

The Fraud Advisory Panel has a new chair, Sir David Green CB QC. To mark the occasion writer Trevor Maggs spoke to Sir David and outgoing chair David Clarke about their long careers in fighting fraud, the special place the Panel occupies in the counter fraud community, and the new challenges we all face in the age of big data.

JANUARY 2022



# Incoming Chair

## Sir David Green CB QC

### **What attracted you to the role of chair?**

I have been dealing with fraud from different angles for the last 40 years or so – at the bar, prosecuting and defending, at Revenue and Customs Prosecutions, at the CPS, then latterly at the Serious Fraud Office, and finally in private practice again. I have seen the Panel's unique perspective in action, and the important contributions it makes to law reform, public education, and research. I was delighted to be asked to chair the trustees and keen to embrace the opportunity.

### **What would you say the Panel offers that other counter fraud organisations don't?**

The trustees bring a huge range of skills to the table. We have that same breadth of experience and expertise in the membership as well. It gives the Panel an undeniable authority when it comes to trying to influence anti-fraud policy and law reform, and to educating the public about emerging fraud risks – a crucial part of the Panel's role, I think.

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### **During a long career you've moved between the public and private sectors. In terms of counter fraud work, what has been your impression of the differences between the two?**

The private sector's approach to counter fraud is driven mainly, but not exclusively, by self-interest. That's not always a bad thing but it is important that public policy-makers don't forget it. The public sectors approach is, and should be, cast in a much broader concern for the public interest.

Over the years I've encountered many people who think they need to start from the basics and ask questions they think have never been asked before. The sad truth is those questions have often been asked before and there is a lot of anti-fraud learning and experience out there that needs to be tapped more consistently.

The cooperation of both the public and private sectors is fundamental to the success of any counter fraud drive or the development of new efforts to fight fraud.

### **What impact does fraud have on society?**

The financial losses are vast. But there is a broader impact on the individual of which we should not lose sight. Some of these frauds are so sophisticated in the way they exploit the instinctive trust the oldest generation has in officialdom. I've seen it in my own family; one elderly and vulnerable relative was very nearly the victim of phone fraud. Their reaction has been to feel foolish – as if it was their fault for being gullible – which of course, it's not.

### **What do you think the consequences of the pandemic will be on the fraud landscape?**

The pandemic is a very good example of how new fraud threats emerge from events and from technological change but also how important it is for fraud professionals to have the depth of experience and heightened intuition to anticipate what needs to be done – something that is a great strength of the Panel. Sophisticated con artists and fraudsters look at any change of circumstance – like the pandemic – and immediately think, 'How can we exploit this?'. We, on the other side, will always be playing catch-up to some extent. But I think the pandemic has shown that we should be able to do more to anticipate threats and try to design-in more resilience. Education and the raising of awareness would be a key part of that.



**We all agree that the present response to fraud and economic crime is inadequate. What more should be done to bring more fraudsters to book?**

The statistics on the amount of police resource spent on fraud speak for themselves. Fraud has always been something of an orphan child. This has to be addressed with more effort and resource put into detection, investigation, possible prosecution and recovery of proceeds.

We need to work out what the true threat is, where it's coming from and who is behind it. We should focus our investment on developing intelligence and data-analytical capabilities.

That's surely the way forward against this epidemic of low-level frauds, which is immensely profitable for the fraudsters and hugely damaging for society.

During my time at the SFO, a five-strong intelligence department, staffed by experienced former police officers, grew into 32 prosecutors, lawyers, accountants, former police officers, investigators, and recruits with an intelligence background. We need to develop that kind of model right across the counter fraud community.

All this raises an important question: how are we to access and secure the data we need to feed good intelligence work? Large scale fraud such as that involving push payment is often run by organised crime groups. The only way to get at them is by serious data analysis to enable understanding of the networks and the money flows. Policymakers need to be influencing the banks and financial institutions who control this data. We also need to educate the public about why access to data on this scale is necessary and what the benefits will be. The banks will act in their own commercial interests, so the opening up of that data to fight crime needs to be something their retail customers and commercial customers support.

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**How should the law be changed in the future to improve the fight against fraud?**

There's been a real loss of public confidence in the ability of the state to hold errant companies to account in a criminal court. That should be addressed urgently. We need a change in the law to broaden the Bribery Act's s.7 'failure to prevent bribery by associated persons' offence to embrace all economic crime.

People often ask why more individuals aren't prosecuted. Huge efforts are made but prosecution requires the right admissible evidence, reaching the right standard. The prosecutor's job is not to convict people; it is to build the strongest possible case on the available evidence and put it before a court.

**Are there any urgent issues the Panel needs to tackle?**

First I plan to bed myself in, and do plenty of listening to find out how the board and members feel we should direct our efforts. The Panel has a wide-ranging and distinguished board of trustees. I very much look forward to working with them. My initial thoughts are that we must continue to develop education enabling identification and recognition of fraud, whilst preserving the Panel's extraordinary position of influence with government and legislators.

# Outgoing Chair

## David Clarke

### **David, you joined the Fraud Advisory Panel more than 12 years ago. What's so special about it?**

There's no anti-fraud body like it on earth ... literally. I have tried helping other countries to do something similar but they always struggle. The broad expertise base, the openness, the independence; it lets us do things other counter-fraud organisations can't, or won't. We do a lot of work to understand emerging problems and getting them onto the radar but we are also very focused on coming up with solutions. And we go out of our way to speak up.

