



Attorney General's Office

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Solicitor General

**“THE ROLE OF THE UNITED
KINGDOM IN THE INTERNATIONAL
FIGHT AGAINST FRAUD”**

17th June 2008

**Attorney General's Office
20 Victoria Street, London SW1H 0NF**

SOLICITOR GENERAL

FRAUD ADVISORY PANEL 10TH ANNIVERSARY CONFERENCE

“PREVENTION IS BETTER THAN CURE”

(Chairman Ros Wright CB, QC. Audience: FAP members)

CLOSING SPEECH:

**“THE ROLE OF THE UNITED KINGDOM IN THE
INTERNATIONAL FIGHT AGAINST FRAUD”**

17 June 2008

16.15 – 1700 45 mins

I am delighted to be here and to celebrate with you ten years of the FAP. Over those years, I know that my colleague Baroness Scotland, the Attorney General, has worked closely with the FAP and its members and has personal cause to value the commitment and energy that you have brought to combating fraud.

In particular, I want to pay tribute to Ros Wright and Jonathon Fisher, who have been tireless contributors to the national effort against fraud – both

respectively as members of the steering group and working parties of the original Government Fraud Review and as forceful and effective public spokespersons for fraud prevention.

As you all know now, combating financial crime is now very firmly a Government priority. We have demonstrated our commitment to the fight by investing nearly £29 million over the next 3 years in the new National Counter-Fraud Programme. In this I believe the UK Government is leading the way and will be carving a new role internationally as well as domestically and I have been asked to give you a flavour of this today.

The cornerstone of the Programme is to provide a Government-led and co-ordinated approach to combating fraud – in short, a National Fraud Strategy. Indeed, this will be the first co-ordinated response through business and across Government and is very much in the public interest to tackle what is becoming a growing concern. This is not just a piece of paper. We will be harnessing the efforts and co-ordinating the activities of both the public and private sectors – and this is absolutely essential if we are to make a significant impact on curbing the fraud economy.

Fraud has a significant impact on people and business. One buy-to-let fraud in the North East cost individual investors £25,000 each, but resulted in 130 innocent staff from the fraudulent company being made unemployed and some 5-10 sole traders and creditors being put into liquidation. In another example, a banking fraud of £7m resulted in the offices of the bank being closed and 100 staff being made unemployed. And again, a fraud against a charitable foundation making grants to terminally ill children, defrauded donors of a quarter of a million pounds but let down a number of children

and their families, the burden of resolving this falling onto a local hospice which itself relieves the hospital sector.

The original Review recommended that we shift our current efforts from reactive to proactive approaches to combating fraud and this is precisely what we are doing now. Work has begun in earnest on an ambitious programme of work, designed to harness the collaborative enthusiasm – and I can assure you there is a lot of enthusiasm, resources, authority and power contained in the public and private sectors efforts to fight fraud across the whole gamut of counter-fraud activity – from prevention and deterrence through to detection, investigation, prosecution and sanctioning - to redress for victims.

The Attorney General is pleased to be leading and championing this work. Recently, more colleagues have joined in leading the fight-back against fraudsters, through an inter-Ministerial group convened in March, co-chaired by the Attorney and my colleague Vernon Coaker, Minister of State at the Home Office. Ministers from the Treasury, Cabinet Office, BERR, the Ministry of Justice and the Department for Work and Pensions are also committed to working across the economy to make this country **the world's hardest target for fraud** in all its forms. I was pleased to be part of this process myself, and I look forward to a continuing involvement in the fight against fraud and in working closely with the NFSA in the future. Parliamentary interest in fraud is high, reflected by my recent involvement in an Adjournment Debate that highlighted the plight of victims of 'boiler-room' fraud and efforts underway to tackle it.

While this inter-Ministerial Group is a clear indication of public sector interest in this issue, I cannot stress enough that the National Fraud

Programme is a public/private partnership. It means that Government departments and agencies, organisations such as the British Bankers' Association, Regulators, the Association of British Insurers, professional organisations such as the FAP, Local Authorities, Prosecutors, the Courts and the Police, can all work together in stepping up the fight.

Not that this sort of inter-disciplinary partnership is brand new. But the difference now is that we will have a new national umbrella to strengthen the co-ordination and enable us to work to an agreed set of national priorities.

The national effort needs to include the international dimension. The Fraud Review made contact with a host of overseas bodies working against fraud – the network is already there and as more countries wake up to the threat, we will be able to encourage and co-ordinate more international action, too.

