PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

ECONOMIC CRIME AND CORPORATE TRANSPARENCY BILL

First Sitting

Tuesday 25 October 2022

(Morning)

CONTENTS

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not later than

Saturday 29 October 2022

The Committee consisted of the following Members:

Chairs: † Mr Laurence Robertson, Hannah Bardell, Julie Elliott, Sir Christopher Chope

† Anderson, Lee *(Ashfield)* (Con)
† Ansell, Caroline *(Eastbourne)* (Con)
† Byrne, Liam *(Birmingham, Hodge Hill)* (Lab)
† Crosbie, Virginia *(Ynys Môn)* (Con)
† Daly, James *(Bury North)* (Con)
† Doyle-Price, Jackie *(Minister of State, Department for Business, Energy and Industrial Strategy)*
† Hodge, Dame Margaret *(Barking)* (Lab)
† Huddleston, Nigel *(Lord Commissioner of His Majesty's Treasury)*
† Hughes, Eddie *(Walsall North)* (Con)
† Hunt, Jane *(Loughborough)* (Con)
† Kinnock, Stephen *(Aberavon)* (Lab)
† Malhotra, Seema *(Feltham and Heston)* (Lab/Co-op)
† Morden, Jessica *(Newport East)* (Lab)
† Newlands, Gavin *(Paisley and Renfrewshire North)* (SNP)
† Stevenson, Jane *(Wolverhampton North East)* (Con)
† Thewliss, Alison *(Glasgow Central)* (SNP)
Tugendhat, Tom *(Minister for Security)*

Kevin Maddison, *Committee Clerk*

† attended the Committee

Witnesses

Nick Van Benschoten, Director, International Illicit Finance, UK Finance

Gurpreet Manku, Deputy Director General and Director of Policy, British Private Equity and Venture Capital Association (BVCA)

Nigel Kirby, Head of the Financial Intelligence Unit (FIU), Lloyds Banking Group

Andy Gould, Detective Chief Superintendent and NPCC National Cyber Crime Programme Lead & Interpol Global Cybercrime Expert, National Police Chiefs' Council

Arianna Trozze, PhD student, UCL researching detection and prosecution of cryptocurrency crime

Jonathan Hall KC, Independent Reviewer of Terrorism Legislation

Public Bill Committee

Tuesday 25 October 2022

(Morning)

[Mr Laurence Robertson *in the Chair*]

Economic Crime and Corporate Transparency Bill

9.25 am

The Chair: Good morning, everyone. We are sitting in public and our proceedings are being broadcast. I have a couple of preliminary announcements. *Hansard* colleagues will be grateful if Members could email their speaking notes to hansardnotes@parliament.uk and I remind everyone—including myself—to turn mobile phones to silent.

We will first consider the programme motion on the amendment paper, and then a motion to enable the reporting of written evidence for publication and the motion to allow us to deliberate in private—which will take only a minute or so—before the oral evidence session. I hope to take those motions formally.

Ordered,

That—

1. the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 25 October) meet—

(a) at 2.00 pm on Tuesday 25 October;

(b) at 11.30 am and 2.00 pm on Thursday 27 October;

(c) at 9.25 am and 2.00 pm on Tuesday 1 November;

(d) at 11.30 am and 2.00 pm on Thursday 3 November;

(e) at 9.25 am and 2.00 pm on Tuesday 8 November;

(f) at 9.25 am and 2.00 pm on Tuesday 15 November;

(g) at 11.30 am and 2.00 pm on Thursday 17 November;

(h) at 9.25 am and 2.00 pm on Tuesday 22 November;

(i) at 11.30 am and 2.00 pm on Thursday 24 November;

2. the Committee shall hear oral evidence in accordance with the following Table:

TABLE

Date	Time	Witness
Tuesday 25 October	Until no later than 10.10 am	UK Finance; British Private Equity & Venture Capital Association
Tuesday 25 October	Until no later than 10.30 am	Lloyds Bank
Tuesday 25 October	Until no later than 11.05 am	The National Police Chiefs Council; Arianna Trozze
Tuesday 25 October	Until no later than 11.25 am	Jonathan Hall KC, Independent Reviewer of Terrorism Legislation
Tuesday 25 October	Until no later than 2.30 pm	Companies House; National Economic Crime Centre (National Crime Agency)
Tuesday 25 October	Until no later than 3.00 pm	City of London Police; Serious Fraud Office; The National Police Chiefs Council
Tuesday 25 October	Until no later than 3.45 pm	Spotlight on Corruption; Global Coalition to Fight Financial Crime; UK Anti-Corruption Coalition
Tuesday 25 October	Until no later than 4.15 pm	Oliver Bullough; Bill Browder
Tuesday 25 October	Until no later than 4.45 pm	Professor John Heathershaw, University of Exeter; Chatham House
Thursday 27 October	Until no later than 12.00 noon	Centre for Financial Crime and Security Studies at RUSI; Transparency International
Thursday 27 October	Until no later than 12.30 pm	OpenCorporates; Elspeth Berry, Nottingham Law School
Thursday 27 October	Until no later than 1.00 pm	Graham Barrow
Thursday 27 October	Until no later than 2.20 pm	Institute of Chartered Accountants in England and Wales
Thursday 27 October	Until no later than 2.50 pm	The Chartered Governance Institute UK & Ireland; City of London Law Society
Thursday 27 October	Until no later than 3.10 pm	Catherine Belton
Thursday 27 October	Until no later than 3.30 pm	Professor Jason Sharman, University of Cambridge

3. proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 48; Schedule 1; Clauses 49 and 50; Schedule 2; Clauses 51 to 90; Schedule 3; Clauses 91 to 100; Schedule 4; Clauses 101 to 134; Schedule 5; Clauses 135 to 141; Schedule 6; Clause 142; Schedule 7; Clauses 143 to 153; Schedule 8; Clauses 154 to 162; new Clauses; new Schedules; remaining proceedings on the Bill;

4. the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 29 November.—*(Jackie Doyle-Price.)*

The Chair: The Committee will proceed to line-by-line consideration of the Bill on Tuesday 1 November at 9.25 am.

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—*(Jackie Doyle-Price.)*

The Chair: Copies of written evidence that the Committee receives will be made available in the Committee Room and will be circulated to Members by email.

Resolved,

That, at this and any subsequent meeting at which oral evidence is to be heard, the Committee shall sit in private until the witnesses are admitted.—*(Jackie Doyle-Price.)*

9.27 am

The Committee deliberated in private.

Examination of Witnesses

Nick Van Benschoten and Gurpreet Manku gave evidence.

9.30 am

The Chair: We are now sitting in public. Good morning to our first witnesses. I am going to crack on straightaway, because the timetabling is tight this morning, but you are very welcome. Thank you for coming. I remind everyone we are now being broadcast. Do any Members need to make a declaration of interest? No. Witnesses, will you briefly introduce yourselves, please?

Nick Van Benschoten: My name is Nick Van Benschoten. I work at UK Finance, which is the voice of the UK's banking and finance industry. I work in our economic crime policy unit.

Gurpreet Manku: I am Gurpreet Manku. I am the BVCA deputy director-general and director of policy. The BVCA is the representative body for private equity and venture capital in the UK. We look after the smallest venture capital firms investing in start-ups all the way through to growth capital and private equity firms offering across the UK and worldwide.

The Chair: Thank you. You are welcome. Given the time constraints, I will ask Members for short, snappy questions, so short, snappy answers will be very much appreciated. I start with the Opposition spokesman.

Q1 Seema Malhotra (Feltham and Heston) (Lab/Co-op): I will put one brief question to each of the witnesses, as I know colleagues have other questions.

First, thank you for giving evidence. Nick, I am conscious of your perspective for the whole of the financial services sector and I want to ask a question specifically about data and information sharing: is enough happening in the Bill to deal with what has been described to me as the chilling factor of sharing information? What might come back in the consequences of promoting sharing?

Ms Manku, you gave evidence in which you described the "unintended consequences" of requiring limited partnerships to have a registered office. I am not sure that we would necessarily agree with that, so I am interested in your argument.

Nick Van Benschoten: We welcome the provisions in the Bill for private sector information sharing. We are very glad to see that they apply across the AML regulated sector—not just banking, but payments, crypto, e-money and so on—which allows us to follow the money and the data as criminals move across sectors to obscure their tracks. That is very welcome.

We also welcome the protection from breach of confidence. That can be in common law and, typically, in terms and conditions. It is important to be able to encourage people to do the right thing without the fear that they might be subject to litigation. However, we note that the Bill falls short in the way in which we can share information with the National Crime Agency, which is a disapplication of all civil litigation. We would like to explore whether we could go further in the Bill, but those provisions are very welcome.

I will not say too much. An expert colleagues from one of our member banks is speaking to you later, but I stress the fact that we want to encourage the use of information sharing as much as possible. It is not just where customers are exited, but where a restriction is placed on them, such as additional monitoring or thresholds—there are a lot of ways in which the banks put each other on notice. We want to encourage that use as much as possible in true cases of economic crime.

Gurpreet Manku: We welcome the provisions in the Bill to ensure that limited partnerships are not abused by criminals—I want to make that clear. On the point about having a registered office, we agree that there needs to be a service address in the UK for the delivery of documents and for the registrar to contact the organisation, but our concern is actually in reference to the legal meaning of "registered office" in the Companies Act 2006 when it comes to standard companies. We know that the term means something else in that context, so it is actually quite a knotty legal point rather than an objection to the principle of having a link to the UK.

It is just about ensuring that any existing arrangements that have been set up for legal and regulatory purposes for international funds structures remain intact. We will need to work through the process of what this means in practice. We were speaking to BEIS officials as soon as yesterday to talk through what it means in practice. This is more of an implementation point, and we have suggested edits that will come through to officials.

The Chair: Would you like to follow up, Seema?

Seema Malhotra: Quite a lot of people want to ask questions, so I will make further remarks later.

The Chair: Dame Margaret?

Q2 Dame Margaret Hodge (Barking) (Lab): Gurpreet, your written evidence is very negative. At one point, it states:

> "We do not think these proposed changes support the Bill's central aim of reducing the use of limited partnerships for money-laundering, since criminal users of limited partnerships will simply ignore them."

That suggests to me that we are not going far enough. We are aiming to catch the people who are guilty of economic crime. Attached to that, somehow I cannot see any investor wanting anything other than to know that they are putting their money into a kosher investment. Even if you are just a pension fund putting your money into a scheme, it does not seem a bad idea to check that the person behind it is legitimate and not a drug or people smuggler.

Gurpreet Manku: Absolutely. We agree with you that it is not in our interests to have our limited partnership fund structure abused by criminals for all those reasons. We believe that the introduction of annual confirmation statements, the requirement to have authorised corporate service providers register limited partnerships and the power for HMRC to obtain accounts will deter criminals and prevent them from using the vehicle—we hope that they have stopped using it now given that these reforms are finally going through Parliament.

On how those points link to the evidence you quoted specifically, which was actually about some niche requirements on passive investors in a limited partnership fund, a worry there is that those investors might be deterred from using the UK limited partnership structure

because they feel that their liabilities are being increased, that they are being asked to do the job of management and that criminal sanctions are attached to that. That part of our evidence applied not to the Bill as a whole but to those specific areas.

Q3 Alison Thewliss (Glasgow Central) (SNP): I have some questions for UK Finance about verification at Companies House. What would it take to have confidence in that verification system? You said in written evidence that Companies House should avoid over-reliance on UK-registered trust and company service providers. Can you tell us a bit more about that and what you would like to see put in place?

Nick Van Benschoten: We think that the Bill's provisions for Companies House reform definitely point in the right direction. The question for us is, "Are they going far enough and will they be implemented fast enough?" Companies House abuse is, as I am sure you are all aware, a significant problem that we in the regulated sector have been trying to compensate for, but we cannot. We need Companies House to act as a proactive gatekeeper.

On the verification measures, one of the key points is that they fall short of minimum industry standards. Verification of identity is necessary but not sufficient. A key thing we have noted is that the Bill does not provide for order-making powers to allow Companies House to verify the status of directors or beneficial owners, and for that sort of requirement on company information agents and so on. That seems an odd gap. We understand that it may be a matter of phasing or resourcing, which can be dealt with in the implementation, but not if we do not have the order-making powers in the bill.

I have spent 12 years arguing for Companies House reform in my various roles. I do not have another 12 years in me, to be frank. We need to make sure that the Bill gives the powers so that the debate can be had during implementation and, if necessary, a phased or risk-based approach. What I mean is that there is a real risk of nominee directors and abuse thereof. Companies House needs to be able to verify that and therefore bring other things within its realm of power, querying and amending the register.

The how is maybe another question for more detail, but a risk-based, reasonable approach is also minimum industry standards. We have not yet seen it, but I note that the international body FATF—the Financial Action Task Force—agreed last Friday that it was going to consult on best practice guidance on implementing new standards for company registers. These are the same reforms that the Government pushed for as part of their G7 presidency. It has been part of the change: the US is setting up a register; Switzerland is moving. The UK cannot fall behind these new standards, so it is important that the Committee takes cognisance of that.

Trust or company service providers is one of those cases where we know that there is an issue; the banking sector and other industry partners in the joint money laundering intelligence taskforce and another four along with the National Crime Agency did a study of the risks of abuse in the UK trust or company service provider sector. We found shortfalls. There was a remediation exercise agreed. I understand that the remediation exercise is still ongoing. It is one of those sectors where there are concerns. We are doing other work that I am not at liberty to discuss, but it is about that sector.

That means that Companies House needs to be careful and cautious. There need to be strict legal undertakings with proper penalties, not just that they have met the standard of verification but that they have done everything they should be doing as a regulated sector. There needs to be access to the evidence of these checks, and that evidence needs to be something that, on a risk basis if necessary, can be queried—not just the information in the register but the actual checks undergoing. There needs to be the ability for Companies House to take sample checks and do also risk-based reviews. That may be something we can come to later on in terms of the querying power. I am sorry for a long answer, but it is an important point.

Q4 Alison Thewliss: Thanks for that, it is really useful. Anti-money laundering responsibility has pushed over on to some of these trust or company service providers, which could be quite a loophole in terms of what you are saying about checks and verification. Would it be useful for Companies House to have that responsibility itself for things registered directly with it?

Nick Van Benschoten: I do not have a view on that. I know that the Treasury will be consulting on reforming the AML supervisory regime. That is something we have been pushing for for quite a while. I know that Jersey, for example, has a very different model where it has most of the regulator sector under one bailiwick, and that includes company formation. That may be something that the Committee looks at in future, but it is not the UK model at the moment.

Our priority would be, rather than look at the cost-benefit narrative and machinery of government change, the co-ordination point. There need to be powers not just to request information but to get information from other supervisors. There needs to be the ability to pass information around the ecosystem, including the National Crime Agency and regulated sector people sharing intelligence. There are some provisions in the Bill at the moment where we think they could go further on that matter, but the key thing is that Companies House needs to be a data hub. On whether it has the responsibility or others, we have not taken a view on that yet, I am afraid.

Q5 Alison Thewliss: That is useful. Incorporation fees are ridiculously low at £12. The Treasury Committee recommended £100. Do you have a view on that?

Nick Van Benschoten: I do not think they are unprecedentedly low. From a very quick survey, we found that Benin and Turkmenistan also have a low figure. I am not sure that is the company the UK wants to keep. There is a question about international competitiveness. It is important to note that in other EU countries with major financial centres it is in the £50 to £100 range. That does not seem an unreasonable amount for us.

Perhaps more importantly, we think Companies House needs to get resourced properly. You have to will the means, not just the ends. It is very important that Companies House fees are set at a reasonable level that would not deter an entrepreneur but would disrupt some of the bulk abuse we have seen, in which criminals set up hundreds and hundreds of shell companies. That is definitely a typology that we have seen.

Once there is enough money coming through main registration, there is then the question of whether Companies House will be granted any investment money out of the economic crime levy that is coming in next year. It is important that the levy is spent on things that actually improve the system, and that we do not just cross-subsidise, and that some of the opportunities also have a benefit for the economy—maybe for streamlining the onboarding of small companies, or for facilitating other access to regulated services.

Obviously, there is the question of what the Government will spend the levy on. We welcome the money that they have spent so far. There is an interesting proposal—by, I think, one of the Committee members' all-party parliamentary groups—that the Government should match-fund the economic crime levy. Obviously, we in the regulator sector would love that. It is something for the Government to consider.

Q6 The Minister of State, Department for Business, Energy and Industrial Strategy (Jackie Doyle-Price): I want to come back to the question that Dame Margaret Hodge asked you, Gurpreet. I hear your point that some of the obligations may deter private equity investment, but through the legislation, we are making the positive statement that we are determined to improve standards of regulation, with a view to tackling crime, and are saying that this country will be safe place in which to invest. To what extent will the Bill be a deterrent? Do you have any evidence or have you made any calcuations on that? If so, which other centres do you expect will benefit from our introducing this system of regulation?

Gurpreet Manku: To clarify, I think this is a really important Bill. We have been saying for a very long time that the provisions need to be implemented quickly. The issues that we have raised are really on points of detail. Raising an international private equity or venture capital fund is quite a complex process. We hope that the swift introduction of the provisions will deter criminals from using the vehicles that we are talking about. When the requirement was introduced for Scottish limited partnerships to go on the people with significant control register, it led to a dramatic drop-off in the use of such partnerships for nefarious purposes. We were not aware that English limited partnerships were being used in that way instead, and we were surprised that they were, because English limited partnerships do not have a legal personality, and so cannot hold assets and should not be able to set up a bank account; certainly, they cannot in this country. We were therefore surprised by the scale of abuse there.

The Government are sending a really strong signal by introducing these provisions, particularly the requirement to have an authorised corporate service provider submit documention and the measures around annual confirmation statements. That should deter criminals. Our version of the limited partnership fund structure has been emulated across the world, so there is a lot of competition, in the sense that international fund groups could set up a vehicle in the UK, the EU or the US. Our wish is for them to be here, because that drives other economic activity.

We have a huge domestic venture capital and growth capital funds industry that invests in small businesses around the country. Two thirds of our investment is outside London; 90% of investment goes to small and medium-sized enterprises. Our managers are small firms; they need a domestic vehicle that works and is trusted by international investors, including those from the US who invest heavily in our members. These vehicles are used by private equity and venture capital funds. They are also used by infrastructure, pension schemes and fund-to-fund investors. Notably, they are also used by the British Business Bank through its equity programmes. It is the largest venture capital and growth equity investor in the UK. It has a really important role in catalysing innovation and crowding in additional institutional investors. I am passionate about the need for a robust UK vehicle, and it has been really disappointing to see the abuse first in Scotland and then in England in recent years.

English limited partnerships and Scottish limited partnerships are popular because they are here. The UK law courts attract institutional investors, as does the fact that we have a large professional services community here. Because we have funds here, we also have the administration here, which means that we have good-quality jobs around the country; some of our members have hubs in Belfast and Southampton. I am passionate about ensuring that this vehicle works, and the rules that are being introduced will deter criminals; they will improve the robustness of the vehicle.

Our points are really points of detail, just to ensure that the limited liability status of investors is protected and that we can implement these reforms in a swift and easy manner.

Q7 Jackie Doyle-Price: That is very helpful, but can I turn the question on its head? To what extent do you think these changes could make this country more attractive, given that we are making a very clear statement about the standards that we expect in these vehicles?

Gurpreet Manku: I think it will make a very good statement, and it will attract international investment. There is a huge level of interest in the UK because we have had some brilliant growth stories in our businesses, particularly in deep tech in life sciences and biotech, especially coming out of the pandemic. There is a lot of interest in investments, and the Bill will send a signal that these investors should be using UK fund vehicles and not those based outside the country.

Q8 Liam Byrne (Birmingham, Hodge Hill) (Lab): Nick, can I check two things that you said, which I think reveal some significant flaws in the Bill? First, I think you said that the verification regime proposed for Companies House is weaker than that for the regulated anti-money laundering sector. Is that the case?

Nick Van Benschoten: That is the case, and perhaps more, in a way, than you might expect. We are not saying that Companies House should be regulated for anti-money laundering, but it does not have the provisions to verify the status of directors or beneficial owners. That is the gap to the standards. I should stress that the industry standards allow reasonable measures in how you verify status, because it is a challenge, but those reasonable measures are a matter of how, not whether.

Q9 Liam Byrne: Right, so we have a risk of a two-tier verification regime: one operated by Companies House and one gold-standard regime operated by the regulated AML sector.

The second thing I think you said is that the verification regime proposed in the Bill runs a risk of failing to establish those in actual economic control of a company. Is that true?

Nick Van Benschoten: There is always the risk, yes, but some of the shortfalls in the Bill can be addressed, and we think they should be, so that we can address the issues that you mention. In specific terms, some of the abuses are going to be abuses that the UK has suffered in the past; others will be abuses that we have seen happening overseas. The key thing is that the Government need to take a risk-based approach to measuring those. At the moment, the Bill does not allow Companies House to pick up some of those measures, including if we identify them in the future and want to remedy the regime.

Q10 Liam Byrne: So you would say to Members of Parliament who are worried about bad people transferring control of an economic asset to proxies that, at the moment, we do not have enough safeguards in the Bill.

Nick Van Benschoten: I think they could be improved, yes.

Q11 Stephen Kinnock (Aberavon) (Lab): A couple of quick questions from me. First, on resourcing, the Bill puts a number of additional tasks, requirements and responsibilities on Companies House. How would you estimate the gap between where Companies House is now and where it would need to be if it were to properly implement and execute the Bill? Secondly, we have seen that a number of other jurisdictions—the Netherlands and Singapore in particular—have moved further and faster than the UK on data sharing. Do you think the Bill will bring us up to the gold standard for data sharing?

Nick Van Benschoten: Are you addressing the question to me?

Stephen Kinnock: To both of you, if you do not mind. It would be good to hear from both of you on both questions.

Nick Van Benschoten: My view is that, in terms of resourcing, there is a lot of new technology. Companies House is quite lucky that it can leapfrog using best practice. We have had a number of meetings with it. I think you may be hearing evidence from Graham Barrow later; we had a roundtable with Graham Barrow, Companies House and some other providers to try to explore this issue. Companies House is quite lucky in that it does not need to be a manual exercise: the goal is to get very much a minority manual review by humans, with the majority being technology and machine learning and so on.

That said, we also did a webinar with a number of data providers, including well-known companies that are looking at the size of the challenge and the opportunities. There is a big difference between quick wins and longer-term investment. Companies House already has a risk engine; it has data analytics already. It is just that its enforcement people, working as hard as they can, have their hands tied behind their back. I think there will be a lot of policy development, and work to implement not just the technology but the way that it interacts with the regime that it wants to set up. It is a challenge, because the short term is a burning platform.

Known patterns of abuse are identified every day. Also, a number of companies may be about to walk off with a lot of stolen public money through bounce back loan scheme fraud, and that is an area where Companies House may or may not have powers. Whatever powers the Bill gives need to be operated at speed. Sorry, that was a roundabout way to get to your question. There are short-term things it can do now, and there is a long-term thing; but it must make sure that it is dealing with the urgent as well as the transformative. We understand that the transformative exercise will take a long time, but there is also need for it to apply more tactical focus around the risks, especially in the short term. What was your second question? Sorry, I forgot it in my enthusiasm.

