in paragraph 5.1 below. At this stage the parties must give accurate information as to the trial length to enable the Court to adequately allocate and deploy sufficient resourcing to the trial, taking into account the competing demands upon the Court’s

resources from this and other long and complex cases. The parties and the trial judge must reconsider the trial length at each hearing after the PTPH, and finally at the Pre-Trial Review (“PTR”) before trial.

- (d) **Issues:** The judge should explore the real issues in the case including an outline of the defences to be advanced.
- (e) **Service of Papers/Case Summary:** The Prosecution is likely to have its papers in an advanced state of readiness by the PTPH and a tight timetable should be set for service of any additional evidence.
- (f) **Initial Disclosure:** In accordance with the Attorney General’s Guidelines on Disclosure, disclosure by the Prosecution should have been frontloaded and the Prosecution should be in a position to make Initial Disclosure or the first phase of it in advance of the PTPH rather than at Stage 1. The judge should identify:
  - (i) the names of the disclosure officer and the reviewing lawyer;
  - (ii) whether it is a case where the advocate has had oversight of the way in which the MG6C and DMD have been prepared;
  - (iii) whether the Prosecution advocate has had oversight of the preparation of the Form MG6C and Form MG6D Schedule of Relevant Sensitive Material (“**Form MG6D**”) and the DMD;
  - (iv) when the DMD was served, and whether the Defence have engaged with the Prosecution about it and the Prosecution’s approach to disclosure;
  - (v) whether specific orders are required to advance engagement from the Defence on the content of the DMD;
  - (vi) how the Prosecution has approached searches of digital material, and whether directions as required (see paragraph 8.3(d) below). The judge should pay particular regard to any search methodology adopted by the Prosecution so as to ensure that there is a common understanding between the parties as to what search terms will and will not capture;
  - (vii) if the Prosecution proposes to take a phased approach to Initial Disclosure in accordance with paragraph 107 of the Attorney General’s Guidelines on Disclosure, what it proposes to include in each phase and by when it proposes to complete each phase.
- (g) **Defence Statements:** A timetable will be set to incorporate stage dates, including a date for service of Defence Statements in Stage 2. Defence Statements must properly set out requests for further disclosure if such requests have not previously been made. Defence Statements must properly set out the Defence case in sufficient detail pursuant to ss.5-6E of the CPIA 1996 and the Crim.PR. Judges will use their powers to ensure that Defence Statements are provided in accordance with ss.5-6E of the CPIA 1996 and the Crim.PR, and, where a Preparatory Hearing has been ordered, ss.7-10 of the Criminal Justice Act 1987.
- (h) **Disclosure,** see paragraph 8.1 below.

- (i) **Additional Jurors:** whether this is a trial in which they are to be used for any part of the hearing.
- (j) **Questions to be Asked of the Jury:** before being empanelled.
- (k) **Other Matters:**

The judge should pay special regard to:

- (i) reducing the number of counts or severance of defendants or charges;
- (ii) whether a witness needs to be called. Further, the Prosecution should be directed to prepare a witness schedule (often called a “batting order”) to which each party will add the time required for each witness;
- (iii) any cross-border aspect of the case which might require requests by the parties or the Court for co-operation to other jurisdictions and/or countries (such as the taking of witness evidence from abroad);
- (iv) the drafting of admissions pursuant to s.10 of the Criminal Justice Act 1967 (the “**CJA 1967**”), and agreement to them;
- (v) summaries of interviews should be ordered, setting out a maximum number of pages in the knowledge that ss.119- 120 of the CJA 2003 would permit a party to adduce specific passages not contained in the summaries during the Defence case if required;
- (vi) the use of Electronic Presentation of Evidence (“**EPE**”) (see paragraph 10.5 below) and core bundles, including Defence exhibits;
- (vii) **Instruction of Experts.** The judge should enquire into the issues to be covered and whether they are required at all. Crim.PR r.19 and Crim.PD 7 must be followed carefully by any party instructing an expert. Other relevant guidance (e.g. the CPS Guidance for Experts on Disclosure, Unused Material and Case Management) should also be considered by any expert instructed by the Prosecution;
- (viii) **Digital Case Papers.** The judge should play an active role to ensure that the case papers are served in digital form (subject to the Court’s own ability to accept papers in that form);
- (ix) The use of **LiveNote** or some other real-time service for the transcription of evidence. LiveNote is an expensive option, but it may be of particular use during sections of complex and/or expert evidence. In the event such a service will benefit the Court and the parties in a long and complex trial, the parties should raise its deployment at trial so that the cost allocation can be considered and agreed by the trial judge well in advance of trial and before the PTR.
- (l) **Directions Without a Hearing:** The judge should lay down a procedure for dealing with applications that can be resolved in writing or, where possible, via CVP so as to avoid unnecessary in-person hearings.

- (m) **Use of Emails for Further Communications:** email addresses, including one for the judge or the Court should be exchanged. Directions should be given as to the use that the judge wants made of this form of communication.
- (n) **Confirmation that Orders Have Been Complied With:** the judge will set down a procedure so that they are informed that their directions have been complied with, and remind the advocates of the need to report others' failures and self-report their own failures to comply.
- (o) The **Date of the Next Case Management Hearing** should be fixed.
- (p) A date for the **PTR** will be set by the trial judge no less than 4 weeks before the trial date.
- (q) **Minutes of the Directions** to be agreed and circulated.

### **Further Case Management Hearings**

- 4.11 The judge must avoid unnecessary and costly hearings when they are not required whilst ensuring that the judge can order, or the parties can apply for, a hearing to keep the case on track.

## **5. CONTROL OF THE SCOPE OF AND LENGTH OF TRIALS**

- 5.1 The judge can influence the length and complexity of a case by:
  - (a) encouraging the Prosecution to review whether it is in the public interest to pursue certain charges and/or certain defendants;
  - (b) severing the Indictment. Severance for reasons of case management alone is perfectly proper, although judges should have regard to any representations made by the Prosecution that severance would weaken their case, and any representations made by the Defence. The judge must bear in mind that they will, at the outset, know less about the case than the advocates. The judge should have regard to Crim.PR r.1.1(2)(h); and
  - (c) reducing the scope of the evidence in accordance with the Criminal Procedure Rules. Where it is clear that the advocates have already narrowed the issues, pruned the evidence, etc, the judge must make a careful assessment of the degree of judicial intervention which is warranted.
- 5.2 The parties are obliged to provide the Court with accurate and realistic estimates of the trial length whenever requested, but in any event at the PTPH and at the PTR.

## **6. MATTERS OF LAW**

- 6.1 All matters of law concerning the form of the Indictment, disclosure, admissibility of evidence, bad character, hearsay or anything else which does not arise *ex improviso* during the trial should be considered by the trial judge before trial.
- 6.2 Any party wishing to make an application or raise a matter of law should do so as soon as the issue is identified, and in any event no later than the PTR. Such applications must

be filed and served with a skeleton argument and any supporting material before trial. Skeleton arguments must not without prior leave of the Court exceed 15 pages (font minimum 12 point; 1.5 line spacing).

- 6.3 Only matters of law which arise *ex improviso* during the trial will be considered by the trial judge during the trial (unless the trial judge has deferred the determination of an application or a matter of law to trial). Such matters of law must be the subject of a written exchange of skeleton arguments and will be taken at a point convenient to the Court.

