

**RESPONSE TO THE TREASURY COMMITTEE ECONOMIC CRIME INQUIRY
PUBLISHED ON 29 MARCH 2018**

The Fraud Advisory Panel welcomes the opportunity to comment on the *Economic Crime Inquiry* published by the Treasury Committee on 29 March 2018, a copy of which is available from this [link](#).

This response of 08 May 2018 reflects consultation with the Fraud Advisory Panel's board of trustees and interested members. We are happy to discuss any aspect of our comments and to take part in all further consultations on the issues we've highlighted.

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The Fraud Advisory Panel (the 'Panel') is the UK's leading anti-fraud charity.

Established in 1998 we bring together fraud professionals to improve fraud resilience across society and around the world.

We provide practical support to almost 300 corporate and individual members drawn from the public, private and voluntary sectors and many different professions. All are united by a common concern about fraud and a shared determination to do something about it.

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INTRODUCTION

1. The Fraud Advisory Panel welcomes the Treasury Committee's interest in the UK's response to fraud and financial crime. However we note that this is another in a growing list of official reviews into the nature and extent of the problem. Whilst not wishing to diminish the importance of these, what we really need now is sustained practical action. We firmly believe that tinkering on the margins is no longer enough: a well-thought-out and comprehensive joined-up cross-government strategy, backed by adequate resources and funding, is now needed. This must be bold enough to recognise the limitations of the existing criminal justice system and be brave enough to explore new, alternative means to tackle the problem.
2. A new national body with strategic oversight could do this: improving the openness, transparency and accountability of fraud initiatives; bringing people and organisations together to identify the gaps, prevent duplications and monitor outcomes. This is not a new idea and is something that we have called for before.¹
3. We urge the Committee to use this opportunity to create a true blueprint for action that can be properly implemented, monitored and reviewed. Levels of fraud and financial crime are unlikely to fall otherwise.

RESPONSES TO SPECIFIC QUESTIONS

A. THE ANTI-MONEY LAUNDERING, COUNTER-TERRORIST FINANCING AND SANCTIONS REGIME

Q1. The scale of money laundering, terrorist financing and sanctions violations in the UK, and the means by which this activity is enabled

2. We note that the Treasury has already carefully considered this issue² and we agree with the findings so far. It has also been under review and debated heavily in Parliament with the new Sanctions and Anti-Money Laundering Bill.³ Because of these, we mainly focus our responses to the questions on anti-money laundering, counter-terrorist financing and the sanctions regime on positive action to counter the threats.
3. Of course, it is difficult to properly establish the scale of anti-money laundering, terrorist financing and sanctions violations in the UK, but as one of the top financial centres in the world with an open and entrepreneurial business regime, the UK is bound to be a prime target. This means that the comments we make in this response about:
 - a. the responsibility of financial institutions and Companies House;

¹ Fraud Advisory Panel (2016). *The Fraud Review: Ten years on*. Available from <https://www.fraudadvisorypanel.org/wp-content/uploads/2016/06/The-Fraud-Review-Ten-Years-On-WEB.pdf>

²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/655198/National_risk_assessment_of_money_laundering_and_terrorist_financing_2017_pdf_web.pdf

³ <https://services.parliament.uk/bills/2017-19/sanctionsandantimoneylaundering.html>. Also see <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8232>

- b. the need for empowerment of decision-makers in key Government departments; and
 - c. engagement with the private sector to maximise and speed up flexible resource;
- are all the more critical.

Q2. The current legislative and regulatory landscape, including any weaknesses in the rules and their enforcement

