

Fraud Advisory Panel
Tenth Annual Review
2007-2008



Contents

01 What Price Justice?	02 Ten Year's Work: The Fraud Advisory Panel 1998-2008	16 Fraud 1998-2008: What's Changed?	22 Fighting Back: The Panel's Agenda
	02 Why the Panel Was Set Up	16 Progress is Made...	23 What Next for the Fraud Advisory Panel?
	04 Key Achievements <i>Public Policy Changed</i> <i>Justice Advanced</i> <i>Providing Guidance,</i> <i>Highlighting Risks</i>	17 ...Yet Complacency Endures	
	08 The Collaborative Principle	18 Costs and Impacts: The Official View	
	10 The Panel's Trustees	20 Identity Fraud and Information Security	
	14 Corporate Members	21 A Low Risk Activity	
		21 Hard Times	

“The Fraud Advisory Panel’s work has been one of the blueprints for the change of approach recommended in the Government Fraud Review and now to be adopted nationally as part of the National Fraud Programme. My Office and the new National Fraud Strategic Authority look forward to working closely with the Panel during the next decade.”

The Rt Hon the Baroness Scotland
of Asthal QC
Attorney-General

What Price Justice?

The image on the cover symbolises justice. It serves as a reminder that fighting fraud is about more than preventing financial loss; it must include fair trials of those accused of financial crime, restitution to victims and the manifestation of the rule of law.

The Fraud Advisory Panel, which this year celebrates its 10th anniversary, has consistently striven for justice in every aspect of the word in relation to financial crime. We have drawn attention to the shortcomings of the responses to fraud by government and by business; we have examined areas of deception and dishonesty that others have paid scant regard to; we have taken the lead in advising businesses and individuals on how best they can identify fraud risks and how to protect themselves.

We have urged government to take fraud seriously; to put in place adequate legislative tools and resources for effective enforcement and to co-ordinate the efforts of those who, like us, seek to minimise the risk of financial and economic crime. Since we started in 1998 the size of the problem has not diminished; indeed, new ways of perpetrating financial crime arise, like the Hydra's heads; as soon as one appears to be suppressed, others spring up. When the Panel was founded some felt we were exaggerating the problem. Yet in the last ten years, fraud, often committed by organised crime gangs, has infiltrated almost every corner of society.

We have called for a substantive offence of fraud; for more police resources to tackle law enforcement throughout the UK; for better awareness on the part of business and the public of the dangers of fraud; for better means of asset recovery and recompense for victims.

In the past few years we have at last seen substantial and very welcome positive moves on many of the issues we have highlighted.

We now have the Fraud Act 2006 in force, which creates a single and flexible offence of fraud and will make the prosecution of offenders more likely. The implementation of the Government's Fraud Review has at last started to take shape and resources have been made available to support the City of London Police Economic Crime Department, which will act as the lead force throughout England and Wales. Fraud forums have been formed around the country, where businesses and police work together to identify risks and address them.

This is hugely encouraging, but there is no room for complacency or sitting back and feeling we have accomplished all we set out to do. The Panel is busier than ever and never so much in demand to respond to the seemingly unending Government consultations on law reform, to advise business and the professions on fraud prevention and risk management, and to give guidance to the public on fraud awareness. Our programmes of seminars and publications are hectic and we are hard put to respond to the requests for advice and assistance.

Yet if a group of volunteers with few resources can make a difference, what results could flow from a whole-hearted commitment by business and the state? The Panel will always have an important role to play in the fight against fraud. We have never shirked the difficult or unpopular topics and we have been able to call on our members, whose expertise in every aspect of fraud fighting is unrivalled, to devise strategies and to draft papers. I am immensely grateful to all who have worked so hard for the Panel and will continue to do so, cheerfully and enthusiastically, in the knowledge that they are contributing to justice in financial crime and success in the challenges that we continue to face.

Rosalind Wright CB QC
Chairman
June 2008

“No One Else Was Standing in the Gap”

The 1990s saw an unprecedented series of major corporate frauds which shook trust in business and the accounting profession. The subsequent tidal wave of commentary contained many home truths but usually missed the key issue – that there was an urgent need for a joined-up response to fraud.

Tony Bingham, one of the Panel's founders explains. “The proposed solutions were usually sectoral ones when the real need was for a co-ordinated response. Auditors had to do more but we also needed higher fraud alertness within companies and action by the police, Whitehall and regulators. Unless they worked together the outcome would be less than the sum of its parts.”

This thinking resulted in 1996 in the “*Taking Fraud Seriously*” initiative, a conference and pamphlet by the Audit Faculty of the Institute of Chartered Accountants in England and Wales (ICAEW), plus a subsequent consultation paper. It recommended the establishment of a single multi-disciplinary body to serve as a forum for discussion and policy advice. Bingham says “the note we sounded wasn't to every one's liking but it also attracted a lot of support from those who dealt with fraud, people from business, accountancy, the law, policing and academia”.

“We knew such a body could only advise and educate,” says the then Audit Faculty Chairman Gerry Acher “but that alone would be a breakthrough as no one else was standing in the gap.” The Fraud Advisory Panel was born in February 1998.

“What Counted Was Who We Represented”

George Staple had just completed his term as Director of the Serious Fraud Office when he was asked to chair the Panel.