## 7. SPECIFIC EVIDENTIAL ISSUES

- 7.1 Directions may need to be given as to the way in which it is proposed that the evidence is presented to the jury including the use of schedules and other visual aids. The judge should be willing to intervene and direct how the evidence is to be presented if they believe that the jury can be better assisted by a different approach. This is relevant in relation to each area of evidence identified below.
- 7.2 **Mechanics of the Fraud.** In many fraud prosecutions the activity said to be fraudulent is not in dispute, the issues generally being as to knowledge or dishonesty. The judge should play an active part in encouraging this to be reduced to schedules and admissions and refusing to allow evidence to be called which can be summarised fairly in this way. A witness's evidence can sometimes be read or reduced to a schedule before they are tendered for cross-examination.
- 7.3 **Expert Evidence.** Following the exchange of reports, any areas of disagreement should be identified and a direction should generally be made requiring the experts to prepare a joint statement identifying points of agreement and contention, and areas where the Prosecution is put to proof on matters of which a positive case to the contrary is not advanced. In many cases, it may be appropriate to provide it to the jury.
- 7.4 **Surveillance Evidence.** Where many months of observation/surveillance evidence is capable of effective presentation based on a shorter period, the advocate should be required to justify the evidence of the wider observations. The Defence should be required to identify with precision what is in dispute and, where relevant, justify the need to call a number of witnesses to provide the same evidence.
- 7.5 **Telephone Evidence.** The judge should direct, both in respect of the period covered and the extent of the information provided in respect of calls which are not directly relevant to the issues in the trial, what can be put before the jury. The necessity to have all the calls listed can be obviated either by summaries of the number of calls within the telephone schedule or by free-standing admissions. The judge should look to see whether the amount of technical evidence included on the schedules is required bearing in mind the issues in the case and direct its removal if irrelevant.
- 7.6 Where cell site analysis is to be carried out, agreement should be reached as to the relevant technical aspects of the evidence and reduced to writing where possible.

## 8. DISCLOSURE

- 8.1 Because failures in the disclosure process remain the most likely cause for a trial being delayed or stayed, or unknowingly resulting in a miscarriage of justice, the judge should be familiar with the following guidance on disclosure:
- (a) ss.3-26 of the CPIA 1996;
  - (b) the s.23(1) CPIA 1996 Code of Practice (the “**CPIA Code of Practice**”);
  - (c) the Attorney-General’s Guidelines on Disclosure;
  - (d) Part 15 of the Crim.PR: Disclosure; and
  - (e) the Judicial Protocol on the Disclosure of Unused Material in Criminal Cases.
- 8.2 The parties and the judge must keep up to date with evolving guidance and protocols on disclosure.
- 8.3 Early control of the disclosure process is required, and in particular the judge should address the following:
- (a) **Non-Sensitive Schedule of Unused Material.** If asked to do so by the parties, the judge should examine the non-sensitive schedule and consider whether items have been described in accordance with the CPIA Code of Practice and the Attorney-General’s Guidelines on Disclosure. If the judge is not satisfied that the schedule complies with the Code and the Guidelines, they should make that clear to the Prosecution and invite them within a reasonable timeframe to redraft the document to make it compliant.
  - (b) **Reviewing Lawyer.** If an issue arises in respect of the disclosure process on which the judge feels they can be assisted by the Reviewing Lawyer, they should invite them to attend Court.
  - (c) **DMD.** The judge should require the Defence to serve any observations on the content of the DMD on the prosecution and the court as soon as reasonably practicable, in accordance with Rule 15.2(5) of the Crim.PR. If those observations have not been served by the time of the PTPH, the judge should make directions for that at that hearing.
  - (d) **Documents Held Electronically.** The judge should lay down a timetable for any further disclosure requests. To ensure a fair process is undertaken, the judge should direct:
    - (i) the Defence to inform the Court what material they are seeking and any key word or other searches of material that they would suggest; and
    - (ii) the Prosecution to consider the use of additional technological assistance for its review (such as the use of predictive coding software); and

- (iii) the parties to discuss the procedure adopted for searching, scheduling and serving material, to achieve a process which cannot be criticised at a later stage.
  - (e) **Section 8 Applications.** The judge will require applications for disclosure to be made using this procedure alone and not allow unfocussed requests for disclosure in general correspondence to be advanced. Such application must be made well in advance of trial. The judge will require documents or categories to be specified and justification for disclosure provided in the application and to demonstrate the relevance to clearly identified issues in the Defence Statement. The judge should bear in mind that in cases of fraud defendants are likely to know their own business affairs and what they are looking for and will be able to identify documents with particularity. Contemporaneous documents, such as emails and calendar entries, are very likely to be an important and necessary part of Defence preparation, and consideration should be given to their disclosure at an early stage.
- 8.4 The judge should set further review dates in respect of disclosure if it is thought necessary to do so. Where concerns are expressed over disclosure, a hearing should be ordered promptly.
- 9. PRE-TRIAL REVIEW**
- 9.1 A PTR should be held at least 4 weeks before the trial date, and must be held in any event.
- 9.2 At least 2 weeks before the PTR, the Prosecution must serve upon the Court and the Defence:
- (a) a draft jury questionnaire;
  - (b) a draft Opening Note;
  - (c) a draft witness timetable/batting order for the Prosecution witnesses;
  - (d) proposed draft admissions in the form of agreed facts pursuant to s.10 of the CJA 1967; and
  - (e) a draft jury bundle index.
- 9.3 At least 2 business days before the PTR, the Defence must:
- (a) serve upon the Court and the Prosecution a document which identified what is in issue in the case in accordance with Crim.PR r.25.9(2)(c) (the “**Defence Issues Document**”). The Defence Issues Document must be concise and explain the issues in the case without containing submissions or reference to character evidence; it must be no longer than two A4 pages (font minimum 12 point; 1.5 line spacing). The Defence Issues Document should not be provided to the jury unless otherwise directed, and should be read to the jury by Defence counsel at the conclusion of the Prosecution’s opening address; and

- (b) reconfirm to the Prosecution the identity of the witnesses upon whom the Defence intends to rely, and factor into the batting order an accurate time estimate for the Defendant's case.
- 9.4 At the PTR the parties must identify to the judge known dates where trial counsel has firm commitments elsewhere (*e.g.*, in the Court of Appeal (Criminal Division)) during the trial window period and seek the Court's permission to be absent on those days to assist the Court in effectively managing the allocated sitting days throughout the trial window.

## 10. THE TRIAL

- 10.1 **Preparation:** If the judge has not had sufficient reading time during the period they have managed the case, they should ensure that they are provided with time before the trial so that they can exercise firm control over the conduct of the trial.
- 10.2 So far as possible, the judge should be freed from other duties and burdens during the trial so that they can give the high degree of commitment which a long and complex trial requires.
- 10.3 **Judicial Assistant:** In some very heavy cases, the judge's burden can be substantially offset with the provision of a Judicial Assistant or other support and assistance. However, this will only be granted in a wholly exceptional case.
- 10.4 **The Jury:** the justice system relies on the jurors understanding a complex case, continuing to engage with the trial process over a long period and assisting by attending Court in good time each day. To achieve these ends, the judge should consider the following:
- (a) **Maxwell Hours:** the judge may decide that they need to sit Maxwell hours for part of the trial, or that it will assist the trial process to sit from 09.30 to 13.30 one day each week (usually Fridays) to allow for legal argument, discussions with counsel and preparation. An added advantage of sitting Maxwell hours one day each week is to provide jurors with the opportunity to arrange appointments on that afternoon which might otherwise disrupt the trial.
  - (b) **The Issues** should be identified to the jury from the outset. In appropriate cases the Defence can be given leave to make short opening statements after the Prosecution has opened its case. At a minimum, the Defence should identify to the jury the issues set out in the Defence Issues Document. Where the law is complex, the judge may want to set out what must be proved at the outset to help the jury to identify the issues as they listen to the evidence.
  - (c) **The Timetable** should be made clear to the jury and regularly updated.
- 10.5 **Electronic Presentation of Evidence:** EPE should be the default position in every long and complex trial, particularly where the trial will involve the presentation of voluminous material to the jury. Where EPE is used, the material to be displayed should be prepared and disclosed to the Defence in sufficient time so that its accuracy can be checked well ahead of trial, and in any event before the PTR. Tablet devices such as iPads should be

made available to the defendant(s), the advocates, and all jurors so as to engage better with the EPE material.