4. We believe the Proceeds of Crime Act 2002 has been significantly strengthened by the passing of the Criminal Finances Act 2017. Unexplained wealth orders and forfeiture powers should be useful tools in the anti-fraud/anti-money laundering armory of law enforcement and HMRC. We also welcome the ability to extend the moratorium period for Suspicious Activity Reports (SARs). However, as with any legislation, the efficacy of it will only be possible with application of sufficient resource and the empowerment of those effecting its use to employ these tools to maximum effect.
5. We also believe that there is a need for greater understanding and liaison between the criminal and civil systems and greater use of the private sector (where appropriate) so that maximum disruption of fraud can be effected.⁴ We are not saying that the private sector should replace law enforcement outcomes, but where the criminal system fails (which can happen in fraud cases because of cumbersome disclosure exercises), the civil system may still be a viable alternative. The civil court procedure can be less cumbersome, take international recovery action much more swiftly, and widen the financial effect on the criminal and their associates.
6. For example we note that the Economic Crime Prevention Group already has a Home Office pilot with R3 (the insolvency trade body) to promote the use of insolvency in tackling fraud which has been adopted by the National Crime Agency's Economic Crime Command. It is low cost to the Treasury and can return significant sums, as well as improve disruption of fraud, and sometimes improve the prospects of prosecution.
7. The Joint Fraud Taskforce and Joint Money Laundering Intelligence Taskforce are excellent steps forward but more effective use of cross governmental gateways and sharing of data and learning is still needed. It is often easier/safer not to disclose than to act and this is crippling anti-fraud action. There is also a disconnect between policy and operational activity in many government departments. Fraud gets faster and faster; money moves instantly, and the prospects and cost of recovery action reduce the longer action is delayed.
8. Another major issue is the companies regime itself. Most if not all anti-fraud organisations hold the same view on this issue. In 2012 the Fraud Advisory Panel published a report highlighting the problems with the existing regime – six years on little has really changed.⁵

⁴ See the findings of our *civil justice initiative* (contained in a series of seven short publications) undertaken as part of the Government's previous nation strategy to reduce fraud called *Fighting Fraud Together* which was launched in 2011. In particular we refer you to Fraud Advisory Panel (2013) *Obtaining redress and improving outcomes for the victims of fraud: main themes and recommendations*. Available from <https://www.fraudadvisorypanel.org/wp-content/uploads/2015/04/7435-WEB-FAP-Main-Themes-and-Recommendations-May13.pdf>

⁵ <https://www.fraudadvisorypanel.org/.../Abuse-of-Incorporation-November-2012.pdf>

- a. There is still a lack of due diligence and real transparency in UK companies which is a huge boost to money laundering and fraud. This is despite recent developments such as the new Companies House beta site and the register of beneficial ownership.
- b. Company formation agents have to conduct (limited) due diligence, yet Companies House does not. Any business trading in the UK needs a bank account for which the directors will have to produce identity documentation. It is no additional cost to produce that to information to Companies House.
- c. Our other concerns include: current levels of compliance with the PSC regime, the ability of directors to give a business and not a home address (which should be available to law enforcement and liquidators when needed), the lack of information sent to new directors about their duties and exposure to potential personal liability for transgressors, including those who allow their names to be used (such as spouses of disqualified directors), and the lack of prosecutions of those breaching orders under the Companies Directors Disqualification Act 1986 (at present less than a quarter of adverse reports are believed to be subject to disqualification action and very few are prosecuted for breach of an order or undertaking).
- d. The UK has a very entrepreneurial business environment, but that must be matched with transparency and appropriate action to give redress for victims and punish transgressors where fraud is in fact perpetrated. Regulatory regimes are often slow to respond to transgressions, taking several years to discipline and strike-off even obvious fraudsters. These systems should be encouraged to work faster, not only for the guilty, but the innocent whose lives are blighted by slow procedures for several years, and also more generally for the protection of the public.

Q3. The effectiveness of the Treasury and its associated bodies in supporting and supervising the regimes

9. We reiterate our earlier comments regarding the need for speed, collaboration and empowerment set out above.

Q4. The impact of the implementation on the current regimes on individuals, firms and the wider economy, including unintended consequences, such as the removal/refusal of financial services from/to individuals or firms

10. The anti-money laundering regime is costly to professionals who have to implement true KYC procedures. Although it is a necessary regime, the cost does eventually trickle down to consumers so anything which can improve its efficiency is to be welcomed. Delays in transactions likewise can affect businesses.
11. Victims whose identity or funds are stolen can be devastated by the crime. They may be unable to retrieve monies lost and have no access to emergency funds. This can cause hardship to the victim, their families and (where applicable) their business.