Stephen Kinnock: On data sharing.

Nick Van Benschoten: Each country has its own threats and problems. Singapore's COSMIC database addresses particular exposures and problems that it has with trade-based money laundering. The UK is in a different place in that market, but we have our own problems. In terms of data-sharing, one of the key things we would like is for Companies House to enable permissioned access to the regulated sector. We have a lot of problems that are not so much in high-end corporate, but in the retail customer base. We have money mules for fraud, we have a lot of spoof companies enabling purchase and investment scams. Trying to work out where exactly the needle is in the haystack is difficult when we do not all have access to the same data.

Companies House seems to be facing a binary choice: either it is public, or it is only for the public sector. There does not seem to be a middle ground that works on a need-to-know basis, where you have an obligation to apply money laundering checks and to have careful, need-to-know handling procedures and anti-tipping off and so on, and where that information is available for the purposes of safeguarding your customer and maintaining the integrity of the market. From a UK perspective, that is definitely something that we would support. We also think it might allow us to develop something equivalent for our own risks, as the Singaporeans and other countries have done.

Gurpreet Manku: We have focused on the limited partnerships provisions in the Bill, but in principle we would support Companies House being appropriately resourced to implement all these changes effectively. I have no objections to data-sharing with relevant authorities. Our investment community operates across the globe, so we are used to this type of activity in other jurisdictions.

The Chair: Perhaps two quick final questions. Alison, you wanted to come back.

Q12 Alison Thewliss: Thank you, Chair. You talked about the impact on SLPs from the changes in legislation. Have you looked at the issue of Irish limited partnerships? Bellingcat has found that over a thousand ILPs were created between the early 1900s and 2014, but 2,400 were set up from 2015 onwards. Are those who are looking to exploit the system just chasing round for the structures that they need?

Gurpreet Manku: We have not looked into that. I do know that Ireland has set up a new funds limited partnership, so that could be part of the reason for their

growth—but that was very recent, so I do not know why that has happened. Again, it is quite worrying if people are just moving around, exploiting different structures.

Q13 Dame Margaret Hodge: It is interesting that in this sitting, we have got rather contradictory evidence. On the one hand, you, Nick, are saying that we are not getting enough information on the basics, such as identity checks, and that we need information about more people; on the other, Gurpreet, you are saying that there is too much data, and it will damage business formation and prosperity. I wanted to give you the opportunity to think again, particularly you, Gurpreet. Have you got any figures? In your evidence, you say that you have to set up a tertiary body somehow. Is that just your guess? I think Alison Thewliss will agree that all our evidence is that the structures we are dicussing are among the most abused, and have facilitated more money laundering and economic crime than almost anything else. If we do not sort this out, it will just add to our problem, rather than enabling us to do what the Minister wants.

The Chair: May I ask for a brief answer?

Gurpreet Manku: We are commenting on different parts of the Bill. On the limited partnerships part, we think that a number of the new provisions being introduced will deal with the issues you have outlined. To reiterate, we are really unhappy and shocked to see the amount of abuse of this fund structure, because it has been in place for decades and is used for legitimate purposes on our side.

When you read the paper cold, you are right—it does look quite negative; we probably should have reinforced our support for the provisions that will work. Sometimes we have a tendency to go into the detail and start thinking about how things will be implemented in practice. We want to ensure that we use the tools and implement the most effective measures in the Bill. If there are other points that, on balance, would not necessarily help with the overall aim of the Bill, perhaps we should look at whether they need to be implemented.

Q14 The Chair: Nick, would you like to come in very briefly?

Nick Van Benschoten: I would just say that we support the application of the Companies House powers to all the entities registered at Companies House. Companies House needs risk-based querying powers and to be able to follow the data and the money. My earlier comments also apply to the point about limited partnerships and verification by trust company service providers; we need a much more cautious approach to the reliability of that service.

The Chair: I call Seema for what is probably the last question.

Q15 Seema Malhotra: I want to come back to where I started and to pick up on the evidence given about regulated and unregulated sectors. Obviously, there are issues in banks and the financial sector, but we have not talked much about cryptocurrency or other areas such as gambling, where there may be flows of illicit finance—cash and so on. Do you think that more needs to be done about unregulated sectors? Does the perimeter need to be extended? What relationships are there between economic crime in the financial sector and that in other sectors?

Nick Van Benschoten: From a financial sector point of view, it is important to look at this as an ecosystem; that is definitely how the criminals look at it. They look for weak points. Sometimes the problems are upstream of the financial sector, but it crystallises in our sector because that is when people realise that the money has gone out of their accounts.

We are very supportive of the fraud provisions in the Online Safety Bill—we think they are critical. We also think it critical that everyone be incentivised to play their part. That includes potential issues around the scope of the economic crime levy, which applied only to the AML regulated sector. The Bill levels up powers for the cryptoasset seizures and freezing orders. That is welcome; it simplifies things. We work with crypto sector associations. They are now trying to realise that they are part of a regulated sector, and they want to be part of the gatekeeper community.

On what the Bill does, it is important, as I mentioned, that there be information sharing across sectors. That is key, because then we can see whether we all have a different piece of the puzzle to put together. A systems approach is definitely needed; that is maybe the context for our point that Companies House should really be an enabling hub. That includes giving access to information that may not be on the public register.

Q16 Seema Malhotra: If this legislation is to be as effective as it needs to be, will there need to be dependencies on other legislation?

Nick Van Benschoten: That is a very good point, yes. There are also the information processing provisions on the identification, prevention and detection of economic crime in the Data Protection and Digital Information Bill, as well as the Online Safety Bill. Obviously, consultation is ongoing about a statutory APP or authorised push payments code. There may also be other vehicles in one of those bits of legislation, or this one, for other measures that we are currently discussing with the Government. I think the Minister made reference to our difficulty with having to process payments within a set period—there is a hard regulatory obligation, even when we have identified economic crime risks. We are still exploring whether that needs guidance or legislation. All these things need to come together if we are to design the right ecosystem. That then raises the question of who is leading the system. We are working on that with the Government.

The Chair: We have less than one minute. Ms Manku, do you want to make a few final comments?

Gurpreet Manku: We are glad that these provisions are being implemented. We have been working on them since 2018, and stand ready to work with officials to ensure that they are implemented effectively to meet the Bill's overall goals.

The Chair: That was good timing. I thank the witnesses for coming to see us and for their answers.

Examination of Witness

Nigel Kirby gave evidence.

10.5 am

The Chair: Thank you for joining us, Mr Kirby. We have until 10.35 am. Would you briefly introduce yourself, please?

Nigel Kirby: Good morning to the Chair and the Committee. I am currently the head of the group financial intelligence unit at Lloyds Banking Group. Across the industry, I am a representative on UK Finance's information and intelligence committee and, for full transparency, as part of that I was deputy director of the economic crime command of the National Crime Agency.

Q17 Seema Malhotra: It is good to have you here, Mr Kirby. Could you give us a little flavour of the kinds of trends and patterns of economic crime that you are seeing? How are criminals behaving? Are you seeing new trends domestically and internationally?

Nigel Kirby: Perhaps I can give a couple of the examples that we used when we were speaking with the Home Office for the formation of the Bill. In one case that involved money laundering, Lloyds identified seven customers that were receiving cash payments into their accounts. We linked those seven customers because they used the same fraudulent documentation—a gas bill—to set up their accounts. They had all been linked using fraudulent IDs. They were sending money to one individual in another bank.

At the moment, we act on such cases by meeting our statutory obligations—we exited those customers—but from the criminal's perspective, the second bank is not aware of the fact that they are receiving those funds, because we do not have the capability to share that information with them. Secondly, it is highly likely that those seven customers moved on to other banks and continued that activity because, again, at the moment we have no capability to share the information about our economic crime concerns in that space.

That is a fairly simple example, but to build on it, the same kinds of techniques were used to launder criminal funds in another case involving three companies that were banking with us. We recognised that they were receiving cash money from the same post office source. They were also receiving money from other companies in banks. That money all got consolidated and was sent out to, if you like, a fifth bank. I do not know what happened to it after that—we cannot see.

Q18 Seema Malhotra: A fifth bank domestically or internationally?

Nigel Kirby: It was, at that particular point, a UK domestic bank, yes. We have this sort of complexity of companies that are linked using different identities and are moving money around, layering it in the system, and sending it to other parts of the system. We are currently limited in what we are able to do.

On those three companies that we at Lloyds could see were receiving money from five other banks, at the time we could not inform those banks of our concerns or explore with them whether that money was legitimate—it is not all illegitimate; it could, of course be legitimate funding. Furthermore, when that money was consolidated and sent to another bank, we were unable to inform that bank.

Whatever the predicate crime—there are all sorts of predicate crimes—the layering is not that complex but it uses the banking system, across the banking system, to obfuscate and layer the funds, and then the criminals move on. The big challenge at the moment is that we can report those entities and companies, but they will just go and open up in another high street bank, and when they have exhausted the five major high street banks, they will go to the challenger banks, and when they have exhausted those, they will go to the fintechs. We are not aware of that in the way that other industries such as the motor industry might well be.

Q19 Seema Malhotra: That is extremely helpful. To follow up, will the measures in the Bill go far enough to enable the critical data sharing and the ability to inform other banks of what you think is important? In doing that and in going as far as you feel is needed, are appropriate safeguards in place for some things that may be legitimate finance and able to be explained by visitors or customers?

Nigel Kirby: To take the first question first—about whether the Bill goes far enough—I commend and compliment the Home Office. It worked with us on the Bill. This piece of legislation was, fortunately, done by the Home Office but using our case examples. The Home Office explored whether the Bill would work with the scenarios we gave them. That helped the information provisions to be pretty much in the right place. There is one key omission from our perspective; I can come back to that, if helpful. There is also one key dependency in another Bill—

Q20 Seema Malhotra: Sorry, what is the omission?

Nigel Kirby: The omission was referred to by Nick Van Benschoten: the civil liability protection. In the UK, we have real trust and confidence built up in voluntary information sharing with the National Crime Agency under section 7 of the Crime and Courts Act 2013. That has been the basis of our voluntary sharing, and we have built confidence in it over seven years.

The legislation has two limbs to civil liability protection—I will have to read my notes to make sure I do not make a mistake. The first limb is

"an obligation of confidence owed by the person making the disclosure"—

that limb is also included in this Bill. The second limb that we rely on is

"any other restriction on the disclosure of information (however imposed)"—

that limb is not included in the Bill.

Our position is that the Bill should align with the existing legislation that we are comfortable with. We would have more comfort in sharing and be more incentivised to share if we had the same protections as we have when we share with the National Crime Agency. The further observation is that there is not just one precedent; another piece of legislation, the Criminal Finances Act 2017—under section 11, I think—had sharing provisions with the purpose, in effect, of bringing better disclosures to the NCA. It had exactly the same two civil liability limbs, written in the same way. We believe that the second limb would be hugely helpful in doing things.

You might want to come back, but the other dependency that is key for us is that the Bill is drafted as an interlink with the GDPR, as you well know. That is wise, and one of the protections—that it has that link with the GDPR—but because the Bill has that interlink, the provisions in the GDPR are really important. I am aware that there is a draft Bill that has not yet been laid before Parliament

and, again, we—my colleagues in UK Finance—have worked on that Bill. Absolutely key for us in the draft Bill is a legitimate interest for sharing, because that Bill sets out legitimate interests.

At the moment, the GDPR cites only fraud as a legitimate interest, and no other crimes. To be able to make the measure in this Bill work, we need the revised GDPR to have the "prevention, investigation" and "detection" of crime—what the GDPR says at the moment—to be for all crime as a key part, so we can make the interlink. Otherwise, we are restricted only to fraud, but do not include wider economic crime.

Q21 Alison Thewliss: That is really interesting. I want to pick up a little on what you said earlier about receiving banks and where fraud has been against some of your customers. The Treasury Committee, in our report into economic crime, discussed fraud on online platforms, and the level of it. I understand from speaking to some of your colleagues in the past that that has been increasing. If someone tries to buy something on Facebook but is defrauded, the bank of that person will refund them. There is no obligation on the platform to take any action, and the receiving bank of the person who has done the fraud will take no action either. Could more be done in the Bill to break those types of transactions, with fraud being perpetrated on online platforms? What is the wider impact on the banking system?

Nigel Kirby: Your question is specifically about fraud and what we can do in that space. I suggest that tackling fraud is a shared responsibility. When you look at a typical fraud, you have the payment platform, as you mention; you have a sending bank and a receiving bank, and you have the victim. To tackle it, we need to look at the whole ecosystem, as Nick said, and have an approach that works. I am not convinced that there are things that one can put into the Bill for that—it is the wider point of the whole ecosystem coming together for any fraud strategy moving forward, how we tackle that and how we incentivise the right behaviours for tackling fraud in future.

Q22 Alison Thewliss: Would a wider "failure to prevent economic crime" obligation be useful in that regard?

Nigel Kirby: When looking at enacting new legislation, I would go back to the purpose. Putting my NCA hat on, rather than from a Lloyds perspective, I was involved in two pieces of quite significant legislative change: the introduction of asset forfeiture orders in the Global Finance Act, and the change in the sanctions penalty from two years to seven years. That was done very much on an operational need basis. As an organisation, we were able to put out the operational perspective of the gap—the fact that we could not use certain powers because, in the sanctions case, of the length of the sentence. There was a big gap in the ability to seize assets from a civil regime.

In whatever we look at, it is important that we understand that gap from an operational perspective. It is clear and compelling that by having new legislation, that gap gets filled. The other point is that there is the resource and the ability to use the legislation when it comes forward.

Q23 Alison Thewliss: Finally, do you have any comments on the changes being made to the suspicious activity report regime in the Bill?

Nigel Kirby: I would leave those to UK Finance; it is not my area of expertise. Our nominated office in Lloyds feeds into UK Finance so we get the whole industry.

Q24 Jackie Doyle-Price: I want to come back to the issue of GDPR, if I may. The whole ethos sitting behind the GDPR legislation is to defend the subject that the information is about. As you just highlighted, that feels really incompatible with having information sharing for the purposes of combating crime. I just want a better feel from you of how much of a barrier that will be. Is it a barrier or is it tying our hands behind our back to use the issues in the Bill? How much more do we have to challenge the ethos behind GDPR for us to build a system that is fit for purpose?

Nigel Kirby: I can link this to your question on safeguards. Coming from a law enforcement background, I believe that safeguards for members of the public are really important in this space, and I am used to following those. GDPR does not stop us from doing some things. It provides a set of safeguards for what we do.

When you look at what the Bill does on safeguards—I am trying to answer both questions—it makes it very clear that we share this information when certain conditions apply, such as exit or restriction, or we need the relevant actions, which would be the prevention and detection investigations for economic crime. Those safeguards are built into the Economic Crime and Corporate Transparency Bill.

In GDPR you already have safeguards in place. The first safeguard is: do we have a legitimate interest to share? That is precisely my point, Minister, about our needing to have legitimate interests to share—prevent all crime, not just fraud. Then you have a necessity limb to this. Is what we want to share targeted? Is it proportionate? Is there a less intrusive way? From a law enforcement perspective, we look at whether our actions are proportionate and collateral intrusion. There is a balancing act sitting there as a third limb, on ensuring that the legitimate interest of the public is not unduly overridden. I actually support the fact that there are safeguards in GDPR; I think that is the right thing to have. I support the fact that we need to meet those to be able to share information, but in doing so in that particular space, we need to be able to have sufficient breadth to be able to share across all economic crime and not just fraud.

Q25 Jackie Doyle-Price: That is very helpful. It feels to me that we have got to a position with GDPR where the practical implementation has gone beyond that safeguarding, actually, but we could tackle this by, perhaps, a much fuller statement and guidance about how we expect people to respect the protections but also the obligations that exist in terms of tackling crime.

Nigel Kirby: I think it would be very helpful to have, on the obligations, clear guidance from somewhere like the Information Commissioner's Office—it has got good guidance, to be fair—as we move through this. Should the Bill be enacted and become legislation, guidance across the industry and from the relevant Government sectors or law enforcement sectors on how we do this and come together in the same way as we came together through the Bill, would be important and give clarity, because, as I am sure you are aware, Minister, there are

different interpretations of things, different views and different risk appetites. That is normal in business. The views, legal interpretations and risk appetites will always be different, but where there is guidance to help us through this, with a positive intent from Parliament, that is always really helpful.

Q26 Dame Margaret Hodge: That has been really helpful on the information. I think that a slight amendment to what we are doing would help the GDPR issue.

I want to take you back—I could not quite hear what you said to Alison—to the SARs regime, if I may. It may not be your area of expertise, but it is a very important instrument for informing the enforcement agencies of where there may be a problem. The system is clearly broken—hundreds of thousands of SARs are landing on the desks of enforcement agencies. And we had the idea that they could be put into categories—risk categorised. I wonder whether you are able to comment on that at all, because if currently there is just a tick box—you send off your SARs and you have done it—too often the banks then carry on doing business with a suspicious person. Is there room in the Bill for doing something more on that regime, to ensure that the enforcement agencies are more effective in rooting out economic crime?

Nigel Kirby: I think the SARs regime and the Proceeds of Crime Act 2002 itself actually need—well, not necessarily to be turned upside down, but to be looked at as a whole. I think an individual focus just on some aspect of SARs probably would not change the system in any particular—

Q27 Dame Margaret Hodge: So you think SARs are okay.

Nigel Kirby: Just to be very clear, I am here from Lloyds Banking Group; I will answer this question from my former role at the NCA—from that perspective. SARs do have huge value in what they do; the idea that they just go to a box and are not used is not entirely correct. One of the things the UK has done with SARs, which is world leading and others are quite jealous of, is that they are accessible to a wide range of investigators. It is not about following each one up. There is a database. A wide range of financial investigators can see them and they are held there for six years, as legislation allows. So there is a huge use there.

Also, Dame Margaret, we need to think about this. There is the SARs regime and there is the SARs reform work that is being led; investment is going to be put forward there. I would suggest that we need to see what differences the SARs reform makes first.

Q28 Dame Margaret Hodge: Okay, I hear that. I have one final thing to ask. Looking at your background, I see that you have spent a lot of time in the public enforcement realm. From that experience, and looking at the Bill today, do you think that there are any glaring gaps that we ought to be reflecting on?

Nigel Kirby: Reflecting back and particularly focusing on this area, as I am sure you do, we need to build and are building on the public-private relationships we have had. One Member mentioned Singapore and Holland, but actually, from the perspective of a private-public partnership, how we operate together and particularly the joint money laundering intelligence taskforce, we are seen as world-leading in that space. There is something there about building on that as we move forward and bringing in other sectors, which I know the NCA does. In this particular space, the enablers, as they are sometimes referred to—the telcos, the ISPs, the social media companies—being brought into that public-private partnership and building on what we have is important.

The Bill brings forward private-private relationships, and I think that is important. Hitherto, the information-sharing provisions have all relied on the NCA gateways. There is a throttle there, in terms of capacity. Widening that out so that private-private can share and be the frontline, in many ways, to help to prevent and detect is an important way forward.

Broadening out, there are a couple of elements in the legislation that we need to look at. For us, one is about friction in the system. We have a very quick payment system in the UK; when you pay, you press the button and off it goes. That is something we have got used to as a public and as a banking industry. It is unhelpful when you are looking to put legitimate targeted friction into a system to temporarily stop what I will call economic crime, because it is not just fraud, although it includes that.

Q29 Dame Margaret Hodge: So crypto is a bad thing, is it? It goes very quick. There is no friction.

Nigel Kirby: Respectfully, I think that is a different question.

You asked me to put my other hat on, Dame Margaret. Looking at the scale of fraud—you know, you have got it here; you are familiar with it—and the number of victims and the cost to the UK, it is time for the UK and those with the power to do so to either think about fraud as a strategic policing requirement or, going even further, ask whether it is now a national security threat. I do not just mean with that label—that is really important. You can put a label on these things, but if it could be classed as a national security threat and have the available resources brought together from our national agencies and national policing, that might have a greater impact for the public.

Q30 Stephen Kinnock: Thank you, Mr Kirby. You have used terms such as "world-leading" and spoken quite positively about what is happening in the UK. I have to say, as an interested observer, it does not look like that to me. London has generally become known as the laundromat for dirty money, particularly from Russian oligarchs and others. Money laundering prosecutions have dropped by 35% over the past five years in the UK. In March 2022, the budget of the NCA's international corruption unit was cut by 13.5% to £4.3 million, leaving corruption investigators massively outgunned by the oligarchs.

I have two questions. First, I am trying to understand why you have this sense of optimism, because it looks like a pretty dire situation to me. Our enforcement agencies have been starved of the resources and capabilities they need. Secondly, you have had a long career in the NCA and in enforcement; I am sure you are still in touch with some of your former colleagues. If you had to define the resources they need, what extra would they need to be able to turn this situation around? It would be great to hear from you on that.

Nigel Kirby: For clarity, I used "world-leading" specifically in reference to private-public partnerships and what we are doing for voluntary information sharing. Look at the joint money laundering intelligence taskforce and the facts in that space: it has supported 950 investigations that have led directly to 280 arrests, with £86 million secured. There are some hard figures around here that are different. When I was in law enforcement, we had law enforcement from other countries coming to ask how we did it, including Singapore and Holland. I am in the private sector now, and we have private sector colleagues coming to ask us how do we do that part. That is just a part of the ecosystem that is important—

Stephen Kinnock: Point taken.

Nigel Kirby: If I misled you or you took it that way, that was not intended.

On your question about if I were still there, I am sure that Graeme Biggar, the DG of NCA, will have plans for what that could look like. When I was there, we certainly put forward evidence-based propositions such as, "If there were x amount of funding, these are the extra capabilities we could bring and this is the impact we believe it could have." I am afraid my contacts are not close enough now to know the detail of that.

Q31 Stephen Kinnock: Very diplomatically put. Would you agree that the Bill will not be worth the paper it is written on if the enforcement agencies are not properly resourced to do the job?

Nigel Kirby: I fully agree that we need enforcement to be properly resourced with the right capabilities to be able to deliver what it is asked to do.

Q32 Liam Byrne: Just to crystallise this, in your first answer, you described quite a simple layering exercise of money moving through five different banks, and you said that was a difficult problem to stop. Does this Bill help us stop that problem that you just described?

Nigel Kirby: Well, it does not stop that in the UK because our financial system launderers are in there, but what we can do is to prevent them from continuing to abuse the financial system. Take the example I gave with the five other banks—four were sending money—that were involved with Lloyds. The Bill will allow us to have a conversation with the four banks that were sending money into our companies, and to say "In relation to our responsibility for understanding due diligence, money laundering and so on, can we share information on those four companies so we can better understand those flows from those companies?" That is important, because some of them may have been legitimate and some may have been illegitimate, but that will help us to define the good from the bad in that particular space. It will also act as an alert trigger for those other four banks to have a look if they have not done so already.

An intelligence-led approach would say, "Lloyds has a concern about these four companies" and it could look further into the matter and do an investigation into its own relationship with its customer. The other element on all that money that came through to us—it was in the millions—that went out to a fifth bank, which I will call bank F, is that we could alert that bank about our money laundering concerns, provided we had exited those three companies, which we did. If that bank had not already picked it up with its transaction monitoring, it would have an intelligence-led trigger to be able to do its own investigations, and to stop that and report it to the authorities.