**10.6 Case Management:** The judge has a continuing duty to manage the trial throughout by:

- (a) **Reviewing Progress Against the Witness Timetable.** The time set aside for a witness should be reviewed as the issues become clearer during the trial. Judicial control will reduce the incidence of short days or the prospect of counsel being unprepared for a witness who has come earlier than expected.
- (b) **Intervening** to stop unnecessarily detailed examination-in-chief or cross-examination or, in multi-handed cases, repetitious cross-examination of issues already covered by others.
- (c) **Case Management Sessions** to monitor progress and to ask counsel where a line of questioning is leading; whether, in light of the way the case is being presented, certain witnesses are now required; suggesting that further issues can now be dealt with by admissions. Crim.PR r.3.13 will assist the judge in this regard. The judge may issue “Case Management Notes” setting out their tentative views on where the trial may be going off track, which areas of future evidence are relevant and which may have become irrelevant. They can ask for written responses before deciding what action they will take to move the trial on.
- (d) The trial length, to ensure wherever possible that it does not exceed the estimated trial length provided by the parties and confirmed at the PTR.

His Honour Judge Baumgartner  
The Hon. Recorder of Westminster  
Resident Judge, Crown Court at Southwark



## APPENDIX

### DMD Template

Case No.: [●]

### IN THE CROWN COURT AT SOUTHWARK

### BETWEEN:

REX

- v -

[●]

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**PRACTICE NOTE NO.1/2024**  
**DISCLOSURE MANAGEMENT DOCUMENT**

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## 1. INTRODUCTION

- 1.1 This Disclosure Management Document (“**DMD**”) is provided in connection with the criminal investigation and prosecution carried out by [e.g., the Serious Fraud Office under the name [●], or a private prosecutor] (the “**Prosecution**”).
- 1.2 The purpose of this DMD is to provide the Court and the Defence with a detailed and transparent outline of the approach that has been taken by the prosecution in relation to relevant non-sensitive material. It will cover:
- (a) the Prosecution’s understanding of the Defence case and the anticipated trial issues, including detailing the Prosecution’s understanding of those matters which are, and are not, in dispute;
  - (b) the lines of enquiry that have been pursued and those that have not been pursued;
  - (c) the roles played by different members of the Prosecution case team;
  - (d) the process by which relevant material has been identified, obtained, reviewed and scheduled, including the method and extent of examination of digital material;
  - (e) how material which is potentially capable of meeting the test for disclosure was identified, and how the disclosure test has been applied;

- (f) the approach taken towards certain categories of material, such as third party material or material held overseas, and other specific disclosure decisions that have been made, which are considered to be of particular importance to this prosecution;
- (g) any outstanding material which needs to be reviewed along with the Prosecution's intentions in respect of this material and the anticipated timescales for completion of any further review work;
- (h) [*add any further necessary details*].

1.3 Given the ongoing nature of the disclosure exercise, this DMD will be supplemented/updated by sequentially numbered addendum DMDs provided at appropriate points after the date of service of this DMD and at least once every 6 months.

## **2. RELEVANT DISCLOSURE PROCEDURE**

2.1 The control, management and disclosure of unused material is governed by [insert details. Currently the Criminal Procedure and Investigations Act 1996 (“**CPIA 1996**”) and by the revised Code of Practice issued under s.23 CPIA 1996 (the “**CPIA Code**”).]

2.2 The following also form part of the applicable framework of law and guidance:

- (a) the principles set out by the House of Lords in *H and C* [2004] 2 AC 134;
- (b) the Attorney-General's Guidelines on Disclosure;
- (c) Part 15 of the Criminal Procedure Rules; and
- (d) [*insert details of any other applicable case law/guidance*].

## **3. DEFENCE CASE(S)/ANTICIPATED ISSUES/APPLICATION OF THE DISCLOSURE TEST**

3.1 A Case Summary was served on [*insert date*]. However, in short the Prosecution case is as follows:

[Insert brief details of the Prosecution case.]

3.2 At the date of this document the following information is known about the Defence case(s):

[Insert details of the Defence case(s) and if possible where any such information came from. For example, if the defendant offered an explanation in interview then state when the interview took place and a summary of the defence advanced.]

3.3 The issues in dispute in the case are therefore considered to be:

[Insert high level details.]

3.4 The issues which are not considered to be in dispute are:

[Insert brief details.]

- 3.5 Material which the Prosecution has determined satisfies the disclosure test has been clearly identified on the non-sensitive schedule of unused material. Such material falls within the following broad categories:

[Insert brief details.]

- 3.6 The disclosure exercise has been approached bearing in mind these anticipated issues. The Prosecution will keep the list of issues under review and will take proper account of the contents of defence statements and any representations made on behalf of the defendant(s).

#### **4. REASONABLE LINES OF INQUIRY/THIRD PARTY MATERIAL**

- 4.1 In light of the Prosecution's understanding of the Defence case(s) and anticipated issues, the following lines of enquiry were followed:

[Insert summary of reasonable lines of enquiry pursued, particularly those which point away from the defendant, or which may assist the defence, along with rationale for pursuing.]

- 4.2 These resulted in material being gathered by various means, from different custodians (including third parties) as set out below:

- (a) Search warrants executed at addresses in the United Kingdom.

*[Insert details of material obtained and, where the custodian was a third party, explain the basis for the decision to access third party material.]*

- (b) *[Where the prosecution is brought by the SFO:]*

Notices issued under s.2 of the Criminal Justice Act 1987 ("CJA 1987") requiring the production of material:

*[Predominantly banking material or the furnishing of information (by both companies and individuals) or the answering of questions – insert details of material obtained and, where the custodian was a third party, explain the basis for the decision to access third party material.]*

- (c) Letters of Request ("LoRs"). There are a number of territories outside the jurisdiction which were considered to hold material which may be relevant to this investigation. These are *[insert details of jurisdictions]*. Reasonable steps have been taken to obtain this material by:

*[Insert details of LoRs sent and responses to them.]*

- (d) Voluntary provision of information *[e.g., by holders of public records such as Companies House - insert details of material obtained and, where the custodian was a third party, explain the basis for the decision to access third party material]*.

- (e) Interviews under caution with suspects *[insert details of material obtained and, where the custodian was a third party, explain the basis for the decision to access third party material]*.

(f) *[Insert details of any other methods by which material was obtained.]*

4.3 In addition, material (both electronic and hard copy) has been generated internally by the Prosecution case team during the course of the investigation. Such material includes investigators' notebooks, draft witness statements, correspondence, accounting schedules and so on.

4.4 The following steps were not considered reasonable lines of enquiry and so were not pursued:

*[Insert details of any lines of enquiry not pursued and the rationale for not doing so.]*

## **5. REPRESENTATIONS ON THE DMD, REQUESTS FOR DISCLOSURE AND SECTION 8 CPIA 1996 APPLICATIONS**

### *The DMD*

5.1 The Defence are under a duty to engage with the Prosecution promptly in order to aid understanding of the Defence case and the likely issues for trial. The Defence also have a critical role in ensuring that the Prosecution are directed to material which meets the disclosure test. Therefore, the Defence are invited to give careful consideration to this DMD and should raise any challenges as to the appropriateness of the approach taken by the Prosecution in a timely fashion. In particular, if the Defence consider that:

- (a) the Prosecution has failed properly to understand the nature of the Defence case; and/or
- (b) there are other issues in dispute which have not been anticipated; and/or
- (c) there are reasonable lines of inquiry which have not been pursued but ought to have been; and/or
- (d) there are third parties who hold material which is likely to be of relevance to the issues but which has not been obtained,

then detailed and reasoned particulars should be provided in the Defence Statement.