Q5. The role of financial institutions and/or professional bodies in these regimes

12. Please refer to our earlier comments.

Q6. The UK's role in international efforts to tackle money laundering and terrorist financing and implement sanctions

13. As a leading member of FATF the UK should and does lead by example. It has made strides in improving the evaluation and use of SARs data which previously was laboriously manual and slow to be viewed.
14. The UK needs to have the very highest level of ethical standards and lead the way in promoting co-operation and transparency and tax collaboration. The current lack of transparency of the UK's offshore regimes is unhelpful to this.

B. CONSUMERS AND ECONOMIC CRIME

Q1. The currently legislative and regulatory landscape, including any weaknesses

15. Consumer protection law is incredibly complex and detailed. Consumers are bombarded with complicated paperwork and details about 'their rights'. The Fraud Advisory Panel queries whether this practically affords any real protection to consumers or simply allows suppliers, if they are so minded or have dishonest intentions, to avoid their responsibility and hide behind the jargon and complexity of such provisions.
16. When it comes to fraud consumers will usually go (or be directed) to Action Fraud (though consumer awareness of the service and its purpose is still low). Presently we consider that a significant amount of fraud is uninvestigated and unprosecuted simply because there is insufficient resource to properly tackle it. As stated elsewhere in this response fraud should be a central part of policing priority.
17. Another common port-of-call for consumer victims is Trading Standards (TS) which, in many cases, provide excellent investigation and support to consumers. But, as with Action Fraud, if they cannot in the end act, the case often goes nowhere. However other routes to justice do exist (such as civil recovery and insolvency proceedings) which can be used in some cases to provide redress for victims and these should be explored more fully.
18. We also refer to our comments about the abuse of incorporation. See paragraph 8.

Q2. The scale and nature of economic crime faced by consumers, including emerging trends

19. Fraud and cybercrime now feature in the official crime statistics compiled by the Office for National Statistics. These statistics clearly show that fraud and cybercrime are the most common crimes in the UK with about 1 in 10 adults falling victim in the previous 12 months ending September 2017.⁶
20. But they also only show us part of the picture and are limited to certain categories of reported or known crime. Some important categories of fraud are excluded such as fraud against the public purse and some corporate frauds.

⁶ Office for National Statistics (25 January 2018). *Crime in England and Wales: year ending September 2017*. Available from <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingseptember2017#what-is-happening-to-trends-in-fraud>

21. These statistics should therefore be supplemented by private/not-for-profit/academic research to create a much fuller national picture. Consideration should be again given to the establishment of a new national fraud loss indicator (similar to the old Annual Fraud Indicator) to help us learn more about the scale, economic impact and broad direction of fraud in the UK⁷.
22. Furthermore we also believe that more should be done to understand fraud against Government with the results published and individual departments held to account. The money lost to the public purse from fraud could be money well-spent on better protecting consumers, businesses and others from it. We commend the work of the Cabinet Office's centre of expertise for counter-fraud and error reduction for their work toward creating a counter-fraud framework for the public sector and in raising standards.

Q3. The response of the Treasury and its associated bodies to economic crime consumers face

23. We reiterate the need for speed of knowledge-sharing and action and a joined-up collaborative approach both cross-government and with the private/not-for-profit sectors.
24. Fraud should also be a significant feature in every police force's policing plan. However the pressures on policing from other areas of crime (such as terrorism and violent crime) means that fraud is often relegated to a lower priority than it needs and many local forces have limited capacity to deal with it. If correctly prioritised, more effort will spent on understanding the threat, developing an effective strategy and resourcing the demand.

Q4. Consumer education, responsibility and vulnerability in relation to economic crime

25. We firmly believe that 'blaming the victim' is unhelpful in the fight against fraud and trivialises the cunning and sophistication of fraudsters who prey on UK consumers and businesses.⁸ We also recognise that consumers must bear some responsibility for their own protection, but need to be armed with the right knowledge and skills to do this properly.
26. It is our view therefore that education is of paramount importance, but is wholly insufficient at present. Consumers need to be reminded to be vigilant and educate themselves about fraud, but the onus to educate about fraud risk must be driven (at least in the short-term) by more knowledgeable stakeholders.
27. CIFAS now offer free lesson plans for secondary schools.⁹ We support this initiative but also query whether this is too late to start? Schools and colleges can and should be involved, but education needs to become an integral part of everyone's online life.
28. As we noted in our recent response to the All-party Parliamentary Group on Financial Crime inquiry: 'education is a life-long process and does not just stop with young people. We should therefore encourage fraud education for all segments of the UK population. We, along with others, have repeatedly called for a well-funded and sustained public education campaign by

⁷ Fraud Advisory Panel (10 April 2017). *Government-led national fraud loss measure* (private letter to the Home Office). We also outlined the benefits of a national fraud loss measure, the costs and how it could be funded. A copy of the letter is available upon request.