The final and important part of this is the indirect part—we call it the utility. The ability to better share this information for others is important because. If all those companies were exited out of the financial system by the five banks involved, it is highly likely that they would go on and open up accounts with other banks. This Bill gives us the opportunity to be alerted to that and to take the appropriate action and due diligence that we need.

Q33 Liam Byrne: The second problem that is often described by banks to me is that they have to spread their compliance resource very thinly across a large customer base, rather than focusing it on a smaller group where they suspect there is more harm at work. Is that a scenario you recognise, and does this Bill help you focus compliance resource on the potential high-harm customers who we should be worried about?

Nigel Kirby: It is an important point in terms of focusing on risk. We are having a conversation at the moment in industry with law enforcement and a regulator about how we can define where the high priorities are and how we can focus our resources on them, while meeting regulatory requirements and the law enforcement perspective. It would be helpful—we refer to it as dial up, down down—in terms of resource to be able to move to a space where our voluntary discretionary resource could be targeted in exactly the way you suggest, because there is a lot of voluntary discretionary resource in this space.

Q34 Liam Byrne: But this Bill does not help you in that squaring of the circle.

Nigel Kirby: Not in the sense of prioritising what the highest threats are and where we should be. That is to the best of my knowledge. Just for clarity, I am not familiar with every aspect of the Bill.

The Chair: We have literally one minute.

Q35 Seema Malhotra: I have a question about automatic strike-off procedures for companies that may have bank accounts with you and where that company may have been involved in economic crime and then is automatically struck off. Do you have concerns about that process and whether there should be reform?

Nigel Kirby: I think, with respect, that "automatic strike-off procedures" are your words, not mine. I used the fact of us taking an approach and considering whether to exit—that might be a similar thing—a customer. We take this really seriously. We look to understand whether we have economic crime concerns about those consumers. There is a range of things that we can do in that space. The ultimate one is about exit. We would exit that relationship, which is contractual, so we are able to do that. But there are other things that we do, and one is actually to speak to the customer and understand that transaction. We see some unusual transactions, but we have a conversation.

Seema Malhotra: It is more about Companies House automatic strike-off—but they might be your customers.

The Chair: Order. I am terribly sorry; we do have to leave it there. I must cut it off on the dot. Mr Kirby, thank you very much for joining us.

Examination of Witnesses

Andy Gould and Arianna Trozze gave evidence.

10.36 am

The Chair: We will kick off. You are very welcome, witnesses. Thank you for joining us. Would you be so kind as to briefly introduce yourselves and your positions?

Arianna Trozze: Hello everyone. My name is Arianna Trozze, and I am a PhD researcher at University College London. I look at detecting and prosecuting financial crime involving cryptoassets, and for the past year I have also been advising the Home Office on a part-time basis on technical aspects involving cryptoassets in relation to this Bill.

Andy Gould: Morning. My name is Andrew Gould. I am a detective chief superintendent with the City of London police. My job is to run the cyber-crime programme for the National Police Chiefs' Council, which is focused on building capacity and capability across policing.

The Chair: Thank you. We will go straight into questioning.

Q36 Stephen Kinnock: Thank you very much. First of all, I have a question for you, Mr Gould. The national fraud policing strategy states that the police's response to fraud is delivered by local forces, but capability across those forces varies widely. It mentions the regional organised crime units being very limited in their capacity. Do you think that that situation has improved since 2019, when the report was published, and could you say a bit about what extra resources the ROCUs need?

Andy Gould: Sure. Fraud is not really my area of responsibility—I am focused very much on computer misuse act offending—but yes. I know there has been significant additional resource put into the ROCUs for fraud in the last couple of years. Is there enough capacity to meet the demand? Probably not. What policing probably needs to do is take a slightly different approach. Rather than trying to investigate those volume crime offences, it should focus more on those organised crime groups or individuals that are doing the most harm. That is the kind of pivot that policing is trying to make, in terms of being more proactive. I know Commander Adams is giving evidence this afternoon, and he will be able to tell you more about that.

Q37 Stephen Kinnock: Thank you. I have a question on cryptoassets. Do you think, broadly speaking, that the enforcement agencies have the expertise that they need to deal with the economic crime dimensions of the cryptoassets issue?

Andy Gould: Yes, I do. I think we have got the capability, but what we lack is capacity. The capability we have got today does not necessarily mean we will be able to maintain that capability tomorrow. We have invested, through the national cyber-security strategy and the programme through Government. We have got about an extra £100 million that has been invested over the last four years or so, building capability across policing. Some of that money we have effectively taken into crypto, so that cyber money is being used to cross-subsidise wider policing. We have created what we describe as cryptocurrency tactical advisers across the whole of policing. There are now officers in every force and every regional organised crime unit who are trained and equipped to do that. We have nationally procured the investigative tools to enable them to progress the investigations, and we have a national storage platform to store that once we have seized it.

We are in a position where we have actually seized hundreds of millions of pounds worth of cryptocurrency assets within the last year or so. The challenge we have is that it is getting harder and harder to do. The assets themselves are becoming more diverse and more technically complex, so our officers are in a bit of an arms race trying to keep up.

On the tools that we use, you might have one supplier that is brilliant on Bitcoin but not so good on another asset class, so we need more than one investigative tool to be able to investigate effectively. That is very expensive. One of the providers is currently quoting $60,000 to $80,000 per licence. That is unachievable, or unsustainable, for policing. We need to procure nationally for everybody, so we have an 80% discount on our current investigative tool, taking that approach.

The big worry for me at the moment is not just the technology changes and whether we will be able to maintain that level of resourcing and expand the capacity across policing; we have created a real staff retention problem. Because crypto is an emerging market, some of the best expertise and understanding of crypto in the UK sits within policing. We have been investigating cryptocurrency since 2015 or 2016. One of my sergeants has just been offered 200 grand to go to the private sector. We cannot compete with that. That is probably the biggest risk that we face within this area at the moment.

Q38 Stephen Kinnock: Thank you. Ms Trozze, I know that you are a specialist on crypto, so would you like to add anything to that?

Arianna Trozze: I would echo Andy's point about the difficulty of tracing certain cryptoassets and investigating certain chains and things like that, and how this is evolving rapidly in competition with the existing providers and the blockchain services themselves. It gets more and more difficult to investigate as time goes on. You need more and more capacity building and investigative tools. At the same time, the crypto companies and the blockchain companies are seeking to develop their technologies in ways that will evade that detection, so it is a constant race between the two sides to be able to effectively investigate and prosecute these crimes.

Q39 Alison Thewliss: Leading on from that question, we are putting a lot of provisions in the legislation. Is the legislation sufficient to keep pace with those technological changes?

Arianna Trozze: One of the key ways that legislation can future-proof itself in the face of this rapidly developing technology is via the definitions. I think that the definition

of cryptoasset in the Economic Crime and Corporate Transparency Bill is sufficient to do that. Probably most importantly, the inclusion of cryptographically secured contractual rights means that the definition will cover smart contracts, which is really the technology that underpins all the major advances in the space of, for example, decentralised finance and non-fungible tokens that have taken place, and that we expect to continue to develop in the coming years. Furthermore, the ability to amend those definitions via secondary legislation is clearly a positive, because in the event that something slips through the cracks and develops in a way that we cannot anticipate, it will make it more efficient to change them.

Q40 Alison Thewliss: Are the measures in the Bill sufficient to protect consumers from being victims of economic crime via crypto?

Arianna Trozze: Because they are very clear that they include cryptoassets, it really makes the rules clear for everyone in the industry. Consumers then know as well what rights they have. My view is that it obviously cannot do everything, but the fact that there are provisions for victim compensation goes a long way to also protecting consumers. Obviously, it does not prevent the crimes from occurring, but it helps them to recover the losses.

Q41 Alison Thewliss: Briefly, how do you feel the measures in the Bill relate to the other measures around regulation in the Financial Services and Markets Bill? I am conscious that the two Bills are going at the same time.

Arianna Trozze: I cannot really speak to that. I am very sorry about that.

Andy Gould: I cannot either—sorry. I have not looked at that.

Alison Thewliss: That is okay. No problem.

Q42 Jackie Doyle-Price: When we talk about things like cryptoassets, it is difficult for lay people like me—I am sure I am not alone—to envisage what exactly we are talking about. I recognise some of the operational sensitivities under which you are working, but would it be possible for you to give us an illustration of how cryptoassets have been used to disguise this activity?

Andy Gould: Probably the most obvious area would be around ransomware, which is if you are an organisation and you get hacked and attacked and then lose access to all your files or systems, and then get a demand from a cyber-criminal saying, "Okay, if you want to get access back, you have to pay"—basically, an extortion demand. That extortion demand will virtually always be in cryptocurrency, because there is a view that that is harder to trace.

Depending on the kind of cryptocurrency, the traceability varies. Effectively, a lot of the technology that sits behind cryptocurrencies is based within what is described as the blockchain. Arianna is much better at explaining this than me, but the blockchain is effectively a public ledger, if we are talking about Bitcoin or something like that. We can see all the transactions. It is like your bank account or NatWest or any other bank doing its transactions in the public space—everybody can look at them. It is effectively decentralised and very public, so there are real benefits in that. The anonymity comes from not knowing who is sending what or who is who, in terms of the bank accounts—the wallet equivalent.

That provides opportunities to follow the money, but, although you might be able to see where the money goes, you will not necessarily know who has sent it or who has received it. There are other investigations you would need to do that. And there are tools—mixing services or exchanges—that will jumble it all up and then send it elsewhere, and you will not be able to see what has come in compared with what is going out. That is why criminals like to use it—because, as they see it, it covers their tracks effectively.

Arianna Trozze: One way to make it a bit clearer is to situate cryptocurrency money laundering in the traditional phases of money laundering. When we talk about money laundering, we tend to talk about three specific phases—placement, layering and integration. In the crypto space, placement may look like someone depositing their Government-issue currency into a cryptocurrency exchange, and exchanging it for cryptoassets, or potentially using what is called a fiat on-ramp to buy cryptoassets using their fiat currency. They may also use something like an over-the-counter broker, which may allow them to buy cryptoassets using cash.

Then, the layering process follows, which is kind of what Andy was talking about, in terms of trying to obfuscate the origin and trail of funds. There are a lot of different tactics that the criminals can use to do that. As Andy mentioned, they may use mixing services, to try to break the chain. They may create thousands of different cryptocurrency wallets and accounts and transfer the funds among them in order to make it more difficult to trace. They may exchange them for various different types of cryptoassets, including privacy coins, which we, again, have a lot of trouble chasing, although there have been advancements in that regard. Finally, they may move to completely different blockchains, using what are called blockchain bridges, and that further makes it more difficult to trace—as Andy mentioned before, different providers have different capabilities and different expertise in terms of which chains they specialise in and which assets they are able to trace. That is something else that they may do to hide that trail of funds.

Finally, we have the integration process, which is criminals using those now-cleaned funds for mainstream economic activity. We know that sometimes they may seek to keep those funds in cryptoassets in an attempt to further their gains, speculatively investing in the market; or they may, again, use one of these exchanges or what is called a fiat off-ramp to transfer their cryptoassets back into pounds or any other currency.

Q43 Jackie Doyle-Price: It is really the complexity that is the barrier, is it not? The actual use of cryptoassets of itself brings an additional complexity, so it is clearly an ideal tool for those who are up to no good.

Arianna Trozze: Yes, and as it is such a quickly developing technology, there are constantly new ways coming out for criminals to use the technology for various purposes. Again, it is a rush for law enforcement and investigative companies to try to keep up with this.

Andy Gould: To give you a sense of the scale of the challenge, there are thousands of different forms of cryptoassets or cryptocoins in existence. We have to

learn to use all the ones that the criminals are using. We can only do it with the private sector. There is no way we can invest in or have the skills in-house to be able to develop all of those tools for all of those different asset classes, so we work really closely with all the big private sector companies to build that capability. It is why we do big open national procurements—because that is the only way it is affordable.

Q44 Liam Byrne: Is cyber-crime and cryptocurrency-based crime growing quickly?

Andy Gould: It is really hard to say, because it is so hard to identify or report at scale. However, I would say yes. If you talked to all of the big cyber-incident companies and the threat intelligence companies about what we are seeing, in terms of reporting, then yes, everybody would say that it is rising. Certainly, the crime survey for England and Wales does.

Q45 Liam Byrne: What is the criminal structure in this market? Is it teenage hackers in their bedroom or sophisticated organised crime groups?

Andy Gould: It is both. There is a real mixture. You can have your sophisticated organised crime groups, with some of those having a bit of a crossover with hostile state actors, which makes that more complex to manage. You therefore have a lot of overseas threat at the higher end, but during the pandemic we also saw a shift of mainstream, traditional—if that is the right way of describing them—UK-based criminals moving into cyber-crime, because a lot of the tools are readily available on the internet and are quite easy to use.

Q46 Liam Byrne: You just said that some of those organised crime groups have connections to hostile states—presumably such as North Korea, Iran and Russia.

Andy Gould: Yes, that is right.

Q47 Liam Byrne: So is there now a blurring of a national security threat and economic crime?

Andy Gould: Yes, definitely.

Q48 Liam Byrne: And are we investing enough in tackling that kind of crime?

Andy Gould: I think that a lot more has been invested. I think—

Liam Byrne: That was not the question. Are we investing enough?

Andy Gould: Well, as a police officer, I will always say that you are never investing enough.

Q49 Dame Margaret Hodge: Lots of us are trying to get our brains around this. I had a session yesterday with a whole load of people in the crypto industry who tried to convince me that there is actually better transparency because it is open—you can go in and see it—and there ought to be a way in which, with the right algorithms, you could follow the money more easily than in other ways. Is that true? Were they conning me, or is that vaguely true?

Andy Gould: No, there is definitely an element of truth in that. If you have a public blockchain, you can see where it is moving, and that is very open—Bitcoin is the most obvious open public blockchain and the most popular crypto. However, that does not mean that you necessarily know who it is that starts and finishes. That is the issue, and with a lot of the different criminal services available, it is becoming harder and harder to manage. It is becoming more tricky. So, the answer to your question is probably yes and no.

Q50 Dame Margaret Hodge: We welcome the Minister's attempts to start bringing this into a regulatory framework. However, looking at the other aspects of money laundering and economic crime, the so-called enablers are often the bad guys. In this world, those who establish a new form for crypto are presumably the ones who, if they are not properly regulated and supervised, could create a system for facilitating economic crime, fraud and money laundering. I do not think that we have proposals in here, really, for the supervision and regulation, have we? Are those badly missing?

Andy Gould: The Financial Conduct Authority has taken on regulatory powers in this space. I am not an expert in that area, but that is looking pretty promising. A lot of UK-based entities that were offering those services are no longer able to do so, so there has definitely been a clean-up of the market in that space, which is positive.

The challenge is that international regulation, and a lot of the recent work we have seen in that space, has driven a lot of overseas exchanges and providers, which might have been operating in a bit of a grey space, shall we say, to suddenly look to become more legitimate and comply because they want to come into the mainstream financial system. I would use the analogy that the tide is going out on a lot of the more criminal providers. They are effectively being left as "clearly not engaging, clearly criminal", and a lot of those that may be operating in the grey space in international jurisdictions are becoming more and more legitimate as they clean up their acts.

Q51 Dame Margaret Hodge: This is really Liam's question, but, because it is digital, the answer must be global, must it not?

Andy Gould: Absolutely, yes.

Q52 Dame Margaret Hodge: And that is really hard.

Andy Gould: Yes.

Q53 Seema Malhotra: I want to follow up on what you were saying about how you can follow the flows, but you do not always know who is sending and who is receiving. I want to understand a bit more about crypto accounts. I understand that you do not need an account in order to make a transaction, but if you do have an account you can see who is making transactions. Is there more that can—or needs to—be done to say that everybody must have an account? Is that practical and how could it happen? Secondly, what is the current level of identification and verification checks when setting up a crypto account, and what level should there be?

Andy Gould: The average member of the public using cryptocurrency will probably be using an account through one of the legitimate exchanges. They will go through the whole "know your customer" process that they would go through for a bank. Regulation pretty much covers that; I think we are in a good place with it. It is

the criminal exchanges and criminal service providers that regulation would not affect. You would not be able to build an infrastructure that stops them being able to create their own wallets, as you could for those accounts with what are effectively crypto banks.

Arianna Trozze: There has been research that some of the KYC processes, especially in some of the higher-risk exchanges, are quite easy to fool with fake documents and other such things. There are companies serving UK customers that are still not registered with the FCA and do not meet its KYC or AML requirements, despite its best efforts. For example, none of the Bitcoin ATMs operating in the UK is registered with the FCA, even though they are supposed to be, and they tend to have quite lax KYC requirements. They may require you to put in a phone number. Some of them have more requirements, but whether it is a rigorous process remains in question.

Q54 Seema Malhotra: What more could be done about that?

Arianna Trozze: In my view, the only thing would be more enforcement efforts against non-compliant companies. I do not know how practical that is, or what kinds of resources there are to address the problem, but to me the only way forward is to make sure that those companies and operators know that it is not acceptable to be working and serving UK customers without a licence.

Q55 Seema Malhotra: What are the consequences for them if they do that?

Andy Gould: I think the FCA has prosecution powers and enforcement and regulatory options, but I could not say what it is doing about that.

Q56 Seema Malhotra: Do you know if there are cases where it has used those powers?

Andy Gould: I do not know. They only came in earlier this year, so I would be surprised if the FCA has got to the stage where it is able to exercise them in terms of investigation.

Q57 Jane Hunt (Loughborough) (Con): Mr Gould, to follow on from that important point, I understand that the Bill removes the need for powers of arrest before you can do search and seizure. Can you explain the impact of that? Will it be useful for reducing the number of victims once you have spotted an issue happening?

Andy Gould: Yes, definitely. That is a huge benefit of the Bill; it is one of the provisions that we have been asking for. Imagine a scenario where you execute a search warrant on criminal premises: you go in and you can see stolen property, but at the moment, if they are not there, they are not under arrest and there is no existing investigation. You then have no power to take that crypto under the Proceeds of Crime Act 2002. So yes, that is a big step forward for us.

Q58 Stephen Kinnock: Thank you for giving me another go. I have two quick questions. If you had a blank sheet of paper and you were able to amend the Bill in the cryptoassets space, what would be your No. 1 amendment to improve it? Secondly, Mr Gould, do you also look at counter-terrorism within your brief?

Andy Gould: No.

Q59 Stephen Kinnock: Okay. I was going to ask something about counter-terrorism, but I will not if that is not your area. So my only question is to both of you: if you had an opportunity to amend the Bill, what would you do?

Arianna Trozze: I need to think for a moment.

Andy Gould: We are generally very happy with the provisions of the Bill. One area that we might want to look at is storage of the assets. Imagine you have £100 million-worth of cryptocurrency. That is really expensive to store, and there is always a security risk around where it is stored. If we were able to turn that into cash straight away at the point we get the restraint from the magistrates court, and that that was a standard power, a lot of that cost and security concern would be taken away. That would be one area where we could improve.

There is an existing power under POCA, where you can go to the Crown court and make that application, but that can be contested by the defendant. There is a cost associated with that. If we had a standard power to do that, I think we would be a bit happier, but we are generally very happy with the provisions in the Bill.

Arianna Trozze: I would echo that I generally think the Bill goes far enough—as far as is technologically possible at this time. I do not think there is anything that I personally would amend at this time.

Q60 Stephen Kinnock: Apart from turning cryptoassets into cash in the way that you have described.

Arianna Trozze: I see both sides of that argument. Obviously, if assets are transferred into cash and then the original assets significantly gain value, and if the person with the assets were then found not to be a person of crime, the Government would be on the hook for the change in value of those assets. There are two sides to the argument but, as Andy mentioned, the storage is quite risky and very expensive. I ultimately agree, but I see both sides of the argument.

Q61 Alison Thewliss: As a brief follow-up, do you have any information on how much that cost is likely to be? That would be very useful to us. I appreciate you might not have that figure in front of you now, but it would be useful to have that detail.

Andy Gould: It is quite commercially sensitive, but it could be a large sum—we are talking hundreds of thousands of pounds.

The Chair: Okay, we have come to the end of this session. Thank you very much for joining us.

Examination of Witness

Jonathan Hall KC gave evidence.

11.1 am

Q62 The Chair: Mr Hall, thank you very much for joining us. Would you like to briefly introduce yourself, please?

Jonathan Hall: I am the independent reviewer of terrorism legislation. I also have a bit of a background in crypto from my practice as a barrister, which is why I

was interested in this whole area. I was asked by the Government to feed into some of the clauses as they went through, and I am here to talk about the crypto aspect.

The Chair: Thank you for joining us. We will go straight into questions.

Q63 Seema Malhotra: I will be brief in asking this question, and then I have to leave. Do you think the NCA has sufficient resources to make use of the new recovery powers in the Bill, and do those powers go far enough?

Jonathan Hall: I do not know about the resources of the NCA, but in terms of whether the powers go far enough, I think there are some areas where they perhaps go too far, or at least where I think, from a fundamental rights and individual rights perspective, some attention may need to be drawn. There is the simple question whether you should be able to seize cryptoassets on the basis of the fact that they might be used by terrorists. Of course you should. Then you have the complicated question of how you bring about a seizure regime where assets are not physical. It is one thing if you seize a jewel or some cash, but it is another thing if you are effectively seizing information. What you have here is a very lengthy set of provisions to allow you to do that.

Generally speaking, I think it works, but there are one or two areas I want to draw to your attention. The first, which I think is acceptable but worth thinking about, is that the power is a power to seize not just cryptoassets but crypto-related items. In practice, you are not seizing a thing; you are seizing a code and that can be written down on a bit of paper or on a computer. What these provisions do, unlike all the other seizure powers that say you can seize the jewel, the cash or the contents of a bank account, is that they allow the police to seize any item, which could be a computer, or a piece of paper. So, it is quite a wide seizure power. I think it is kept effectively within bounds, but it is something that is worth drawing attention to, which is different from other aspects of seizure in this field.

The next point is that you have to be able to convert crypto and there are several reasons for that; one is because the prices may go massively up or down. Individuals whose assets are the subject of seizures may never be prosecuted—and this is a civil remedy—and, in fact, no final application for forfeiture may ever be brought. That is particularly true in the context of terrorism, because often what counter-terrorism police will want to do is disrupt the transfer, but they will not necessarily want to go on and apply to forfeit. The figures from last year show that there is a disparity between the number of accounts that are frozen and the amount of money that is finally the subject of forfeiture.

The Government did listen to my views on this issue. It is important that the Bill has provisions such that both the police can apply to convert the cryptocurrency into, say, pounds sterling, and that it is also open to the individual from whom it is seized, who might say, "Look, I bought this crypto. It's gone massively up in value. You're never going to apply to forfeit this. I don't want to lose out on the rise of value." There is provision in the Bill for the individual to go to court and say, "I'm a person from whom the crypto has been seized. Please can you convert it?" That will be decided by the court, but it is good that that provision is in the Bill; I think it works.

