

West Midlands Police and Crime Commissioner – Written evidence (FDF0035)

This response has been formulated by the Office of the West Midlands Police and Crime Commissioner. The West Midlands Police and Crime Commissioner (PCC), Simon Foster, holds the West Midlands Police force to account to ensure an efficient and effective police force with a focus on strategic oversight and scrutiny. The PCC is also responsible, amongst other matters, for bringing together community safety and criminal justice partners to ensure that organisations work together to prevent and tackle crime and support victims.

Fraud landscape

1. What fraud risks are UK a) individuals, b) the Government and c) businesses particularly vulnerable to today, and what are the reasons for this?

Currently, online fraud poses a significant risk, with 89% of all fraud in the West Midlands being cyber-enabled. Within this online shopping, scams appear the most frequently, followed by advance fee and banking frauds. Recently, there has been a rise in online fraud, this has particularly risen alongside the increase in online usage during the COVID-19 pandemic with working from home and lockdowns.

Regarding the individual, those at the highest risk of fraud in the West Midlands are women and those aged 20-39. The landscape of fraud has changed with text and email scams posing a significant risk to the UK population today. Specifically, there are a lot of cases of scammers pretending to be an organisation (e.g. royal mail, NHS or the UK Government) and telling individuals they will be fined if they don't comply with their ask. These cases provoke fear within individuals meaning they are likely to click on the scam or transfer money over. To individuals, this type of scam has a high risk associated with it, especially as it draws on fear-mongering.

Online fraud affects not just UK citizens but also the UK government and businesses themselves. These organisations are particularly at risk of online fraud, for example, with email scams and interception of commissioning/communication posing a key risk. Other factors such as falsifying contracts, untruthful disclosure of information and press being released to incorrect bodies pose a risk of fraud to organisations. These can occur due to staff in these organisations having a lack of information and training on fraud. However, they can also be due to incorrect checking of organisations and the belief that an organisation is trustworthy when they are not.

Businesses are at risk of being targeted from both those within their organisation but also criminals who target businesses for financial or criminal gain. According to "The Financial Cost of Fraud 2019" businesses expect to lose 3-6% to fraud, with it being likely that this figure could be as high as 10%. It is not just financial loss that organisations are at risk of, but loss of reputation too, with costs to reputation being 100x higher than the direct loss. Due to the lack of specialist resources, teams or training, small businesses are likely to be more vulnerable to fraud than larger organisations.

Furthermore, businesses themselves can be the cause of risk for individuals, the UK Government or themselves. For example, within banks there is a convoluted

nature of dealing with fraud, i.e. as they work through both UK finance and also CIFAS. This nature of working is complex and causes confusion in process, in turn impacting upon fraud vulnerability.

2. What future economic and technological developments are likely to impact how fraudsters seek to commit crime over the next five to ten years, and how might these be prepared for and mitigated? What role can technology and tech companies play in combatting fraud across this timescale?

n/a

3. Is fraud and its victims treated as a priority? If not, what are the reasons for this. The Committee is particularly interested in responses that can explain any barriers preventing effective counter-fraud cooperation within Government, law enforcement, the public sector and the private sector.

Considering the prevalence of fraud, the UK government does not treat it and its victims as a priority.

Victims of fraud are only prioritised if they have been victims of a high monetary loss. The current system does not consider the harm caused, only the monetary loss experienced. This means a large number of victims who have experienced lower monetary loss are disregarded – even if, to the victim themselves, a large amount of harm was caused. Fraud has a devastating impact on individuals. What may not seem like a large monetary loss to organisations targeting and prosecuting fraud can be debilitating to the average person. Even in cases where the monetary loss is not significant to the victim, fraud still has an emotional toll, impacting wellbeing, mental health, confidence and life prospects. Victims are not prioritised; victims' voice is not focused on and victim care is inconsistently provided - with support offered to victims being inconsistent and differing levels or quality of support being offered across services and regions.