5.2 If complaints concerning the Prosecution's overall approach to disclosure are raised late in the proceedings the Court will be referred to this DMD and the Defence will be asked to justify the timing of their representations.

5.3 To ensure compliance with these obligations and assist in the progression of the case, the Court will be invited at the Plea and Trial Preparation Hearing to: (1) exercise its case management powers to make appropriate directions to manage the on-going disclosure process, including setting a date by which the Defence should respond to matters raised in this DMD; and (2) set a timetable for the resolution of any arguments concerning disclosure.

### *Requests for Disclosure*

5.4 The Attorney General's Guidelines on Disclosure state that Defence requests for disclosure should ordinarily only be answered by the Prosecution if the request is relevant

to, and directed to, an issue identified in the Defence Statement. The Prosecution therefore requires all requests for disclosure to be made in writing with sufficient particularisation and reference to enable a proper analysis of the issue or issues. If a request relates to an item on the non-sensitive schedule, that item should be identified by both its unique reference number and its schedule reference number. All Prosecution responses will be made in writing.

- 5.5 Disclosure requests which are general and unspecified and/or amount to “shopping lists”, as well as requests which are not justified, will be met with a request for further and better particulars. Similarly, inadequate Defence Statements will be challenged and appropriate directions sought from the Court for the provision of an adequate defence statement as soon as possible.
- 5.6 All disclosure requests made by the Defence must be made in writing to the Prosecution so as to provide a documented audit trail for the Court in the event a s.8 application follows.

#### *Section 8 CPIA 1996 Applications*

- 5.7 The Prosecution will invite the Court not to make any orders for disclosure without a proper application being made pursuant to s.8 of the CPIA 1995 and Part 15.5 of the Criminal Procedure Rules. The Prosecution asks that all s.8 applications are accompanied by full written argument to properly assist both the Prosecution and the Court.

[Sections 6 to 8 apply specifically where the prosecution is conducted by the SFO. In all other cases these sections should be adapted appropriately for the prosecuting agency conducting the Prosecution case.]

## **6. ROLES AND RESPONSIBILITIES IN THIS CASE**

### *The Serious Fraud Office*

- 6.1 The definitions of roles and responsibilities within the CPIA Code are based upon a model of investigation and prosecution where there is a formal separation between the agency investigating a criminal offence (usually the police) and the agency prosecuting the defendant (usually the Crown Prosecution Service).
- 6.2 The Prosecution operates under a different model, with investigators and prosecutors working side-by-side as part of a single “case team” from the initial acceptance of a case for investigation until its ultimate disposal (commonly known as the “Roskill” model). It follows that certain requirements of the CPIA Code need to be translated to the Prosecution context. For example, the notion of formal revelation of unused material by the disclosure officer to the prosecutor is inapposite given that the prosecutor is likely to have been closely involved in the investigation, and in some cases will even have been responsible for leading the investigation.
- 6.3 Due to the nature and complexity of matters investigated by the Prosecution the division of responsibilities between members of the Prosecution case team will vary from case to case; this DMD therefore only seeks to explain how it has occurred in the instant investigation.

### *Case Controller*

- 6.4 Every Prosecution investigation is carried out under the overall supervision of a Case Controller. This is a senior Prosecution officer, with either a legal or an investigative background, who bears responsibility for the direction and strategy of the investigation as a whole. In the language of the CPIA Code, the Case Controller is the officer in charge of the investigation.
- 6.5 In this case the Case Controller, [●], was appointed on [●].

### *Prosecutor*

- 6.6 The Director of the Prosecution is empowered by s.1(5) of the Criminal Justice Act 1987 (“CJA 1987”) to institute and conduct any criminal proceedings which appear to relate to serious or complex fraud [*the definition of which encompasses bribery and corruption*] [*and by s.1(6A) CJA 1987 to prosecute money laundering offences*]. The Director is permitted to delegate this power to an appropriately qualified lawyer pursuant to ss.1(7) and 1(8) CJA 1987.
- 6.7 In this case the Director delegated this power to prosecute to [●], who acted as the prosecutor, as defined by the CPIA Code.

### *Disclosure Officer*

- 6.8 The Disclosure Officer in this case is [●], a Prosecution [Investigator/Lawyer/dedicated Disclosure Officer], who was appointed on [●].
- 6.9 [In this case the Disclosure Officer was assisted by [insert number] Deputy Disclosure Officers. Those individuals are [●] and were appointed on [●]. The functions performed by the Deputy Disclosure Officers were:
- (a) [●].

### *Individuals Involved in the Review of Material*

- 6.10 All Prosecution disclosure reviews encompass three discrete parts: a relevance review, an undermine/assist review, and a quality assurance review. How each of these parts was structured and the roles of the individuals in them is explained below. All individuals involved in these reviews were ultimately acting under the supervision and control of the disclosure officer and were provided with appropriate levels of advice, support and role-specific resources to help them perform their functions.

### *Disclosure Counsel*

- 6.11 [On some investigations Prosecution counsel may be appointed to advise the disclosure officer, prosecutor and/or other prosecution counsel on disclosure issues. Their role should be set out. For example they may: oversee the work of review counsel, assist in the preparation of the unused material schedule, or advise on whether certain categories of material satisfy the disclosure test.]
- 6.12 All trial counsel are aware of their roles and responsibilities as prosecutors.

## 7. THE PROCESSING OF MATERIAL

- 7.1 The procedures described below explain how material has been processed during the lifetime of this case.

### *Material Obtained During the Course of the Investigation*

- 7.2 Material obtained in a physical format (*e.g.*, a paper notebook, a computer hard drive, a mobile phone) is placed into individual evidence bags which are sealed and deposited with the Prosecution's Materials Management unit ("MM"). Each bag of material is assigned a unique case specific reference number ('bag number'), *e.g.* ABC01B000123, which is distinct from the seal number on the evidence bag. The bag number will persist whilst the item remains in the Prosecution's custody, whilst the seal number of the evidence bag in which material is stored may change. The first five characters of the bag number refer to the Prosecution's code for the investigation; therefore every bag number in this case begins with the code [●]. The remaining characters (comprising the letter B and six digits) are the individual bag number.
- 7.3 Material which is obtained only in a digital format is assigned a unique item reference number in a similar way to a physical item, but continues to be described as a 'bag' in Prosecution parlance, despite there being no physical item.
- 7.4 An electronic register is created of all material booked in. This records the source of the material, the date it was obtained, information about how the material needs to be processed (for example, whether it requires scanning (for paper items) or digital forensic processing (for electronic items) and a description of the item.
- 7.5 [If material has not been booked in using either method the DMD should set out: each item of material in question; how it has been handled; the reasons for its treatment if appropriate.]
- 7.6 In total there are currently [*insert number*] bags which contain material relevant to this case.
- 7.7 Hardcopy material is scanned and converted into portable document format ("PDF"). It is then passed through an Optical Character Recognition ("OCR") process which overlays a searchable text layer onto the PDF. In this way, documents can be indexed and searched by electronic means. The PDFs are loaded onto the Prosecution's Axcelerate eDiscovery platform which assigns each item a unique reference number. Documents may be scanned in a variety of ways, so a reference number may relate to: a single page document (*e.g.*, a short piece of correspondence), a document with a number of pages (*e.g.*, a three page letter), or a number of different documents (*e.g.*, the contents of a file or folder).
- 7.8 Various factors can affect the accuracy of the OCR process, for example the legibility of the document being scanned, and so the text layer of a hardcopy document may not be a true and accurate representation of the content of the document. This issue has been addressed on the case by [●].
- 7.9 Digital items (such as a computer hard drive or memory stick) are subjected to digital forensic processing in order to capture a complete copy (forensic image) of the original

material, whilst preserving the item's integrity. Material is then extracted and "decoded" to make it ready for examination. This process is undertaken by the Prosecution's Digital Forensic Unit ("DFU") and conducted in accordance with the principles set out in the Forensic Science Regulator's Code of Practice, using methods common in this field.