Is this too boring and long? I mean, there is a third bit, which I think is the most difficult bit. It is the power of a magistrates court to require a UK-connected wallet provider to freeze the cryptoassets and, even more significantly, to require that the UK-connected crypto wallet provider should actually pay the money over to the court. It is slightly in the weeds, but what the Government have done—and I understand it—is to try to be quite novel. They are really trying to push the law here, because they realise that many of crypto wallet providers will not be based in the UK, but this comes with a consequence regarding how the Bill is currently worded. I will just give you the bit that I think may need a bit of attention; it is clause 10Z7B—

Q64 Dame Margaret Hodge: Can you give that again?

Jonathan Hall: Yes, I will. It is clause 10Z7B(7).

Q65 The Chair: Have we a page number?

Jonathan Hall: I am not sure I have got the same document; I have got the Public Bill Committee document for 30 September and it is on page 10.

Q66 The Chair: It might be on a different document. I think we might have to move on then.

Jonathan Hall: I will just flag it up to you. It defines a UK-connected cryptoasset service provider. It includes a provider

" which…is acting in the course of business carried on by it in the United Kingdom."

Well, that is completely fair enough; if they are carrying on business in the United Kingdom, they should be subject to court orders. However, it then has this provision:

"has terms and conditions with the persons to whom it provides services which provide for a legal dispute to be litigated in the courts of a part of the United Kingdom".

I will just put the flag up and then allow the Committee to move on. That is quite a wide extension of UK jurisdiction over companies that may be based abroad and potentially over victims who may have claims overseas.

The Chair: Thank you. I will bring the Minister in next, which may be helpful.

Q67 Jackie Doyle-Price: Thank you. Forgive me, but you are speaking very legally, which is obviously why you have been invited here. We want to try to make this live, and you obviously bring considerable counter-terrorism expertise. Can you give us some examples of how the Bill will enable law enforcement to go after and combat terrorism?

Jonathan Hall: Let us imagine that counter-terrorism police have intelligence that there is an Islamic State cell that has been fundraising in Birmingham, and they are going to try to transfer the funds that they have managed to raise to an active cell based in Syria. Their plan is to do that by using Bitcoin. Let us imagine counter-terrorism police had intelligence that that was about to happen. They could raid the premises where the UK-based cell was operating. They could seize a bit of paper on which the crucial key is written down, which would allow the

transfer of the funds to take place to Syria. They could then use that key to grab the cryptoassets—let us say it is £1 million-worth of assets that are about to be converted, or have been converted, into cryptocurrency—and transfer the cryptocurrency to a police-controlled wallet or to another provider who they trust.

That money, which would otherwise have gone out to Syria to buy guns and so on, will then be seized by the police. If the police have evidence to do so, they could in six or 12 months' or up to three years' time, go to a magistrates court and say, "We can prove that this cryptocurrency was going to be used for the purposes of terrorism" or "It was the resources of a proscribed organisation, Islamic State. Can you now please order that the money be seized and transferred to the Treasury?" Does that help?

Jackie Doyle-Price: Yes, not only is that a brilliant explanation that brings this to life, but it is a great plot for a film.

Jonathan Hall: It is real life. There was a man called Hisham Chaudhary who was convicted last year of doing more or less that.

Q68 Jackie Doyle-Price: Exactly, and this is what we are talking about. Do you think that what we have in the Bill will stand the test of time, given that ultimately this kind of criminal activity is always trying to get one step ahead of the law? Can we be confident that what we are enacting here will be future-proof?

Jonathan Hall: We can never be confident it is completely future-proof, but it is necessary and definitely a very strong step in the right direction. As I say, I have one reservation about overseas companies where I think it may go a bit too far. It may just be a question of deleting one part of the provision I read out to you. In general, it is a good step.

Jackie Doyle-Price: We will have a look at that. Thank you.

The Chair: I think the number of the page you are looking for is in the amendment document on page 47 and it is new schedule 1. I think that is what you were referring to, Mr Hall. I am going to move on anyway.

Q69 Alison Thewliss: This is obviously a fast moving area and a lot of expertise is required. Do the enforcement authorities have sufficient expertise to keep pace with this? We heard from a witness earlier that their experts are being snapped up by industry because they are able to offer more money. Does that make it difficult to then enforce the provisions in the Bill?

Jonathan Hall: In the counter-terrorism world, there is an open question about quite how much this blockchain technology will be used by terrorists. There is quite a lot of excitement about the possibility of its use, but the jury is slightly out about how much it is, in fact, being used. I cannot speculate why that would be. Counter-terrorism is a well-resourced part of police business, so I would expect that there would be specialists who would be willing to stay because they are quite highly motivated; outside counter-terrorism, I do not know. I was very struck by the point about the £200,000 transfer fee.

Alison Thewliss: Thank you. I will leave it at that.

Q70 Dame Margaret Hodge: I want to follow on from that, because I am taking it a bit wider than crypto in two areas. After the 7/7 horror, we put our all into counter-terrorism and we now have a strategy that is well resourced, and can respond to and has responded effectively to terrorism threats down the years. When I look at this, I feel that Ukraine ought to be our 7/7 moment in relation to dirty money. I wonder whether we are ambitious or comprehensive enough. I take the point about resources; there is no point doing anything if you do not have the resources. However, are we doing enough here to give you the confidence that we can really start turning around this big tanker?

Jonathan Hall: Do you mean the Russia-Ukraine aspect?

Dame Margaret Hodge: Ukraine gives one a sort of focus on the worst aspects of dirty money, but are we really being as comprehensive as you were when you did the counter-terrorism stuff there?

Jonathan Hall: The one thing that I think would make all the difference would be to resource Companies House. I follow Graham Barrow on Twitter—I think he is giving evidence—and occasionally I look at the overseas entities register, and, as he has pointed out, there are these anonymous chip shops in Barnsley, which have about 57 British Virgin Islands companies attached to them. It seems that that is the low-hanging fruit: having a well-resourced Companies House that can tackle the entries, verify them and prosecute them.

Q71 Dame Margaret Hodge: I will ask you just one more question, which is a little bit off piste. The Bill puts new duties on lawyers to ensure that they can be fined if they engage in work that facilitates crime, or they fail to prevent crime. I gather the Bar Council is a bit iffy about this; I wondered whether they thought it was interfering with access to justice. Where do you stand on that? Lawyers certainly come up constantly as facilitators, giving opinions that underwrite either unlawful behaviour in the tax field or illegal behaviour elsewhere. I do not know if you can help us on that—it is a bit off piste.

Jonathan Hall: The funny thing is that there is a principle in law that, if someone is giving advice to someone in order to commit a crime, legal professional privilege does not apply. It is quite hard to find examples of cases in which that doctrine has been applied, so I do not know whether it is about law enforcement having the confidence, when they have a lawyer who is deeply engaged in advising someone to break the law, to say, "We don't care that you are saying this is privilege because we are going to run the case and say it is for a criminal purpose". Beyond that, I do not know. I am a lawyer and I completely support maintaining access to justice—of course I do. But you are also completely right that lawyers and trust companies are at the heart of this issue, and I am afraid there are professional enablers.

Q72 Stephen Kinnock: This is the same question that I asked our previous witnesses: if you had the opportunity to amend the Bill, what would you do? You have flagged

[Stephen Kinnock]

up one area in which you are worried the Bill goes too far, so obviously we need to look at that, but my question is more about how you would make it go further to achieve the outcomes we are looking for in terms of the role that crypto plays, particularly in financing terrorism.

Jonathan Hall: I have not got an answer beyond the one I gave before, I am afraid. I am sorry; I have not thought of a positive thing. I would just remove that subsection (b) from the definition of UK-connected cryptoasset service provider.

Q73 Stephen Kinnock: I am not sure if you were in for the previous session, but our witnesses talked about the need to be able to transfer crypto into physical assets or cash. What are your thoughts on that and do you have a sense of what the cost would be? Obviously, the disincentive for doing that is how much it could cost the Government for being on the hook. If it is transferred it into cash, and if there has been a rise in the value of the cryptoasset, the Government are potentially on the hook if that person is found not guilty. Do you agree that that "on the hook" argument exists? If so, it becomes a numbers game, because the cost of storing the cryptoasset is high. What is the net benefit to the Government of either transferring it to a physical asset or continuing to fund the cost of keeping it as crypto?

Jonathan Hall: It is quite a bit step to convert it to fiat currency, or pounds, because you are then interfering with the bet that person has placed on the value of the currency going up. I do not know what the figure is in terms of storage. I am interested, too, in the question of potential police liability. I am thinking about the Sanctions and Anti-Money Laundering Act 2018. As you know, before the Government brought in the suite of changes that allowed urgent sanctions, they were very careful to narrow down the potential liability that the Government might have in relation to sanctions, if they were challenged. I have not given it attention, but maybe it is worth having a look at whether there are equivalent protections for the police. The seizures can be very high in this field—they can measure many millions—so the potential liability of the police could be quite high. We would not want the police to be too disincentivised by the risk that they would be on the hook for damages, if everything goes wrong.

In terms of the balance, it may be that ultimately one or other party—the person from whom the assets are seized, or the police—is going to suffer some sort of loss. The key thing is to make sure that people have access to the courts. The courts will have to generate their own sort of expertise and case law over when you should convert a currency. I can imagine that someone will come to the magistrates court saying, "My assets have been frozen. Now is the time for converting them from Bitcoin into Ethereum", and the court says, "What? How do I determine that?" There will need to be a body of expertise. This is a minor point, but it is something that I support: one of the intentions is to allow quite a wide range of law enforcement personnel to be responsible for the court proceedings, precisely so that you can develop a cadre of people who have got that sort of expertise.

Q74 Alison Thewliss: I want to ask about Scottish limited partnerships, particularly given their involvement in sanctions busting and various other things. Do you share my concern that they can exist in the Companies House register in a sort of zombie form and can be reanimated? Is there more that the Bill could do about that? If the use of SLPs is being tightened up, if you were looking to abuse corporate structures where would you go next?

Jonathan Hall: I do not want to say. The key thing is that I am not a Scottish lawyer, and I am not going to try and opine on whether there is a legitimate use of them. The key thing is basic enforcement. You made the point that there are zombie companies. Well, someone in Companies House needs to follow these things up. I am sure they will, but the resourcing of Companies House is where I would put my money.

Q75 Liam Byrne: We have just heard some very powerful evidence about the relationship between organised crime groups operating in this sphere of crime, and state threats. Have you any other observations about the relationship between economic crime and national security threats as we face them today? Is that a serious problem that we need to be worried about?

Jonathan Hall: It is a serious problem. I would say that the reason we have not faced the wave of mass casualty terrorist attacks in the UK, in contrast to America, is the lack of readily available firearms. That is the key thing. It is why the growth of the extreme right wing and all these ideologies that inspire mass killings, the obsession with Columbine and so on, have not resulted in mass shootings. From a national security perspective, the real concern is the alignment—if it happens—between terrorist organisations and those in organised crime, who do have the capacity to source firearms. That is a really important point.

The Chair: That brings us very nicely to the end.

11.24 am

Ordered, That further consideration be now adjourned. —*(Nigel Huddleston.)*

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

ECONOMIC CRIME AND CORPORATE TRANSPARENCY BILL

Second Sitting

Tuesday 25 October 2022

(Afternoon)

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No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 29 October 2022

The Committee consisted of the following Members:

Chairs: Mr Laurence Robertson, Hannah Bardell, Julie Elliott, † Sir Christopher Chope

† Anderson, Lee *(Ashfield)* (Con)
† Ansell, Caroline *(Eastbourne)* (Con)
† Byrne, Liam *(Birmingham, Hodge Hill)* (Lab)
† Crosbie, Virginia *(Ynys Môn)* (Con)
† Daly, James *(Bury North)* (Con)
† Doyle-Price, Jackie *(Thurrock)* (Con)
† Hodge, Dame Margaret *(Barking)* (Lab)
† Huddleston, Nigel *(Lord Commissioner of His Majesty's Treasury)*
† Hughes, Eddie *(Walsall North)* (Con)
† Hunt, Jane *(Loughborough)* (Con)
† Kinnock, Stephen *(Aberavon)* (Lab)
† Malhotra, Seema *(Feltham and Heston)* (Lab/Co-op)
† Morden, Jessica *(Newport East)* (Lab)
† Newlands, Gavin *(Paisley and Renfrewshire North)* (SNP)
† Stevenson, Jane *(Wolverhampton North East)* (Con)
† Thewliss, Alison *(Glasgow Central)* (SNP)
† Tugendhat, Tom *(Minister for Security)*

Kevin Maddison, Anne-Marie Griffiths, *Committee Clerks*

† attended the Committee

Witnesses

Martin Swain, Director of Strategy, Policy, External Communications and Legal, Companies House

Adrian Searle, Director, National Economic Crime Centre

Commander Nik Adams, Economic Crime Portfolio Lead, City of London Police

Simon Welch, National Co-ordinator for the Economic Crime Portfolio, National Police Chiefs Council

Michelle Crotty, Chief Capability Officer, Serious Fraud Office

Dr Susan Hawley, Executive Director, Spotlight on Corruption

John Cusack, Chair, Global Coalition to Fight Financial Crime

Thom Townsend, Executive Director, Open Ownership and member of the Anti-Corruption Coalition (UKACC)

Oliver Bullough, Journalist and author

Bill Browder, Journalist and author

Professor John Heathershaw, Professor of International Relations, University of Exeter

Thomas Mayne, Chatham House

Public Bill Committee

Tuesday 25 October 2022

(Afternoon)

[Sir Christopher Chope *in the Chair*]

Economic Crime and Corporate Transparency Bill

2 pm

The Committee deliberated in private.

Examination of Witnesses

Martin Swain and Adrian Searle gave evidence.

2.3 pm

The Chair: Our first witnesses, the fifth panel, are Martin Swain from Companies House and Adrian Searle from the National Economic Crime Centre.

The Minister for Security (Tom Tugendhat): May I just declare an interest, very briefly?

The Chair: Absolutely. We will all listen with bated breath to the Minister's declaration of interest.

Tom Tugendhat: I simply refer to my wider declaration in the Register of Members' Financial Interests.

The Chair: Thank you. Mr Swain, would you introduce yourself briefly for the record?

Martin Swain: Good afternoon. I am Martin Swain. I am one of the executive directors of Companies House, with responsibility for—

The Chair: You will have to speak up, because the acoustics in this room are very poor.

Martin Swain: Apologies. At Companies House, I have responsibility for policy, strategy and communications, and legal services.

The Chair: Thank you. Mr Searle?

Adrian Searle: Good afternoon. I am Adrian Searle. I am director of the National Economic Crime Centre. I am here with two hats on: as the director of the NECC, as it is called, and as a director within the National Crime Agency—so I can make comments about both the NECC and the NCA. If it helpful, I can explain a little bit about what the NECC is.

The Chair: No, I do not think so; we do not have time for that. I call Seema Malhotra to ask the first question.

Q76 Seema Malhotra (Feltham and Heston) (Lab/Co-op): I have two questions. The first is for Mr Swain. Thank you both for coming to give evidence today. The Treasury has allocated £63 million so far for the transformation of Companies House functions, but beyond that there is no clarity on the sustainable funding model for Companies House, with the extra work and demands that will be coming its way. With the increased responsibility that is going to be placed on Companies House, what do you think needs to be done? Is the £12 incorporation fee still an adequate amount for what Companies House will be doing?

My second question is to both of you. Do you believe the Bill should go further and reform the strike-off procedure for companies? There is a recognised issue where companies are building up debts, not filing a return and then being struck off as one of the routes through which money laundering may be taking place, with limited room for manoeuvre after that. Would there be any benefits to reforming that process? Is there any consideration, for example, of companies being placed in a compulsory liquidation procedure? I would be interested in your thoughts on that.

Martin Swain: As you say, we have £63 million through the spending review for transformation. We are two thirds of the way through our transformation programme at the moment. It is fair to say that we have been clear with the Department and Treasury that we are taking on significant new functions and responsibilities. Some of that will require more people and people with different skills from those that we have now. Companies House is a register of information, so a lot of our people do processing work. We will need to move those people off that. We will need to employ skills that we do not currently have, so we are actively talking to the Department and the Treasury about our funding model.

To your point on fees, yes, we could increase fees to pay for additional resources. I know there is some challenge around the fee being too low. Again, we have taken provision in the Bill to charge fees for different things that we currently cannot charge fees for. For example, we cannot currently recover costs for investigation and enforcement activity, as it is centrally funded. We are taking powers to do things differently. I do not think I am at a stage to be able to say we have a definitive figure that we have agreed with the Department or Treasury that would give us our funding model for the future.

The Chair: Mr Searle?

Adrian Searle: I think the question that was probably targeted towards me is not about the resources in Companies House, but the second, follow-up question relating to striking companies—

Seema Malhotra: It was about how to tackle economic crime and whether the reform of the strike-off process is important to that.

Adrian Searle: The strike-off process is not something I have a detailed understanding of. I suspect Martin might be better placed to answer that question.

Martin Swain: Again, it is something we are very aware of. Companies take advantage of the strike-off route to discharge themselves of debts and so on, and for other purposes. My sense is probably that the Bill as drafted gives us what we need. It is about how we take forward the policy in that area regarding where companies are moved to strike off. For example, we get lots of representation with regard to lots of companies being

registered at one address—a registered office being used and abused. The route for that would be to default them to our address at Companies House, for not having a registered office address that is valid. The next step on that would be strike-off, but clearly if we do that we may be having an adverse impact on the system and giving companies a route to use it for criminal activity or to fold without paying their debts. We are very aware of the issue.

Q77 The Minister for Industry (Jackie Doyle-Price): What we have here are the twin objectives of making it easier to do business and to tackle economic crime. I am really interested to hear from both of you whether we have the balance right in the Bill as it stands.

Adrian Searle: I think we have. There is, as you say, a real challenge to get the balance right between a prosperity and a security agenda. As we know, the Companies House reform elements of the Bill are a long time coming, so there has been lots of analysis and consideration of how you get the balance right. What I know from a law enforcement investigative perspective is that the changes being introduced under the Bill will certainly make the job of law enforcement far more straightforward in terms of our ability to investigate criminals and corrupt elites who are exploiting the complexity of the corporate structures to hide their assets, launder their wealth, and so on. I am confident that it gives Companies House and, by extension, the investigative agencies the powers we need. The indications that I have from exchanges with Martin and others in the industry are that the changes do not go so far that they inhibit transparent business practices in a way that undermines our economy. It feels to me that the balance is right.

Martin Swain: It is a very good point. It is a challenge for us as an organisation, because we have very clear direction from our Ministers that we should not create a burden for business, or make it difficult for companies to incorporate or for people to invest in the UK. The concept of balance is always there for us. We will bring in things such as ID verification, but we need to make that really efficient, and make it easy for people to understand the process, so that we do not create a burden for the vast majority of companies on our register that are legitimate businesses. That is quite a tension sometimes, because there is a significant spotlight on Companies House to become more than the passive register that we are at the moment, and to become—I hear this term—an "active gatekeeper" of the register. There is a potential that we move too far into that territory and make it harder for the vast majority of companies to deal with us.

I mentioned our transformation programme. There are two elements to our transformation. One is the legislative reform and all that is involved with that. The second part is digitising our services. That is what we have been focusing on in the last few years: making our systems really quick and easy to use, and to drive data, rather than receiving information on paper. You cannot work effectively with law enforcement from paper transactions; you have to have data.

Q78 Jackie Doyle-Price: That feels like a slight change in culture within Companies House, which has been very much a function for business. We probably need to communicate to the business community that part of their obligation to make the world a safer place is that they need to accept their changed relationship with Companies House.

Martin Swain: It is a huge culture change for us, not least in becoming more of a proactive agency. I hear it said that Companies House will be key to the economic crime ecosystem; what I say to people is that we will also be part of the business growth ecosystem. It is important that we have that dual role.

Adrian Searle: I think there is real value for businesses in being able to trust the other businesses they are dealing with. There is a strong argument that the transparency agenda supports the business agenda.

Jackie Doyle-Price: I agree. Thank you.

Q79 Alison Thewliss (Glasgow Central) (SNP): How exactly will the verification scheme that you propose work?

Martin Swain: At the moment we are in the design phase for verification. I should say first of all that we will not do the ID verification ourselves; we will outsource that.

Q80 Alison Thewliss: To who?

Martin Swain: At the moment we are looking at two options. We are working closely with Government Digital Service and others on the potential for the Government solution. We have been clear with them about our requirements with them. We are separately looking at market options, whereby we would go to the private sector and outsource via that route, where a number of providers can do identity checks.

Q81 Alison Thewliss: Okay. How are you weighing up the balance of those two?

Martin Swain: It goes back to some of the things that I said about ease of doing business. There are two key parts of our specification: whether we can make it really efficient, and fast and easy for people to do, and whether it is at an equivalent standard to the industry standard. We are very clear that we are operating along the same lines as others in the system.

Q82 Alison Thewliss: We heard from UK Finance earlier that currently the proposals are below industry standard.

Martin Swain: I heard that, and I am surprised that they are saying that. I will have a conversation with them about where that has come from.

Q83 Alison Thewliss: Okay. Will there be verification of the links with shareholders and owners as well, and the control that they have?

Martin Swain: People with significant control will be subject to verification—beneficial owners, but not shareholders who have less than 25%.

Q84 Alison Thewliss: Why?

Martin Swain: It was a decision by the Department and Ministers, post consultation. They consulted on the whole area of shareholders, and the information that they hold, and verification. The decision was that they would not be subject to verification.

Q85 James Daly (Bury North) (Con): The first two words of the Bill's title are "Economic Crime". I think you said, Mr Swain, that you are a passive registry organisation, so how does the Bill help you to turn from a passive registry into somebody who can work with law enforcement to tackle economic crime?

Martin Swain: One of the main measures is ID verification. That is one of the biggest gaps in our register at the moment. We do not verify people who are setting up and running companies. The fact that we will know them and have verified them is key. We are taking considerable powers in the Bill to do things that we cannot do at the moment. We cannot query information that is filed with us. We cannot analyse and proactively share information. At the moment, we are very reactive. I use the word "passive", and "reactive" is another word that I would use. We react to colleagues such as Adrian coming to us saying that they want information on certain things. In the future, we will be able to do our own intelligence work and will proactively be able to work with law enforcement.

Q86 James Daly: I am assuming, Mr Searle, that as somebody in your position, you want to see the transformation of this organisation from a passive organisation to a partner that will work with law enforcement to do what we require.

Adrian Searle: For sure. It is a really fundamental change. I already have folk from my intelligence and investigative teams in the National Crime Agency working with colleagues in the Companies House teams to help them to set the road map for how they will transform.

Q87 Dame Margaret Hodge (Barking) (Lab): Martin Swain, I think that many of us on both sides of the Committee think not that it has to be more regulation, but that it has to be smarter regulation. If there are businesses operating that are pursuing economic crimes, that does not help business creation or the wealth of the economy. I am a bit concerned that you think the new regulatory measures are more burdensome. Are they not just smarter? *[Interruption.]*

The Chair: Order. You will have 15 minutes in which to prepare your answer.

2.18 pm

Sitting suspended for a Division in the House.

2.33 pm

On resuming—

The Chair: We now resume the evidence session. Mr Swain is going to answer the question that was put to him by Dame Margaret Hodge.

Martin Swain: The question was about the balance of burden against tackling economic crime. I think you asked about the need for smarter regulation. I totally agree. Part of the challenge is how we use our powers in future. I would say that the way in which we use our powers will be around the integrity of the register; we will focus our activity on where we can have the most impact to improve the integrity of the register. In doing so, we do not want to create a burden for legitimate businesses.