“I was attracted by the idea of working with a corps of people co-operating on a multi-disciplinary basis. From the start we saw our goal as creating a consensus with a view to prompting action. The key was to pool specialist knowledge to create a wider view – and then use our collective authority to put that view before a wider audience. Our members worked on fraud everyday, preventing, training, investigating, and prosecuting. What counted was who we represented.”

One of the key requirements for the new Panel was for it to be fully independent. “The foundation of all we did was that the Fraud Advisory Panel would speak for itself, and that members would contribute in their own right, not as spokesmen for an organisation. Indeed, as professional people giving of their own free time they weren't going to stand for anything else. As a result we can say things other institutions can't, and oblige the powers that be to take ideas seriously that might otherwise be ignored,” says Staple.

Style was an important part of the mix, though it flowed more from the nature of the people involved than from a conscious strategy. Staple's philosophy was “don't be too flash or aggressive, don't be a noisy lobby group. The facts speak for themselves. We knew we were in for a long haul so building relationships mattered. Given high-powered membership we could offer detailed research, sound analysis and practical solutions. There were no simplistic, absolutist mantras.”

“We’ve Evolved as the Threat has Grown”

The Panel has since widened its scope to embrace emerging aspects of the problem, such as identity and internet fraud, that were scarcely on the horizon a decade ago. There’s also been a strong emphasis on the threat to ordinary people and small and medium-sized enterprises (SMEs).

“Fraud is much more than a narrow technical problem,” says Ros Wright, the current

Chairman. “Its roots connect to our criminal and commercial laws, the way professional and business people are trained, the state of our police forces, courts and the machinery of government. They go right down to the ethical attitudes prevalent in society. So it was natural for us to widen our scope, indeed inevitable once you’d brought so many experts together and got them used to thinking as a team. We’ve evolved as our understanding of the threat has grown.”

The Fraud Advisory Panel is an independent body with members from both the public and private sectors. Its role is to raise awareness of the immense human, social and economic damage caused by fraud and to develop effective remedies.

The Panel works to:

- originate proposals to reform the law and public policy, with a particular focus on fraud investigations and the legal process
- advise business and the public on prevention, detection and reporting
- assist in improving education and training in business and the professions
- establish a more accurate picture of the extent, causes and nature of fraud.

The Panel has a truly multi-disciplinary perspective. No other organisation has such a range and depth of knowledge, both of the problem and of ways to combat it.

The Panel was established in 1998 through a public spirited initiative by the Institute of Chartered Accountants in England and Wales. It is now a registered charity and company limited by guarantee, funded by subscription, donation and sponsorship.

www.fraudadvisorypanel.org

Key Achievements: Public Policy Changed

The Fraud Advisory Panel's impact was confirmed when the Government's Fraud Review endorsed many of its long-standing proposals in June 2006. Panel Trustee Monty Raphael notes that "our persistent advocacy encouraged the Government to start the Review. We contributed a sense of urgency about fraud and added insight, not only via publicity but also by our work with the professions and many closely argued representations to ministers."

The subsequent ministerial decision to create a *National Fraud Strategic Authority* (NFSA) is the culmination of the Panel's campaign for what it originally called an "Economic Crime Commission". The Panel had argued from 1998 for a "joined-up approach" via a public body which would "raise awareness and keep fraud high on political, commercial and policing agendas". The Authority will bring together public and private sector organisations to develop, implement and co-ordinate a national strategy.

The soon-to-be established *National Fraud Reporting Centre* (NFRC) and its associated *Fraud Measurement Centre* also answer the FAP's calls for a concerted drive to establish the true facts about fraud. In 2000 it asked: "Why is a major national problem not a political priority? In part due to lack of authoritative statistics which enables the problem to be politically marginalised."

Another long-running Panel campaign has been for increased resources for police fraud investigations. 2008 saw the establishment of a *Lead Force* for the whole of England and Wales operating from the City of London Police.

The Government has in principle accepted the case made by the Panel for the introduction of *plea-bargaining* (to encourage fraudsters to plead guilty earlier or turn Queen's evidence) and for a financial court to hear criminal, civil and regulatory aspects of major fraud cases (in order to expedite justice and make it more consistent).

"In the ten years of its existence the FAP has helped create a change in attitudes towards fraud. As a result, and coupled with the Fraud Review, there is a growing awareness of its effect on the community, and this will in turn lead to a significant saving of society's valuable but ever-scarcer resources."

The criminal law and court procedure are at the heart of an effective anti-fraud strategy. Trials have grown in length and the volume and complexity of documentary evidence presented in court has proved a major obstacle to swift and effective justice. Outdated and inflexible legislation has prevented many large fraud cases being brought to court at all.

The Panel raised questions of *procedure in serious fraud trials* in October 1998, making it one of the first in the field. The aim was to reduce the burdens on participants - notably jurors who faced months in court - and increase the likelihood of convictions.

Lord Justice Auld noted that the recommendations of his Criminal Courts Review in 2002 adopted “all or most” of the Panel’s proposals, some of which, such as sentencing discounts for early guilty pleas, became law the following year. Others were included in the Lord Chief Justice’s directions to judges in 2005: no trial should be permitted to exceed three months save in exceptional circumstances; trial judges now have a clear role in ensuring quicker and smoother proceedings; pre-trial hearings on secondary matters make it easier for the trial itself to focus on major ones.

