



## Fraud Act 2006 and Digital Fraud Committee

### Uncorrected oral evidence: Fraud Act 2006 and digital fraud

Thursday 31 March 2022

10.40 am

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Members present: Baroness Morgan of Cotes (The Chair); Lord Allan of Hallam; Baroness Bowles of Berkhamsted; Lord Browne of Ladyton; Viscount Colville of Culross; Lord Gilbert of Panteg; Baroness Henig; Baroness Kingsmill; Lord Sandhurst; Baroness Taylor of Bolton; Lord Vaux of Harrowden; Lord Young of Cookham.

Evidence Session No. 9

Heard in Public

Questions 80 - 91

### Witnesses

I: Dr Susan Hawley, Executive Director, Spotlight on Corruption; Richard Hyde, Senior Researcher, Social Market Foundation; Michael Skidmore, Senior Researcher, Police Foundation.

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## Examination of witnesses

Dr Susan Hawley, Richard Hyde and Michael Skidmore.

Q80 **The Chair:** Welcome to this evidence session of the Fraud Act 2006 and Digital Fraud Committee. A transcript of the meeting will be taken and published on the committee's website. You will have the opportunity to make corrections to that transcript where necessary.

Thank you very much to our three witnesses this morning, Dr Susan Hawley, executive director at Spotlight on Corruption, Richard Hyde, senior researcher at the Social Market Foundation, and Michael Skidmore, senior researcher at the Police Foundation. Without further ado, I will invite Baroness Kingsmill to ask the first question.

Q81 **Baroness Kingsmill:** Good morning. My first question this morning is to Michael Skidmore and is on the prioritisation of fraud by police forces in the UK. This question has several elements. We want to know the scale of the issue and whether the response by the police is proportionate in the circumstances, given the scale. There may be further questions subject to your answer about the Government's approach to that.

Michael, would you like to start? If the other members of the panel have any relevant comments to make after Michael gives us a rundown, please, by all means intervene.

**Michael Skidmore:** Thank you for the question. I will start with the scale. The scale over a number of years now has been increasingly well documented, with more improvements to recording crime and the introduction into the Crime Survey for England and Wales. We see that the scale of fraud is substantial. It takes up approximately half of all crime experienced in the UK. The scale is undeniable.

As to whether the response from the police is proportionate, a lot of evidence suggests that it is not. The resources that are devoted to tackling fraud are relatively small in relation to the scale of the problem. Arguably, they are not well designed to deal with the problem either. Much of what the police do with fraud is trying to manage it alongside everything else with the resources they had before.

You asked first whether they prioritise fraud and, if not, why not. I will run with that line of reasoning. Something to think about with fraud is that it is cross-border. It is not necessarily a localised problem. Anything cross-border needs national leadership, direction and governance to steer the ship, because the problem is not necessarily rooted locally. In other areas of crime, you do that through things such as the strategic police requirement. The NCA is influential in trying to steer the ship to deal with lots of other types of crime, such as drug supply or other serious crimes. Fraud does not necessarily have that steering of the ship. It is a priority for the City of London Police.

It is difficult to make it a priority at the local level for lots of different reasons. Often the police will get assigned an investigation that does not

necessarily have a local victim. The local public do not prioritise it or cry out for a response to it compared with other crimes. Bear in mind also that fraud at the local level gets thrown into the mix with all the other things they have to deal with, and often it struggles to rise to the surface when it is competing for the same resources.

**Baroness Kingsmill:** Yes, I understand that. Has the Government's reluctance or lack of ambition in relation to solving the issue of fraud led to this lack of prioritisation? Should the response be treated as a national policing priority?

**Michael Skidmore:** Yes, it absolutely needs to be treated as more of a priority. That prioritisation needs to come from the Government and the whole response needs to have not just clear political but professional governance. Going back to what I was saying before, in other areas of serious and organised crime, the NCA has a much clearer steer on what goes on and what the police do in this area. This is a priority for the City of London Police, but they do not quite have that level of steer over what local police forces do. Local police forces will drive the operational response.

Pulling back one step, an issue is how much of this it is appropriate to leave to local police forces to respond to. Fraud is a different type of problem requiring different types of capabilities and resources which local police forces do not necessarily have. If we look at prioritisation, we see things like the regional organised crime units, the NCA and the City of London Police. The amount of specialist capability that has been put into dealing with fraud is small in comparison to the scale of the problem. That means that the demand and the reported crimes are percolated down to areas of policing that are not necessarily equipped to deal with it. There is a top-down effect here. The prioritisation needs to be at that top level in order to put all the pieces in the right order.

**Baroness Kingsmill:** A sort of functional prioritisation. Thank you.

**Dr Susan Hawley:** Another issue we have seen, even in last week's NAO report, is that fraud is still considered a low-harm crime. It was eloquently put to the HMICFRS that fraud does not bang, bleed or shout. It is always hard, as we have heard, for it to rise to the surface and become a priority.

I want to highlight a couple of things. It is extraordinary that fraud is nearly 50% of all crime, but if we look at the police uplift, the NAO report last week showed that just over 1,000 new police officers out of the new 20,000 police officers recruited will be dedicated to ROCUs and financial crime. Just 5.9% of the new police resource will be dedicated to economic crime. That prioritisation, as we have heard, has to come from the top, because it will not come from below because of the issue about harm.