The benefit of focusing on the integrity of the register is that we create value. As Adrian said, we already contribute a significant amount of money to the UK economy. If we can improve the integrity of the register so that people are making better decisions based on the data, and people are not being defrauded because of the way in which we are improving the integrity of the register, to me that is what smarter registration should be about.

Q88 Dame Margaret Hodge: I agree. May I just ask you about the authorised corporate service providers who are going to do a lot of this work for you? We have concerns, because although they are theoretically regulated by HMRC, there is pretty much zero supervision and very little regulation. How do we know that we are not just opening a loophole that will enable people to use companies simply as a way of laundering money and committing other economic crime, such as fraud and so on?

Martin Swain: We will not be replacing the AML supervision, which rests with the AML supervisors. The Bill introduces a number of measures around ACSPs which we currently do not do. For an ACSP to file with us, they will need to register with us.

Q89 Dame Margaret Hodge: With you or with HMRC?

Martin Swain: With us. This is separate to their AML supervision. In order to file with us, they will need to register. We will verify the identities of the people who run the agency—the agents—and we will require them to confirm who they are supervised for for AML purposes. We will cross-check that with the AML supervisors. There are also some new offences in the Bill, so people will be required to maintain their records of their supervision with us. If they are suspended from their AML supervisor and do not tell us, that will be an offence. They will also have to maintain records of verification, which we will have the power to check. None of that exists at the moment. An agent can file with us without any of those things happening.

Q90 Dame Margaret Hodge: But the AML supervision still remains with HMRC.

Martin Swain: Yes.

Dame Margaret Hodge: But it does nothing.

Martin Swain: I am not going to answer from HMRC's perspective. If we are talking about smarter regulation, the benefit is that we will have a power and an ability to go back to HMRC and raise flags where we see activity from agents that is not consistent with what we want.

Dame Margaret Hodge: That is very helpful, thank you. I have a quick question for Adrian.

Adrian Searle: Can I come in on that earlier question? The requirement that the company service provider has a UK footprint is a significant shift. Prior to this Bill, overseas-based service providers could provide that third-party service to registered companies. That is a fundamental challenge. When there is a UK footprint, whether it is the supervisory bodies or, potentially, the investigative agencies, we have got a starting point that we can go after, which you cannot do when there is an overseas base.

Q91 Dame Margaret Hodge: They have to go after them, but that is for another day.

Adrian, with your wider remit, there has been a huge decrease in the number of cases that have been taken by the SFO and indeed by all the agencies. One reason is the fear of costs landing on those agencies—for example, the NCA—if they lose the case. Can you give us a view? Do you think we should have a cost cap, in the way we have with unexplained wealth orders? Do you think we should have the American system whereby no costs at all are given to the litigant or the person accused of wrongdoing at the end? What is your view of that?

Adrian Searle: We are certainly very keen to continue to look at that. The cost capping in the UWO regime is attractive. I understand that other colleagues and Government, in particular the Ministry of Justice, have had conversations. They are having concerns raised that that undermines the core principle of loser pays. There are different views on this issue.

Q92 Dame Margaret Hodge: I think there is a difference between civil and criminal. The UWO is a civil offence, so it is easier. Some lawyers will say that if you end up convicted of a crime, you ought to have the right to a full defence, with the cost paid for.

Adrian Searle: We find cost capping an attractive proposition, but we also understand that it is challenging. In addition, we are speaking to colleagues in the Home Office and the Treasury about the establishment of a regime that will help us to manage the risk associated with potential big financial costs if we were to lose a case. There is a governance system that they are proposing to put in place that will help us to manage those risks. It is still early days, and conversations are ongoing, but at least colleagues in Government recognise the challenge that we face. There is no doubt a chilling effect on the agency from the risk associated with financial costs.

Q93 Dame Margaret Hodge: Are you also talking to the Treasury about keeping some of the fines that you manage to secure in the cases that you take?

Adrian Searle: I assume that is a reference to the ARIS system—the asset recovery incentivisation scheme. As it currently stands, we get 50%.

Q94 Dame Margaret Hodge: Does that go through all the agencies—the NCA, the SFO and HMRC? If they have a successful litigation, can they keep 50% of the fine they secure?

Adrian Searle: It is certainly true for the NCA and policing. I would need to check whether that runs across the whole system. I can come back to you on that.

Dame Margaret Hodge: It would be really helpful to have that.

The Chair: We have to move on.

Q95 Liam Byrne (Birmingham, Hodge Hill) (Lab): Martin, has your budget been agreed for 2023-24?

Martin Swain: Not yet, to my knowledge. We have had the confirmation of part of our £63 million, but we are in conversations with the Department around future budgets.

Q96 Liam Byrne: What advice have you given to colleagues about what your budget should be in order to fully operationalise the measures in the Bill to a gold standard?

Martin Swain: It would be very difficult for me to describe what a gold standard would be at this point. We have put in a significant proposal to the Department as part of our spending review preparations.

Q97 Liam Byrne: And how much is that?

Martin Swain: I cannot give you a figure on the budget, but in terms of numbers of people, it was in excess of an extra 100 people.

Q98 Liam Byrne: An extra 100 people. So you think you need at least an extra 100 people in order to operationalise the measures in the Bill.

Martin Swain: That was our assessment at the time. It obviously depends how quickly we can digitise services because, as I said earlier in the session, the quicker we can digitise things, the more we can move people off manual processing into other work. I think it also depends on what the final shape of the legislation is when it gets through. We saw that with the Economic Crime (Transparency and Enforcement) Act 2022, where there were things, as the legislation went through, that changed and we had to adapt and do things differently. It would be wrong of me to estimate it at this point, before the legislation has passed.

Q99 Liam Byrne: Okay. It is obviously a matter of great national shame that UK corporate structures have been used so extensively for money laundering—not just the Azerbaijani laundromat, but the Danske Bank money laundering scandal, which was about €200 billion, with about 40% of that laundered through UK corporate structures. When you are putting your business cases together to Ministers, do you explain to them the economic damage done by economic crime to the broader UK business environment?

Martin Swain: I would probably say we do not need to. We have this package of reform, and it is fair to say we have worked really closely with the Department and people like the Treasury on what the package of reform needs to look like. We have been heavily involved, and we have been able to influence some of the thinking around what the reform needs to look like. However, I think nobody would disagree with the need to reform Companies House. Certainly, we would not; we welcome these reforms with open arms. As an agency, it is probably fair to say that we are hugely excited by the prospect of being able to do things that we have not been able to do in the past.

Q100 Liam Byrne: And the Department shares your excitement so much that it has failed to agree your budget for next year.

Martin Swain: I have not said they failed to agree it. We have not got to that point of agreement yet.

Liam Byrne: Okay. Thanks, Chair.

The Chair: A very quick one from Stephen.

Q101 Stephen Kinnock (Aberavon) (Lab): You talked about outsourcing identity verification, but is that not just a recipe for disaster? If we keep on outsourcing these things, rather than Companies House controlling the process, you are just going to open it up to more fraud and dodgy dealing?

Martin Swain: I do not think we would have the capacity to do ID verification internally, certainly not within the timescale that we are looking at bringing it in. I go back to my point—and I will pick up the point with UK Finance—that we will be operating ID verification to standards that are appropriate across sectors that use ID verification. With any aspect of these reforms, there is potential for gaps in the system. What we are trying to do is design out gaps in the system. However, I think we know from the current companies framework that there are gaps in the system, and even where you plug those gaps, others will appear.

The Chair: Thank you very much indeed to both of you for your evidence. It has been very helpful. We now move on to the next panel.

Examination of Witnesses

Commander Nik Adams, Simon Welch and Michelle Crotty gave evidence.

2.45 pm

The Chair: Good afternoon. We now have Commander Nik Adams from the City of London police, Simon Welch representing the National Police Chiefs' Council, and Michelle Crotty from the Serious Fraud Office. May I ask each of you to introduce yourselves briefly, please?

Commander Adams: Good afternoon. I am Nik Adams, commander in the City of London police and the current lead on economic and cyber-crime.

Simon Welch: Good afternoon. I am Simon Welch, the national co-ordinator for the National Police Chiefs' Council on the economic crime portfolio.

Michelle Crotty: I am Michelle Crotty, chief capability officer at the Serious Fraud Office.

Q102 Stephen Kinnock: The national policing fraud strategy of 2019 said that, although the majority of the police response to fraud is delivered by local forces, capability and capacity varies widely across different areas. The strategy said that the regional organised crime units were "extremely limited" in their capacity. Has the situation improved since 2019, and if not could you say a word about what extra resources or powers might be required? I am not quite sure who is the best person to answer that.

Commander Adams: Shall I start, as the City of London senior rep? I have the advantage and the disadvantage of having been in this job only since April, so I can give you a view of where I think things have got to. I obviously was not part of the network when that report was written. I think it reflected an approach to economic crime that has been very much built bottom up historically, which led to the assessment that policing was fairly fragmented, with different levels of investment and different prioritisation across forces.

As long as economic crime and fraud, in particular, are not part of the strategic policing requirement, it is difficult to really get police forces to galvanise that response. We have seen, however, some fantastic work by the Association of Police and Crime Commissioners to get fraud and economic crime into police and crime plans. We have seen through the support that the City of London police has provided, as the co-ordinating force, a great deal of consistency starting to layer on in local forces. In this year alone, we have visited 29 out of all 43 forces to look at their delivery of the economic crime response and of shared good practice across the country. That bottom-up has given us those improved levels of consistency.

Through the spending review and the police uplift programme, we are seeing significant investment at both a regional and a national level to help us to build some of those capabilities. By the end of this year, we will have proactive economic crime teams built around a consistent model in every single regional organised crime unit. With the anticipated investment from the economic crime levy, we will see the growth of regional economic crime teams—proactive financial investigation at a regional level—and, with our support, the continued network of those teams across the country, which will give us a growing and more consistent approach as we go forward.

Q103 Stephen Kinnock: The challenge that we have is that money laundering prosecutions have dropped by 35% over the last five years in the UK, and the number of crimes being investigated—*[Interruption.]*

Dame Margaret Hodge: I will read out the two figures. The number of crimes under investigation has halved in the past three years, and convictions for fraud offences, according to national crime statistics, have decreased by 67% since 2011. What you are talking about is theoretical; it is not what is happening. At the same time, fraud is going up and up.

Stephen Kinnock: Will you say a word about why that is? The system seems not to be working, so what do we need to do to fix it?

Commander Adams: I will start and then bring in Simon, who is an expert on money laundering. The first thing to say is that fraud is getting increasingly complex. About 70% of all fraud emanates from overseas and, as Adrian touched on, it is very difficult for us to obtain prosecutions and convictions across jurisdictions. That is a real challenge for us, as are the growth in technology, the way in which fraudsters are now exploiting people and the changes in tactics.

Fraudsters are moving away from unauthorised payment fraud, where people's details are stolen and used fraudulently—banks are now preventing somewhere in the region of 65p in every pound of that type of activity—and we are now seeing much more sophisticated frauds, where people are socially engineered, or manipulated, into physically approving transactions. That of course is much harder for technological solutions to prevent, when the target is a human being.

Of course, all that complexity requires a much more complex and sophisticated policing response. As I described, the growth that is coming down the line—in particular

the proactive growth—will not start landing until the end of this year and then, of course, we are several years before we have fully experienced and really competent and effective investigators working on those crimes. All those things will layer on over a period. We anticipate that the technological advances will continue, both in support of us and in challenging us in how we can investigate and progress these crimes. Simon, do you want to comment specifically on money laundering?

Simon Welch: On money laundering, the amount of offences—detected offences—is going down. Criminals are getting a lot more savvy about our tactics and things like that, so we find that they are not having assets in their own names so much—vehicles, houses, things like that—and our opportunities for confiscation are probably going down a bit. However, what you can see from the seizure figures is that the cash value is up, but the volume is down. We are targeting and getting good results from the cases, but it is a smaller number of cases. In reality, POCA is now quite old, and people are used to us going after the money, so they take far more steps to protect that money from us being able to confiscate it.

Q104 Jackie Doyle-Price: Clause 156 extends the pre-investigation powers of the Serious Fraud Office. What is the benefit of that? How will that improve the ability to track all economic crime?

Michelle Crotty: At the moment, we have those pre-investigation powers for overseas bribery and corruption. They allow us to investigate earlier, in particular to identify banking evidence earlier, and to see whether there is a case to pursue. By extending that to fraud and domestic-based issues, we are enabled to do that in those cases. At the moment, we have to take on a case formally and to commit resource in order to exercise the powers. To some extent, we can negotiate on occasion with companies to get that material, but if we have the power of compulsion, it would make it quicker and easier to get the material and so identify whether there is a case there.

Q105 Jackie Doyle-Price: So it enables you to be fleeter of foot—

Michelle Crotty: Yes.

Jackie Doyle-Price: And to address some of the questions we heard earlier—if you can act more quickly and establish whether a crime has been committed, that is clearly more efficient.

Michelle Crotty: It is more efficient and means that, if we follow the money and there is a reasonable explanation, we can screen a case out more quickly, rather than committing more resource and taking longer to reach that decision.

Q106 Alison Thewliss: The Home Office report, "National risk assessment of money laundering and terrorist financing 2020", states:

"Company formation and related professional services are therefore a key enabler or gatekeeper of"

trade-based money laundering. Is there enough in the Bill to remove that risk?

Simon Welch: It is difficult to say. We have heard about the verification processes going on. With the authorised corporate service providers, if we strengthen all that and make things more difficult, we target harm. At the moment, you can register a company from abroad, and there is little opportunity for us to follow that up, especially in a jurisdiction that it is difficult to get information from. The idea of having ACSPs in this country, where we can see them and start the inquiry from the UK, would be very desirable. I am not sure whether the Bill goes that far; I have not read that bit too much.

The Chair: Sorry, you are going to have to speak up. We all wish to hear the answer.

Simon Welch: Sorry—I appreciate that. Authorised corporate service providers, if they are based in this country so that we have a starting point for our inquiry, would be something that we would welcome. That would make it easier for us to start an inquiry. At the moment, if it is coming from a jurisdiction that is not particularly co-operative with us, it might be difficult for us to get that information, so, clearly, we would want to see that.

Q107 Alison Thewliss: Michelle, you were nodding. Do you have anything to add to that?

Michelle Crotty: No. Anything that will help us to identify suspects is welcome, as my colleague has said.

Q108 Alison Thewliss: Okay. Are the measures in the Bill enough to disincentivise the use of shell companies, limited partnerships or Scottish limited partnerships for criminal purposes?

Simon Welch: If they can still get the companies and they can still make them work, they are going to make them work. It is if we make it prohibitively difficult for them to do that—if we make it difficult for them to create their verifications, because they will have to work harder to get the verification sorted out to make sure they have got the IDs sorted out. We have talked about the fee of £12.50 for registering a company. There are lots of arguments about that—frictionless trade and things like that—but we have the lowest price for registering a company pretty much anywhere in the world.

Alison Thewliss: Yes—by some margin.

Simon Welch: So is there a view for increasing that and using it for Companies House to invest in verification? That is something that could be looked at.

Q109 Alison Thewliss: Do you have a view about where you would like the level to be? The Treasury Committee suggests £100.

Simon Welch: I do not know. If you were to ask a businessman what they were prepared to start a company for—how many companies they are looking to start? At the end of the day, if you were just building a couple of companies and you knew you were going to get a really good service, you might be quite happy to pay £100 or whatever. I do not know what is a reasonable price.

Commander Adams: One of the challenges for us in our investigations is how desirable shell companies are to criminals who want to create a legacy pattern that an organisation has been running for many more years than it actually has. Of course, if you are then into a large-scale boiler room-type fraud, whether you are

paying £12, £100 or £1,000, it is simply a drop in the ocean compared with the amount of money you are going to make at the end of that. Making it harder for people to inappropriately and unlawfully use shell companies in the way they are at the moment is what will help us ultimately.

Q110 Alison Thewliss: There has been a growing trend of people setting up companies using someone else's address and name. Presumably those will still exist on the register after this legislation comes into force. What would you like to see happen to clear out the fraudulent things that are already on the register?

Commander Adams: If I am right, the Bill allows for retrospective work to take place. However, as you have alluded to, there are simply millions of entities on there. As you heard from colleagues earlier, the resourcing of those retrospective checks, given all the work that has to be done—there are something like 1,500 companies registered every day in the UK; it is phenomenal—is going to be a real challenge. We would want to see resourcing to do those retrospective checks, to remove those companies from the register as quickly as possible.

Q111 James Daly: What is your view of how clauses 1 to 98—part 1 of the Bill—regarding Companies House reform can assist law enforcement to tackle economic crime more effectively?

Commander Adams: Again, you heard from colleagues earlier about this. The big thing for us is making sure that checks are undertaken to ensure that individuals who are setting up companies or have a significant stake in them are verified, to give us, as Adrian said, those investigative lines of inquiry into individuals. For us, that is the biggest game changer in what we are currently seeing, but of course it will require the right level of scrutiny and adequate robustness in those checks, and the capacity to do them at speed.

James Daly: Ms Crotty?

Michelle Crotty: The same—anything that allows us to identify the people behind it and then to use that to follow up with lines of inquiry. Capacity is certainly something that we would be concerned about, but the work that the NCA and the NECC are doing with Companies House should help with that, in terms of training Companies House staff.

Simon Welch: It would also be nice to be able to data wash some of the registrations through law enforcement indices before they were actually registered. That is obviously another quantum leap from where we are now. I think we are looking at sharing that data, but that is another thing for Companies House to work out, in liaison probably with the NECC. I think that would be preferable for us. Then we could prevent these companies from opening up in the first place, and stop them being used as vehicles for criminality.

Q112 Dame Margaret Hodge: Michelle Crotty, what would you feel about the introduction of an offence of failure to prevent economic crime?

Michelle Crotty: We are very strongly on the record as saying that that is an offence that we would like to see. We have seen good results with it in relation to bribery and corruption since its introduction in 2010. Nine of our 12 deferred prosecution agreements have involved a failure to prevent bribery offence. We think that it not only punishes but helps to reform corporate behaviour. What we have seen with the Bribery Act 2010 is that companies have very much focused on putting adequate procedures in place because that is the defence that it provides them. The prosecution is one part of it, but actually the preventive work in terms of adequate procedures is as important, if not more important.

The other thing that we would say in terms of the impact on business is that for a failure to prevent economic crime offence many of the adequate procedures would already be in place in terms of anti-money laundering and other areas. Clearly that is something that the Committee, and guidance, would need to work through, but the impact on business may not be as heavy as some might fear.

Q113 Dame Margaret Hodge: Do the other two witnesses agree?

Commander Adams: Yes. Ultimately, as Michelle said, I do not think that the imposition on business would be that significant. There are lots of areas where we see unintended consequences of thresholds upon which, or below which, things are not reported to law enforcement. That sort of legislation would give us the ability to ensure that there are policies and processes in place in institutions to provide the sorts of checks and balances that identify patterns that might fall outside some of the clearly defined breaches of legislation. That, for me, would be the galvanising benefit of that power, in a not dissimilar way to financial institutions reimbursing victims, which helps to galvanise effort and investment into preventing crime, to avoid spending money out the other end. All those sorts of measures are really helpful. Particularly through Adrian's role as director of the NECC, I think he would say that the things that help to galvanise the partnership and the whole-system response to fraud is where we will ultimately see our biggest successes.

Q114 Dame Margaret Hodge: The other brake on pursuing the bad people is the fear of failure, and therefore the burden of costs on the public purse. Would you like to see the cost capping that has been introduced on unexplained wealth orders extended here, or do you have other ideas about how we can try to make that brake less solid?

Michelle Crotty: The SFO would like to see those. We understand the concerns that other parts of the system have in terms of how you ringfence a cost regime just for economic crime. In terms of what the SFO can recover in any one year, we can retain £900,000 of legal costs if we win. Clearly, it is the other way if we lose, and there are ongoing discussions with the Treasury. I gave evidence to another Committee last week that, where we do not have a fund available to us for that that sits within our budget, we have to go and negotiate one with the Treasury if we lose. We would certainly welcome some protections, but we understand the challenges around fitting them into the broader scheme.

Q115 Seema Malhotra: I want to come back to some comments made by DCI Welch, which were very instructive on the challenges—we have heard it in some of the data

as well. I think you referred to criminals not putting assets in their own names, thereby making them harder to find and seize. Do you think that the Bill gives sufficient powers for tackling fraud, especially through the use of fraudulent names and addresses? If not, what else needs to be done to help you all do your work more effectively, but is missing from the Bill?

Simon Welch: Obviously, we are putting more resource into this area. If we are to go after them proactively, we are building up our intelligence around this. Historically, fraud has not been given the same emphasis as other types of criminality, so I think we lack in some areas. If we start to build that up, to get more intelligence that is actionable for us to work on, and to go after some of these people proactively as opposed to reactively, we will be getting ahead of the game, and then we will be able to arrest these people and prevent other people from becoming victims. It is important to invest in this area. It is a difficult time for us, because recruitment and retention of staff are challenging. We are looking to build, and are getting investment streams coming into us. We are looking to develop that all across the piece. We are looking at the intelligence and at the proactive capability and the investigative capability to take this on.

Q116 Seema Malhotra: Is it all about resources, or is there more?

Simon Welch: Resources are a big part of it, but there is experience as well. If we bring in new people, they are unlikely to be the most experienced investigators. Unfortunately, in recent times, we have lost a lot of our middle-ranking, experienced investigators, so we are having to bring people through quite quickly. There is quite a quick turnover now, especially in things like crypto investigations, because those skills are very desirable in the private sector. It is really difficult for us to hang on to those people, so we are going through a bit of a treadmill trying to recruit and hang on to them. Mr Adams is looking at things like structures and strategies within the force to try to hold on to people and to look at different ways of retaining those skills and experience to make us that much better at investigating these things.

Q117 Seema Malhotra: Do the other witnesses have anything to add? Is there anything specific that will assist in some of these challenges? How much are resources constraining what you are able to do?

Michelle Crotty: It is fail to prevent for us, and it is capacity, capability and retention. As my colleague said, we can train people up with fantastic training, but the real challenge is that they are then very valuable recruits—not just to the private sector, but within the law enforcement community and in how we operate jointly to ensure that we build a pathway for people within law enforcement, as well as out into the private sector.

Commander Adams: The final thing to add to all of that is technology. The licences for the tools that we are able to use at the moment, particularly some of the tools for tracking crypto assets, are expensive. When you start to build up those layers of individual costs that Simon described on the tools and technology, to be really effective we have to bring those together with highly skilled and highly competent individuals. All that is a challenge for us at the moment, in the recruitment environment that we face.

Q118 Liam Byrne: Nik, I want to crystallise a couple of things. Is it your impression that economic crime is growing?

Commander Adams: I am not sure that my impression is the thing to take as gospel here. We see from the crime survey, our annual reporting and the growth in trends around victimisation that fraud is growing year on year. We predict that there could be anywhere from 25% to 65% growth in fraud over the next four to five years. If we were to go around the room and ask for a show of hands on who has received a smishing or phishing message, versus those who have been burgled in the past 12 months, I think we would be staggered at the volume.