- 7.10 Not every possible data type can be decoded due to the sheer variety and number of files and types of database which exist. Where material has not been decoded, efforts are made to identify which data types could potentially contain material relevant to the investigation so that those can be processed and made available for review. [insert details of any such material on this case and steps taken to make it available for review].
- 7.11 Whilst the Prosecution employs quality assurance measures to ensure material is decoded accurately, the nature of the decoding process means that it is not, and cannot, be perfect or exhaustive. All source extractions are protected from change and retained by the Prosecution for further analysis/examination if necessary. Any concerns about processing should be raised as soon as possible so that any such analysis/examination can take place.
- 7.12 The decoded files from the extractions are filtered using [insert details -currently NUIX software] to create a 'clean' dataset, which is loaded onto Axcelerate. Axcelerate then assigns each document a unique reference number. The filtering process involves the application of a number of rules designed to remove unreviewable or non-useful categories of information and is designed to ensure that only data with the potential to be relevant is ingested into the eDiscovery system. The categories of material which have been filtered on this case are:
- (a) *[insert details of categories of data which have been filtered or excluded and reasons why]*.
- 7.13 Data obtained from mobile devices (such as mobile phones and tablets) is also subjected to digital forensic processing. However, due to the way such devices encode and store information (typically within databases, the designs of which are mostly in the control of various app developers), and the way their operating systems optimise the performance of memory within the device, there can be a lack of structure in the original data which means the extraction, interpretation and conversion processes are inherently fragile. The result of this is that missing, erroneous and apparently unfeasible metadata is to be expected for some items. This fact has been borne in mind by the case team and the following steps taken as a result *[insert details]*.
- 7.14 The Axcelerate platform is split into two areas: the Early Case Assessment area ("ECA") and the Review and Analysis area ("R&A"). All processed material was published into the ECA area and made available to the case team with the exception of: *[insert details of restricted material]*. The case team will then determine what material should be moved to the R&A area so that it can be reviewed and analysed. *[Insert details of approach taken to moving material from ECA to R&A and reasons why.]*
- 7.15 The disclosure review is then conducted over material held within the R&A area. The strategy for reviewing material within R&A area for disclosure purposes is set out at paragraphs [●] below.

- 7.16 When the Prosecution seeks to rely upon a digital item either during the course of an interview or at Court the reference number will appear on the document and/or appears in the file name.

#### *Internally Generated Material*

- 7.17 Material generated by members of this case team, *e.g.*, records of decisions, file notes, draft correspondence etc is saved *[insert details]*. A terms of use policy was devised by *[insert name]* which governs how material should be saved in this location. That policy requires *[insert brief details of policy]*. The investigation team were made aware of this policy by *[insert details of how the policy was circulated and compliance with it was checked]*.
- 7.18 A shared mailbox was created and a terms of use policy devised by *[insert name]* which set out how emails would be preserved for review. That policy requires *[insert brief details of policy]*. The investigation team were made aware of this policy by *[insert details of how the policy was circulated and compliance with it was checked]*.
- 7.19 Over the course of the investigation, the case team created hard copy material, *e.g.*, investigator day books. This material was *[insert details of how this material has been handled, e.g. has it been booked into MM.]*
- 7.20 Other departments in the Prosecution may hold relevant material. In this case the following steps were taken to identify and obtain such material: *[insert details of steps taken]*.
- 7.21 How such material was reviewed is set out below in paragraphs [●].

### **8. REVIEW OF MATERIAL**

- 8.1 In this case the number of documents obtained during the investigation is *[insert number]*. It was neither appropriate nor proportionate for every item of material to be manually reviewed. Instead the following approaches were adopted.

#### *Hard Copy Material*

- 8.2 *[Insert details of how hard copy material not scanned onto Axcelerate was reviewed (including how the review was quality assured) and who it was reviewed by. Where it is possible to identify this material (e.g., investigator notebooks) then it should be listed here or a cross-reference made to the appropriate schedule the material appears on.]*
- 8.3 *[Insert details of how this material was then scheduled.]*

#### *Digital Material Obtained by the Investigation*

- 8.4 All digital material obtained by the [●] investigation, *[with the exception of, insert details of any exceptions or delete if there are no exceptions]* was reviewed on the Axcelerate eDiscovery platform. The main sources of digital material received by the Prosecution in the course of the [●] investigation (in terms of volume) are:

*[List here the main sources.]*

- 8.5 The duty on the Prosecution is to pursue all reasonable lines of enquiry, not to comb through all material in its possession on the lookout for items which might conceivably or speculatively undermine the case or assist the Defence. Accordingly, the following steps were taken to pursue reasonable lines of enquiry within the volume of digital material available and thereby identify potentially relevant material:

[Insert details of the approach taken to identifying potentially relevant material, e.g., using search terms or other analytical techniques. Where search terms were used they should be listed here along with details of how they were applied.]

- 8.6 Material which was identified as potentially relevant was then manually reviewed. This manual review involved:

- (b) A review to identify relevant material;
- (c) A review to identify material which was potentially capable of meeting the disclosure test; and
- (d) A quality assurance review.

#### *Relevance Review*

- 8.7 The relevance review involved [*insert details*]. As at the date of this document [*insert number*] individuals have been tasked with this role.
- 8.8 Relevance reviewers performed their functions under the day-to-day supervision of [*insert details of how document reviewers were supervised –this may be directly by the disclosure officer or a deputy disclosure officer, or by a quality assurance reviewer*]. Document reviewers were integrated into the case by [*insert details e.g. attending case team meetings, regular meetings with the disclosure office etc*]. As a result, document reviewers were able to discuss any queries that arose from their work and were provided with guidance where necessary, whilst the prosecution team were able to monitor the material which was being reviewed.
- 8.9 The work of the relevance reviewers was subject to a quality assurance process to ensure accuracy of decision making and consistency of approach. This involved [*insert details of how work of document reviewers was quality assured, e.g., use of standardisation batches, quality assurance reviewer dip sampling reviewed material, statistical analysis etc*].
- 8.10 Each individual acting as a relevance reviewer was fully briefed prior to commencing their work and made aware of their disclosure duties. They were also provided with review guidance and a pack of documents which taken together were designed to aid their understanding of the background to the investigation, the basis of the Prosecution's case, the likely issues, and the possible lines of defence in order to help them identify relevant material. The guidance and pack of documents were regularly updated.

#### *Undermine/Assist Review*

- 8.11 The undermine/assist review involved [*insert details – usually this will be by document reviewers or by the same individuals who are undertaking the quality assurance review (often instructed counsel)*]. The detail provided here should also explain how the tagging

panel was setup and used]. As at the date of this document, [insert number] people were tasked with this role.