Another long-running but successful Panel campaign was for the creation of both a *legal definition and a single substantive offence of fraud*. The Fraud Act 2006 introduced both. Panel Trustee Jonathan Fisher QC explains that “we had three main objectives: simplify the law to make it more comprehensible to juries; reduce the risk of cases being decided by technicalities; and focus on criminal intentions rather than outcomes – just because a fraudster hasn’t got his hands on the loot doesn’t mean he isn’t guilty!”

The 2006 Act enshrined all these proposals and Panel advocacy also persuaded ministers to retain the ‘conspiracy to defraud’ offence which allows juries to be shown evidence of a pattern of dishonest behaviour. Abolition would have severely restricted the ability to prosecute some of the largest and most serious fraud cases.

A number of other FAP proposals have also become law. For instance it pressed for a more extensive regime for *confiscation of criminal assets*, a goal realised in the Proceeds of Crime Act 2002.

Panel arguments also helped *prevent the decriminalisation of fraud cases* in the regulated financial sector. It pointed out that “regulation of the financial markets is not morally neutral and the abandonment of the criminal sanction would send out the wrong message.”

A number of FAP proposals are not yet on the statute book but have sparked debate and provided a practical template for reform. *Bringing to Book* (2006) critiqued the Code of Practice issued under the Criminal Procedure and Investigation Act 1996. This prevents an investigating authority from closing down unpromising lines of enquiry and adds inequitably to the burdens faced by prosecutors (for more details see below under ‘Fighting Back: The Panel’s Agenda’).

Providing Guidance, Highlighting Risks

Government and the criminal justice system can only do so much. Businesses and individuals must also protect themselves against fraud.

The Panel works in the public interest to raise awareness of fraud and financial crime in all its guises through the provision of advice and best practice guidance to business, the professions, and the general public.

“We Exist to Raise Awareness of Fraud”

“We exist to disseminate knowledge to the widest possible audience, not just fellow experts,” says the Panel’s Education and Training Consultant Martin Robinson.

Advice is kept clear, concise and accessible, with the Panel publishing both *hands on best practice guidance* as well as in-depth policy papers. Its extensive *education and training programme* works on the same lines.

“Both lines of work have large audiences and are applauded by a range of organisations straddling the public, private and not-for-profit sectors. It’s all about the end user. Over ten years the Panel has made a big difference to the profile of fraud as a business risk,” says Robinson.

Gerry Acher recalls that “in 1998 firms paid more attention to locks on their doors and windows than to IT security. Our education programme helped change that!”

A particular area of focus for the Panel has been SMEs (although many of the key messages apply to large organisations too). Panel Deputy Chairman Steven Philippsohn explains that “we saw there was next to no *fraud guidance specifically for SMEs* (despite their accounting for over 95% of all businesses) and produced a series of publications to meet that need. We also issued a set of *sample fraud policy statements* to help organisations see where they were missing out and formulate their own policies.”

e-crime issues relating to information security, the Internet and electronic communications have been a core area of the Panel’s work. The Cybercrime Working Group (chaired until this year by Steven Philippsohn) revealed the *threat to mobile devices* such as PDAs and mobile phones. Businesses and the public were advised on how to protect themselves while making *online payments* and warned about the fraud risks in so-called ‘*virtual worlds*’.

The Panel issued one of the first major warnings about identity fraud in July 2003 and has recently updated it. *Identity Fraud: Do You Know the Signs?* discusses how to detect it and how to reduce the chances of becoming a victim.

Shedding Light on Emerging Issues

“Experts are often aware of deep-seated problems but sometimes lack a platform from which to speak. We provide them with a forum and give them the ability to be heard loud and clear,” says Chairman Ros Wright. “That often leads us to address emerging or neglected issues.”

One of the FAP’s earliest pieces of work highlighted deficiencies in the anti-fraud content of business and professional education and training. It commissioned research into how perceptions of the data protection legislation affected the conduct of private-sector fraud investigations.

Special conferences won media coverage by discussing the surprising extent and sophistication of fraud in art and academic and scientific research.

In recent years the Panel has addressed even more sensitive topics. Its 2007 annual review delivered a broadside on ethics in business and public life, citing “a climate of corner-cutting and indifference to others” which allows fraud to grow. It emphasised the need for personal responsibility amongst leaders and managers rather than focussing solely on systemic solutions.

Ros Wright feels that “perhaps we’re most proud of our work on fraud victims. They are shamefully neglected and we’ve made it our business to reveal the human cost of fraud. We devoted most of our 2004-2005 annual review to the subject and followed up by convening a roundtable of victim support groups, public bodies, the police and others to look for solutions. We published the results. Once again the FAP was amongst the very first in the field and undoubtedly the first to bring the issue to the attention of policy makers and the public.”

“The Panel has made a vital contribution by sponsoring valuable concrete studies on reporting, criminal justice, civil reparation, and prevention.”