Finally, a stark statistic reveals the result of it not being priority. If you look at the national crime statistics, you will see that the number of convictions for fraud offences have fallen pretty dramatically over the last

10 years. There were just over 42,000 in 2011, and in 2021 there were 13,500. We have seen a decrease of 67% in fraud convictions over that time. I wanted to add those observations.

**Richard Hyde:** I would reiterate some of the points made by Michael and Susan, but I will throw a couple more numbers out there as well.

We recently published a piece looking at the Home Office personnel data on policing and found that less than 1% of police and support staff were working on economic crime issues. Overall, more than 200,000 personnel work in the police. As the uplift is going on, there are about 130,000-odd police at the moment. That gives you a sense of where policing and support staff resourcing is directed at the moment.

We calculated that if you were to allocate policing and support staff resources more proportionately to fraud as a proportion of police recorded crime, you would have to put about 30,000 police and staff into looking at fraud. If you were to make the number of personnel proportionate to the proportion of crime fraud in the Crime Survey for England and Wales, there would be 80,000 police officers and staff working on fraud. Given there are about 1,700, that gives you a numerical sense of how little goes in this direction at the moment.

**Baroness Kingsmill:** Thank you. That is rather shocking.

Q82 **Lord Browne of Ladyton:** Thanks to the witnesses. In a sense, everything about fraud is shocking. This question is about resources. The first element is relatively easy to answer. Do law enforcement agencies have sufficient resources—finance, skills, talent and capability—to tackle fraud?

Setting that aside for a minute, from my point of view this question is aimed not just at the police but at the many other law enforcement agencies out there—too many to get my head around, to be honest. At the top of the tree is the Serious Fraud Office, the National Crime Agency and the National Economic Crime Centre.

Is there sufficient resource to deal with fraud, which is recorded as 42% of crime against individuals? It harms individual people. Various estimates drive the real cost of it to the country up to £100 billion plus. Is sufficient attention and resource given to this? Which areas would you prioritise for greater investment? Would you give it to some of the existing organisations or law enforcement agencies or to something else that has more impact and more effect? If you give it to the police, as Michael made perfectly clear, it will compete in local communities for decision-making about things that directly affect them, and it is probably unlikely to get the priority that we would like to give it because of the scale of it.

Sorry, that question was far too long, Susan, but I will start with you first. If you can respond to any element of that, it would be helpful. Thanks.

**Dr Susan Hawley:** That is a great question. The bottom line is that we have had a lot of reviews now—five different reviews by independent bodies from the HMICFRS by Sir Craig Mackey to an NAO report. Some of these looked at broader serious and organised crime policing, which, as Michael made clear, is hard to separate out from economic crime policing and fraud in general. We have had a lot of inquiries that have all more or less been saying similar things, which is that we need sustained multiyear public investment in enforcement, stronger central co-ordination and greater accountability. We know what the answer is out there, but the question is what it should look like in practice.

Certainly bolstering the central agencies is key. We are not massively in favour of creating a new thing, because it can be distracting, it can take a lot of time and it can cause a lot of problems. It has to be thought through carefully. We also have to think through how to bolster these central agencies.

We have been looking at the National Crime Agency, and our research found that in real terms its budget has decreased by 4.2% over the last five years, which is different from the 54% increase in the NCA's budget that former director-general Lynne Owens asked for. She was specific that £2.7 billion was needed for tackling serious and organised crime. We have not had a national discussion about how we will get to that figure. It is useful to have people like Richard putting numbers on the exact number of people we need.

Other issues are not just about the money but about how we spend it. At the NCA, we see a constant serious brain drain and big problems with recruitment and retention. It is important to take into account when we look at this that the NCA takes its pay to 90% of what the police are paid, so you will never get experienced police officers wanting to work for the NCA because they will be paid less and they will have less good pension deals.

We have seen that in the anti-corruption space. Several effective police at the Met and the City were merged into the NCA. A lot of them did not want to go, because it was not where they wanted to be. We lost about five years in that consolidation of enforcement. Effective units had to start from scratch. The right conditions for consolidation and how to keep the expertise that we have has to be carefully thought through when we think about how to consolidate.

The other issue with the NCA is that 34% of its forensics posts are vacant, which is well above its overall rate. It has turnover in its cyber capacity of 28%, which means that it loses a quarter of its cyber capacity every year. We have an agency that does not build up expertise and does not attract the best talent. This is meant to be Britain's FBI.

The Public Accounts Committee and the Home Affairs Committee in the Commons have raised the key area of specialist financial investigators. There are serious issues about how we retain this key skill for fraud policing and all financial crime policing. Our research found that the

number of investigators and confiscators accredited by the Proceeds of Crime Centre is going down, not up.

The second area is IT and data. The NAO report back in September found that the national law enforcement data programme is five years behind and 68% over budget. This is the replacement for the police national computer. Everyone talks about the creaking data infrastructure that law enforcement has to deal with.

The final area is prevention, which Michael might have more to say about.

**Lord Browne of Ladyton:** Thanks. Maybe I will turn to Richard next and then I will come to Michael.

**Richard Hyde:** We would not demur from anything Susan said. The landscape is challenging.

From our perspective, I have a couple of things to add. One of them has been touched on before, which is not to think of fraud or economic crime in isolation. It has to be built into the approach from the beginning. There are interlinkages between serious and organised crime, cybercrime, fraud, money laundering and so on. Another aspect of this uncoordinated and slightly complex landscape is that the divisions between these different types of crime are not always appropriate. Therefore, perhaps some of the co-ordination that could go on does not.