- 8.12 Undermine/assist reviewers performed their functions under the day-to-day supervision of [insert details of how undermine/assist reviewers were supervised – where they are the same individuals undertaking the relevance review refer back to relevant paragraph above].
- 8.13 Undermine/assist reviewers were integrated into the case by [insert details – where they are the same individuals undertaking the relevance review refer back to relevant paragraph above. Also explain how: undermine/assist reviewers were able to discuss any queries that arose from their work; how guidance was provided to them; and how the disclosure officer was able to monitor the approach being adopted towards the identification of material which potentially satisfied the disclosure test].
- 8.14 The work of the undermine/assist reviewers was subject to a quality assurance process to ensure accuracy of decision making and consistency of approach. This involved [*insert details*].
- 8.15 Each individual acting as an undermine/assist reviewer was fully briefed prior to commencing their work and made aware of their disclosure duties by [*insert details of how individuals were inducted and their role explained*]. They were also provided with guidance specific to their role as well as material designed to aid their understanding of the background to the investigation, the basis of the Prosecution's case, the likely issues, and the possible lines of defence in order to help them identify material which potentially satisfied the disclosure test. The guidance and pack of documents were regularly updated.

#### *Quality Assurance Review*

- 8.16 The quality assurance review involved [insert details – usually this will be checking the work of the relevance reviewers and undermine/assist reviewers to ensure that material is being correctly classified and described and/or improving existing descriptions/determinations where necessary. The detail provided here should also explain how the tagging panel was setup and used]. It was carried out by [insert details]
- 8.17 Quality assurance reviewers performed their functions under the day-to-day supervision of [insert details – typically this will be the disclosure officer and/or deputy disclosure officer. If not need to explain how the DO retained supervision over the work of QA reviewers]. The work of the quality assurance reviewers was itself subject to a quality assurance process to ensure accuracy of decision making and consistency of approach. This involved [insert details of how: QA reviewers were able to discuss any queries that arose from their work; how guidance was provided to them; and how the disclosure officer was able to monitor the approach being adopted]
- 8.18 Each individual acting as a relevance reviewer was fully briefed prior to commencing their work and made aware of their disclosure duties by [insert details of how individuals were inducted and their role explained]. They were also provided with guidance specific to their role as well as material designed to aid their understanding of the background to the investigation, the basis of the Prosecution's case, the likely issues, and the possible

lines of defence in order to help them check the work of the relevance and undermine/assist reviewers. The guidance and material were regularly updated.

#### *Internally Generated Material*

8.19 [Insert details of how material generated by the Prosecution, in particular material held by individuals/departments outside the case team was reviewed for disclosure purposes.]

#### *Technology Assisted Review*

8.20 Technology Assisted Review (“**TAR**”) has been used as part of the disclosure process to identify potentially relevant and/or disclosable documents. In TAR a machine learning system is trained on data created by lawyers identifying relevant documents manually, then the tool uses the learned criteria to identify other similar documents from very large disclosure data sets.

8.21 At a high level the TAR workflow in this case has consisted of:

- (a) The identification of an initial review pool of potentially relevant electronic material which formed the TAR data set or “index”. *[Insert details as to how the initial pool was identified and the size of the initial pool.]*
- (b) The coding of a random batch of documents to establish a start point for the TAR engine. This was conducted by *[insert details as to how these documents were coded (relevant/ not relevant/ disclosable/ not disclosable etc.) and of the team that carried this out]*.
- (c) Ongoing review for relevance of documents. *[Insert details as to who carried this out and who supervised the team. Include information as to how the documents are coded.]*
- (d) The **Cut Off** point. *[Insert details as to the relevancy level at which the review process stopped/ will stop (normally expressed as “we reviewed all items with a relevancy equal to, or greater than X%”).]*
- (e) **Quality Assurance**. *[Insert details as to how low relevancy documents are sampled and by whom and how formal testing was conducted to establish how accurate the model is. Insert here a table demonstrating the precision/ recall of the model across different versions over time.]*

8.22 The types of review documents fell into three categories:

- (a) Text rich, such as emails, Word, PowerPoint, PDF;
- (b) Text poor, such as short emails, messaging apps, Excel, Drawing files; and
- (c) Text zero, such as images and movie files.

8.23 Whilst these are not absolute categories (e.g., an Excel spreadsheet might be text rich) the TAR process was used for text rich items only. Text poor and text zero items were subject to manual review.

8.24 Further details regarding the TAR process are set out in the Annex to the DMD.

## 9. APPROACH TO SCHEDULING

### *General*

9.1 As required by the CPIA Code, only material which meets the definition of relevance has been included on the schedule of non-sensitive Unused Material. That schedule includes the following column headings:

- (a) Number – *[items listed on the schedule are provided with a schedule number and then listed sequentially in order to comply with the requirements of the CPIA Code. NB they are not listed according to their UUID numbers];*
- (b) Unique identification number – *[where an item has been assigned a unique identification number by virtue of it being uploaded to the eDiscovery platform this number will be provided on the schedule of non-sensitive Unused Material to assist with cross-referencing];*
- (c) Description – each item of material on the schedule will either be listed and described separately in accordance with *[insert details of applicable law, currently paragraphs 6.8 and 6.9 of the CPIA Code]* or as a block entry in accordance with *[insert details of applicable law, currently paragraph 6.10 of the CPIA Code]*. The approach to block listing adopted is detailed below;
- (d) Prosecutor’s disclosure decision – items which satisfy the test for disclosure will have the letter “D” or the word “Disclosable” entered in this column along with the date they were disclosed. Where the letters “ND” are entered, or the column is left blank, that indicates that the item does not satisfy the test.
- (e) *[Insert details of any other columns used, including sub schedules if not covered above.]*

9.2 It is the Prosecution’s policy to provide copies of all items which meet the disclosure test unless there are practical reasons for not doing so. Where such reasons exist, the Defence will be notified and arrangements will be made to enable the defence to inspect the item.

9.3 *[If more than one defendant:]* For the purposes of initial disclosure the Prosecution has determined that if a document satisfies the test for disclosure in respect of one defendant, then it will only be disclosed to that defendant. Going ahead the Prosecution intends to provide cross-disclosure and so provide all material to all defendants. If objection is taken to this approach the Defence should notify the Prosecution and provide the reasons for their objection by *[insert date]*.

### *Block Listing and Metadata Files*

9.4 A51 of The Attorney General’s Guidelines on Disclosure provides that, in cases involving large quantities of digital data, it is generally disproportionate to list each item separately and that unless it is necessary or otherwise appropriate to separately list each item, the material should be listed in a block or blocks and described by quantity and generic title.

9.5 Block descriptions have been used for the following digital devices [*insert list/reference to Annex listing the devices*].

9.6 Where the prosecutor has deemed it appropriate and the metadata files are available for the devices they will be listed separately on the schedule of non-sensitive unused and may be disclosed (in .xls format). The description of the metadata file will appear beneath the block description of the relevant device on the schedule of non-sensitive unused as shown below.

| Item | ID      | Description                                                                | Disclosure Decision |
|------|---------|----------------------------------------------------------------------------|---------------------|
| 1    | ABC1234 | 500 GB hard disk drive Serial Number WXYZ containing image of AB's laptop. | ND                  |
| 2    |         | Metadata file of the available contents of ABC1234                         | D                   |

9.7 Additionally, metadata files [for the items responsive to search terms/items determined as relevant/ items tagged as relevant to Issue 1] have been created and are listed on the schedule of non-sensitive unused.