An international strategy is essential. Fraud is a cross-border problem. It requires cross-border action if it is to be tackled effectively and its perpetrators brought to justice. Globalisation of markets, internet trading and the free circulation of goods, services, persons and capital all mean that the UK cannot counter fraud in isolation. Key suspects and evidence – and key victims – may be anywhere in the world. The boundaries of national jurisdictions offer shields, not barriers, to the determined fraudster.

In Europe, we have Europol, Eurojust and the European Judicial network in place and they are already proving their worth in facilitating just the kind of co-ordinated investigations and searches that we know hit criminals – especially fraud criminals – hardest.

For example: 'Boiler-room' share selling operations are one of the priorities for the national fraud programme and the City of London Police and the SFO has already had successes working with European partners in this area. We have set up a task force to add action by SOCA, the BBA and the FSA to the work of the COLP and SFO.

And in relation to the SFO, you will be aware that a significant, recent event was the publication by the Director of the Serious Fraud Office and the Attorney General of a review of the working practices of the SFO. The review was commissioned in March last year by the former Attorney General, Lord Goldsmith, and the former Director of the Serious Fraud Office, Robert Wardle. The review was conducted by Jessica De Grazia, a former senior prosecutor in the United States. Ms de Grazia examined both the internal workings of the SFO and also the external factors which she saw as having an effect on the SFO's effectiveness. Tackling fraud effectively is a matter of the highest priority to government. The report, I am sure, will be of great use to the new Director of the SFO, Richard Alderman, who is taking forward a programme of significant reforms to the SFO.

Here in the UK, we are establishing the three principal institutions that together will devise, support and deliver the anti Fraud Programme, across the country. These organisations are:

- The National Fraud Strategic Authority, with its measurement unit;
- The National Fraud Reporting Centre, with its Intelligence unit; and the
- National Lead Force for Fraud.

Working collaboratively, these bodies will be responsible:

- for developing and delivering the national counter-fraud strategy;
- for the knowledge management that will drive it; and,
- for the co-ordinated public and private sector activity that will co-ordinate all the counter-fraud efforts in operation across our economy into a single, informed response to the fraud menace.

Let me bring you up-to-date with where we have got to in establishing these organisations.

The **National Fraud Strategic Authority**, or **NFSA**, is designed to do exactly as its title suggests: act nationally to counter fraud through a strategic and authoritative approach.

The Authority will act as a co-ordinating body, providing a national and international focus for the anti-fraud policies or activities already in place within the public *and* private sectors, with the overall aim of making the UK a hostile environment for fraudsters.

The Authority will also co-ordinate national counter-fraud activity, with a clear focus on reducing overlaps, removing conflicts and closing gaps in counter-fraud activity. It's not all about correcting problems. The Authority will also share intelligence and spread best practice in detection and prevention. All this will be done with the aim of increasing the effectiveness of fraud deterrence, which will, in turn, reduce our reliance on more expensive criminal investigations and prosecutions.

From its strategic position, the Authority will be best-placed to inform and propose our development of policy and legislation - and other changes, that will be necessary to further toughen the tools available to combat fraud.

The Authority will also be responsible for raising public awareness of fraud techniques and promoting simple counter-fraud methods.

While the Authority is still very much in development at the moment, our inter-Ministerial group has already given the Development Team some priorities to work on to actively test their models and structures before they go operational towards the end of this year.

The NFSA Development Team has been reviewing the UK's current responses to some early priority fraud threats, particularly e-crime and mortgage fraud. These reviews have involved significant amounts of stakeholder consultation across both the public and private sectors. Analysis has been conducted to identify the areas where improvements are required to address vulnerabilities and make the UK more resilient to these forms of fraud. I should say here that the co-operation we have received from players across the economy has been excellent. Stakeholder organisations have been particularly willing to look at these problems in new ways and to contribute to the reviews with their time, their experience, and their views on potential reforms. The levels of engagement bode well for the future success of the NFSA.

We all know there is a wide range of law enforcement priorities and last year the Home Office undertook a consultation on their new Assessments of Policing and Community Safety performance indicators, otherwise known as APACS. A basic objective of our fraud strategy will be to increase the

fraudsters' perception that the risks of fraud outweigh the benefits. Private sector victims accept that police resources will always be limited but argue strongly that the priority that law enforcement agencies give to fraud has never been lower – as reflected in limited case acceptance, low availability of specialist investigators and actual performance.