To add to that, as Susan said, there have been a lot of reports in recent times, but we still probably do not have a detailed and sophisticated understanding of the serious and organised crime, fraud and economic crime landscape to fully understand where the pinch points are and how to best structure a counter-fraud response. That evidence base still has some gaps at the moment, which we could make efforts to fill before we dive right into working out some of the responses.

**Lord Browne of Ladyton:** Before I come to Michael, Richard, if you or the Social Market Foundation have identified some of these gaps, could you write to us and point out where they are?

**Richard Hyde:** Sure.

**Lord Browne of Ladyton:** Thanks. That would be great. Michael, do you want to add anything to the answers that have already been given?

**Michael Skidmore:** On the level of resources, it is important to contextualise this a little bit. There is a tendency sometimes to focus on how many specialist investigators we have or how many people we have full-time working on fraud. Fraud is of such a scale that realistically it is probably difficult for a small hub of specialists to cope with the demand.

The challenge here is the level of baseline capability across the workforce to manage these crimes. Some of these are cross-cutting capabilities. Digital investigation has become a fundamental part of policing. Police

battle to keep up with some of the skills and capabilities. They need an overall uplift. There are huge challenges with that. Fraud brings its own challenges to the type of investigation. Understanding the crime itself is incredibly difficult, because it is so diverse.

Looking at the broader specialist units that you described, like the SFO, the NCA and the NECC, we need to be aware that they are fairly limited in their operational capacity and ability to take on work and investigate crimes. A lot of the things they do are not necessarily reacting to crimes that are being reported through Action Fraud. A lot of fraud is different types of fraud, often corporate-level fraud. They work to a different stream of demand.

Regarding the demand that is coming through Action Fraud, a lot of what we do is reacting to crimes, and there is a real gap in capability to investigate these frauds proactively. Bear in mind that the City of London Police will take lot of the frauds that come through only so far and will try to get under the skin of each crime, but often they are being dealt with at the surface. They deal with the crime, not the offenders behind it. We do not understand the offenders. There is a big gap in our understanding. Of any given 1,000 crimes, how many offenders sit behind them? That is a real question to answer.

On top of investigation is the real issue of front-facing, customer-facing, victim services and victim protection. The capabilities to deliver those kinds of services were largely absent until a few years ago. Some things are coming through now like the National Economic Crime Victim Care Unit, but that is another big gap. We want to try to get ahead of this and identify victims who are particularly acutely vulnerable to being repeatedly victimised and try to deliver services to stop that happening in the future.

A big challenge is that, although we get a lot of crime reports, we are not effective at understanding that demand and translating it into understanding serious and organised crime and where the vulnerability is. It is difficult to strategically align resources to a problem that we do not quite understand.

**Lord Browne of Ladyton:** There are lots of gaps. It is probably time we moved on, but we will probably come back to this.

**The Chair:** It is fascinating that both Michael and Richard identified the gaps and the lack of understanding. Do either of you, or Dr Hawley, have a view, by analogy with other forms of crime, on whose role it is to properly understand that landscape and to understand the offenders behind it? In other crimes, perhaps terrorism or something else, who has mapped to really understand who is behind it?

**Richard Hyde:** Ideally, it should be the Home Office, which should do criminological research much more proactively, look to understand in real depth the threat and the nature of the criminality, and identify not only the current threats and understand them in great deal but horizon-scan

and look for the forthcoming threats, as a service to the police, the CPS and all the other elements of the law enforcement community. Individuals in the private sector and big companies might also want to understand the crime threat and might need to take steps to protect their business, for example. The Home Office could be well placed to do this. It does a fair amount of criminological research, but perhaps it could do more to fill this gap. That is where I place the request for it to be done.

**The Chair:** I do not know whether Dr Hawley or Michael have a contrary view or would agree with that. Michael?

**Michael Skidmore:** Thinking more operationally, I suppose that in other areas of crime understanding tends to be more intelligence-led. The NCA would take the lead with the ROCUs, and the specialist teams in police forces would build that intelligence to develop their understanding of the crimes and who is doing these things. In that regard, you might expect the City of London Police to lead the way, bearing in mind that it ingests a huge amount of crime reports and has the scope to develop knowledge on these crimes and build intelligence. The issue is whether it has capacity. We need more of an intelligence-driven approach at that end to drive the pieces regionally and locally.

Q83 **Lord Sandhurst:** This question follows on from previous questions. It seems pretty plain that fraud largely goes undiscovered, or at least we know that there is fraud but the people who do it go undiscovered and unpunished. The Barber review in 2022 said that the police are poorly equipped to tackle it.

I want to ask you about the governance structure. As I understand it, there are a number of different organisations. The National Crime Agency has within it the National Economic Crime Centre and the Financial Intelligence Unit. The City of London Police has Action Fraud and the National Fraud Intelligence Bureau. Then there are local police forces and regional organised crime and regional economic crime units. There are a lot of different outfits that all have an interest in this.

But who is in charge? Where does accountability lie? We have heard that possibly it should be with the Home Office, but clearly it is not doing it at the moment, or not effectively anyway. Where does accountability lie? What are the challenges to getting something effective in place? Do you have any ideas for getting a decent structure in place? It is clearly inadequate at the moment. I address this question to Richard Hyde first, but I am open to any suggestions.

**Richard Hyde:** Thank you very much. You outlined it as a bit of a mishmash, like coral, built up with different bits being added on in response to something and not thought through from first principles based on an understanding of the crime landscape and how you would best respond to that. That is absolutely right.