This inconsistency across services is a factor that displays that fraud is not being treated as a priority and which means cooperation is hindered. As work is siloed to being targeted by City of London Police and Action Fraud it means work on the topic is not prioritised across the rest of the UK. It is necessary for there to be consistent collaboration across the UK on targeting fraud to ensure more awareness of fraud risks and more cases to be prosecuted.

West Midlands Police (WMP) reports that:

There are delays in getting fraud cases through the Crown Prosecution Service (CPS) which means its victims and the officers working on the cases are significantly impacted. This is because fraud is not prioritised in the CPS and significant resources are not given to those working on fraud – meaning a large amount of work is needed to be done to get cases to trial. Once in court, delays and adjournments occur frequently – allowing time for offenders to continue to offend and for more people to become fraud victims.

4. What is the role of international actors in the UK's fraud landscape? What are the barriers to tackling borderless fraud?

n/a

Action to tackle fraud

5. How effective is the current structure for policing fraud? How successful are the City of London Police, including Action Fraud and the National Fraud Intelligence Bureau, at executing their role as the lead police force for fraud?

The current policing structure, particularly regarding police governance, is not wholly effective. This is because work is siloed to being tackled by just the City of London Police, without a collaborative approach across forces. It is important for such an encompassing issue, to have a joined-up discourse around it and for insight from all areas of the UK to feed into tackling fraud. We believe that a Section 22 Collaboration Agreement should be established to ensure greater understanding on what UK police force's responsibilities are in relation to fraud and what the City of London Police's responsibility is.

The current system needs adjustment and the UK Government must invest in a robust, collaborative, accountable system of targeting fraud.

WMP reports that:

Apart from work tackled by the City of London police, the current system contains many different bodies and each police force deals with fraud in its own way. This means the system is ineffective and leads to inconsistencies.

6. Are sufficient resources available to Government organisations (such as the Serious Fraud Office and Crown Prosecution Service) and wider police forces to tackle fraud and support victims, and how should this be addressed if not? Answers need not be limited to financial resources.

Government organisations and Police forces are not given the time or resources they need for the breadth of fraud that occurs and the number of victims of fraud. Resources for tackling fraud are not given to police forces outside of London and there needs to be more collaboration between the City of London Police and other police forces. Fraud is not given the funding it needs and funding is instead prioritised for other, more visible, crimes. Considering that fraud has dramatically risen by 57% over the last 10 years funding for tackling it has stayed mostly the same. This has meant there are large backlogs in getting fraud cases into and through court. More resources need to be provided to help reduce these backlogs e.g. training up more people, providing more funding for staffing costs in investigating fraud and giving more resources to help juries understand the complexity of fraud cases. This lack of resources is causing an increase in victim and witness attrition rate and are meaning fewer cases result in prosecution.

WMP reports that:

As outlined in question 6, many different bodies work on fraud. However, despite the number of bodies working on fraud, the resources provided to work on it are inconsistent.

7. What are the responsibilities of the private sector in protecting the public against digital fraud? How can a balance be achieved between the need to tackle digital fraud whilst supporting the growth of these sectors? To what extent is work done to combat fraud across the private sectors undermined by siloed or independent working practices?

n/a

8. What are the legislative or regulatory impediments to sharing fraud risk data across and between the private and public sectors? For example, to what extent does General Data Protection Regulation (GDPR) limit data sharing?

n/a

9. What is the role of the individual in relation to fraud? Are consumers well informed about the risks of fraud and how to prevent them? If not, which bodies or organisations should do more to ensure this? What are the most effective methods of educating the public about fraud crime and prevention?

a) The role of the individual in relation to fraud?

Individuals themselves do not have a "role" in relation to fraud. Expecting individuals to have a "role" in relation to the risks of fraud and how to prevent it puts forward the narrative that if you become a victim of fraud it is your fault as you did not complete your "role" appropriately. This feeds into a victim-blaming narrative. Individuals need to be well informed on fraud so they can best protect themselves. But, individuals do not and should not have a specific "role" in relation to fraud and this role should lie with Government, notable organisations (like banks) or Criminal Justice based organisations.

b) Are consumers well informed of the risks of fraud and how to prevent them?