By working with Ministers, departments, regulators and private sector organisations, the NFSA Development Team made a submission to the Home Office to include fraud in these performance indicators. As a result, the Home Office has confirmed that they're looking at introducing the fraud performance indicator in the 2009-2010 APACS. There is more to do, and the NFSA will continue to work with stakeholders to develop this indicator, but this is clearly an example where leadership enabled a united counter-fraud voice to be heard.

I should make it clear at this stage that establishing the NFSA – or its multi agency task forces - will not require any legislation or statutory powers. The NFSA simply harnesses the *existing* powers and responsibilities of all the organisations in the task force and co-ordinates actions that would probably have taken *alone* by these organisations previously.

Consequently the Authority won't be usurping individual organisations' current counter-fraud policies or replacing them with central direction.

Collaboration increases the power of individual efforts and **co-ordination** ensures we **act** together, **learn** from one another - and **collectively** agree our priorities for action.

There is now increasing awareness across the financial crime agenda of the power of modern intelligence sharing and analysis. Recent announcements

by the Audit Commission on the findings being generated by the National Fraud Initiative illustrate this.

The **National Fraud Reporting Centre, or NFRC**, and its Intelligence Bureau will provide the analytical hub for fraud information, receiving and managing both information and intelligence on fraud that is currently fragmented within both the public and private sectors AND increasingly available internationally.

Managed by the City of London Police, the NFRC will be staffed by both civilian intelligence analysts and law enforcement officers, to provide:

- tactical intelligence to help law enforcement bring perpetrators to justice;
- strategic intelligence for decision makers in **both** the public and private sectors;
- effective translation of reports of fraud, which span geographic borders and involve multiple victims into intelligence packages that can drive a more effective enforcement response; and
- better knowledge of the threat of fraud to drive the NFSA's strategy and public warnings.

The Centre is also going to provide a much-needed central point of contact for individual victims' reports of fraud. Every fraud report received in the NFRC will:

- contribute to building a more accurate picture of fraud,
- improve the effectiveness of the wider anti-fraud response, and
- inform the development of the National Fraud Strategy.

Because of the amount and variety of information we aim to capture and analyse in the Centre, it is being designed with the help of the Information Commissioner's Office. In this way we aim to ensure we capture and use information to the fullest possible extent for crime prevention and investigation purposes, within the parameters of the law.

Now I must emphasise that not every report made to the NFRC can be investigated by the police, SFO or SOCA. But each and every report will build up a richer, more useful picture of fraud; strengthen the value of our analysis and highlight trends. Harnessing the detail of fraud activity is essential to understanding the issue better; so that we can act more intelligently and effectively. The vital thing is to ensure that no information or victim's complaint is **wasted**.

Good intelligence can support a range of less traditional measures - preventive and deterrent - to be undertaken by the state *and* private industry, regulators *and* individual victims. So, alongside criminal investigations and prosecutions, we can utilise civil proceedings, judicial declarations, negative publicity, disciplinary fines, asset recovery, system re-design, sacking an individual or closing down a Web site. All these tools are available to us **when we act together**.

Testing the effectiveness of this work will be the NFSA's measurement and analysis unit, which will record and analyse which interventions and actions are making make the most impact on fraud and reducing the harm caused by fraud.

The NFRC will be producing threat assessments from analysed complaints - so informing the next collective, pre-emptive strike.

This brings me to the **National Lead Force for fraud**; which is starting to operate now within the City of London Police. This new responsibility builds on its existing and very successful role as the Lead Force for London and the South East.

Through funding provided by Treasury and the Corporation of the City of London the force has been able to start recruiting three new teams of fraud investigators which will work closely with the SFO and the CPS Fraud Prosecution Service.

Let me be clear that the Lead Force will not replace regional fraud squads, but will **increase** our national fraud investigation **capacity** by providing:

- support for regional forces' fraud investigations,
- officers to work on public private sector taskforces and multi-agency co-ordination groups,
- specialist investigation resources for major, intelligence-led cases identified by the NFRC;
- a centre of excellence for fraud investigation – for both public and private sector law enforcement agencies - and
- support and frontline experience to the NFSA, to inform strategy.

New priorities and more officers are all welcome and useful; but we also need to ensure that after detection and arrest has been successfully completed, the criminal justice system can provide effective, efficient sanctions and redress for victims.