In the piece we published recently looking at this, we are very much in line with Susan's and Michael Barber's view, and Michael Skidmore's, that

there is an absence of direction, resource, capability and capacity, particularly at the national level. There is a debate to be had about how a national effort and a regional effort fit together and what the local constabularies do.

I totally take on board all Susan's points about how the NCA currently works, so there would need to be changes to that. But our view is that we should probably move most of this to a national level and put it into a reformed NCA. Keep the ROCUs but have them essentially as regional units of the NCA. Michael Barber made a similar point, although we talked about having them run jointly so the local constabularies within a ROCU's jurisdiction are also at the top table in those ROCUs and are not seen as just an NCA presence in the regions but have a formal partnership. Then take away from the local constabularies economic crime, cyber and most organised crime issues so that they can concentrate on more local crime problems. The PCCs and so on can do their jobs and drive the local priorities. National priorities can be looked after by these national and regional structures. That was broadly our way of thinking on the redistributing of these issues.

Crucially, to go back to a point I made earlier, bring together the organised crime, economic crime and cybercrime capacities and capabilities, because in many ways those three categories of criminality feed off each other. That was our perspective on things, but there is certainly a lively debate to be had about how to redistribute some of the responsibilities and resources here.

**Lord Sandhurst:** We do not want the parcel being passed. We do not want too much debate for too long. Equally, we do not want people all wanting to grab the parcel because they want to build their empires. Someone will have to get on with it, and it looks like it should be the NCA. Is that your view?

**Richard Hyde:** We think so. As Susan said, there is little point in creating new things when there seems to be a germ of things that we can build on and expand, as long as they are potentially reformed in the right way.

We also talked in our piece about how you would need to sort out pay, conditions and all those kinds of things. You would probably compete with the private sector for some of the specialist skills. There is a debate about perhaps leveraging it in from the private sector or bringing it in house. That will have consequences for pay and conditions AND competing in the labour market for those skills, and so on.

**Michael Skidmore:** Who is in charge and who is accountable? Those are big questions. We did a big research project in 2018 that tried to get to where it was breaking down.

The NCA has a remit for serious and organised crime. Therefore, its remit for fraud is only as much as it overlaps with serious and organised crime,

which goes back to the previous point. It is an uncertain question and it is quite a subjective outcome, arguably.

When we talk about priorities, it is interesting to think of serious and organised crime, cybercrime and vulnerability. The level of prioritisation is revealed in how much coverage these things get, because these things seem to matter in law enforcement. Fraud struggles to get into any of them. For that reason, the NCA does not take on a lot of responsibility for fraud, and neither do the regional organised crime units. That is revealed in the levels of resources.

Ultimately, the City of London Police has operational accountability. The difficulty is that it does not lead the operational response. It essentially designates the response to local police forces, which are not accountable to it. Therefore, the City of London Police has a strategic brain and is developing a good understanding of the problems at a national level. Then it goes to a local level, where the police are left to manage that within their own accountability frameworks. As we have discussed, they struggle to rise to the top. There is a breakdown between the national level of accountability and what is being done on the ground.

Richard referred to the Police Foundation report, which was published about a week ago and is a strategic review. It echoed the report we published in 2018. With the investigation of fraud, the solution seemed to be to lift it out of local police forces and put it into a dedicated regional crime unit. That brings lots of benefits. It means that you develop a network of hubs of expertise that can speak to each other more easily. They would all be directly accountable to the NCA, thereby building in a governance structure that is absent at the moment.

You do not want to lift away from the local completely, because bear in mind that some victims will still need that front-facing service. Elements would still need to be driven locally as well when it comes to investigation. That is where we got to with our thinking.

**The Chair:** Thank you.

Q84 **Baroness Taylor of Bolton:** Thank you very much. I find all this depressing, actually. It is not a happy picture. It is considered low harm, but it is not considered low harm by the victims. We have what has just been called a mishmash of agencies. You have suggested how we might improve this. There are still some underlying problems even if we change things structurally. If there is a lack of baseline capability and things of that kind, we will still be faced with some significant problems. It seems that we are totally behind the curve in terms of keeping up with this problem and responding to it.

Northern Ireland and Scotland have their own approaches. The Northern Ireland police service has its own economic crime unit. I wonder if that makes a difference. For quite a few years now, Scotland has had the Scottish Crime Campus, which is multiagency, which we normally think is appropriate. Can you tell us if either of those approaches have been more

successful? Might any lessons learned in those approaches be adaptable for England and Wales? Dr Hawley, you were nodding there.

**Dr Susan Hawley:** I confess that we have not done much research on Northern Ireland and Scotland, so I might have to defer to Michael on that, because he looked more at the Scottish comparison. But it is notable that Sir Craig Mackey argued precisely that we needed the crime campus model across the UK.

I have some other thoughts from the earlier discussions about accountability, but I do not know whether Michael wanted to come in on Northern Ireland and Scotland. He knows more about those.

**Michael Skidmore:** Thanks. I must confess that I have not done a huge amount of research on Northern Ireland and Scotland either, but I might be able to dig up some material and send it over later. The Scotland model seems to lend itself more to what I was referring to earlier—a more cohesive approach to developing a clear picture. Having a single agency where you can more strategically move the parts around seems to be an approach that lends itself more to a cross-border crime like fraud. I do not want to say too much, because I have not done a lot of research on that, I am afraid.