Individuals/ consumers themselves are not well informed on fraud, how they can be targeted by fraudsters and the risks of fraud, but, awareness of it is getting better e.g. through the rollout of fraud awareness notifications on mobile banking apps. Consumers do need more education on fraud and more awareness. As shown within fraud victim profiles those within 20-39 are the most likely to be a victim of fraud in the West Midlands. Education should be focused on this age group as they have the view that they are not the demographic who will be targeted or victims of fraud.

c) Which bodies or organisations need to do more?

The government needs to do more to help spread awareness of the signs of fraud and also more to prevent fraud from happening. This could include collaborating with banks, support services, education providers, social media

sites etc. Collaboration needs to extend down to local authorities to ensure local level bodies are doing more in raising awareness of and tackling fraud. Birmingham City University's (BCU) Tackling Fraud in the UK report, a report produced in collaboration with the West Midlands PCC, outlines that it would be useful for more involvement from bodies such as universities, neighbourhood watch, GP surgeries and Women's Institute groups.

d) Most effective ways of educating the public?

The most effective ways of educating the public are through publicity campaigns which raise awareness and talk about the signs of fraud and how the public can protect themselves from it. The BCU report outlines several recommendations for awareness and education around fraud. These recommendations include the use of easy to use and access guides, national and local education/ awareness campaigns and celebration of successes. Furthermore, cyber safety needs to be taught from an early age.

Legislative remedies

10. What is your assessment of the Fraud Act 2006? What has been the impact of the Act and is it having any unintended consequences; if so, what are these?

How fraud is carried out has changed a lot in the 16 years since this Fraud Act in 2006 was implemented. The Act itself simplified fraud law by bringing many offences together. However, due to the change in the fraud landscape since 2006 this act does not cover cyber related fraud or complex digital fraud cases. This has caused unintended consequences and meant that these cases are difficult to prove and confusing to investigate or prosecute. It is necessary for new, updated, modern legislation which considers the successes and weaknesses of the 2006 act to be implemented.

Additionally, this act, by not ensuring collaboration of fraud services in the UK, has had unintended consequences on procedural processes and has caused difficulties in sharing and accessing information. The act has also impacted victims of fraud due to its focus on monetary loss, not harm caused. The has had drastic impacts for victims and has meant many damaging cases have not been brought to justice. This has been discussed further above (question 3). New fraud legislation needs to ensure a joined-up approach to tackling fraud and needs a focus on harm-caused.

11. Is existing legislation effective in tackling the increase in modern forms of fraud? If not, is there a legislative remedy, or should fraud be addressed primarily through implementation of existing provisions? Answers may refer to existing mechanisms such as increasing the scope and powers of regulators. You may refer to any legislation and are not limited to the Fraud Act 2006

n/a

12. Is the current system in place for prosecuting fraud cases working effectively? If not, what are the key barriers to prosecution?

The current system for prosecuting fraud cases is not working effectively. It is very difficult to prosecute for fraud, let alone to get a fraud case through court. In the West Midlands, only 8% of fraud cases were referred to law enforcement and less than 10% of all of those referred fraud cases ended up in a judicial outcome (data from April 2019 - March 2020, Action Fraud). Once these cases do get to court there are key problems with witness and victim attrition rates, with backlogs causing high dropout rates and thus a reduction in prosecution. Therefore, lack of referrals and court backlogs provide significant barriers to prosecution.

As referred to in Question 3, there are issues with prosecution as the current system focuses on monetary value, over victim impact. This means that a large number of harmful cases are left unprosecuted and that the current system is ineffectively targeting and prosecuting fraud.

WMP reports that:

Currently, proportionality is a key factor in the prosecution and investigation of fraud, with sentencing being very poor and lacking deterrence.

There is also a disparity between lawyers and their understanding of the Fraud Investigation Model which leads to ineffective prosecution processes.

Furthermore, administrative issues impede the effectiveness of fraud prosecution, with WMP expressing difficulty exchanging documents with CPS and thus experiencing duplication of work, loss of information, issues with accessibility etc.