Professor Michael Levi
Cardiff University

The Panel implements its guiding principle of multi-disciplinary collaboration at every level. "I am in the privileged position of presiding over a Board made up of some of the most experienced and able fraud practitioners in the UK," says Ros Wright. "We meet monthly to discuss strategy and the findings of other volunteers in subject-based working groups. The point is to develop a holistic view rather than being tied to our specialisms."

"A lot of what we do overlaps with legislation and policing. It's fair to say we occasionally annoy Whitehall but the relationship is constructive rather than adversarial. In fact we're often used as a sounding board for proposals and called on for assistance by senior civil servants as well as by law enforcement and regulators. They in turn send their people to our working groups."

Fraud Advisory Panel members strongly support its public policy role. Robert Dias, Chief Executive of an IT security company joined because "the more experience within the Panel, the more weight will be given to it by government and the more relevant it will be".

The Panel's methodology is crucial to its credibility. Areas of focus aren't chosen because they are fashionable, but through research which highlights gaps in knowledge. Issues are often tackled via out of the spotlight roundtable discussions which scope the problem, pinpoint the area of greatest need and inform the development of practical guidance.

The FAP is anxious to equip public and private sector managers, auditors and consultants with the skills they need to fight fraud day-to-day. Training packages are devised by Senior Executive Mia Campbell and Education and Training Consultant Martin Robinson. He notes that "we have always run education and training workshops but they're now of equal importance to our public policy side". They also "provide valuable feedback because of the insights we get from our audiences".

The working groups add another dimension. Forensic accountant Penny Cassell calls them a "great opportunity to network. You get real cross-sectoral co-operation between private practitioners, business and enforcement." The exchanges help highlight new techniques of prevention and detection. Security consultant Richard Kusnierz felt encouraged to join because "I had experience of data mining techniques (a very specialised field) and I wanted to share that experience. And it's two-way: the sessions are a useful source of information and intelligence."

Mia Campbell confirms that "each member brings a unique perspective. Although this means it is sometime difficult to find common ground, bringing together experts with different points of view is how we've become a catalyst for so many initiatives."

Funding is a key issue for the Panel. "We've proven our effectiveness on a low budget for ten years," notes Trustee Alex Plavsic. "But we constantly bump up against barriers. It's important that independent groups can invest in studying the issues in depth."

“The Panel has been instrumental in increasing both public and government awareness of the risks posed by fraud. Its expert advice for our reports on tax and benefit fraud has been an invaluable source of informed opinion.”

Tim Burr

Comptroller and Auditor General and
Head of the National Audit Office

The Panel's Trustees

Ros Wright CB QC

Chairman. Member and past Chairman, Supervisory Committee, OLAF (the European Union's Anti-fraud Office); independent member, DBERR Legal Services Group and Insolvency Service Steering Board; Vice-Chairman, Jewish Association for Business Ethics; Bencher of the Middle Temple. Non-executive director, Office of Fair Trading 2003-2007; Director, Serious Fraud Office 1997-2003; General Counsel and Executive Director, Investor Protection, Policy & Legal Division at the Securities and Futures Authority 1987-1997; Head of the DPP's Fraud Investigation Group for the City and Metropolitan Police areas 1983-1987; recipient of the Association of Certified Fraud Examiners' Cressey Award 2007 for lifetime achievement in the detection and deterrence of fraud.



Steven Philippsohn

Deputy Chairman and Chairman, Asset Recovery Working Group. Founder and Senior Partner, PCB Litigation LLP, conducting fraud and asset recovery civil litigation on behalf of governmental global and national organisations; Co-Editor of the UK Manual of the Association of Certified Fraud Examiners; member, editorial boards of *E-Commerce Law & Policy* and *Inside Fraud Bulletin*; UK representative member of the Fraud Network of the International Chamber of Commerce. Former Chairman of the Panel's Cybercrime Working Group; former member, Home Office panel on the future of internet crime.



Felicity Banks

Head of Business Law at the Institute of Chartered Accountants in England and Wales; represents the Institute on economic crime issues; represents the accounting profession on HM Treasury's Money Laundering Advisory Committee and in relation to the Financial Action Task Force's project to draft guidance on the application of a risk-based approach to anti-money laundering legislation and the control of terrorist finance; Chair of the Accountants Affinity Group of the Anti-Money Laundering Supervisors Forum.



Bill Cleghorn

Partner, Financial Crime Investigations, Forensic Services and Corporate Recovery at Kinetic Partners LLP; Director, London Fraud Forum; Insolvency Licence Holder; Fellow of the Association of Business Recovery Professionals. Former partner, UK Fraud Investigation Group, PricewaterhouseCoopers; lecturer on fraud-related issues and money laundering.



Ken Farrow

Chairman, Fraud Prevention and Detection Working Group. Director of Fraud Services, Control Risks Group, providing fraud and anti-money laundering preventative and investigative services. Former Head of the City of London Police Economic Crime Department and chair of the Association of Chief Police Officers National Working Group on Fraud.



Jonathan Fisher QC

Chairman, Legislative Review Working Group. Specialising in white collar crime, regulatory and disciplinary cases at 23 Essex Street Chambers. Former Standing Counsel (Criminal) to the Inland Revenue at the Central Criminal and London Crown courts. Legal panel member of the Accountancy & Actuarial Discipline Board; member of the International Bar Association's Anti-Money Laundering 3rd Directive Implementation Group and Working Group on Industrial Espionage; co-author of *The Law of Investor Protection* (Sweet and Maxwell) and *Pharmacy Law and Practice* (Elsevier); Visiting Professor in Corporate and Financial Crime at the London School of Economics; steering committee member, London Fraud Forum.