9.8 The following metadata fields have been included in each metadata file [*prosecutor to select appropriate fields*]:

| No. | Metadata schedule fields | Description                                                                                                   |
|-----|--------------------------|---------------------------------------------------------------------------------------------------------------|
| 1   | Doc ID                   | The unique document ID associated with the document.                                                          |
| 2   | Parent ID                | The document ID associated with the parent of the document.                                                   |
| 3   | Family Group             | The Family ID associated with the family group.                                                               |
| 4   | Doc Type                 | <i>e.g.</i> , Email with attachments / email without attachments / File.                                      |
| 5   | Doc Date                 | The principal date associated with the document in DD/MM/YYYY hh:mm, 24 hour GMT format.                      |
| 6   | Doc Application Name     | The application associated with the filetype.                                                                 |
| 7   | File Type                | The filetype associated with the document.                                                                    |
| 8   | File Modified Date       | The file last modified date/time according to the filesystem in DD/MM/YYYY hh:mm, 24 hour GMT format.         |
| 9   | File Created Date        | The file created date/time according to the filesystem in DD/MM/YYYY hh:mm, 24 hour GMT format.               |
| 10  | File Accessed Date       | The date/time the file was last accessed according to the filesystem in DD/MM/YYYY hh:mm, 24 hour GMT format. |
| 11  | File Name                | The document filename including file extension (n.b. this is different to the file title, which is a          |

|    |                        |                                                                                                                                                                                               |
|----|------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    |                        | different metadata field available for some document types).                                                                                                                                  |
| 12 | File Location/ Path    | The original filepath for the file.                                                                                                                                                           |
| 13 | File Containing Folder | The original folder containing the file.                                                                                                                                                      |
| 14 | File Size              | The size of the file in bytes.                                                                                                                                                                |
| 15 | File MD5               | An MD5 hash value for the file. This is a unique cryptographic signature for the file which can be used to deduplicate against other documents and verify that the file has not been altered. |
| 16 | File Created By        | The name of the person who created the file according to the relevant application (e.g., Microsoft Word) metadata.                                                                            |
| 17 | Subject                | The email subject line.                                                                                                                                                                       |
| 18 | From Address           | The name and email address of the person sending the email.                                                                                                                                   |
| 19 | To Address             | The name(s) and email address(es) of the person(s) to whom the email is sent.                                                                                                                 |
| 20 | CC Address             | The name(s) and email address(es) of the person(s) to whom the email is copied.                                                                                                               |
| 21 | BCC Address            | The name(s) and email address(es) of the person(s) to whom the email is blind copied.                                                                                                         |
| 22 | Sent Date              | The date/time the email was sent in DD/MM/YYYY hh:mm, 24 hour GMT format.                                                                                                                     |
| 23 | Received Date          | The date/time the email was received in DD/MM/YYYY hh:mm, 24 hour GMT format.                                                                                                                 |
| 24 | Attachment File Name   | The filename(s) of the attachment(s) to the email.                                                                                                                                            |
| 25 | Relevance Decision     | The relevance decision in respect of the item.                                                                                                                                                |
| 26 | Disclosure Decision    | The disclosure decision in respect of the item.                                                                                                                                               |

9.9 Once the issues between the Prosecution and Defence have crystallised, following the service of Defence Statements, the Prosecution will review whether individual file descriptions are necessary or appropriate for any of the material that has been listed in a block.

9.10 Metadata files have not been provided in the following circumstances:

[Insert details of the blocks which do not have metadata schedules and explain the reasons for that.]

## 10. THE APPROACH TAKEN IN RESPECT OF CERTAIN TOPICS

### *LPP material*

10.1 [Material has come into the possession of the Prosecution in this case over which the owner has claimed legal professional privilege (“LPP”). This applies to the following: [insert details of the sources of such material and the approach taken to identifying LPP

items from within each source – typically that will be the application of LPP search terms.]

- 10.2 [When LPP has been claimed the Prosecution has immediately taken steps to isolate the material from that available to the case team. The following process was then implemented to review the LPP material [insert details – typically this will be instructing X number of independent LPP counsel to manually review either all the material or only that part of the material which is considered potentially relevant (identified by the use of relevancy terms) and any material which they determine not to be privileged being released back to the case team so it can be reviewed as normal].]
- 10.3 [If material has been withheld from the Prosecution as a result of an assertion of privilege the DMD should explain the steps taken to properly analyse, assess and, where appropriate, challenge that claim.]

*Material held by the Prosecution's Proceeds of Crime Division*

- 10.4 [Where relevant material is held by Proceeds of Crime Division, the approach taken to identifying it should be detailed here.]

*PNC and other checks*

- 10.5 The Police National Computer has been checked in relation to all material witnesses of fact.
- 10.6 Checks have been conducted with professional bodies in relation to the professional witnesses who have provided statements served as part of the Prosecution's case.
- 10.7 Antecedents and/or adverse disciplinary findings will be disclosed for all witnesses, including Prosecution staff, where they meet the test. This is likely to be limited to matters which may go to the witness' credibility or otherwise giving rise to a line of appropriate cross-examination.

*Witness familiarisation*

- 10.8 The following individuals, who are Prosecution witnesses, attended a witness familiarisation course:

*[Insert names and dates of courses.]*

- 10.9 The courses in question were arranged by the Prosecution and delivered by specialist providers (such as Bond Solon). The purpose of the course is to improve an individual's knowledge and understanding of the process of giving evidence. Courses are not organised in relation to any specific case. Instead they are being made available to any member of Prosecution staff whose role makes it likely that they will be required to give evidence at some point during their career.
- 10.10 The courses are conducted in compliance with the criteria laid out by Judge LJ in *Momodou* [2005] EWCA Crim 177, specifically:
- (a) They are supervised and conducted by qualified barristers and/or solicitors of at least 15 years' experience in criminal law;

- (b) None of those involved in the provision of the programme have any personal knowledge of the matters in issue in this case;
- (c) All documents used in the process have been retained. This includes records of who was present and the identity of those responsible for the programme have been maintained along with the programme delivered and course material;
- (d) None of the material used, including the case study (which relates to a fictitious civil claim for an order under s.994 of the Companies Act 2006) bear any similarity to the issues in this case or would trigger the witness' recollection of events; and
- (e) The course providers are aware that if witnesses engage in discussion of criminal proceedings with which they are involved such discussion must be stopped immediately and an explanation provided as to why such discussion is impermissible. They are also aware they must: issue a warning against the danger of evidence contamination and the risk that the course of justice may be perverted; and, keep a note should be made if and when any such warning is given. Any such notes will be disclosed.

10.11 The material relating to the witness familiarisation courses appears on the schedule of non-sensitive unused material at [●]. Notwithstanding the Prosecution's belief that the courses have been conducted entirely in compliance with applicable guidance and so are not objectionable, this is being disclosed to you as it falls within a category of material which has the potential to have a bearing upon the trial process itself.

10.12 If, following service of this DMD, additional Prosecution witnesses attend a witness familiarisation course that fact will be notified in an addendum DMD and material relating to their course will be scheduled and disclosed.

## **11. MATERIAL YET TO BE REVIEWED**

11.1 [Insert details.]

## **12. SERVICE OF DISCLOSABLE MATERIAL**

12.1 [Insert details of how unused material will be served on the defence and in which format (.pdf or native). Include information as to whether the .pdf files have been subject to OCR. Include details as to how native files will be provided in a manner that best ensures the material remains in the original form in which it was obtained and how available metadata will be supplied. Insert details of the format of any loadfile provided and which metadata fields will be supplied with any loadfile.]

**[Name]**

**[Date]**

# **Annex C**

## **Serious Fraud Office self-assessment**

## Self-Assessment: Disclosure (2024)

March 2026

Approved by: Director of Legal Services

### Methodology

This self-assessment reviews progress made against recommendations made by the HMCPSP review into disclosure in 2024. It focuses on those recommendations in scope for HMCPSP's follow up inspection in 2026: #2, #3 and #6.

Recommendations were assessed against three categories:

- **Change delivered:** What tangible change was introduced at the point of closure?
- **Change resilience:** How embedded is the change today?
- **Change impact:** Has the change had the intended effect?

The findings were informed by interviews, assurance materials and internal documentation.