**The Chair:** Please do feel free to write to us if there is more on that.

**Dr Susan Hawley:** It is such an important area. Broadly speaking, we definitely agree with Richard and Michael. You need a functioning NCA here that takes a national lead and takes national responsibility. As I said, it is meant to be Britain's FBI, but we have to sort out about how we create more movement between police forces and the NCA. We found that, in the corruption space, because you do not have the police going into the NCA, a lot of NCA officers might have only three days' training. They do not necessarily know how to do a search warrant or even write one. We want to build on the expertise of the police in doing this and we have to find a way to capture that.

I wanted to add a couple of things. The National Economic Crime Centre was the Government's answer to this completely crazy and convoluted landscape. It is worth revisiting. What does the NECC accomplish? What is it meant to do? Does it need more of an operational side, not just a co-ordinating side, so that it can add more value? The National Economic Crime Centre is important, because although I completely agree that the boundaries between economic crime, fraud and serious organised crime are grey and permeable, on the other hand—Michael alluded to this—if you do not have a specific mandate to tackle fraud built into the agency, it will not be prioritised. We found this with corruption. It has to be in the official mandate of the organisation. There have to be the resources. We also saw this with corruption. As soon as resources were on the table, every agency wanted to do it, which goes to Lord Sandhurst's point about many people wanting to grab the parcel as soon as possible.

Finally, on the accountability structures, I hear what Richard was saying, but some serious discussion is needed about whether we need a more independent person like a commissioner who can hold the Government and the law enforcement agencies to account for how they tackle this. The trouble with it being the responsibility of the Home Office and the Minister is that it gets blown by political priorities and by headlines. Today it is—rightly—about kleptocracy and oligarchs. The NCA is scrambling around, taking all the officers off fraud and on to getting yachts in Canary Wharf. Who will do that hard slog of keeping going with these core priorities so that they do not get lost? I worry that if the accountability structure is only two Ministers, we will get political priorities blowing off the law enforcement agencies, whether they are national or local, with the headlines.

**Q85 Viscount Colville of Culross:** Good morning. I want to talk about international approaches. Richard, your organisation has reported that more co-operation across borders by enforcement agencies is required to combat the international nature of economic crime. We have also heard about Interpol setting up the Financial Crime and Anti-Corruption Centre to deal with money laundering, which brings together financial intelligence and enforcement agencies. Is that a template for how we should deal with other sorts of fraud? Do key processes that hinder border co-operation need to be harmonised?

**Richard Hyde:** I have to confess that I have not heard about that centre being set up. More broadly, yes, I mentioned earlier that at the moment there are a lot of gaps in our knowledge about fraud, economic crime and the associated crimes of organised crime and cybercrime. The international landscape is an area that we do not know enough about. There is not a huge amount of detailed research out there about examples from other countries that work well or do not work well, and the international landscape and how police forces co-operate across borders are not understood sufficiently well. That is a real gap.

The points we were making were based on the evidence that is out there. There do seem to be some obvious things that on the face of it deliver improvements. A good start would be to get more countries signed up to the Bucharest convention on cybercrime and committed to putting certain criminal offences into law and getting a certain degree of co-operation on cybercrime issues. Although the Bucharest convention is set up primarily through the Council of Europe, countries such as Australia have come on board with it. It would be good if that could be expanded or replaced with a more global tool.

There are opportunities through the Bucharest convention and other conventions for the technical harmonisation of rules on evidence and so on, which would help to facilitate cross-border co-operation between the police and prosecution authorities, as well as opportunities for more formal working together through transnational teams, if you like. The development of cross-national teams working on criminal investigations seemed to work quite well through Europol.

Given the global nature of crimes like fraud, tools could be developed such as mutual legal assistance treaties and so on, and ways to enhance them could be agreed between parties to those treaties to facilitate more of this activity. We would like to see more of that, although I caveat all that by saying that the research in this space is still sketchy.

**Viscount Colville of Culross:** You talked about the MLATs and the Bucharest convention. Do the Government need to devote more energy to trying to get less-developed countries to sign up to these various treaties?

**Richard Hyde:** Yes. Ideally that would come as a package, with countries like the UK helping developing countries to build their capacity against these capabilities. We have our own problems on those fronts, but as well as getting countries to sign up to these conventions, we should provide support to help some of these countries to develop the capacity and capability to deal with the crimes.

Q86 **Viscount Colville of Culross:** Michael, moving on to you, the Police Foundation's report *More Than Just a Number* said that the number of offenders operating across national jurisdictions is likely to be substantially underestimated. How much greater is it, in fact, and what needs to be done to combat this sort of fraud?

**Michael Skidmore:** How much fraud emanates from overseas places is a million-dollar question. Inevitably, it is underestimated, because, as I was saying earlier, not enough is done operationally to get behind some of these crimes and know where they come from. Also bear in mind that, importantly, international fraud does not necessarily always mean international offenders. You have lots of enablers overseas such as money launderers, technology companies' websites and professional labels overseas. Something can be seen as "international" in any number of ways. I did some research quite recently that looked at what the police would term serious fraud offenders, and I was struck by the fact that many of those cases still very much have a UK footprint. It is important that we do not take our eye off that.

There are procedural difficulties in relation to international co-operation in trying to gather evidence from overseas sources and getting authorities in overseas countries to facilitate, particularly with regard to companies, banks, financial services and web companies. It becomes a precarious process for the police. The more precarious it is, the more disinclined they are to invest in the process. Some of that speaks to some of the issues we talked about before. This needs sound capability and investment in a workforce that understands these processes and can robustly implement them.