Neil Griffiths

Partner in the Reconstruction and Insolvency Group at Denton Wilde Sapte, specialising in contentious and fraud related cases. Former Chairman of the Panel's Investigation, Prosecution and Law Reform Working Group; former Vice-Chairman of the Creditors Rights Committee of the International Bar Association.



Dr Stephen Hill

Chairman Cybercrime Working Group. e-Crime & Fraud Manager, Chantrey VellacottDFK LLP; adviser to SMEs and charities; trainer for police forces, private sector fraud units and major banks; lecturer on fraud awareness; honorary steering committee member, London Fraud Forum; Associate of the Association of Certified Fraud Examiners.



Will Kenyon

Partner in PricewaterhouseCoopers' Forensic Services Group; founding head of Forensic Investigations, PricewaterhouseCoopers GmbH, Germany 1998-2001; specialises in the prevention, detection and investigation of fraud and financial crime; involved in investigations and recovery actions for some of the most significant fraud cases of the last 20 years.



James Perry

Former Detective Chief Superintendent with the Metropolitan Police and Commander in Charge of its Economic and Specialist Crime Unit; Chair of the Association of Chief Police Officers' National Financial Investigation Working Group; represented the police in the studies which led to the Proceeds of Crime Act 2002 and Money Laundering Regulations 2003.

Alex Plavsic

Head of Fraud Services at KPMG Forensic; conducted independent reviews for regulators including the Bank of England, the Financial Services Authority and government departments; investigated major fraud cases including Polly Peck and Grupo Torras; specialises in 'black hole' and bribery/corruption investigation.



Monty Raphael

Chairman, Fraud Investigation and the Legal Process Working Group. Joint Head of Fraud and Regulatory Practice, Peters & Peters (Senior Partner until April 2005); conducted fraud enquiries for regulators, Inland Revenue and HM Customs & Excise; Director, Transparency International (UK); Visiting Professor in Law at Kingston University; former President, London Criminal Courts Solicitors Association; founder of the Business Crime Committee of the International Bar Association and Chair of its Anti-Corruption Working Group; Honorary Solicitor to the Howard League for Penal Reform.



Mia Campbell

Senior Executive. Joined the Panel 2003. Has overall responsibility for strategic and operational management. Member, Steering Committee, Fraud Women's Network. Holds Masters degree in Criminology.



Martin Robinson

Education and Training Consultant. Former Chairman of the Panel's Education, Training and Events Working Group and a former Director. Independent risk and audit consultant; Training Development Adviser to the Institute of Internal Auditors UK and Ireland; Audit Adviser to the Institute of Chartered Secretaries and Administrators; licensed career coach.



Corporate Members

192.com Business Services, Alix Partners, Association of British Insurers, Association of Certified Fraud Examiners - UK Chapter, Association of Certified Fraud Examiners, Association of Chartered Certified Accountants, Aviva Plc, AXA Sun Life, Baker Tilly, BDO Stoy Hayward LLP, Beever and Struthers, Bishop International Ltd, BSKYB Ltd, Cadbury Schweppes Plc, Calyon Plc, Capcon, Chantrey Vellacott DFK LLP, CIFAS-the UK's Fraud Prevention Service, Control Risks Group, Daylight Forensic & Advisory, Deloitte & Touche LLP, Denton Wilde Sapte, Ernst & Young, Experian Decision Analytics, Fidelity Investments International, Finance & Leasing Association, Financial Services Authority, HBOS Plc, Institute of Chartered Accountants in England and Wales, Institute of Chartered Accountants of Scotland, KPMG LLP, Law Society of Scotland, Legal & General Group Plc, Lloyds TSB Bank Plc, McGrigors LLP, Merrill Lynch Europe Plc, MHA Consulting, National Audit Office, Navigant Consulting, NHS Counter Fraud & Security Management Service, OVAG Limited, PKF (UK) LLP, PricewaterhouseCoopers LLP, Prudential Plc, Royal & Sun Alliance Plc, Royal Bank of Scotland, RSM Bentley Jennison, Solicitors Regulation Authority, The Accountants' Joint Disciplinary Scheme, The Cotswold Group Ltd, UBS AG

Benefits of Membership

Opportunities to influence public policy via the Panel's proposals and recommendations to government.

Working in the public interest to address the concerns of business, the professions and the general public.

Networking and opportunities to exchange information with like-minded professionals from law, accountancy, business, industry associations, financial institutions, academia and public bodies.

Participation in multi-disciplinary working groups on topical issues.

Preferential rates for conferences and seminars. Some events are free to members.

Corporate membership includes up to 20 named employees entitled to all the above benefits. The Panel also offers a free professional training session on a fraud-related subject of your choice.

For more information contact the Panel on 020 7920 8721 or membership@fraudadvisorypanel.org

The fight against fraud is certainly more advanced than in 1998.