### Overall assessment

The SFO has taken action against all three recommendations. Interventions were closely aligned with the principles articulated. However, more robust evaluation strategies would have strengthened evidence of actions' long-term impact.

|                                                                                                                                                                                                                                                                                                |                   |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| <p><b>Recommendation 2:</b><br/> <i>Revisit the guidance provided in the Disclosure Management Document template to ensure that it guides the case teams to fully explain the disclosure process employed and safeguard their position should their disclosure handling be challenged.</i></p> | <p>Developing</p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|

### Change delivered: Mature

This recommendation was closed in October 2024. The Disclosure Management Document template was updated at the same time that amendments related to the [Southwark Practice Direction](#) were introduced.

### Change resilience: Mature

New content on disclosure management was added to the Operational Handbook, which is the single source of direction for operational activities. Staff are required to use the Disclosure Management Document and associated guidance in casework.

These steps ensures the amended guidance was fully embedded within operational processes.

### Change impact: Developing

Feedback revealed a consistent perception that the guidance amendments related to the HMCPSI inspection and the Southwark Practice Note had materially improved teams' approach.

Stakeholders highlighted the further rigour introduced by the template and the change in working practice brought about as a result. Discussions about disclosure were more open and strategic. Stakeholders observed an increased ability to identify potential challenges or complications at an early stage and the importance of reflecting these within disclosure documentation.

However, a formal assessment has not been made of the difference in quality between Disclosure Management Documents drafted pre- and post the 2024 HMCPSI inspection. This means that the impact of the change is difficult to quantify.

***Assessment: Evidence on the ground suggests that the actions taken to fulfil this recommendation are working well but non-anecdotal evidence of progress is limited.***

**Recommendation 3:**

*Introduce a disclosure review process, equivalent to a peer review, to be conducted on every case post-charge by an individual independent of the case team.*

Limited

**Change delivered: Mature**

Following discussions with HMCPSP, in November 2024 it was agreed that the peer review would be introduced pre- rather than post-charge to build in sufficient time for effective remedial action. This recommendation was closed in April 2025.

A new role was created in the Chief Investigator's Office (CIO) to support disclosure peer reviews and share best practice. The existing peer review process led by CIO was reviewed and a specific section on disclosure was introduced. At the point of closure, one disclosure peer review had been carried out.

**Change resilience: Developing**

By March 2026, one further peer review had been finalised and three had been scheduled to be completed in the next three months. Between April 2024 and March 2026, the SFO announced its decision to charge in six cases; none of these underwent a disclosure peer review.

Following the completion of the first two reviews, the efficacy of the process was reviewed. The remit of the wider peer review was refined but the detailed focus on disclosure was retained. These amendments reduced the time required to complete a full peer review from three months to six weeks. This will increase the relevance of findings and enable CIO to carry out up to eight reviews per year.

The process is established within CIO. Those carrying out the reviews are confident in both their role delivering them and the value of the exercise. Case teams appear engaged with the process and transparent about challenges.

**Change impact: Limited**

The small number of reviews means that there is limited evidence of findings being implemented by case teams or that any changes made have had the desired effect.

Anecdotal feedback suggested further opportunities for improvement in timing and sharing insights effectively across the organisation. The importance of peer reviewers' experience in taking an SFO through the end-to-end disclosure process was noted.

***Assessment: The peer review process is in place and gathering momentum. More work is required to ensure that findings are effective and applied in or across case teams.***

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| <p><b>Recommendation 6:</b><br/> <i>Review the current model for the management of Legal Professional Privilege (LPP) material. Consideration should be given to whether, due to the risks associated with the delivery of the core business by the eDiscovery team, a different system for the management and control of LPP material should be implemented. The Serious Fraud Office should engage with others who have similar requirements to consider how it might manage and control LPP material.</i></p> | <p>Limited</p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|

### **Change delivered: Mature**

This recommendation was closed in November 2024. The SFO reviewed the model and concluded that greater use should be made of counsel to carry out LPP tasks previously undertaken by the e-discovery team.

### **Change resilience: Developing**

Case teams continue to utilise counsel as planned. Work is underway to explore whether making more use of independent counsel with skills in data management would further strengthen the process.

Strong ongoing partnerships with other agencies such as the Crown Prosecution Service have supported engagement to understand shared challenges and opportunities.

LPP content in the Operational Handbook was reviewed in 2025. Additional, detailed guidance was added for case teams. At the start of 2026, the LPP Working Group began to develop recommendations for further enhancement of guidance, training and processes, drawing on experiences in recent cases. Further support for LPP work is also being developed as part of upcoming updates to the Operational Handbook chapter on handling digital material.

### **Change impact: Limited**

De-centralisation of the responsibility for the LPP process makes it challenging to carry out a thorough evaluation of amendments to the SFO's model.

***Assessment: The SFO's LPP model has been adapted to reflect the recommendation and subsequent operational experiences. However, no central evaluation of the impact made has been carried out.***

# **Annex D**

## **Glossary**

### **Autonomy**

The Document Review System used by the Serious Fraud Office since 2009 to review digital material seized during investigations. Axcelerate replaced it in 2018.

### **Axcelerate**

The Document Review System used by the Serious Fraud Office to manage, search and review digital material obtained during investigations and prosecutions. It replaced the previous system, Autonomy.

### **Case controller**

Either a senior prosecutor or senior investigator who is responsible for managing and progressing a Serious Fraud Office case and directing the case team.

### **Case Evaluation Board Prosecution (CEBP)**

The Serious Fraud Office process through which cases are considered for authority to charge. The process is intended to provide decision makers with information about the readiness of a case for prosecution, including relevant disclosure considerations.

### **Case review meeting (CRM)**

A meeting between the head of division and key members of the case team to review the investigation/prosecution risks, progress and strategy.

### **Crime fraud exception**

An exception to Legal Professional Privilege whereby communications between a lawyer and client are not protected if they were created or used to further a crime, fraud, or other serious wrongdoing. Privilege cannot be used to conceal conduct that is itself part of a criminal or fraudulent scheme.

### **Disclosure Decision Log (DDL)**

A case document the Serious Fraud Office uses to record disclosure decisions made during an investigation and prosecution.

### **Disclosure Management Document (DMD)**

A case document the Serious Fraud Office uses to explain the disclosure approach adopted on a case. It is shared with the court and defence and is intended to assist case management and support engagement on disclosure issues.

### **Disclosure officer**

The individual responsible for managing the disclosure process, reviewing relevant material, preparing schedules of unused material and supporting compliance with disclosure obligations.

### **Disclosure review meeting (DRM)**

A meeting between the head of division and key members of the case team to review disclosure risks, progress and strategy.

### **Disclosure Strategy Document (DSD)**

A case document the Serious Fraud Office uses to record the disclosure strategy for a case. The document should be maintained throughout the life of the investigation and updated as circumstances change.

### **Full Code Test**

The legal test applied by prosecutors when deciding whether a prosecution should proceed. It requires sufficient evidence to provide a realistic prospect of conviction and that a prosecution is in the public interest.

### **General Counsel's Office**

The Serious Fraud Office function responsible for providing legal advice and oversight, including support for charging decisions and legal assurance across investigations and prosecutions.

### **Legal Professional Privilege (LPP)**

A legal principle that protects certain confidential communications between legal professionals and their clients from disclosure.

### **Operational Handbook**

The Serious Fraud Office's internal guidance document which sets out how investigations and prosecutions should be managed, including the handling of disclosure.

### **Personal Storage Table (PST) file**

A Microsoft Outlook data container file capable of storing large volumes of emails, attachments, calendar entries and other electronic records. Where PST files are not expanded or processed correctly, the material they contain may not be available for review or disclosure purposes.

### **Technology-assisted review (TAR)**

A form of artificial intelligence used to help prioritise, categorise and review large volumes of electronic material. TAR learns from examples reviewed by users and can help identify documents most likely to be relevant for further review.

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