As expressed above, in question 3, there are time delays in the prosecutions service which can significantly impact the prosecution of fraud cases

13. Are sanctions and penalties for criminals who commit fraud an effective deterrent against future criminal activity, and if not, what might be more successful? Respondents may choose to refer to penalties imposed by the judicial system or by specific sectors.

n/a

Best practice

14. What lessons can be learned from effective policy interventions and schemes both in the UK and overseas?

The West Midlands Police and Crime Commissioner (PCC) has funded a money mules project, aided in the creation of the West Midlands fraud board and co-funded research into Public Health Approaches to fraud. We believe that these would be useful policy programmes to implement across the UK.

Our Money Mules project educates young, school-aged children on the risks that being a money mule has. Money Mules are someone who transfers illegally acquired money on behalf of organised criminals. Recently there has been a spike of young people, and vulnerable groups being targeted for this. Many of

those who get involved are unaware of the consequences of being involved. By educating on the topic it allows action on a commonly ignored area of tackling fraud, early intervention and prevention. This project has largely increased awareness of fraud within these groups and has been very positively received. As early intervention and preventative action are rarely utilised in the fraud space lessons can be learnt from our money mules project which could be applied across the UK. It shows that preventative action works with fraud and that projects, like this one, should be implemented to reduce the number of people becoming victims of fraud.

The PCC has been integral in creating the West Midlands Fraud Board which brings organisations together to collaborate and pool their data. It is vital for legislation to learn from this to ensure more clarity and consistency when tackling fraud. The introduction of this board has allowed less misunderstanding locally and more effective tackling of fraud.

Furthermore, Cardiff University has been co-commissioned by the PCC, the Midlands Fraud Forum and West Midlands Regional Organised Crime Unit to conduct research into Public Health Approaches to fraud. A Public Health approach to fraud is focused on ways agencies work together to identify and engage with individuals who are at risk of fraud. It also involves the implementation of prevention interventions for perpetrators and victims. Public Health Approaches are widely seen as best practice. This will be expanded upon below in Question 15.

WMP reports that:

The need for early intervention and diversion is echoed by WMP.

WMP are working on:

- *Implementing coordinated/ multi-agency approaches with industry partners to share intelligence, information and best practice – helps to reduce inconsistency of work*
- *Considering alternative methods of communication with hard to reach communities e.g. through face to face cybercrime awareness, producing written, brail and audio protect messaging, ensuring British Sign Language awareness sessions are delivered. – this helps to increase the awareness of fraud and how individuals can protect themselves, ensuring all groups can access this information, no matter their accessibility needs.*

15. Can you suggest one policy recommendation that the Committee should make to the Government?

One policy recommendation we are suggesting the Committee should make to the Government is that the UK should take a Public Health Approach to fraud.

As above, a Public Health Approach to fraud is focused on ways agencies work together to identify and engage with individuals who are at risk of fraud. This will ensure all aspects of a 4P approach (prevent, pursue, protect, and prepare) are implemented, with it involving an often-ignored method of targeting fraud – prevention interventions for perpetrators and victims.

Fraud is multifaceted and the current system for tackling it is not and will not be effective. It cannot be targeted wholly by the Criminal Justice System and so it is important for a Public Health Approach to be implemented. This approach would focus on collaboration, prevention, intervention and diversion. It will not replace the Justice system or take away its role in tackling fraud but instead allow for a more holistic, joined-up approach to be taken. A collaborative approach could involve altering statutory duties for safeguarding the public. Currently this duty rests with the Justice System but with a collaborative approach this duty would lie with the government and other organisations too (including banks, websites, companies and social media sites). This would allow these organisations to help the public in knowing how to use the internet safely and knowing the signs and risks of fraud. It would also allow for more consistency on what roles and responsibilities rest with what organisations. In turn, a Public Health Approach to fraud would allow more of the population to be reached through national fraud campaigns, for victims of fraud to be able to access effective and consistent victim care and for the prosecution of fraud to focus on harm caused, not just monetary loss.

Public Health Approaches are widely seen as best practice and thus a Public Health Approach to fraud should be implemented in the UK.

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