I am writing to update you on the Serious Fraud Office (SFO) position concerning the use of expert witnesses and the process by which they are appointed.

When I last wrote to you on the 10th January I confirmed the need to await judgment in the appeal of Alex Pabon before commenting. The Court of Appeal has now given judgment and I can therefore provide the Committee with a substantive response.

As you know, Mr Pabon appealed his conviction for conspiracy to defraud in respect of dishonest rigging of the London Interbank Offered Rate (LIBOR). His appeal was based solely on the conduct of an expert witness named Saul Rowe who was called by the SFO to give general evidence about banking and trading. Although it transpired that Mr Rowe failed to comply with several aspects of his duties and obligations as an expert, the court concluded that Mr Pabon's conviction was safe and dismissed the appeal. The court also observed that the SFO had a strong case against Mr Pabon.

This appeal has raised questions about the SFO's processes for instructing expert witnesses. Whilst I remain of the view that Mr Rowe's conduct reflected a lack of integrity on his part, we have taken the opportunity to review our processes, as we told the court we would.

Following this review we are now working to strengthen our processes in several areas to ensure that we instruct expert witnesses of a suitable calibre who fully understand and abide by their legal duties and disclosure obligations.

The modifications that are planned include:

- Frontloading certain due diligence checks prior to formal evaluation of prospective expert witnesses.
- Requiring such individuals to confirm understanding of their legal duties and disclosure obligations at this early stage.
- Ensuring consistency of approach to formal evaluation by scoring prospective expert witnesses against standardised criteria (together with other case specific requirements) to assess their suitability and expertise.
- Enhanced conflict checks of the preferred candidate prior to engagement.
- Requiring the preferred candidate to reconfirm understanding of their legal duties and disclosure obligations at the time of instruction and, once instructed, to reconfirm this understanding again prior to giving evidence.
Once this exercise is complete we also plan to develop an internal training package to raise awareness and further embed the revised processes.

I hope this reassures the Committee that the SFO has taken appropriate action to address this issue.

DAVID GREEN CB QC
DIRECTOR