

18 July 2022

Dear Baroness Morgan

HOUSE OF LORDS FRAUD ACT AND DIGITAL FRAUD COMMITTEE

I would like to thank you for the opportunity for me to appear before the House of Lords Committee, on 23 June, to talk about the Crown Prosecution Service's (CPS) response to tackling Fraud as well as some of the challenges we believe need to be addressed.

The CPS is at the heart of the criminal justice system in England and Wales, working with our partners to protect the public and bring offenders to justice. As an organisation we are committed to playing our part in tackling Economic Crime, including Fraud, and we continue to make progress towards delivering the strategic objectives outlined in the CPS Economic Crime Strategy 2025. However, it is only through a joined-up, coordinated approach with our domestic and international partners that we can effectively address the economic crime threat.

I would like to address some specific issues raised during my session, about which the committee has requested further information.

Details on civil forfeiture cases

The Committee requested further details on CPS use of civil recovery. As I mentioned at my evidence session, civil recovery under the Proceeds of Crime Act 2002 should not be seen as a direct alternative to prosecution – it is one of a number of tools that we have to seize ill-gotten gains. The CPS is currently developing its civil recovery capacity and capability to recover the proceeds of Fraud.

The [Attorney General's Proceeds of Crime Act Guidance under Section 2A for Relevant Authorities](#), was amended in June 2021, to emphasise that civil recovery can be with or without conviction and can also be pursued in parallel to or in advance of a criminal prosecution.

In October 2021, I was invited by City of London Police to use my powers (under S303Z19 POCA 2002) to assist them with the largest ever Account Forfeiture Order in the UK. Two corporates (an attorney based in South African but operating from a London office and a Cypriot registered company, which claimed ownership of the bulk of the funds) both agreed to forfeit almost £29m, to settle litigation alleging that the funds in two bank accounts were from unlawful conduct. By collaboratively working with partners from Europol and foreign law enforcement agencies, the investigation identified



overwhelming evidence that the monies were unlawfully obtained from international money laundering and layered through the UK banking system to present a veneer of legitimacy. This was the first time that the CPS used my powers under the Proceeds of Crime Act 2002 to appear in court on behalf of the police in relation to an Account Forfeiture Order. This case demonstrates that the CPS has the capability to use our specialist knowledge and experience to assist police forces to tackle international illicit finance.

Unlike other organisations that hold civil recovery powers, the CPS does not have its own investigators. Therefore, the CPS Proceeds of Crime Division (POC), has been working with the National Police Chiefs' Council (NPCC) since 2020, to support civil recovery case work in the ROCUs (Regional Organised Crime Units). Through this strategic partnership, we have seen the following results (as at the end of June 2022):

- Reviewed over 100 potential cases.
- Over 45 cases currently under active consideration.
- Obtained property freezing orders in three investigations and Production or Disclosure Orders obtained in a further four cases.
- Two Civil Recovery Orders settled by consent in relation to property worth over £1m.
- Currently executing 3 incoming International requests for “Non-Conviction Based” Asset Recovery.

CPS prosecutors seek to develop case strategies to maximise the use and opportunities for asset recovery, including civil recovery, considering all possible powers at an early stage. Nevertheless, the CPS would support the principle in the Economic Crime Act 2022, which prevents agencies from incurring substantial legal costs if they use their powers in relation to Unexplained Wealth Orders reasonably, to be extended across all POCA provisions.

Number of prosecutions of cyber professionals under the Computer Misuse Act

Whilst the CPS have considered cases involving individuals claiming to be ‘cyber professionals’, the CPS management information system does not record data in a way which would enable it to extract statistics to show how many cases there have been involving ‘cyber professionals’ under the Computer Misuse Act.

When considering cases under the Computer Misuse Act, there are two stages at which public interest considerations will be considered. First Law Enforcement apply considerations of the public interest: whether or not to investigate, and how to do so. Only if the investigator considers there is sufficient evidence and a prosecution is required in the public interest is the case referred to the CPS, which will then apply the Code for Crown Prosecutors, to independently assess the evidence and the public interest.

Victims of fraud

Improving the experience of all victims is a priority for the CPS. It is something we are committed to delivering through our new programme of work which has been informed by an independent victims’ needs assessment which we commissioned last year.

On 27 June, the victims’ needs assessment was published by Crest Advisory and alongside this we published the CPS position on the findings and recommendations: [Transforming our Service to Victims at the CPS](#).

In response to the research, we have identified four key areas of action that will form the basis of a long-term programme of work to transform our service to victims. These include:

- Delivering an improved universal service offer for all victims
- Designing an enhanced communication offer for victims with the greatest need
- Piloting new ways of strengthening communication and engagement
- Building an organisational culture to better support victims.

We are committed to taking a collaborative approach to this redesign programme, working with statutory and non-statutory partners to understand how an improved service offer can best meet the diverse needs of victims.

One policy recommendation to the Government

The CPS seeks to provide operational insight to policy making. In answering this question, whilst I can suggest an area which has merit for further consideration. It is of course a matter for policy makers to decide whether and how to consider it further.

In terms of the broader picture, there is a capacity issue both at the investigative stage and within the courts system. These will need to be addressed to ensure an adequate pursue response to match the scale of fraud.

More specifically, we would support corporate criminal liability reform which expands the 'failure to prevent' model to wider economic crime. We would also support reform of the Identification Principle alongside this. We think this would have both prevent and pursue benefits and help enhance public confidence in a criminal justice system, which is better able to hold to account all those who have played a part in the wrongdoing, including both individuals and corporates.

I reiterate my thanks for the Committee's time and focus on this important issue. The CPS would be happy to assist your inquiry further on any matters arising from the above or on any other aspects of our work that may be of particular interest to the Committee.

Yours sincerely,



MAX HILL QC
DIRECTOR OF PUBLIC PROSECUTIONS