The first national fraud strategy will be developed by the National Fraud Strategic Authority which was set up earlier this year. Measurement and analysis of financial crime will soon be commenced by the new National Fraud Reporting Centre. Both are a result of the Fraud Review. Panel Trustee Neil Griffiths, who led the Panel's legal work for six years, says that "before the Review we saw incoherence and sporadic initiatives which fizzled out. It took a holistic view and established a coherent approach."

The criminal law has been updated with the Fraud Act 2006 which creates a legal definition and a substantive offence of fraud. The Proceeds of Crime Act 2002 enables the authorities to seize fraudsters' illicit gains via civil action as well as prosecutions. There have been reforms in court procedures.

Policing was strengthened by the designation of the City of London Police's Economic Crime team as Lead Force for the south-east of England in 2003. Its role is now being extended to the whole country. Another significant step forward was the Metropolitan Police Service's ongoing Operation Sterling, which embraced an intelligence-led approach to fraud.

Operation Sterling was also a landmark in closer police-business co-operation. The team worked with London companies to advise on their anti-fraud measures. The Dedicated Cheque and Plastic Crime Unit (DCPCU) established in 2002 and now solely funded by APACS, the UK's payments association, perhaps the most successful example of joint working to date, saving more than £130 million from reduced fraud activity. Regional fraud forums, the first being set up in the north-east in 2003, have enabled the sharing of intelligence and best practice by both sides at grass roots level.

Business self-help has gathered pace. Chip and PIN has significantly reduced credit card fraud at the point of sale. There has been a large increase in the use of private fraud investigations and successful civil recovery actions. Individual companies have slashed fraud losses by developing reliable data on losses and engaging staff in preventive campaigns. The 2008 Information Security Breaches Survey for the Department for Business, Enterprise and Regulatory Reform (DBERR) confirmed that the average spend by companies on IT defences has tripled over the last six years.

The public sector has also made strides, led by the NHS Counter Fraud and Security Management Service (NHS CFSMS) with its emphasis on staff training and cultural change. In 2007 it was revealed that the financial benefit to the NHS stood at £811 million since 1998. The Audit Commission's National Fraud Initiative (which uses data matching) has detected £450 million of losses to date.

Progress has also been made to protect individuals and organisations from identity theft; three acts of Parliament have criminalised aspects of the process. Death registration information is now available for crime prevention purposes and identity theft now also features in the British Crime Survey (BCS). Public information campaigns have been launched by government and the financial services industry.

...Yet Complacency Endures

Despite these inroads problems remain. Why, given the huge losses caused by fraud does the Government still treat financial support for police investigations as a relatively low priority? Why does much of business still not treat it as a major risk?

Is it because fraud is still considered a victimless crime? Or a crime that only affects well-off people whose folly merits little sympathy? Although there is an increasing awareness of the devastating human, social and economic impact that fraud can have at local, national and international level, more must be done.

“There’s still little sense of the damage done to society as whole. That makes it all the harder to motivate consistent action by government. It doesn’t help that so much fraud goes unreported which in turn eases pressure on corporates to pay for prevention. In many cases costs are simply passed on to the consumer,” says Panel Trustee Felicity Banks.

“Step changes in corporate fraud management depends on scandals shocking firms into action. That’s often true of government as well. In the absence of an Enron-type crisis it’s never going to be easy to get dramatic changes – you just have to keep chipping away.”

Panel Trustee Ken Farrow (a former Head of the City of London Police Economic Crime Department) highlights the problem of “control delusion” in large parts of business. “Many executives like to think of themselves as ‘big picture people’ and don’t know why fraud happens or how controls are made effective. They take a passive approach and see fraud prevention as just another overhead. And we’re often slow to respond in this country. For instance, New Zealand and France had Chip and PIN many years before we did.”

Martin Robinson agrees. “Risk management falls down when it’s too reliant on box ticking rather than evaluating individual functions and root causes. Many organisations still do not have fraud policies and fewer still embed them at every level.”

The Panel has continually exhorted firms to make sure that controls are not merely in place; they must be implemented and checked constantly to ensure they are effective. It is not enough, for example, to have whistleblowing policies in place if the person with designated responsibility does not know what to do when a report of fraud is received.

Costs and Impacts: The Official View

Financial crime costs at least £13.9 billion, increasing to £20 billion when income tax and EU related fraud are taken into account. This amounts to £330 for every man, woman and child in the country. Individuals lost at least £2.75 billion and business £3.7 billion in 2005. The public sector was defrauded of at least £6.8 billion in 2005-2006.

*The Nature, Extent and Economic Impact of Fraud in the UK
Association of Chief Police Officers, March 2007*

“Fraud is a hidden tax on everyone. It increases the cost of goods and services, impoverishes small as well as corporate shareholders, strikes at the future of private pension holders, jeopardises jobs and saps faith in the City’s unique standing at home and abroad. It damages business growth and investment.”

Final Report of the Government’s Fraud Review, June 2006

“In monetary terms the harm [fraud] causes is on a par with Class A drugs.”

Lord Goldsmith QC
then Attorney General, February 2007

The Government not only describes trans-national organised crime as a threat to national security, it specifically recognises fraud as a key part of that threat. “The potential effects include: undermining legitimate cross-border trade; threatening the integrity of financial markets through large scale money-laundering; and threatening business and individuals through cyber-crime.”