**Viscount Colville of Culross:** Thank you. Susan, Michael has talked about trying to deal with the international element of this and it being a precarious process for the police. What more can be done to bring about greater co-operation between international enforcement agencies and authorities to facilitate cracking down on the international problem of

economic crime?

**Dr Susan Hawley:** Thank you. Everything we have ever heard is that the key bit happens before submitting the mutual legal assistance request, and it is all about the intelligence partnerships. It is about investing in international networks and having local NCA officers out in different areas. Quite a lot of that goes on already.

I wanted to highlight something that we have not mentioned here and that was meant to change how this operated for the police: the Crime (Overseas Production Orders) Act. I do not know whether my colleagues Michael or Richard have had a look at how they are playing out, but I understand that the UK has signed a co-operation agreement only with the US so far, and even that has not been properly pinned down.

Definitely, although crime is transnational, law enforcement stops at the borders. This is its main problem that it has to get over. As Michael said, and as we hear again and again, if it is a difficult jurisdiction you will not get any co-operation. The big law enforcement agencies such as the NCA and the SFO are likely to drop it. It will be too much hard work. It is almost as if the worse another jurisdiction is, the less likely it is that you will be able to tackle any crime that comes out of there that impacts on the UK. I understand that US law enforcement is able to use these production orders overseas and that they were meant to enable the UK to get information out of the tech companies such as Facebook and Google. I have not seen any good analysis of those that works, but it is an unexplored area. Working out why it is not working and how it could be used better is important.

**Viscount Colville of Culross:** Thank you. That was enlightening.

Q87 **Lord Vaux of Harrowden:** Thank you. To carry on the international theme a little bit, fraud is not only a problem for the UK, although it does seem to be a particular problem for the UK. Are other countries dealing with this better than we are both in prevention and in prosecution? If so, what can we learn from them? I am struck by the gaps in our knowledge about who and where fraud is emerging from. Are other countries further ahead in that knowledge, and can we learn from that, too?

**Michael Skidmore:** I must confess that I am not hugely knowledgeable about the approach taken in other countries. I am aware that where research has been done on the approach taken in other countries, it tends to be bolstered investment in cybercrime resources, with fraud being ingested within that remit. A lot of this is about the capabilities that the police need to deal with this surge in cybercrime, of which fraud is a substantive element.

A paper I read a few weeks ago gave the example of South Korea, which has essentially invested in a workforce that has a dedicated remit for tackling cybercrime. It merits a lot more research, but the claim is made that its investigations have a much greater level of success than we see

in our country. We basically deal with it with what we already have, which arguably is outmoded.

**Lord Vaux of Harrowden:** It seems to me that a big part of that success must be based on understanding the problem. That seems to be a big gap, but other countries are not ahead of our level of knowledge in that respect.

**Michael Skidmore:** The City of London Police give us a unique capability in understanding the types of fraud that the public experience. No, I am not aware of other countries that have gained a more sophisticated understanding than we have in the UK, I am afraid.

**Lord Vaux of Harrowden:** Susan or Richard, do you have anything to add on that?

**Dr Susan Hawley:** I am happy to add a little bit more, but not so much on who is getting better outcomes in understanding fraud. We are doing further research on this, so if we come up with anything interesting, we can share it with you. It is more about broader economic crime and how different countries structure and resource their economic crime efforts.

There is no doubt in our minds that the US is more successful at prosecuting fraud and other economic crimes. To give you an example of a particular type of crime, the Covid loan frauds saw huge losses to the taxpayers in all countries. The US has now charged over 1,000 people and has recovered about \$1 billion. In the UK, we have seen 49 arrests and have recovered £3 million. A target has been set at £6 million over the next three years. I know that it is a much bigger economy and that there is probably more fraud and more money to get, but from Michael's report from the Police Foundation, the budgetary difference between the FBI and the NCA is striking. Even though the US population is only five times larger than the UK's, the FBI's budget is 15 times larger than the NCA's. The FBI is clearly doing some of the right things, because its attrition rate for staff is only 0.4%, whereas in the NCA and the SFO it is about 8.5% to 9%, much higher than in the Civil Service.

An independent study would be useful—and the NCA's independent remuneration review body has called for this—to look at how the UK compares to other jurisdictions in its elite crimefighting capabilities and what lessons can be learned. Why is the US much more effective at tackling this crime? It might not be about pay. It might be about other things, but we need to understand that. That is a bit of research that no one has done yet.

**Richard Hyde:** Just to echo that, again, this is one of those areas where the research is not there yet but would be incredibly valuable if it were undertaken. There are always lessons from other countries. If this committee were able to speak to witnesses from the US and from some of these other countries to get a sense of what was going on there, that would be really valuable.

I would add two other little things. In the criminological literature, there is quite a lot of talk about what the Dutch have done on organised crime and tackling organised crime. They are not relying purely on a law enforcement or criminal justice response but also taking what is called a more strategic response and placing part of the effort to tackle organised crime across all state organs, bringing in areas that are not necessarily obviously law enforcement-based but where they might play a role in facilitating organised crime, and they have built in mechanisms. In the literature, they call it an administrative response. They have built in requirements and so on that are meant to reduce some of the opportunities for organised crime to seep into other areas of society, which is quite interesting. There is quite a lot of talk, as I say, in the criminological literature about that being quite a successful endeavour.