There's too much reinventing of wheels in counter fraud so we've become like the corporate memory - the one to say 'No we don't need more data or more research. We need to remember what we already know and get on with doing something about it'. All our collective experience gives the Panel a kind of sixth sense too. You see it in the way our special reports often tackle issues years before they make headlines. Our *Hidden in Plain Sight* report warned almost three years ago that domestic corruption was gnawing away at British public life.

People don't always want to hear what we have to say, but I am not sure who else is going to tell them.

### **You are a strong critic of inaction in fighting fraud. Why do you think so little progress has been made?**

The 2006 Fraud Review showed what can be achieved when there is the will. We still need the well-funded, joined-up, strategically-planned approach to fighting fraud that it envisaged.

We also need to create a society where honesty is encouraged and rewarded. Instead, there's been a widespread shift towards dishonesty right across society. It's somehow become OK to cheat and steal and lie. We must reverse this trend.

Fraudsters don't make the mistake of reinventing the wheel, nor should we. They always have a plan. They know what works and then they adapt it to the moment. And they have a clear understanding of human nature. We should too.

### **You have led the Panel during the biggest global crisis of our time. What has it meant for the Panel and the wider counter fraud community?**

The Panel has really shone as an organisation. We immediately understood how fraudsters would try to exploit the pandemic and quickly responded by bringing together the counter fraud community. We've been able to extend our reach and influence by working with lots of new partners, and to showcase the good work we do and the difference we can make.

Our Covid-19 Fraud Watch Group was very effective. It met regularly to gather intelligence and share insights internationally, and to channel them to government, law enforcement and the wider community. We were the first to publicly warn the Chancellor of the fraud risks facing the stimulus package. And we were able to propose practical solutions, like a centralised banking data pool and a cross-sector crisis committee.

### **What do you think the longer-term consequences of the pandemic will be for fraud and cybercrime?**

I think that cyber is a bit of a red herring. Of course, we all need to take sensible precautions but the investment in police cyber units and business resilience centres detracts from the obvious fraud weaknesses like fake adverts and fake identities.

Fraudsters using time-worn techniques are still a big threat. Why don't we focus on them? If you've lost your entire life savings because you fell for an old-fashioned investment fraud on the internet, you want the bad people stopped not a lecture about changing your password.

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**Are there any other issues that give you cause for concern?**

The banking industry needs urgent reform. We are long overdue for proper regulation of shadow banking – the hedge funds and derivatives markets. It was crooked insiders that nearly brought down the world financial system in 2008 and they will do it again.

Both the government and the regulators seem reluctant to take effective action to tackle rogue elements in the banking system or to seek the additional powers they might need. This is now one of the main reasons the fight against fraud and economic crime is so ineffective.

Something similar is true of the tech giants and social media platforms. We’d like to see them lead from the front in combatting online fraud and yet fraudsters literally pay for fake adverts on their platforms. Fraud was initially left out of the Online Harms Bill and the money laundering regulations still have not been expanded to cover these companies.

And now we’ve got problems with people reporting fraud. All my life in fighting crime (41 years) I have consistently said to victims, ‘Speak up – report it. Nothing may happen immediately, but you will help to protect others’. But the Action Fraud/NFIB service that was a world-first has issues, and the government says a new central reporting portal is still years away.

It also concerns me that HMRC don’t have the resources to do more criminal prosecutions meaning many fraudsters don’t appear in the crime data. This is a free pass to criminals because tax fraudsters are always up to something else. Even if HMRC don’t prosecute, they should follow the Home Office’s National Crime Recording Standard and record fraud allegations reported to them in the same way as police forces must do.

**In your day job you work for a tech-led company. What role do you foresee technology playing in the fight against fraud in future?**

The metaverse – this blend of the real and the virtual world – is already here. Even I have a multilingual avatar. AI-powered detection and analysis systems could check in real-time for the tell-tale signs of fraud and economic crime. New powerful technologies could be an exciting force for good if they are in the right hands. That’s a big ‘if’, and only governments can address it.

AI and machine learning could also do so much good but only if they are fed the clean, plentiful big data they need to do the learning. If that data is polluted and in silos – locked away inside financial institutions and government departments – then our hands will be tied.

**What would you most like to be remembered for during your time at the Panel?**

Probably our pandemic response – all the practical things that we did to protect the country, including lots of things behind the scenes that we can’t talk about. There has been a wonderful sense of unity, camaraderie and purpose in our little team and among the many people we have worked with. It’s been an important two years – a pleasure and an honour to have served during this time.

**Finally, can the Panel and the wider anti-fraud community do more to fight fraud?**

Of course. There’s always more to do. So I say, be brave. Speak up – amongst your colleagues, in your own communities and professions – and work together. Silos – in our practices, in our ideas, in our data – only help criminals.



The Fraud Advisory Panel is the collective voice of the counter-fraud profession. We help fight fraud and protect society by supporting, connecting and uniting frontline professionals.

**If you are  
working to  
counter fraud,  
you need to  
be here**

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