Q119 Liam Byrne: Simon, is it the position of the National Police Chiefs' Council that more resources are needed to tackle economic crime? Do you have a gut feel for the order of magnitude of the increase needed?

Commander Adams: It is a really complex landscape. We have a great deal of investment from the private sector in some of our specialist capabilities. We need more investment at the frontline of policing in undertaking economic crime investigations at that most basic level. That does not mean more people; it means investment in training to ensure that all frontline officers can deliver that.

Q120 Liam Byrne: Yes—but Simon, what is the National Police Chiefs' Council perspective on that?

Simon Welch: As Mr Adams says, we could always do with more people—if you ask, we will always say we want more staff—but the reality is that it is difficult to bring them in at the moment because we are not offering wages that are competitive with some of the other agencies or the private sector. We are struggling to build that up. If we can build that up and maintain some trajectory so we can hang on to some of the staff to get them to an experienced level, we will start to see more impact on performance there, but we need to work on that really hard.

Commander Adams: I touched at the beginning on the investment and the proactivity around both financial investigation and fraud investigation. We have to see some of that investment land, get people into the posts, do the work that City of London police is doing as the national lead force to co-ordinate that activity across the country, and see what effect that has. That will then inform the business case and the arguments that we make for more or different resource in the future.

Q121 Liam Byrne: Understood. Nik, you also said that you were watching criminals move assets into proxies, basically, in order to safeguard them. We heard this morning that the Bill will not place a duty on Companies House to verify who has the economic control of a particular asset. That sounds like a problem to me. Do you agree?

Commander Adams: That might be one for Simon.

Simon Welch: Yes. You can identify a person of significant control, but sometimes it can be difficult if you are looking at the people who ultimately have

control of some of those companies, because you have people stood up saying they are that person, but there are people sitting behind that person. It depends how good your intelligence is whether you can work these things out. Very often, if you investigate these people, you will be able to see that they have control of the company. If you do not investigate them, you will not be able to tell. You need to be on them with the right intelligence to work it, and then you might have an opportunity to show that they were running that company.

Q122 Liam Byrne: Yes, so we may have to beef up the verification requirements for Companies House.

Simon Welch: As an ex-policeman, I will always say yes to that, but obviously there are implications, because you need the resources down there to do it. Obviously, we will always go for the gold standard wherever possible, because if you are doing that, you are stopping people getting in at the first level, but there are obviously implications of the cost of that. But yes, of course we want the highest standards of verification.

Q123 Liam Byrne: With your indulgence, Sir Christopher, I will ask a last question to Michelle Crotty. We have heard at the Foreign Affairs Committee that it is often difficult to get evidence from bad regimes even though kleptocrats may have made their fortunes in those countries and laundered that money through UK corporate structures. Given the unavailability of that evidence, do we need to think about onshoring offences that might help us freeze or seize assets for the committal of a crime here in the UK?

Michelle Crotty: It is certainly an issue for us. We would be interested in the proposal. If the evidence is overseas, even if the offence is based here, I think we would want to think through the mechanics of the prosecution. There would be some detail to work through, but in principle, I think we would welcome looking at that kind of offence.

The Chair: If there are no more questions, I thank the witnesses for their attendance and their contributions.

Examination of Witnesses

Dr Susan Hawley, John Cusack and Thom Townsend gave evidence.

3.13 pm

The Chair: We now have evidence from Dr Susan Hawley from Spotlight on Corruption, John Cusack—via Zoom—from the Global Coalition to Fight Financial Crime, and Thom Townsend, representing the UK Anti-Corruption Coalition. Can I ask Dr Hawley and Thom Townsend to introduce themselves first?

Dr Hawley: Hello. I am Dr Susan Hawley, executive director of Spotlight on Corruption. We are a UK anti-corruption charity that monitors how the UK enforces its anti-corruption laws and keeps its international anti-corruption commitments.

Thom Townsend: Good afternoon, everyone. My name is Thom Townsend. I am the executive director of Open Ownership and the incoming chair of the UK Anti-Corruption Coalition. Open Ownership supports more than 40 Governments around the world to implement exactly these types of reforms.

John Cusack: Hello everyone. My name is John Cusack. I am the chair of the Global Coalition to Fight Financial Crime, which is an NGO. It is a 20-member organisation, both public and private, with large members such as Interpol and Europol, as well as Open Ownership—Thom's organisation—and RUSI, which you may well know in the UK too.

Q124 Seema Malhotra: Thank you all for coming to give evidence today. I want to start with a couple of questions. First, in your view, does the Bill provide adequate guarantees against companies that have opaque corporate ownership based in secrecy jurisdictions? Could and should the Bill be further improved to prevent companies' continued use of offshore and opaque corporate ownerships?

Secondly, does the Bill provide enough mechanisms to help with transparency around the new responsibilities of Companies House, and should there be reporting—to Parliament, or certainly publicly available—on new powers? What would you want to see in order to have confidence that measures are having impact?

The Chair: Who wants to go first?

Thom Townsend: I think that there are significant areas of improvement for the piece of legislation that we see before us. Primarily, from our perspective, we focus on reform of company registrars around the world, so my focus is very much on how Companies House can better operate. The key area we would identify is around the verification mechanism, as you would expect, and that splits out into two points.

One is around how we verify someone's identity versus how we identify and verify the statement of control and ownership that they are giving about their involvement with the company. That second part—their status—is not covered here. We are not putting in place mechanisms to understand whether the disclosure of beneficial ownership is accurate, and that is a significant problem. A colleague talked previously about having a gold standard, but we are far off that. We see company registrars in countries around the world taking meaningful steps to attempt to use their data and powers to begin to understand whether those statements are true. That needs to be significantly beefed up in this legislation.

On the second part—the ID of individuals—there are grave misgivings about that being outsourced to the trust or company supervisor profession. There are other ways of identifying people: in an ideal world, Companies House should be doing that. That is a big change for this piece of legislation, but frankly, that is where most of the world is going.

Q125 Seema Malhotra: Could you give an example?

Thom Townsend: It is worth saying that countries that are doing very well on this typically have a national identity card system that is the foundation of their ID process. There are other ways of doing it. I think about Estonia, France, Germany—the list could go on, but it is based around their national ID card system. Clearly, we do not have that. The Government have done significant work on their own identity verification programme, which has had mixed results. We know we can do this. It does not necessarily need to be outsourced to that profession, which of course is supervised, but we collectively have severe misgivings about it.

On the second point around the accountability mechanism, we would like to see a very strong mechanism for Companies House to be coming to Parliament on a regular basis to talk about how this is looking and how it is performing. It is a much broader conversation about the kinds of indicators we would like to see reported on. That is a much longer conversation, but I will pass over to colleagues at this point.

John Cusack: I share Thom's views, principally, on this. I spent 30 years working in banking as an MLRO—that is the previous history to my current role—and I spent many, many occasions trying to establish beneficial ownership. It is not easy, but it is the key to understanding risk and understanding who owns and controls a bank account, real estate or a company. That is absolutely key. I would like to see an obligation on the companies register that is essentially equivalent to that which a bank has in relation to knowing its customer, to the extent that that is possible. That is where we need to get to. Thom was explaining that some of the better countries are trying to get to that kind of standard.

Secondly, I believe that the registrar of companies needs to have a much stronger obligation than is currently set out in the proposed legislation—it needs, again, to be slightly similar to my old obligations as an MLRO. There needs to be an obligation to operate an AML programme that is worthy of the name, and to have strong and meaningful controls in order to be able to demonstrate that Companies House and the companies register are doing a similar job to what other people do in the private sector.

Dr Hawley: I would like to strongly back that up. It is essential that the "know your customer" rules that the private sector has to use are used by Companies House as well. There is no point having a registry that SMEs cannot rely on because it is not as accurate as it needs to be. That has been a problem now that the big companies simply do not use the corporate register because it is so inaccurate. There is a long way to go on that.

We also have real concerns, as Thom mentioned, about the authorised corporate service provider provision in the Bill. In essence, it relies on another part of the system—the anti-money laundering supervision system—and the danger is that we are just playing whack-a-mole. We are just pushing the problem down the road. We know that HMRC, in its supervision of TCSPs, has had lots of very serious questions about whether it is up to the job, and it just recently revised its average fine level down from £250,000 to £8,000. There are real questions about whether that is a serious deterrent. In its recent report, it found that nearly 50% of its cases that went up to the governance panel had to be returned to the case officer for serious work to be done again. Either the Bill needs to address the AML supervision regime—I can tell you some of our suggestions, because it would not be that difficult to come up with a transition—or there are real questions over whether that clause should be in it at all.

A final point, which was picked up earlier by colleagues from law enforcement, is about how this will be funded. The registry will be meaningful only if there are proper resources. It can be completely cost-neutral to the Treasury. We are heading into a difficult fiscal time, so it needs to be cost-neutral. As the gentleman from the National Police Chiefs' Council said earlier, we have almost the lowest registry fee. We are the 6th lowest, in company with Rwanda, Timor-Leste, Ukraine and South Africa. Most other countries charge an average of £150 to £300, compared with £12. That could go an enormous way to getting the right IT infrastructure. We know a lot of this will have to be done with technology and AI. Making sure that the fees for Companies House are set at a realistic level to make this properly verified is essential.

Q126 Jackie Doyle-Price: To follow up on that point, we have a principle in this country that the fees should match the operational costs. We are adding to what Companies House will be doing in that active management. That would make a case for an increase in the fee to meet the costs, would it not?

Dr Hawley: Absolutely. The key thing is what John alluded to—clause 88. What is the requirement in the Bill for how far the registrar has to go? If it is the minimum amount, the fees will be minimal. If we are going for the gold standard, the fees will need to be higher to reflect the greater verification work.

Thom Townsend: Just a quick thought: what strikes me, reading the Bill, is that it is not quite clear what Government want Companies House to be, when you delve into the detail. Is it around minimising criminal activity, as in the fourth objective? Is it about preventing, which comes up in clause 88? That needs to be resolved to give a very clear idea in primary legislation of what we want Companies House to be. It should be the first line of defence in the UK economy from the perspective of integrity and preventing crime.

Q127 Jackie Doyle-Price: I guess it comes back to the discussion that we are having about the twin-track objectives that pull in opposite directions: to enable it to be part of the framework for tackling economic crime, but also to enable business. In your opening comment, you stated that we are a way away from the gold standard. I think we would all agree with that—that is why we have this Bill, frankly, and I certainly have ambitions for it—but I want to probe you on what you said about a national identity card system. Surely you are not suggesting that we cannot improve this kind of scrutiny without a national identity card system. There are other ways to establish that, and other ways of knowing your customer.

Thom Townsend: Absolutely. My point was just that countries that do have been able to go further and faster as a result of having the underlying infrastructure. But no, absolutely, you can do that. We have brought down the cost of identifying people in this country very rapidly, with KYC for new banking, and taking a video of yourself. We have a lot of technology and lots of ways to achieve that end. It does not have to be done through the trust and corporate service provider industry—it simply does not.

Jackie Doyle-Price: That is helpful.

John Cusack: I will just add to Thom's point about clause 88. The language concerns me greatly. This will be dependent on the registrar's diligence and, essentially, on the financing that the registrar has in order to carry out their activities. The language—that the

"registrar must carry out such analysis of information within the registrar's possession as the registrar considers appropriate"—

is extremely timid. If there is no money for it, the registrar will not be doing anything. That is really problematic. We would not apply that in any other circumstance; we would want to set out the obligation—the expectation—and to fund that appropriately, not the other way around.

Q128 Alison Thewliss: I have some questions about whether the Bill is sufficient to deter the abuse of shell companies, limited partnerships or Scottish limited partnerships.

Dr Hawley: We focused more on what is not in the Bill. I do not know whether John or Thom want to address that.

Thom Townsend: I would hand over to John on this one.

John Cusack: The Bill is positive. It is one of the contributions that will definitely help, and it is trying to fix a long-standing problem. At the end of the day, however, if we want to deal with financial crime, economic crime, we need convictions—investigations, prosecutions and convictions—and asset recoveries. That comes from resourcing the public sector, as well as demanding high expectations from the private sector. I am worried that in the UK the financing of law enforcement, and of the FIU in particular, is insufficient to assure the objectives that we all want, which are to mitigate, manage and reduce harms from economic crime. This is a long-standing weakness in the UK, as it is in many other countries, and that would definitely help, but let us not kid ourselves that it will make a material difference to the economic crime situation in the UK.

Q129 Alison Thewliss: Do you share my concerns that previous Bills to tighten things up—for example, for Scottish limited partnerships—have not been met with enforcement action? Since the changes to the persons with significant control regime came into force, only one fine has been issued, to the value of £210. Would you like to see more enforcements and more follow-up of those who are not applying the current rules?

John Cusack: Yes, of course. I would support that. However, I would also say, with respect, that the idea is to do prevention with the changes. When we put a lock on the door of an aeroplane, the fact that no one has stormed the cockpit is not how we judge whether a lock on the door is appropriate. We are tightening things up and preventing financial crime, but yes, absolutely, we need to see more enforcement. You would hope that these measures will mean that people will no longer necessarily look to UK companies and Scottish limited partnerships as the vehicle of choice for abuse, and they will look elsewhere.

Q130 Alison Thewliss: May I ask about the issues with the register as it exists? There are lots of things on it that are inaccurate, deliberately false or involving the misuse of people's personal information and addresses. How much do you feel that Companies House has to go back actively into the register to figure out what is wrong with it and to put it right?

Thom Townsend: When this legislation passes, there will be a lot of remedial work to sort out what is there—there is no doubt about that. Everything that you have just described is true, and it is probably a lot worse even than we are aware of. As you just mentioned, we are clearly starting from such a low bar that any legislation will have some kind of deterrent effect, but it is important to think not just about ensuring that we hit the gold standard with a piece of primary legislation. It is also the resourcing, but ultimately nothing that we can do will create a 100% perfect system.

Essentially, we are trying to remove as much noise as possible from the system to give law enforcement the best possible chance of focusing its resource where it can make the most difference. It is important not to think about this in zero-sum terms of: is it possible to commit crime or not? It is really just about making an environment where it is somewhat more manageable to detect, and then enforce. As it stands it, is the wild west on that register. If you wanted to do enforcement, we would be here until the end of time.

Q131 Alison Thewliss: Yes. Finally, can I ask you, John, whether there is any particular recommendation that you would like to make on the register of overseas entities section of the Bill?

John Cusack: Not necessarily, because what I am most interested in is getting the Bill out in its current form with a financed and adequate registrar with obligations, and resolving that underlying issue. One of the reasons people use UK companies is not so that they can open UK bank accounts, because then you go through the gamut of UK obligations in the regulating sector, even though that happens occasionally when buying real estate and other things. Actually, people buy and acquire UK companies and Scottish limited partnerships so that they can open accounts abroad, because the UK is seen as a first-class jurisdiction. That means that when they open those accounts abroad, not many questions are asked, or not as many as would be if they were acquiring a Nigerian company, for example, which would ring all sorts of alarm bells. The interesting thing about the companies registry is that the abuse by foreigners does not necessarily translate into a UK economic crime issue per se, even though it is something that we also all want to address.

Q132 Dame Margaret Hodge: Indeed, it can sometimes lead to terrorism as well as other crimes. May I ask one short question of you all, and then a longer one? We have talked about the importance of looking at persons with significant control. Do you think that we should reduce the threshold of having a 25% shareholding to 5%? Would that help?

John Cusack: For my high-risk customers, I always had it at 10% in my financial institutions, and 25% for non-high-risk customers, because I really wanted to ensure that I had almost everybody who could possibly be interested in the company or a relationship. I stuck at 10%, but you can always argue it lower or a bit higher.

Thom Townsend: Yes—whether it should be 5% or not, it needs to be lower. There is an argument to be made between 10% and 5%. My sense is that we have a 25% global standard on this because it is a sort of round number.

Dr Hawley: It is really interesting to look at what Jersey and Guernsey are doing on financial crime. They have a 10% threshold, and they are introducing a lot of other very interesting economic crime measures that go far further than we have in the UK, including a failure

to prevent money laundering offence. They also have a measure to forfeit accounts based on a suspicious activity report, so they are really looking at very radical measures in Jersey and Guernsey that will make the UK look quite behind.

Q133 Dame Margaret Hodge: Good. Thank you for that. I recognise that you have all made an incredibly important contribution to the debate, so thank you for that, and for the support that you have given us in developing our thinking. I sincerely mean that. I think we all see the Bill as a start, and we would like to add to it. The pragmatic reality is that we have to prioritise what we add in. For each of you, what are your three top priorities for what could be added to strengthen the effort against economic crime? It is a bit of a tough one. I have a list that is longer than three, but I would be interested in your top three.

Dr Hawley: I would say that that is the easiest. It is a great question and I will jump in, because I have my three. It would be really fantastic if Parliament signalled that its intention is not to pass a Bill that will just stay on paper; it needs to be properly resourced and make a real difference in terms of economic crime. There are three different cost-neutral ways of doing that, some of which you mentioned in earlier discussions. One is cost protection across civil recovery for law enforcement. The US-style system really works. If we want US-style enforcement, we need US-style rules.

Another way is to increase Companies House fees to match the scale of verification that we need. The other way is to invest far more. In the US, 100% of forfeiture goes into a central fund, and local police get up to 80%. We heard earlier that the NCA gets 50%; some police forces only get 18%. We also desperately need to find ways to match the money that law enforcement brings in. Law enforcement brought in £3.9 billion over the last six years. If that had been reinvested in law enforcement, we would have top capability in this country.

There are two other things. I have mentioned AML supervision already. If we could make the Office for Professional Body Anti-Money Laundering Supervision a body that genuinely raises the consistency of supervision across the board while the Treasury works out the bigger picture on supervision, it would make a really big difference. OPBAS could name and shame supervisors who were not performing, and that needs to apply not just to the legal and accounting sectors, but to HMRC and the FCA.

Finally, there is corporate liability reform, which you also referred to earlier. We have been waiting for it. It was in 2015 that there was the first Conservative party manifesto commitment to have a failure to prevent economic crime offence. The Law Commission has now spoken; we have been waiting a long time for it. Ideally, you would have a failure to prevent fraud offence, a failure to prevent false accounting offence and a failure to prevent money laundering offence, but you also need to bring in a change in the identification doctrine for the schedule 8 offences to make this work.

Thom Townsend: Unsurprisingly, verification—the first thing would be to think very hard about whether it is the trusts and service providers sector that we want to do that, to think much more broadly about what other mechanisms are available to us, and to cast the net widely around the world; there is a lot happening.

Secondly, the statements of beneficial ownership and significant control should be verified too. That is a far harder task, because the world has not figured out entirely how to do that. There are some really good examples; places such as Austria are doing good work, but it is largely about using data from across Government to make sure that you can red flag those statements.

Thirdly, we probably also need something in the Bill about having a more permissive data-sharing environment, to make sure that Companies House is getting what it wants. If you look at how the Bill is currently drafted, we have data that is "in the registrar's possession" or "available to the registrar". It is very unclear what that means, and it needs to be much broader than that.

A supplementary fourth point is to think long and hard about how we are using an identity, once verified, persistently in a lifelong way. Australia, New Zealand and India issue unique identifiers to directors—and, in Australia's case, to beneficial owners—for life, which makes the investigation process much more straightforward. There is a lot of good practice out there. We need to look very hard at that and think about how we incorporate it into what the UK is doing.

John Cusack: As far as the Bill goes, I have mentioned one point already, which is the item in relation to beefing up the obligation on the registrar. The second piece is on the information-sharing provision in the Bill—I think it is clause 148. It is a limited information sharing item that essentially requires a SAR to be filed before private information sharing can take place. There is also the exit, pretty much, of the customer, which is potentially problematic. We are going to find that one potential bad actor leaving one bank cannot then open an account somewhere else, but we will also find that innocent people will be involved in that. I would rather have something broader, which allows the detection of unidentified financial crime, whereas, in this particular case, we are going to get identified suspicion being shared, which will potentially lead to some very serious unintended consequences, even though I am very supportive of the provision.

The last thing that I would say outside the Bill is that, ultimately, it is about asset confiscations and asset seizures. The UK is doing okay, but it is not doing anywhere near as well as it should be, and it is certainly underperforming compared with a number of important countries. I will give you one example. Italy not only seizes the amounts that Susan was talking about, but over four or five years it seizes almost £10 billion a year in asset confiscations, because it treats the Italian mafia as a matter of national security and targets its resources accordingly. I would like to see not a change in the law, but the rightsizing of the resources across the piece, whereby they are directed toward the tip of the spear, so that law enforcement FIUs in the UK and asset recovery can be prioritised and targets set, and we get close to the Italians, rather than being where we are today.

Q134 Liam Byrne: Susan, can I ask you to spell out what will happen if we do not align the verification procedures in the Bill with the obligations that currently bite on the AML sector?

Dr Hawley: I alluded to one point earlier, which is that if this is not a registry that companies and people can rely on, it will have been a waste of time and money. I alluded earlier to SMEs particularly not having the

resources and having to rely on Companies House in a way that large companies would not; they would do their own intelligence. It will be bad for business and the business community, and it will be bad for the UK's competitiveness. If you look at our competitiveness rating under the World Economic Forum measures, we are pretty good on quite a lot of things—in the top 10—but for tackling serious and organised crime we are 70 out of 141. That is a competitiveness rating, so it will dent our competitiveness. Actually going for gold standard practice will be good for the economy, and will make us more competitive.

Q135 Liam Byrne: Thom, the registrar's objectives are set out in clause 1. They are pretty woolly. How would you like to see them improved?

Thom Townsend: Objective 4 does really need to say "prevent". It is an objective related to the registrar's functioning. The registrar should be responsible for taking really active and clear measures to prevent criminal activity under its bailiwick.

Q136 Liam Byrne: It currently says "to minimise" the extent to which companies do bad things.

Thom Townsend: That seems like a ridiculously low bar.

Q137 Liam Byrne: My final question is: what is the correct interrelationship with the registries of beneficial ownership that are coming into place?

Thom Townsend: Sorry, what do you mean?

Liam Byrne: We have registries of beneficial ownership for assets and property. We have to try to make it possible for law enforcement to connect companies, individuals and assets. Do you think we have the framework for connecting those three dots effectively?

Thom Townsend: As it stands, no. Some form of this legislation will go a lot further. We need to look at how we are uniquely identifying people. In that case, there is an argument for bringing that ID process in-house so you have clarity around it. You can assign that identifier, which then gets used across the panoply of datasets that law enforcement have in their possession to do that interconnectivity. We run the risk a little bit, as the legislation is currently framed, of creating another island that is a bit better connected but probably will not sit at the heart of the process and be that effective first line of defence that the UK economy should have.

Q138 Seema Malhotra: I want to come back to asset recovery. There is a question about automatic strike-offs by Companies House. Would any reforms to those procedures—for example, for companies that potentially want to be placed in a compulsory liquidation process—be better, and allow for investigation and potentially asset confiscation by insolvency practitioners where those companies may have been guilty of criminal activity and money laundering?

Dr Hawley: Ensuring that companies cannot just liquidate has been incredibly important to law enforcement in the past. I am very sorry, but we might have to get back to you on that because I have not looked specifically at that clause.