Another interesting model is on the prosecution side, which we have come across. Again, there is not much formal research here, so I have to caveat that. In South Africa, they set up some specialist serious financial crime courts. The bit of work that has been done suggests that they have been very successful in prosecuting very sophisticated financial criminals. Again, that is a potential model of one element that might be worth examining. I will just put those on the table.

**Lord Vaux of Harrowden:** Thank you. That is very interesting.

Q88 **Lord Young of Cookham:** What Richard has just said about financial courts in South Africa is very relevant to the area I want to look at. I was very struck by what Sue Hawley said right at the beginning, which is that although economic crime has been on the increase, there was a decrease of 67% in prosecutions. I would like to drill a little bit into that.

What problems face the prosecution authorities in bringing these cases, and how do we overcome them? Is there a role, as Richard has just suggested, for removing juries from complex fraud cases and going down the road of financial crime courts, as in South Africa? Sue, do you want to have a go first, since you brought up that figure?

**Dr Susan Hawley:** Yes, I am very happy to. We are very big fans of having specialist economic crime judges. You are probably aware that a new economic crime court is being built—it is meant to become operational in 2024 in London—but there has never been any very public thinking about the potential that that court could have. We think that it will only be a building if you do not also have ticketed judges. We have definitely seen this in the corruption space, and it is a real issue particularly in civil cases. In criminal cases, Southwark Crown Court has almost played the role more of an economic crime court, with some judges who hear economic criminal cases again and again.

On the difficulties, once cases get to court, we need good judges. The issue of juries is really tricky, because if you look at the statistics for when the cases do get to court, they have a very high conviction rate—about 87%—which is higher than other crimes. That suggests that juries are not the problem. We hear different things about this. Some people

have said that there is a lot of frustration about juries not having to give reasons for their arguments and that no case law develops about why someone was not convicted or what happened. We have also heard issues about the composition of juries. We are not in favour of getting rid of juries altogether, but we think there could be some useful tweaks in relation to these cases, which are very long and very complex, such as making sure that there are specialists on the jury itself, or more use of expert evidence in the courts.

It seems that the bottleneck occurs even before a case gets to court. We need to think much more about how we use whistleblowers and co-operating witnesses in the UK. Compensation schemes for whistleblowers will probably transform this space, because all the people in law enforcement we have ever talked to say that it is so hard. These crimes are hidden, secret and complex. It is very hard to get behind them. We need to see co-operating witnesses used much more to get the big guys, the top guys. We have seen too many people lower down the pecking order pleading guilty and providing evidence, and then being the only ones who have any action brought against them. Those are two areas where the UK could definitely look to the US, which has far better use for whistleblower incentivisation schemes and co-operating witnesses.

Lastly, there is just the sheer length of time that it takes. These cases are complex, as I said, so you get a lot of staff turnover during a case. Somebody might have worked on it for two years who then leaves to go somewhere else. Then you have to have someone new, who may spend six months getting up to speed on the case again. They might send it to a prosecutor. Again, they work on it for two years and the prosecutor moves on. These cases can take seven or eight years, two or three of them because of staff turnover. There are some very serious issues. I do not quite know how you get around that staff turnover point.

**Lord Young of Cookham:** If you could drop us a line about the whistleblower compensation scheme in the United States, that would be enormously helpful. Michael, do you want to add a footnote to that?

**Michael Skidmore:** Yes, I will just put in a footnote. I should say that I will be coming at this more from a policing perspective. It is worth noting that the overall amount of attrition has largely come before the stage of prosecution. Case building is one of the challenges. I should say that not all frauds are especially complex. I am speaking more to the high end of complexity, where it can take years to build the case and during that process they can collect an extensive amount of evidence. The police face a significant challenge in trying to make sense of that evidence to submit to the CPS, and then there is all the precariousness of trying to present it to a jury. There is something about that case-building process, where it pushes down on the police's ability to undertake enough investigations or a sufficient number of investigations. For example, the single regional organised crime unit can be at capacity with two or three cases alone. That is a big challenge for the police.

**Lord Young of Cookham:** Richard, a last word, and do you have any

views on courts without juries?

**Richard Hyde:** Yes. A couple of quick points. In the paper that we published a few weeks ago, we suggested revisiting Lord Justice Auld's proposal, because he looked at this in great depth in 2001 and came to the conclusion that there was potentially a case for that. That should definitely be revisited, given that the fraud and economic crime situation more generally has got much worse. That was embedded, as I seem to remember, in a wider set of proposals that he made on developing more specialist tracks in the courts for economic crime. Again, I am not aware how far a lot of those got, but I think they are worth revisiting. Lord Justice Auld did a lot of work on that. There is potentially a template to use there.

More broadly, just to add to what Michael and Sue have said about putting the case together, there is an issue here, although, again, this is one of these areas where I do not think there is enough research and proper understanding. There is a lot of recurring anecdotal evidence about the relationship between the police and the Crown Prosecution Service and how that often does not work very well. Maybe there needs to be thinking about models for improving that co-operation such that the case development becomes smoother, more efficient and more effective.

**Lord Young of Cookham:** I am grateful to all three of you.

Q89 **Lord Allan of Hallam:** One of the areas that we have been looking at is whether new offences are needed in addition to the classic Fraud Act offences. Two that have come up are a criminal offence for identity theft, which could be used against individuals, and a failure to prevent an offence, which might be used against companies and organisations. We are wondering how effective and workable you think offences like that could be.