Last month I issued a consultation paper on our proposed framework for plea negotiations in England and Wales.

This framework of principle has been drafted by a working group of senior court practitioners led by Stephen Hockman, QC - a former Chairman of the Bar. Quite simply, the object of the framework is to encourage the prosecution and defence – traditionally constrained from working together by our adversarial system – to discuss the practicalities of a guilty plea at the earliest possible opportunity, before charges are even brought, in some cases.

I cannot pre-judge the outcome of this public consultation, but we have in mind to provide Attorney General's Guidelines to complement the Framework, to ensure that prosecution, defence and vitally victims and witnesses too - are provided with an open and transparent "code" for arriving at an agreed plea and sentence package to present to the Court.

We all know the larger and more complex fraud cases are expensive to investigate, prosecute and present in court. They impose a heavy burden on the police, law enforcement agencies, witnesses, victims and defendants as well as the court itself. These cases can consume a disproportionate share of legal aid resources. If we can save investigation and trial time in even a few cases a year, it will be a considerable achievement.

Linked to this consultation (which closes on July 3rd), we are currently drafting a second paper, which will propose new powers for the Crown Court in dealing with fraud. The Fraud Review recommended that the Crown Court should be equipped to make more preventive and deterrent

orders. Some of those outlined are only available to the civil courts or in regulatory proceedings currently. For example:

- powers to wind up companies used in fraud
- powers to disqualify offenders from regulated professions
- increased powers to award compensation to victims of fraud.

These linked proposals will, if agreed, both empower a Crown Court to impose a package of sentencing orders that satisfies the needs of victims and defendants for comprehensive justice; AND provide greater certainty for defendants pleading guilty, by reducing the number of potential parallel or serial cases he may otherwise face.

We hope to issue this second consultation paper before the summer and I would urge you all to contribute your views and ideas on both of the papers.

Meanwhile, another working group of court practitioners, led by HM Courts Service, is commissioning the first full study of the impact of fraud cases on the civil and criminal courts. This will inform a proper consideration of the cost/benefits of a Financial Court jurisdiction for fraud cases and other proposals made in the original Fraud Review for co-ordinating efficiently the parallel civil and criminal proceedings that so often result from incidents of fraud.

The Courts have an increasingly vital role to perform in combating fraud. Last year the Fraud Act 2006 came into force and we are already feeling the benefits of a simple, easily understood single offence of fraud to replace the collection of amendments that had been accumulated by the Theft Act

1968. We await the results of the Sentencing Guidelines Council's consultation on fraud offences which was held earlier this year.

But sentencing is only one of the deterrent measures at our courts' disposal. Confiscation is a very powerful weapon against all acquisitive crime and that is why we have now equipped our principal prosecuting authorities with civil recovery powers under the Serious Crimes Act. The same Act gives prosecuting authorities the power to apply for serious crime prevention orders, to deal with the problem of repeat offenders by restricting their business and professional activities.

On the international front we have been working hard to close down the hiding places for offenders and their money. Our policy has been to encourage mutual recognition of court judgements and orders. The European Arrest warrant procedure is already working well and we have recently sponsored a successful new Framework Decision to clarify the circumstances in which we should execute judgements in absentia. This will help with confiscation and financial penalties, as well as the Arrest Warrant.

There are already practical networks for civil asset recovery as well as the enforcement of confiscation orders made by the criminal courts – and it is clear that the financial services industry is ready, willing and able to play its part with POCA monitoring orders and suspicious transaction reporting. The Serious and Organised Crime Act gave responsibility for suspicious activity reports made by banks to SOCA and it has also recently absorbed the Asset Recovery Agency. SOCA plays an important international role as the UK's financial intelligence unit for UN Financial Action Task Force purposes as well as for Europol.

The change of approach heralded by the National Fraud Programme brings a greater emphasis on prevention and deterrence. I know this will be music to the ears of the FAP which has long been a staunch advocate of Prevention as the better cure. We are ensuring that this strategic shift of effort will be supported by the justice system as well as by the precautionary efforts of the State, businesses and the public. Just as taking the profit out of crime weakens criminal motives, so removing the offender from the commercial or professional arena of his fraudulent activity reduces his opportunity and incentive to offend again. These will all be at the heart of the new National Fraud Programme, in which I know the FAP will play a vital part.

Thank you.

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