Q139 Seema Malhotra: I want to come back to some of what we have heard about Companies House. It feels as if quite a lot of the new functions might be outsourced in different ways. Mr Townsend, you made a point about what could and should be done in-house. I would really appreciate hearing your view on whether more can be done in-house. Is there not a danger that that might weaken the safeguards that we bring in?

Thom Townsend: I think there is a balance between speed and effectiveness. Companies House is fantastic at what it does now—it provides a really good service to register a business quickly, and it is really easy to use—but it has never had to do the kinds of things that we are now proposing it does. It will be a long journey to get from where it is today to the sort of high-functioning all-singing, all-dancing machine that we are proposing.

There is a balance between achieving the objectives of the Bill, and the wider goals of dealing with corruption and countering kleptocracy in the UK. We will probably have to look at some sort of transitional arrangement but, ultimately, we should have a much more aspirational and ambitious vision for what we want Companies House to be in five to 10 years' time, put the resourcing in place, and ensure oversight and accountability to drive that forward and make it happen.

The Chair: Would anybody else like to answer that question? No? In that case, I thank all three members of the panel for their help in giving evidence.

Examination of Witnesses

Oliver Bullough and Bill Browder gave evidence.

3.46 pm

The Chair: We come now to the next panel, for which we have until 4.30 pm. This panel comprises two people, both journalists, authors and experts—if I may put it like that—on the Russian Federation. I extend a very warm welcome to Bill Browder, who is in the room, and to Oliver Bullough, who is appearing via Zoom. Bill, would you like to introduce yourself?

Bill Browder: Good afternoon. Just to correct that, I am not a journalist; I am an activist and author. I am the head of the Global Magnitsky Justice Campaign. Basically, my life for the last 13 years has been the result of the murder of my lawyer in Russia, Sergei Magnitsky. My campaign has taken two tracks. One is to get the Magnitsky Act, which imposes asset freezes and visa bans on human rights violators and kleptocrats, passed in different countries, including the UK—35 countries have the Magnitsky Act.

The second part of my activity has been to trace the $230 million that Sergei Magnitsky discovered, exposed and was killed over. We found that that money was going to 24 different countries, and we filed 16 different criminal complaints. From those criminal complaints, I have had the opportunity to see at first hand who does it well and who does it badly, and let me tell you: this country does it badly.

This country has never opened a criminal investigation into the money laundering connected to the murder of Sergei Magnitsky, even though many other countries have done, and have frozen and seized assets. I hope that we will have the opportunity to talk about why that

is the case, because I think I can make some proposals for the legislation that might cause this country not to be at the bottom of the league table.

The Chair: We will come to the questions in a minute. Oliver Bullough, would you introduce yourself, please?

Oliver Bullough: It is great to be here. I am sorry that I am not there in person. It is half-term and I have the children in the other room, with instructions to be quiet. It is an honour to appear alongside Bill, who I have known for a long time and whose work I have been following since even before he was an activist outside Russia—when he was still fighting corruption inside Russia.

I am a Russia enthusiast—a Russophile. I worked in Russia as a journalist for a long time. I inevitably came across corruption, because it is difficult to spend any time in Russia without coming across corruption, but the more that I investigated corruption and the more time I spent looking into it, the more I realised that it cannot be understood as simply a Russian phenomenon. The money does not stay in Russia; it moves out of Russia and too often it ends up in the UK, where it buys real estate, football clubs and many other things. I have been spending, I suppose, most of the last decade attempting to map how money moves from kleptocratic countries via tax havens and ends up in cities such as London, in order to work out how corruption really works and cut through some of the simplifications that are often used.

Q140 Seema Malhotra: Thank you both for taking the time to give evidence today. I have a broad question for you, because the contributions that you have already made and that I think we will hear from you will really enrich our discussions. Obviously the Bill makes progress on improving law enforcement bodies' ability to identify fraudulent and criminal activity in our economy, but in the light of what you have just said, Mr Browder—on the lack of action that we have actually taken on the Magnitsky issue—where do we need to go further in identifying criminal activity and economic crime, and in seizing those assets? What can we learn from other countries about things that you say the UK does not do well, and where can the Bill be improved?

Bill Browder: Thank you. This is the crux of the whole issue. By the way, it was not just Magnitsky money that was not investigated. We have this problem; since Vladimir Putin has come to power, he and 1,000 people around him have stolen $1 trillion from the Russian people. This has been the largest destination of Russian money laundering. In 22 years since he has come to power, not a single money laundering prosecution has come out of Russia—not one—and we are talking about $1 trillion.

What is going on here? What I have learned is that the law enforcement agencies effectively refuse to open criminal cases unless they are 100% sure that they can win without any tough fight on the other side. Why are they so risk averse in opening cases? It comes down to simple risk-reward for them. Their budgets are very thin, as law enforcement does not have a lot of money, and when they go to court here on any type of civil case—it is not true in a murder case, but it is true in a civil case—if they lose at any point, not just at the end of the case, but at any point procedurally during the case, the loser has to pay the winner's court fees, and there is no budget for that. Therefore, the UK law enforcement agencies will not take that risk.

I have seen it done differently. We presented the United States Department of Justice with the same information. They do not have that problem; they can open a case, conduct an investigation and build their case as they are doing their investigation, and if they lose, nobody loses their job, nobody is bankrupted, and no departments have to go back and beg for more money from the Government. Whatever money they have spent on their lawyers is the money they have spent.

What has to happen here—this is plain as day—is that you have to get rid of this adverse costs issue in a civil case brought by the Government. You could easily write an amendment to the law as it is written, because it is not here right now, to say that if the Crown Prosecution Service brings a money laundering case or an economic crime case, there are no adverse costs. If you make that point, it will change the whole dynamic—the whole risk-reward—for these people.

Q141 Dame Margaret Hodge: You talked about civil cases, Bill, and I think we should publicly recognise the contribution that Bill Browder and Oliver have made in this space—it is brilliant. You talked about civil cases but say, fingers crossed, we get a criminal offence for failure to prevent, what would you do in those cases to ensure that costs do not act as a brake on the enforcement agencies taking action?

Bill Browder: The same thing.

Q142 Dame Margaret Hodge: So you would do it for both civil and criminal cases.

Bill Browder: I was not even aware that in a criminal case, a murder case, nobody pays adverse costs. I am not sure if you bring a criminal case in these other—

Dame Margaret Hodge: I think in a murder case they would, actually.

Bill Browder: Would they?

Dame Margaret Hodge: I think so, yes. I am no lawyer—God, I am looking around the table for a lawyer.

The Chair: When I practised as a lawyer, if somebody was acquitted they would be able to ask for their costs to be paid out of what are called central funds, so the taxpayer would be paying for them, not the prosecuting authority.

Bill Browder: However you want to define it, what I would say is I have seen how it works in other countries and they do not have this issue. Therefore, there is no disincentive to bringing a case. It is just remarkable. In every single aspect of the Magnitsky case, we brought it to law enforcement. We brought it to the National Crime Agency; they refused. We brought the company formation agents that were involved in forming the companies during the stuff connected to the Magnitsky case to HMRC. They never shut down a single company formation agency, even though they regulate them.

Nobody brings any cases at all. There are three possible reasons. It could be the reason I have just stated, which is the most charitable one: that there are economic disincentives. I could also say "incompetence", but I don't want to say that, or I could say "corruption", but I am going to stick with the fact that the economic incentives are not there for them. Whatever the reason is, this country should be ashamed of itself. It is an absolute shame, and nothing will change from this law unless there is actual law enforcement. What can we put in place so that the laws are enforced? At least get rid of the economic disincentives.

I will add one more thing, which is that in countries like the United States, if the Department of Justice wins a forfeiture case, they get the money and then they can fund future investigations from that money. When you are talking about a budget of the prosecution service being several billion pounds, you win one big case and you could fund the entire prosecution service.

Q143 The Chair: Mr Bullough, do you want to answer those questions as well?

Oliver Bullough: I agree with Bill that the UK has a shameful record when it comes to its failure to investigate and prosecute financial crime. I would add, however, a fourth explanation to Bill's list of potential reasons why that is not happening. For many years or perhaps many decades, there has been a belief in Britain that making things as simple as possible is good for business—the idea that it is simple and cheap to set up a business and better to have less regulation than more regulation is invariably good for Britain's business climate.

Alison Thewliss mentioned Scottish limited partnerships earlier. We saw this phenomenon when Scottish limited partnerships were discussed in the House back in 2017 after the exposing of the Moldovan laundromat. There were suggestions by her colleague then—the SNP's Treasury spokesman, Roger Mullin—about trying to tighten up the rules around SLPs, but they were torpedoed by the Treasury because of concerns that that would lead to investment funds having to spend extra money on meeting regulations.

I believe the estimates for each fund would be between £14,800 and £27,600 per investment fund. That is the cost supposedly to the UK economy. If you compare that to the cost of fraud to the UK economy, which is estimated by the University of Portsmouth at approximately £130 billion, you see how absurd it is to be worried about saving £14,800: we are faced with a problem that is costing us more than £100 billion.

The cost of fraud, which is rampant—40% of known crimes—is a huge tax on businesses and individuals in the UK. It is made possible by the fact that we have been failing for so long to do anything about economic crime. If you look at that quantity of fraud, as estimated by the academics in Portsmouth—there are higher estimates—it is equivalent to about a fifth of the total tax take. It is like adding another VAT to the UK economy, or twice as much again as all taxes levied on corporations. That is the cost of economic crime on the British economy.

There has been a philosophical failure to realise that making things easy is not always good. At some point, you are making things so easy for criminals that you are essentially making things difficult for honest people. In this case, by adding regulation we will be deterring criminals and therefore making things easier for honest people. That is something that, for far too long, people in public life in the UK have failed to realise.

I am here talking only about the effect on the UK. On top of the cost of fraud to the UK, hundreds of billions of pounds are laundered through the City of London every year; that is the National Crime Agency's estimate. It clearly a guess—a round number—and it could be more; it could be less. That is money being stolen by criminals, drug traffickers and kleptocrats, and laundered through the UK. They are keeping this money. Essentially, it is being taken away from good people and kept by bad people. If we could stop this happening—instead, confiscate the money and keep it for ourselves or return it to the people it is taken from—it would be what is called in rugby a 14-point swing. We would be taking it away from one team and simultaneously giving it to the other one.

I agree that the three suggestions that Bill made for why the UK has been so bad at fighting economic crime are all possibilities, but my favourite fourth one is that we have been simply philosophically failing to understand why economic crime is a problem. This Bill is a real opportunity to do something about that. I was listening to some of the earlier panels; I would like to second what was said by almost everyone, which is that a new law is very good, but a new law is definitely not enough on its own. We need far more resources for Companies House, the National Crime Agency, the Met, the City police, the Serious Fraud Office and all the police agencies to be able to use this Bill.

As I understand it, the funding per officer at the National Crime Agency is estimated at one third of their counterparts at the FBI. Leaving aside the fact that there are far fewer of them, just per officer they are funded at a third of the level of the FBI. If we want them to be able to do the same job that the Bill is talking about, and that American prosecutors and investigators are able to do, we need to fund them adequately. We should at least be funding them as well as their colleagues at the FBI if we want them to be able to do as good a job.

Q144 Jackie Doyle-Price: It is partly about powers and laws. It is partly about resource, but fundamentally it is about the behaviour of the regulators. Mr Browder, some of the things you alluded to earlier would be about informing those behaviours. Coming back to the extent of laundered money that goes through the City of London, to what extent do we need to make sure that we are driving behavioural change within the institutions through which these monies are being routed?

Bill Browder: People are very simple: they operate on the basis of rewards and punishments. There are big rewards for people in the City of London to launder money. Banks make money off transactions and accounts and so on. Company formation agencies make money off selling directors and forming companies. Lawyers make money setting up these structures. There is no consequence if they are involved in in dirty business—none. Nobody faces any consequence.

What we have just seen at Companies House is remarkable: thousands of companies being registered for no commercial purpose other than to launder money. These companies then set up foreign bank accounts. We

know who the directors are. Some of the directors are UK citizens. The company formation agencies are UK company formation agencies. We report it to the police, and nothing happens. If nothing is going to happen, then you are not going to change the culture.

America has the Foreign Corrupt Practices Act. Most American corporate executives do not want to be prosecuted and therefore do not make bribes abroad. Austria does not, and so they do. We are in a situation where there is no consequence for doing any of this type of stuff. It does not matter what is written in this law; it does not matter what was written in the previous law. There was a great law passed called the unexplained wealth order. It is a beautiful law, which solved a huge problem, which is not having to get evidence from the bad guys in the kleptocrat countries, and just using the evidence that we have here. We have used it in four or five cases, and most of the cases have actually been on behalf of dictators going after their enemies. We have a total failure of law enforcement. It probably should be studied as a separate issue: why is law enforcement not doing its job? Why is it failing?

You can write as many great laws as you want—there is some good stuff in this law, and good stuff in the previous laws—but if no one is going to enforce it, then you are never going to change the risk-reward and people are going to carry on doing stuff. All this will continue, and I will sit here 10 years from now making the same allegations about how this is a centre of money laundering.

Oliver Bullough: I would like to agree with everything Bill just said. People are more or less rational: they act according to their incentives. We can try and change the culture in the City of London as much as we like but, essentially, if there is no prospect of being arrested, prosecuted and jailed, or at the very least given a large fine, for committing these kinds of crimes, then someone will always be available to commit them because the reward will be sufficiently large and there will be no downside.

I gave a talk to a school a couple of years ago. One of the kids had been sitting silently throughout, and he put his hand up and asked me at the end, "Yeah, Mister, if you know all this about money laundering, why don't you just go and do it?" I still do not really know the answer to that question, because there is no real reason not to do it. It is a gimme of a crime. You are 99.9% likely to get away with it.

What is particularly frustrating is that when we have prosecuted fraud and put resources into prosecuting fraud, it not only pays for itself, but is a huge profit centre. We saw that from Lord Agnew, who ran a small anti-fraud office from the Cabinet Office during the covid pandemic. He had a small anti-fraud budget that returned tenfold the amount of money that was paid. It is a complete no-brainer to go after this money and these crimes. We would be benefiting the country in every way.

I agree with Bill; it is very frustrating to hear talk about changing culture, when what we really need to do is to change people's incentives. The way to do that is to enforce the laws that we have.

Q145 Tom Tugendhat: Mr Browder and Mr Bullough, thank you very much for coming. We have spoken about these issues at the Foreign Affairs Committee, which I used to chair. In the past, we have consistently covered the need for transparency. I hope you will agree that the Bill demonstrates a desire to be much more transparent. I hope you will also agree that many of the anti-money laundering provisions go much of the distance towards addressing the concerns we have raised in the past.

We will be listening for further ideas in the future, but do you agree that the Bill at least sets out the first steps to where we really do need to be going to make sure that the crimes begin to be prosecuted? Just to answer your question, Oliver, the reason you do not launder money is that you are and remain a person of integrity; sadly, you are not very rich for it, but there you go. That is the price.

Bill Browder: I have never had any trouble with the laws as they are written here. We probably do not even need this. It is a great law—congratulations; I applaud you on putting it together. It is 252 pages of mind-numbing stuff—

Tom Tugendhat: Of detail, Bill!

Bill Browder: It is great. There is no problem with the actual legislation. This is a rule-of-law country, and the laws have been written, and continue to be written, very well. There is just a huge disconnect between that and the enforcement.

I would add one little detail, if you want to get into the nitty-gritty. We have seen that UK companies are used abroad to set up accounts—this was mentioned by Dr Susan Hawley and perhaps one other—because it looks legit to have a British company with a Cypriot or Latvian bank account. Somehow, when you get a transfer from a British company with a European bank, everything then—that is how these people get away with it.

I would therefore add one small provision to this law, which is easily done. When people are setting up their companies, they should have to disclose, on an annual basis, where they have foreign bank accounts. If you were to do that, then every anti-corruption investigator could go around and start looking at that. I do not think that it is a huge additional disclosure requirement. People have to disclose their income, expenses and so on, so why not disclose where they have bank accounts?

Q146 The Chair: Mr Bullough, do you want to join in on that?

Oliver Bullough: I think it was Samuel Johnson who said, about a dog walking on its hind legs, that

"It is not done well; but you are surprised to find it done at all."

I am happy that the Bill exists; I was happy that there was another one earlier in the year. I would prefer it, however, if Parliament sat back and, instead of passing two fairly minor economic crime Bills in one year, put them together into one with all the other things that desperately need doing, take a long time over it and, when passed, really ensure that the law, as passed, is enforced.

Bill mentioned unexplained wealth orders. Those were a fantastic idea—perhaps hugely overhyped when they were brought in, but a great idea—and a real potential silver bullet for tackling top-end economic crime by both organised criminals and kleptocrats. Sadly, after

the failure of the case against the daughter of the former President of Kazakhstan, they have not really been used at all. That is because the National Crime Agency does not have the money it needs to do the job, and that is because politicians have not sufficiently prioritised fighting economic crime. That is where the money comes from.

Yes, by all means, it is good to have another Bill, but I would far prefer to see the existing laws properly enforced by properly-resourced law enforcement agencies with continuous political support than have another Bill. I say that as someone who has been banging on about the problems with Companies House for absolutely ages.

Q147 Dame Margaret Hodge: I would say, Oliver, that we need both. It is not an either/or, and if we can amend the Bill with even more powers, we can hopefully get even closer to that.

I want to deal with another issue, since you are both Russia experts. There is a mood across the House to tackle the issue of seizing Russian assets as well as freezing them. I know that you have both been working in that space, so could you comment on that? How do you think it could be done, do you think it is a good idea and how much is at stake, to the extent that any of us know the figures?

Bill Browder: Shall I go first, or do you want to, Oliver, since I have been hogging the first response?

Oliver Bullough: No, Bill, you can go ahead.

Bill Browder: We are on our third Prime Minister in seven weeks; there is an economic crisis going on; the purse strings are tight. There will be pressure here not to send as much money to Ukraine because we are worried about our money at home. There is also pressure in the United States. Some 30 Democrats wrote a letter to Biden saying, "Let's just settle this thing and give the Russians what they want"—or something along those lines—"and not spend this money." There is also pressure from the Republicans on the other side, saying, "No blank cheque for Ukraine".

We also cannot let Ukraine go, under any circumstances, because, if we do, Vladimir Putin will be knocking at the door of Estonia or Poland. Therefore, how do we pay for it? Ukraine needs the money and the military equipment. Well, let us let the Russians pay for it. It is a simple thing: the Russians have started this war, created all this conflict, caused all this destruction and killed all these people, and we have $350 billion of their central bank reserves frozen, as a first step.

Why are we not using that money to support the Ukrainians? There are people who say, "That's never been done before, and therefore we shouldn't do it." I would argue that it is pretty straightforward. In Parliaments around the world, what do you do? You make laws. If it has not been done before, make a law so it can be done. It is not a legal issue; it is purely a political issue. Should we dig into our own pockets, or should we let the Russians pay for their own war? We should start by letting the Russians pay for their own war.

I am having the same conversations elsewhere. I was just in Canada, speaking to the Canadian Parliament, last week, and I have been speaking to the US Congress. It is a no-brainer. It is a more complicated issue when you start going to the oligarchs, because you have to prove that somehow they are connected to the Government. But when it comes to the Government themselves, $350 billion is being held right now by the UK, the EU, Canada, the United States, Australia and Japan. That is an easy way to solve this financial problem and help the Ukrainians win this war.

Oliver Bullough: I would like to add to that. One of the reasons why it is complicated to take money away from oligarchs is that, once the money is here, it benefits from the rule of law that we have and so on. It is always harder to take egg out of a cake once it has been baked. It would have been a far better idea not to allow the money to come here in the first place. The lesson I would like to see learned from the current Ukraine crisis is that it is far more cost-effective and efficient not to allow kleptocrats to launder their money through the UK in the first place. If we do not support kleptocratic networks, those networks will not survive. They will not be able to come to such strength and vitality that they threaten their neighbouring countries.

Yes, it is important to confiscate Russian money to return it to Ukraine. Yes, it is important not just to freeze but to seize oligarchic property. But it is also important to put in place the powers, and particularly the law enforcement structures, that we need to prevent more kleptocrats from coming here. Next year, it might not be a threat coming from Russia; it might be a threat coming from China or somewhere else. We would find ourselves in exactly the same situation: trying to work out what to do with money that we had frozen when, if we had not allowed it here in the first place, we would not even have to have this discussion.

Q148 Dame Margaret Hodge: I think we all share the frustration that there are existing powers, and hopefully a few new ones, and they are just not implemented. We have discussed whether that is because of a fear of costs coming back to us, or because of the lack of funding for the enforcement agencies.

Let me put to you another issue. If we strengthened accountability, those working in the Executive agencies might work a little harder at putting into effect the laws that we parliamentarians pass. Bim Afolami has an idea of establishing a Select Committee of the House that would look at the regulators—the enforcement agencies—and could ask for individual cases to be heard by the Committee in private, to see whether there are systemic issues at play, which could lead to public reporting on those issues.

That is one idea. There are others around. Do you think the lack of accountability, particularly for the enforcement agencies, could be a contributing factor to the fact that we just do not do enough—that we do not use our existing structures enough—even without the money and even with the cost issue?

Bill Browder: I think so. This is not the first time I have had this conversation with Members of Parliament. I have been in front of many Committees—the Home Affairs Committee, the Foreign Affairs Committee, this Committee and others—to talk about this lack of enforcement, and I have talked with many Members of Parliament. There is no disagreement with me. Every political party supports the idea of not having London be the money laundering capital of the world. I think everybody agrees. Many good Members of Parliament have put pressure on different Governments, put questions to them and had conversations, and I have seen many Government Ministers agree. Then, all of a sudden, we

get to this total disconnect: law enforcement cannot be instructed by Parliament or the Government to open or pursue a criminal case or explain why it has not done so. It is living in its own world.

The only thing the Government can do is replace the people in executive positions in law enforcement; that is the only sanction. There has to be a better way. There are arguments about not wanting to politicise law enforcement and I totally sympathise with those, but at the same time if it is completely failing it needs root-and-branch reform—whether parliamentary oversight, Government oversight or some other mechanism. It is just failing and it has continued to fail in a way that is totally unacceptable. I would hate to be sitting here a decade from now having the same conversation.

Q149 Alison Thewliss: Can I ask Oliver first whether the Bill could do more to deter the abuse of UK corporate structures such as limited partnerships, including Scottish limited partnerships, and shell companies? What more would you like to see in this area to deal with this issue? In your book, you talked an awful lot about the use of such structures for property and other things. Can more be done here?

Oliver Bullough: It is probably fine. Hopefully, if things are actually enforced and Companies House is given the money it needs to do the job and it is ambitious about that, this may work. Personally, I would like the threshold for a person with significant control to be reduced significantly: perhaps to 10% or 5%. Perhaps there should not be a threshold at all, but if you control you need to declare it.

The Bill is potentially an improvement. I still do not think it is the kind of root-and-branch re-evaluation of Companies House that we need. An amazing variety of corporate structures are available in this country. I do not think anyone has stopped to say, "Do we really need limited liability partnerships and limited partnerships? Why do we have both?" Does anyone stop to think about why they exist at all? Limited partnerships were created as a bit of a strange afterthought back in 1906 anyway. Why do they even exist?