**Dr Susan Hawley:** I think that a failure to prevent fraud offence would absolutely transform this landscape. We have been banging on about this for quite a number of years. The prosecutors have been banging on about it for quite a number of years. That is probably the single most important thing. We have seen how the Bribery Act changes how people behave inside corporations. They made a big fuss about it beforehand, but afterwards when the Government tried to review the Act we found that pretty much everyone, except for some of the very small businesses, said, "No, this has really helped us and it really protects us". No one wants a new law and to get their heads around it, but once you have it there, it provides some very real advantages. A failure to prevent fraud offence would really change things.

Additional to that should be making sure that companies can be debarred from public procurement where they have been convicted of a failure to prevent an offence and have not cleaned up their act. If they have cleaned up their act and they have become responsible, that is a different matter. That is a very powerful tool. Companies really care about

whether they will get public contracts. We would love to see that used more effectively in the new procurement Bill that is coming out.

**Q90 Lord Allan of Hallam:** Great. Thanks very much. Just on the identity theft criminal offence, Michael Skidmore, would this end up being another offence where we will get lots of reports but they never get prosecuted, or is it something that the police would be able to get hold of and use?

**Michael Skidmore:** Yes. There is the risk of another crime that will tally up, bearing in mind the capacity issues they already face, but it seems to me that identity theft is so instrumental to some of the most serious types of fraud that are committed in the UK. There is some merit in trying to get upstream of a crime such as identity theft through an identity theft Act, bearing in mind that you will probably have to consider what resources and capabilities would be needed to enforce against that crime? You are dealing in this regard with quite technical and cross-border offenders and policing online domains. They are all very tricky things to police. It definitely has merit as a way of trying to get ahead of the problem. Fraud is very much after the fact.

On your second proposal, which was a duty to prevent, this speaks to the strategic review by the Police Foundation that was published a few weeks ago, which recommended a statutory duty on big companies to prevent, because the volume of fraud is so high, while bearing in mind that a lot of fraud is not serious or complex, it is too easy, which is the problem here. If you go to baseline criminological theory, which drives a lot of what the police do, if you have enough motivated offenders, enough targets with no suitable guardianship, you will get more crime.

What you want to do is try to press down and make it less easy, so that you are left with the most determined offenders, and then you can focus your enforcement efforts more effectively. At the moment it seems to be very difficult to do that because of the sheer scale and volume. It seemed a fundamental point to be able to try to motivate companies to build that into their systems.

**Dr Susan Hawley:** I am very sorry. I have to go. Thank you very much.

**The Chair:** Dr Hawley, thank you very much indeed for your evidence and your time this morning.

**Lord Allan of Hallam:** Richard, do you have anything to add on the new offences?

**Richard Hyde:** I keep mentioning our paper. In our paper, certainly on the face of it, an ID theft offence sounds very sensible, as do ways of changing the legal landscape for a lot of tech platforms, financial services, companies and so on that would force them to internalise some of the negative externalities that occur from the criminal activities that go on over their platforms or through their financial networks and so on. That would encourage or incentivise them to take steps to better police those sorts of things. It would be very welcome.

Our broader point in our paper is that there are quite a lot of criminal offences and Acts that impinge on these issues of fraud, economic crime, organised crime and cybercrime. There has been a lot of talk for years about codifying the criminal law to make it more rational, simpler and so on. It struck us that this was probably an opportunity, if we are not going to do the whole criminal law, at least to look to codify, rationalise and take a step back to look holistically at all the offences in this place, at what is needed, what is not, where it is confusing, where we can simplify and so on. That is the bigger picture for us. That is the argument we make in our paper. We could step back here and think about ID theft offences in the context of a broader rationalisation and codification of criminal law on fraud, economic crime and so on.

**Lord Allan of Hallam:** Thank you very much.

Q91 **The Chair:** Just a final question from me to our two remaining witnesses. We may have already covered this. Is there a single recommendation, in the context of the policing response being discussed this morning, that you would wish this committee to make to the Government? Richard, I do not know if there is anything in the work that you have been doing. There are lots of things that would make a difference, but is there is a single big thing that we should definitely include in our recommendations?

**Richard Hyde:** Our big message from our paper is that the key word is capacity. You have to put the resource into tackling fraud that is commensurate with its volume and impact. That is just not happening at the moment. That would be a significant step forward. That would give you the baseline to build on a lot of other improvements.

**The Chair:** You very helpfully identified the number of officers that we were short, given the scale of the fraud. When you say officers, presumably it could in some cases be civilian staff. They do not have to be police officers, as long as they have the capability to deal with what is being asked of them.

**Richard Hyde:** Absolutely, yes. It will be a mixture. You will want civilian technical experts, forensic accountants, digital forensic experts and so on, who are probably not police officers, working hand in glove with the police officers and the intelligence officers and so on. Yes.

**The Chair:** Thank you. Michael.

**Michael Skidmore:** I would just give the one that flows from our research. We have talked this morning about what we got 10 years ago with Action Fraud and the City of London Police, which was reform in the way we collect information and crime reports and make sense of this thing called fraud, but it has not been accompanied by a structural change to accommodate what we now know about fraud. As we said before, how is the overall response configured? Think about accountability and governance and, as we say, maybe lift some of this stuff out of the local police and push it into regional units that have clear and stronger accountability.

**The Chair:** That is tremendously helpful. I thank you both very much indeed for your time this morning, and Dr Hawley. I know that preparing for a Select Committee takes some time. We are very grateful for your thoughts this morning.