National Security Strategy of the United Kingdom
Cabinet Office, March 2008

Identity Fraud and Information Security

So far as criminals are concerned personal data is now as good a haul as cash because it can be used for identity fraud. The result is a radical new threat to every individual and family. In 2006 the Home Office estimated that ID fraud cost the economy over £1.7 billion a year.

The Internet has destroyed many of the traditional barriers to fraud, enabling criminals, many of them from organised gangs, to capture vital personal information. The recent Information Security Breaches Survey for DBERR found that the proportion of large business reporting unauthorised outsiders penetrating their networks stood at 13% in 2007.

Unfortunately parts of Britain's public and private sectors have not yet appreciated the enormity of the threat. The DBERR survey found that 78% of firms that had computers stolen had not encrypted their hard drives. 67% of companies did nothing to prevent confidential data leaving their offices on USB sticks.

In April 2008 the Information Commissioner's Office (ICO) reported "an alarming number of security breaches" by almost 100 public, private and voluntary organisations. "Of the security breaches that the ICO has been made aware of by private sector organisations, 50% were reported by financial institutions. Of those reported almost a third occurred in central government and associated agencies and a fifth in NHS organisations."

Referring to "inexcusable security breaches" the Information Commissioner said "the government, banks and other organisations need to regain the public's trust". Data that has gone missing included "unencrypted laptops and computer discs, memory sticks and paper records. Information has been stolen, gone missing in the post and whilst in transit with a courier." Panel Trustee Stephen Hill points out that "part of the problem is lack of attention to training staff in proper procedures. The human firewall is always the most effective one."

Incredibly the law places no obligation on data holders to inform people that their identities may have been compromised. The Panel called in May 2006 for an amendment to the Data Protection Act which would put pressure on data holders to act more responsibly.

A Low Risk Activity

“Would-be fraudsters make a simple calculation,” says Ken Farrow. “A generally low risk of detection plus negligible risk of imprisonment makes fraud seem a decent bet.”

This is borne out by the Fraud Review. It admitted that current sentences “are not viewed as a deterrent”. The maximum penalty is 10 years in prison but even the very largest fraud sentences in 2005 averaged only three years (not including remission which generally cuts 50% off time served).

The Review went on to say that there is “a lack of willingness by police forces to accept reports of fraud outright” due to “a lack of capacity...even when reports are taken, little is done with them”. Its Interim report noted that “the chance of a low or medium value fraud against the private sector being investigated is very small”.

The expanded Lead Force will help address this problem. But local fraud squads continue to wither as financial crime remains outside current policing priorities. Farrow points out that “it wouldn’t be expensive to upgrade them; the Review made clear that it would cost only around £15 million to double the number of police officers allocated to financial crime”.

Hard Times

The prospect of an economic downturn, or outright recession, prompts greater than usual concern amongst fraud experts. “The early 1990s saw some huge cases,” recalls George Staple. “Britain has avoided such problems for well over a decade but this may simply be a function of a fairly benign economy during that period.”

Panel Trustee Will Kenyon agrees. “High interest rates, more restrictive covenants, forced asset sales as a condition of getting a loan: if executives can’t borrow their way out of difficulties some of them will start cooking the books. Over-valuing assets is a favourite trick. And in such circumstances linking high-level remuneration to financial targets can actually incentivise fraud. At the grass roots we’re already seeing more people lying on credit applications as the economy falters. It’s an axiom of forensic accounting that excessive pressure stimulates fraud.”

Ros Wright notes that fraud isn’t just a symptom of economic problems, it can contribute to them. “The secondary banking crisis of the 1970s was triggered by fraud in many minor financial houses. Fraud has been one of the hallmarks of the US credit crunch; thousands of borrowers misstated their incomes to get loans, often with the encouragement of their brokers.”

“During the past decade the Fraud Advisory Panel has played a key role. Businesses and consumers are now better equipped for the continuing battle.”

Peter Hurst

Chief Executive, CIFAS - The UK's Fraud Prevention Service

The Panel always seeks to match problems with solutions. "Many of our proposals require action by government," says Ros Wright. "Although all of us need to be vigilant, protecting the citizen is an ultimate responsibility of the state and can never be privatised or contracted out."

Protecting Personal Information

Perhaps the most pressing need is to better protect private citizens against identity fraud. Despite several worthwhile initiatives more needs to be done to educate the public on risks and the precautions everyone can take to avoid them. High-profile advertising on TV, radio and the press would have a major impact. The Data Protection Act 1988 should also be amended to impose an obligation on organisations to inform clients and customers of information security breaches.

Better Business Fraud Reporting

Experience suggests that many businesses will continue to downplay the need for effective fraud prevention so long as there is no obligation to report losses. The Panel is aware of concerns that this would add to the regulatory burden yet sees merit in further and wider debate on the subject. One interesting suggestion is that listed companies should be obliged to report estimated fraud losses over a significant level to their shareholders.

Mainstream Fraud as a Policing Issue

It is vital to save existing fraud squads from contraction (even extinction in some parts of the country). Making fraud a Key Performance Indicator within the National Community Safety and Policing Plan would send a powerful signal to chief constables that financial crime must not be marginalised.