⁸ Fraud Advisory Panel (24 March 2016). *Victim blaming is not helpful in fight against fraud, says Fraud Advisory Panel* (press release). Available from <https://www.fraudadvisorypanel.org/wp-content/uploads/2016/03/Victim-Blaming-is-Not-Helpful-in-Fighting-Fraud-Final-24March16.pdf>.

⁹ <https://www.pshe-association.org.uk/curriculum-and-resources/resources/cifas-anti-fraud-education-lesson-plans-ks34>

Government and others to help people understand and tackle fraud risk online and in the real world and to empower them to protect not only themselves, but also their family, friends and work colleagues¹⁰.

29. In terms of vulnerability, over the past year we have seen an increase in the number of individual victims who could be classified as vulnerable contacting us because they don't know where to turn for advice and support. This is despite excellent pilots currently being run by Action Fraud and others to provide more support for vulnerable victims, suggesting that more could be done to improve awareness of these vital services too.

Q5. The role and effectiveness of financial institutions in combatting economic crime that consumers face

30. It is our view that as payments become faster, financial institutions must do more to combat fraud and financial crime. Consumers rely on banks to conduct proper anti-money laundering checks in the setting up of bank accounts, undertake monitoring of the services they offer so that they are not used for illicit gain, and given the ongoing loss through frauds such as pushed payment fraud¹¹, it is self-evident that their work in this area continually evolves and could be improved.

31. Banks have taken advantage of, and invested heavily in, technology, reducing their costs in real estate and people. The closure of bank branches is forcing more consumers to bank online and unless these platforms are exceptionally safe, some consumers may be placed at greater risk. Banks therefore must be made to ensure that technology also replicates the knowledge that a human agent would have had in recognising fraud, unusual transactions and (where appropriate) the recoupment of funds for victims.

Q6. The potential for technology and innovation to assist those committing and combatting economic crime

32. Government technology will always lag behind that of financial and other private institutions, and the innovation of the cyber-criminal (who disregards procurement, data protection or other rules) is rapid. The National Crime Agency's use of Special Constables in cyber (as well as other areas) assists with knowledge and analysis at low cost and is an impressive innovation. Government has to work with big business in technology in order to tackle the cyber challenge, but we acknowledge that this will bring its own risks.

33. Regulation ought to be in place to assist us to tackle online fraud and financial crime, though this is made difficult with the borderless nature of such crime and when international co-operation on law enforcement (as well as tax) is a slow and challenging area.

Q7. The security of consumers' data

34. The General Data Protection Regulation (GDPR) may well result in better protection of consumer data, however we believe there are three key areas of real importance here:

¹⁰ Fraud Advisory Panel (March 2018). *Response to the all-party parliamentary group on financial crime inquiry into fraud against young people in the UK*. Available from <https://www.fraudadvisorypanel.org/wp-content/uploads/2018/03/FAP-Response-to-APPG-on-young-person-fraud-final-23March18-1.pdf>

¹¹ Fraud Advisory Panel met with PSR officials in November 2016 to discuss the issues raised by the Which? super complaint and then formally responded to PSR's 2017 consultation on *Authorised push payment scams: PSR-led work to mitigate the impact of scams, including a consultation on a contingent reimbursement model* (CP17/2).

- a. education of consumers to protect themselves;
- b. the introduction of an agreed minimum standard of security protection for the customer for all new online accounts and purchases; and
- c. the need for brevity and transparency of data opt-in terms. Many people's data that is abused is given away by ticking small boxes agreeing to terms and conditions which are voluminous with data sign away buried deep within them. There is usually no easy way to amend terms online which means that if a customer wants an item they must agree to all the terms.