I would like to see discussions like that, personally, but as it stands I think that bit of the Bill is probably okay—certainly if it is enforced properly. If there were an Oliver Bullough-ocracy, there would be all sorts of different changes to how companies could be used. I would not allow people to use foreign companies to own UK property at all; you would have to own it via British companies if you wished to use a company. But that is not going to happen so it is silly to talk about it.

On Margaret Hodge's point, in the Oliver Bullough-ocracy I would definitely like to have something similar to the Senate's Permanent Subcommittee on Investigations, with the power to investigate whatever it likes and do really forceful, well resourced investigations into Government agencies or anything at all. That would really help to cut through some of the failures to understand why the failures are happening and to really bring accountability to these bodies, which have been able to hide behind the lack of oversight for a long time.

Q150 Alison Thewliss: What more would you do to tighten up the company verification scheme proposed for Companies House? Would you put in place more measures to make sure that those registering companies were real people at real addresses?

Oliver Bullough: I heard the Companies House official talking earlier; I did not join at the beginning so I did not catch his name. He was saying that there would be difficulties with resourcing the verification of all that, particularly when it comes to the issue I wrote about recently in my newsletter, about what I call "offshore shell people"—people essentially acting as a kind of shell company. It is noticeable that while the number of offshore companies owning property in the UK has flatlined over the last decade, the number of people with overseas addresses has increased by 250%. Clearly, scams can always be used and things are always coming in. Making sure that Companies House can have the resources to do all that is a tough ask.

This is perhaps stretching way beyond what is in the Bill, but I am not sure that it would not be a good idea to have what the British Virgin Islands has, which is that an ordinary person cannot just file things with Companies House; they have to go via a lawyer or another registered professional. I am not sure that that would not be a bad idea, because then you would not have this issue at all of people being able to log on.

Just to show how absurd it is, I was at a conference the other day and a participant from Canada could not believe me when I said how easy it is to file things at Companies House, so we logged on together and she created a company then and there. She is a tax consultant; there was no "tax consultant" option on the dropdown menu, so she called herself a taxidermist. That is how absurd the system is. There is a lot of scope for improvement before we need to worry about fine-tuning the details.

Q151 Alison Thewliss: Thank you. Bill, is there anything that you would like to add about how Companies House is being abused and what could be tightened up there?

Bill Browder: One of the things we have seen is that the same individuals—these money launderers—will find a drunk Latvian person, get their passport and then register them in hundreds and hundreds of companies. If those companies get shut down, then they can register them as the directors of other companies; they then become directors of those companies.

Why is it okay to have a person be a director of 400 companies? That does not make any sense to me. Why should there not be some limitation—maybe 10? Ten companies is a lot of companies—but 400 companies, or a thousand companies? That limitation would be an easy thing to put in here, and that would make it harder for the criminals, because there are not that many people who are ready to give up their passports to do money laundering. The number of people who are involved in this is quite small when you actually look at it, because most people do not want their names being used for these terrible schemes.

Q152 Alison Thewliss: You also have multiple companies —in the hundreds—registered to single addresses. Would that also be an issue that you would like to see tackled?

Bill Browder: In theory, yes. This whole post-box idea just lends itself to anonymity and so on. Why do people not just register their companies at their own home or their own business address if there is a legit company? What is this business with 2,000 companies in one strange industrial park in Glasgow?

Q153 Alison Thewliss: And Scottish limited companies have been used for various—

Oliver Bullough: I did an investigation a while ago and there was a woman who was a director of four companies, I think, despite the fact that she had been dead for five years. Clearly, someone had been using her signature to sign off on the companies, and that is clearly a misuse of information. Clearly, that is falsifying company information and is already a criminal offence. Despite the fact that I had written about it, nothing was done; no action was taken. As I say, there are a lot of easy wins here before we need to worry about the details.

Q154 Alison Thewliss: I want to ask about Scottish limited partnerships, the implication being that they are used in sanctions-busting and various other things to do with the war in Ukraine and Russia's activities around the world. Does that misuse cause a reputational damage to the UK and to Scotland?

Bill Browder: Well, Scotland is so dwarfed by London that you do not have to worry about your reputation, because the reputation is so bad here that no one will even be paying attention.

Q155 Seema Malhotra: Coming back to law enforcement, the Bar Council has suggested that the new regulatory objective that the Bill will add to the Legal Services Act 2007, focused on promoting the prevention and detection of economic crime, is incompatible with barristers' duties and may confuse the role of lawyers. What is your view on that?

Bill Browder: I have written a whole book about this. The bad guys in Russia are a big part of the problem, but you cannot export this type of corruption and money laundering unless you have somebody doing the importing. And who is involved in the importing? It is the western enablers—the lawyers.

I have had shocking experiences with western law firms that are benefiting from this. If there were some kind of duty whereby they had to actually look into the source of their funding or the legitimacy of the business, I think that would be an extremely powerful thing, if it was actually enforced. There is a whole other long discussion of law that one could have about the role of western enablers, and particularly the lawyers.

The Chair: I am afraid that under the rules that we operate on, I have no discretion to allow this very interesting sitting to continue, so we have to finish. I thank both our witnesses for a really fascinating sitting. Their great insight and knowledge on this subject has been of immense value. Thank you very much indeed.

Dame Margaret Hodge: On a point of order, Sir Christopher. May I ask whether our proceedings are covered by parliamentary privilege?

The Chair: The answer to that is yes, they are, but it should not be abused.

Examination of Witnesses

Professor John Heathershaw and Thomas Mayne gave evidence.

4.30 pm

The Chair: We now come to the ninth panel. We have Professor John Heathershaw from the University of Exeter appearing via Zoom and Thomas Mayne from Chatham House. Good afternoon. I am going to ask Professor Heathershaw, first, to introduce himself briefly.

Professor Heathershaw: My name is John Heathershaw. I am professor of international relations at the University of Exeter. I work on aspects of money laundering related to post-Soviet political elites.

Thomas Mayne: I am Thomas Mayne. I am a research fellow at the University of Oxford and a former visiting fellow at Chatham House. I am one of the authors of "The UK's kleptocracy problem", a report we released at Chatham House in December.

First, by way of very quick introductory remarks, on the day we launched the report, the then Foreign Secretary, Liz Truss—how time flies—was also speaking. That was a nice coincidence. She was asked about our report and her response was that the UK has the strongest money laundering regulations and laws in the world. As we have heard today, we could debate whether that is true or not; there is some evidence to suggest that it is. However, as we have heard a lot today, without enforcement, laws are useless.

Secondly, I am an expert in kleptocracy and anti-corruption measures. Kleptocracy and money laundering are two slightly different things, and I hope we will get into some of the differences today.

Q156 Seema Malhotra: Thank you for coming to give evidence to us. I have two questions for the panel. First, we have heard about weaknesses in the UK's anti-money laundering supervisory system. I think the estimate from OPBAS was that last year only 15% of supervisors were effective in using predictable and proportionate supervisory action. To what extent do you think the Bill is bridging the gap to where we need to be? In your view, how do we compare with our allies across the world on this matter?

Secondly, would you expect kleptocrats, in the light of this regulation, just to move their assets to unregulated sectors? Are we going to have the protections we would want for Britain, or are we in danger of seeing some of the behaviour simply displaced?

Thomas Mayne: First, on supervision, I do not think there is enough in the Bill. The findings of OPBAS—that the risk-based approach we have put in place really is not working—are quite shocking. What is the solution to that? I know that Dr Hawley was here earlier; Spotlight on Corruption has just released a report on the supervision of the legal sector. There is a debate in that on whether there should just be a single sector supervisor, which is something we should look at.

Generally, I think supervision is lacking and it is very uneven. Across sectors, we are seeing very different layers of enforcement actions. For example, I think the Council for Licensed Conveyancers—obviously, it deals with real estate, which, as we know, poses some of the highest risks for money laundering—produced zero enforcement actions in a three-year period. There are varying levels of not only supervision but enforcement activity. That is definitely something that we should look at that is not really in the Bill. John, do you want to say anything on that question, before we move on to the second one?

Professor Heathershaw: I think the accountability question pertains to parliamentary supervision of those regulatory agencies. As I understand it, there is nothing in the Bill to enhance that. There would be scope for a specific cross-departmental parliamentary Committee

in this area, I think. As we know, money laundering crosses different Departments, so greater accountability for poor performance by the supervisors could be tackled through that kind of oversight.

Thomas Mayne: Was the second question whether we are worried about capital flight from the UK?

Q157 Seema Malhotra: No, it was to ask whether, unless we perhaps look at making other sectors regulated, you would expect kleptocrats who are abusing our economy to just move their assets in the light of this regulation, if it starts to make it harder, to unregulated sectors. Some of that could be unregulated sectors of the crypto economy, and it might be other sectors as well.

Thomas Mayne: That is certainly a risk. We are way ahead of the game, in some respects, in terms of which businesses we regulate. I know that there is an ongoing discussion about whether PR agencies should have regulation. I am not an expert on crypto, but I think we should look at bringing it into the existing regime where, if there is a suspicion of money laundering, you have to report it by law.

Professor Heathershaw: To add to that, it is not simply a matter of liquidating assets to move them into other denominations or unregulated sectors. The nature of money laundering is that it is a social and political phenomenon as well. It is about achieving a place to stay where you can protect your assets through the rule of law, and maybe gain some social influence, get your kids into school, and use your residency to garner a wider profile and clean up your reputation. That means that the property and bank accounts are hugely important; they will not just be liquidated overnight.

When we are talking about the kind of money laundering that Tom and I look at by political elites and those from kleptocracies, they are seeking to gain a whole set of goods that you cannot simply get through putting all your assets into crypto, or into a more loosely regulated jurisdiction such as Dubai. There are certain things that the UK, and London in particular, offer that will not simply fall out of the way in a beggar thy neighbour, "Well, we'll just move ourselves into a sector or jurisdiction that is loosely regulated," way. I do not think that that should cause us to worry about losing market share, or the problem shifting into another sector, because the problem will always remain in the legal and regulated sectors that are our principal concerns. They will always be there, too.

Thomas Mayne: I have one thing to add on real estate. We now have the registration of overseas entities as part of the previous Act. It will be fascinating to see what happens in January, when the deadline comes in, with the existing properties that we know are owned by oligarchs or kleptocrats, and what kind of information they put on record. It is not a magic bullet. One problem with the ownership of property is that we will not, and should not, have a searchable database where we put in somebody's name and see whether they own a property in the UK. It does not work like that, so there may be other properties that are perhaps owned by proxies. Those proxies will have their name on record as the so-called beneficial owner, but they will not be discoverable because we do not know about them, and we do not know that proxies are being used. What will be interesting is, as I say, what information will be revealed about the properties that we do know by January.

Q158 Jackie Doyle-Price: Mr Mayne, you have endorsed what we have heard from the previous panel and to some extent the one before that, which is that rules are one thing, but that unless we enforce them, they are meaningless. You said that in the context of money laundering. In the Bill are quite significant reforms to Companies House and limited partnerships. To what extent are they important tools in the armoury, if your starting proposition is that enforcement is the weakness?

Thomas Mayne: Transparency is incredibly important. We know that, and we know that what has happened to Companies House in the past 15 years is ludicrous. We have heard examples of that today. We are one of the first countries in the world to have a beneficial ownership register, and I think that the Bill will take us to the next stage in verifying the information that is put on to Companies House, but, as Dr Hawley said earlier, will we still be able to rely on that information? There is also a risk that it just becomes another layer of what we might call zombie transparency. We have all this data, but so what? If it does not lead to enforcement actions or to people who are breaking the rules and submitting false information being penalised—sanctioned, fined, jailed—it will be all for naught. It needs to be accompanied by robust enforcement action. We have heard that from many speakers today.

Q159 Jackie Doyle-Price: But it will provide the foundations for that.

Thomas Mayne: Absolutely. If we take the PSC register, which has been in for a few years now, we can point to that and say, "This person has to be the controller of that company. Why is this person living in a shed in Siberia when £100 million is going through their company?" Before the PSC register, we could not say that. Now we have verification procedures coming in, we should be able to say that somebody at least—Companies House or whoever—has checked that this person is real and is the person they say they are, in terms of the information submitted to Companies House. We should definitely have this, but it is only the first step.

Professor Heathershaw: To emphasise that point, we know that even where there is transparency—even where we know the money is going—there is an enforcement gap. For example, Tom and I obviously work together, and we have provided your Committee with two of our most recent reports: one on unexplained wealth and one looking comparatively at the Dariga Nazarbayeva and Zamira Hajiyeva cases, in which we demonstrate that the reason why one failed and the other succeeded was simply the incumbency status of the two. The one who remains in power, has a good relationship with the law enforcement authorities back home and has privileged access—one might argue, an unfair advantage there—is able to defend themselves against that measure.

Unfortunately, the UWO reforms that came through earlier this year in the Economic Crime (Transparency and Enforcement) Act 2022 do not fit that part of the problem. It is also part of a bigger problem. When we look at our dataset of £2 billion-worth of properties in the London and the south-east—included at the end of the Chatham House report, the blue one that you should also have—we find that the 73 cases of incumbents, the people who remain in good favour in the kleptocratic states from which they come, get to retain their properties, but 13 out of the 15 cases of exiles, of those who have

fallen out of favour, lose their properties. That is not explained by exiles being more corrupt and incumbents less corrupt, so there are problems there around enforcement.

That means, effectively, that however much transparency we have, the measures that are being adopted are not really introducing rule of law at all, because what determines the outcome for people—whether they get to keep their property—depends on whether they are in political favour back in the kleptocratic state. That is a real indictment of the way in which the UK system has hitherto functioned. It shows the limits of what transparency can achieve. As Tom mentioned, with this Bill the UK will be a gold standard of transparency across the world, but it will still lack in terms of accountability and enforcement. That is the real challenge.

Q160 Jackie Doyle-Price: So transparency will have no teeth without greater focus on enforcement.

Thomas Mayne: Yes.

Professor Heathershaw: Yes, I would agree with that statement entirely.

Q161 Alison Thewliss: I will pick up on a couple of the recommendations from the "The UK's kleptocracy problem" report. You were calling for the investigation of and penalties for those who submit fraudulent information to Companies House. Would you like to see Companies House doing that retrospectively with the new powers that they take, by actively going back through that register to prosecute people who have submitted fraudulent information in the past?

Thomas Mayne: I think so. Where do you cut it off? It certainly should if there have been large-scale, egregious actions. Oliver mentioned somebody registering companies in the name of a dead person, and I found an example of that in an investigation years ago. People should be penalised for really fraudulent misuse and prevented from registering companies again in the future.

Q162 Alison Thewliss: Should there be limits on the number of companies a person should be a director of, or registered at a particular address?

Thomas Mayne: On the point about directors, there certainly should be; it is crazy that you have these people with 1,000 companies. I am not sure on your point about addresses. If you are an investigative journalist or a freelancer and you do not want to register a company with your home address, for example, or if you are the PSC and you have your name on the company, is that enough? Perhaps there needs to be some provision about having an office where you have to physically be and sign your name. I am not sure about the proxy address, but certainly, on your point about proxy directors, limiting the number would be a good idea.

Q163 Alison Thewliss: You talked about persons with significant control and whether or not they are really the person controlling that company. There has been only one fine issued to somebody for not registering a person of significant control for Scottish limited partnerships since that was brought into force. Do you think a lot more needs to be done to interrogate those persons of significant control, and assess whether or not they are accurate and the filing has been done properly?

Thomas Mayne: I think so. Obviously it is difficult with PSCs, because I can say I am the PSC of a company and there could be an agreement written in a safe in Liechtenstein somewhere that says it is actually a Kazakh politician or whoever it may be. Certainly, there are probably egregious examples where it is clear that the person is not the PSC. You can do some research on them. There have been some examples today where there is clear evidence that the person is not who they say they are. Yes, there need to be fines, and the fact that there has been only one so far again goes to the point on lack of enforcement over fraudulent information submitted to Companies House.

Q164 Alison Thewliss: You talk in the report about AML controls. Would it be useful to have Companies House be an anti-money laundering supervisor in its own right?

Thomas Mayne: Possibly; maybe that would overburden it. There are already talks, with the verification coming in, about ramping it up.

Q165 Alison Thewliss: In the sense that the trust and company service providers and other supervisors are not doing their job properly, so that would stop those who are registering directly.

Thomas Mayne: It is an option.

Q166 Liam Byrne: One of the ironies of this Bill is that it is called the corporate transparency Bill, but it says very little about two kinds of people who maximise corporate transparency. One is whistleblowers and the other is journalists, or indeed writers of think-tank reports. That is a shame, because we have courts in this country that are being systematically used by rich individuals to silence journalists and sometimes think-tanks. I can speak under privilege in this hearing, so I can talk about Dmitry Leus forcing Chatham House to amend one of its reports, and I can talk about Chatham House agreeing to that because it did not want to confront the legal bills entailed in going to court with Mr Leus. If we are serious about corporate transparency, should we not be introducing anti-SLAPP measures that would enable a judge to throw out a case that was transparently focused on trying to stop people revealing the truth?

The Chair: Before you answer that question, is this question directed to that action in relation to measures in the Bill? I hope it is, because otherwise it will not be in scope.

Liam Byrne: Yes, it is a gap in the Bill.

Thomas Mayne: Absolutely, and many thanks for bringing up the case. As you mentioned, none of the authors had any say in the matter and we did not think it was justified, as the evidence we put in the report is entirely accurate. This is a perfect opportunity for some kind of anti-SLAPP legislation to be put in the Bill. Dame Margaret spoke at a recent debate with David Davis; some other examples were given there. If we do not put it into this Bill, will it just be mothballed and we miss our chance? Meanwhile, more journalists are being threatened, and a lot of information is not being put into the public domain because of the threat of a SLAPP. The Bill is related to transparency, as you say, so is there an opportunity to put that sort of measure in the Bill?

Professor Heathershaw: Obviously, I would agree with that. Our report has been subject to these issues. We have also seen many threatening letters over the years. I think it is fair to say that we are some of the leading researchers in the UK on this specific area, at some of the UK's leading universities. Professionally, it is shocking for me to find that we could be subject to such aggressive letters. The risks were so great, simply because the costs could not be limited.

I think there is a need to introduce a merits test early on to dismiss litigation. I think there is also a need to cap the costs for defendants, because at the moment you have to get very expensive libel insurance to protect yourself, which can be very difficult. Even then, there are huge costs involved.

The question about whether there should be specific legislation from the Ministry of Justice is interesting. At present, that has not been tabled to Parliament and so the opportunity that presents itself—to amend Bills, to provide certain measures, to introduce costs—would definitely be within scope. When you see these cases, many of the people from outside a Government service who have given evidence today—I am sure Oliver Bullough or Bill Browder would speak to this themselves—have been subject to those actions for things they have written that are entirely accurate and in the public interest. In that sense, such a measure is within scope.

It is also within scope because money laundering of this type is always accompanied by reputation laundering, which means seeking to clean the public record of questions about your sources of wealth and misdeeds of the past. It is very much within scope and it would be great for the Bill to consider things like a merits test and a cost cap for defendants in defamation counter-claims.

Q167 Dame Margaret Hodge: Can I follow that up? I am grateful to Liam for raising this point. I think it is in scope. The case in relation to Chatham House is shocking, because of the cost to you as an organisation, which you will have to bear personally. It is particularly concerning that in the case of a journalist like Catherine Belton, whom we are seeing on Thursday, six or seven attempts were made; Charlotte Leslie, who was a Member of Parliament, is also being challenged, as are existing Members of Parliament. You are the experts on kleptocrats. This reputation cleaning, or protection of reputation, that they go in for, is an element that we had not really studied in detail before, until it all hit us individually. Do you have any other ideas? We think it is within scope of the Bill. We think there are clauses that have been developed that could quite easily be added. Is there any other action that you think we should take?

Thomas Mayne: I mentioned earlier the PR industry. I think there is a debate going on, following the Russian invasion, about whether there should be transparency over who you represent. Should it be put on record and in what sense? There are membership organisations in the PR world, but you do not have to sign up to them, so there is an internal discussion going on about whether that should become mandatory. Do you somehow put PR under the scope of money laundering regulations? Maybe that is going too far, but some kind of oversight and transparency of such PR agencies, who sometimes represent the kleptocrats and use their wealth to threaten journalists, should certainly be considered.

Professor Heathershaw: It is my understanding that there was a consultation on a foreign influence registration scheme under an earlier, different Home Office Bill. That is where you may have something equivalent to what the US has in the Foreign Agents Registration Act. If you are looking specifically at kleptocrats linked to foreign regimes, or who are themselves part of foreign regimes, PR agencies are working on their behalf to clean their reputations, potentially in a wider public realm with public institutions, and, of course, to specifically target Government officials to potentially donate to political parties—a non-British citizen can do that while retaining overseas citizenship.

Those things would be in scope of a foreign influence registration scheme. Again, that crosses over into the territory of the Bill. It has previously been proposed as part of another Bill, but I think it is very much needed for the PR industry.

Q168 Dame Margaret Hodge: Under privilege, Liam Byrne, David Davies, Bob Seely and a whole range of us have raised issues of kleptocracy not just in Russia but in other jurisdictions such as Azerbaijan and Kazakhstan, on which I have had debate—I think Liam has probably had debates on other areas. It is very frustrating that only under parliamentary privilege can we get a public airing of some of the examples of individuals stealing money from their people and then laundering it in other jurisdictions to buy themselves football clubs—as someone said—houses and other things. Have you any ideas about what legislative action we could take to support more public debate on these issues and to give voice to those deep wrongs, rather than having to hide behind parliamentary privilege?

Thomas Mayne: That is an excellent question; I am not quite sure how to answer it. As researchers—quite akin to journalism—we all play a game of self-censorship in what we say. Even when you have information about donations from people from overseas—kleptocrats or oligarchs—that is certainly in the public interest, there is always a tendency to draw back and not put it in the public domain. If there were some other forum that allowed that information to be put there without the legal threat, that would be fantastic. At the moment, we rely on you as MPs to bring to certain issues up under parliamentary privilege, because the way the libel laws are set up in the UK is stymieing that kind of debate, which needs to be able to continue.

Q169 Dame Margaret Hodge: Are there any international examples of that working better, or is everybody as constrained as we are?

Professor Heathershaw: On the Chatham House paper, two of our authors are Americans, and they have a first amendment right. They think the situation that has arisen with respect to Chatham House is extraordinary and absurd. You could have a first amendment right in some kind of British Bill of Rights, which has been mooted in the past. In terms of academic and journalistic freedom, you could have a specific statement setting out that anything within professional competence that is evidence-based and without malice is counted as free speech.

I think there is obviously a need to revise the Defamation Act 2013 to say that, unless you can determine that a statement has been made with malice, and if it is within professional competence and accurate, it should not even

be considered admissible as a potential case of libel or defamation. As researchers, our work goes through ethics committees—

The Chair: Order. I am afraid I have to stop you there. I have no discretion to allow you to continue because under the rules set for the Committee, the sitting has to end now. I thank both our witnesses very much for coming along and helping us with our inquiries.

Ordered,

That further consideration be now adjourned.—*(Nigel Huddleston.)*

5 pm

Adjourned till Thursday 27 October at half-past Eleven o'clock.

Written evidence reported to the House

ECCTB01 R3, the insolvency and restructuring trade body

ECCTB02 Encompass Corporation

ECCTB03 British Private Equity and Venture Capital Association (BVCA)