Establishment of local Police and Community Fraud Liaison Groups would also help establish financial crime as a mainstream law enforcement issue. Members drawn from chambers of commerce, professional bodies and local authorities would feed intelligence and concerns to local forces, so helping senior officers take more informed decisions. The network of regional fraud forums plays a useful role but cannot provide this kind of close liaison at the level of police basic command units.

Unshackling Investigations and Prosecutions

The Fraud Review found that “burdensome disclosure requirements...unnecessarily extend the length of trials without enhancing the quality of justice”. The problem stems from the Criminal Procedure and Investigation Act 1996 (CPIA) Code of Practice which denies an investigating authority the right to close down unpromising lines of enquiry. The Fraud Review noted that up to 80% of investigators’ and prosecutors’ time in serious fraud cases can now be spent dealing with unused evidence.

Two reforms are essential. Investigating authorities should have the right to seek court approval for a preferred line of enquiry. Defence counsel should have to satisfy a court that unused material held by the prosecution is relevant to the case.

Plea Negotiations

Introduction of formalised plea bargaining into English legal procedure will help prosecutors bring the guilty to book, encourage earlier guilty pleas and save a great deal of court time as well as that of the police, jurors and witnesses. It is of course essential to build in strict safeguards to protect suspects from undue pressure to plea guilty.

A Financial Court

The Panel supports the Government’s proposal for a Financial Court to handle most aspects of a fraud case, including the criminal prosecution, asset recovery, regulatory action and civil proceedings. It also wants to see better training and support for judges in managing serious fraud cases.

Realistic Sentencing

Longer custodial sentences should be imposed on fraudsters who target vulnerable victims, or who display a degree of sophisticated planning.

The Machinery of Government

The NFSA needs consistent, high-level political support. A Cabinet committee on fraud should be established, chaired by the Prime Minister, to ensure that every department of state plays its full part in implementing the new national strategy.

“The Institute is proud to be the main supporter of the Fraud Advisory Panel which has a long and distinguished track record. The work it undertakes helps shape policy development as well as best practice for tackling financial crime.”

Michael Izza

Chief Executive, Institute of Chartered Accountants in England and Wales

What Next for the Panel?

“I would hope there might be a time when the Fraud Advisory Panel has fulfilled its mission,” says Ros Wright “but that doesn’t look likely in the foreseeable future. The impact of fraud on the national economy is huge and has still barely registered on the public consciousness. ACPO’s figure of £20 billion annual losses (some £330 for every man, woman and child in the country) is probably an under-estimate and yet much of it is preventable with minimal effort.”

Moving forward the Panel will continue to focus on activities to improve awareness of fraud; to highlight new and emerging problems; and to examine ways to address them effectively.

“There is a constant need for warnings, analysis and advice on all aspects of financial crime. Three recent issues stand out.

An alarming rise in property-related fraud, including ‘skimming’ where a fraudster and a corrupt professional collude to seek a property secured loan backed by an inflated valuation.

Advance fees frauds of every kind are on the increase and prey particularly on the vulnerable.

Investment frauds, particularly of the ‘boiler-room’ cold-calling variety, remain a perennial threat from overseas organised gangs. There is no regulatory protection and no prospect of compensation.

On The Horizon

It is a sad fact of modern society, and a reflection on the ingenuity of fraudsters, that as one opportunity for criminality is eliminated another is created. The Fraud Advisory Panel believes that the following subjects will rise up the agenda of public concern over the next few years. It is determined to address these issues, assessing both the threats they pose and how they can be countered.

MITC or 'carousel' fraud

This is thought to cost Britain some £2-3 billion in evaded VAT each year. This could be tackled with much greater vigour if the Government were prepared to work in active co-operation with the European Anti-Fraud Office (OLAF) which has an impressive track record in this area of revenue fraud.

Misstatements of non-financial reporting

With organisations increasingly expected to display greater social responsibility it is likely that there will be an increase in incorrect, or deliberately dishonest, reporting of ethical and environmental positions. Some organisations may try to win financial benefit by manipulating these indicators.

Social networking

Fraudsters are already taking advantage of social networking sites to steal identities. Many employees log on to these sites at work, potentially compromising their firm's security as well as their own.

2012 Olympic fraud

As work commences in earnest on the preparations for the London Olympics there will be an increasing need to identify and shut down potential opportunities for fraud.

A blurring of the lines

A blurring of the lines between terrorism, organised crime, bribery and corruption, money laundering and fraud is already apparent. Organisations will need to take a more holistic approach to what is becoming a single area of risk.

Zero tolerance

Organisations will need to adopt a zero-tolerance approach to fraud in order to keep 'ahead of the game'.

Many believe that the Government has at last begun to move in the right direction on fraud. But there is still much to be done and the Fraud Advisory Panel will continue to campaign on public policy issues to ensure that the momentum is not lost. It will monitor, support and challenge both ministers and the NFSA.

The Panel is aware that big changes in anti-fraud practice and policy are often born out of disaster. It also knows that it doesn't have to be like that. Stemming - and reversing - the tide of fraud is a realistic aspiration, not a utopian dream.

“The excellent work of the FAP is undoubtedly a driving force for change in the fraud arena.”

Mike Bowron

Commissioner of Police for the City of London and Association of Chief Police Officers National Lead for Economic Crime

