



Miranda Ching Discusses Prosecutorial Independence of UK Serious Fraud Office in Fountain Court Chambers Podcast

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Recent events – including continuing doubts about the UK Serious Fraud Office’s (SFO) existence, the ousting of the head of London’s Metropolitan Police, the lack of investigation into alleged misconduct by politicians and the sustained trend of private prosecutions – have led to questions about the independence of prosecution authorities in England and Wales. Kobre & Kim’s Miranda Ching – a former case controller and prosecutor at the SFO – shared her perspective during an episode of *The Fountain Court Chambers Podcast*.

Ms. Ching is confident in the independence of the SFO, pointing out that all core prosecutorial decisions are “carried out in accordance with our normal functions and duties,” with “strict protocols” certainly in place during her time there. This continues even as the director of the agency is under investigation by the attorney general, since decisions are robustly debated by the chief investigator, general counsel and heads of division rather than decided just by the director. Ms. Ching also noted that the issues surrounding the director “may be a by-product of a potential lack of understanding between the wider defense community and how the SFO operates.”

Later, Ms. Ching also said that while the SFO makes investigation decisions based on its remit, it also considers the public interest – including issues of public importance – as well as the specialisms of other agencies. She also responded to concerns on why, unlike the Crown Prosecution Service, the SFO can make both investigation and charging decisions, pointing to the scale of the SFO’s cases and the review processes and safeguards that ensure there is objective feedback.

In addition, Ms. Ching discussed private prosecution, a unique feature of English common law. While it has been criticized as outdated in light of the existence of a modern prosecutorial service, Ms. Ching is keen to keep it. “It’s a creative mechanism for defense lawyers to consider in the right cases and the right circumstances,” she explained, but she also acknowledged the need for the profession to police itself. The recent code for private prosecutors “is a very good step in the right direction,” Ms. Ching said, and she expressed support for “the notion of having a firm of solicitors acting for the client and then instructing a different firm of solicitors to conduct a private prosecution.”

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