

FRAUD INVESTIGATION AND PROSECUTION IN THE UNITED KINGDOM

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I. BACKGROUND TO THE UK REGIME

One of the things that most attracted me to working for the Serious Fraud Office when I joined it in 1992 was the fact that it was a wholly unique organisation within the United Kingdom's Law Enforcement Agencies.

It is unique in a number of ways and I will elaborate on these in due course but the most obvious, is that it is a single function organisation.

The Serious Fraud Office investigates and prosecutes fraud, nothing else. As is the case in many countries, the United Kingdom has a number of organisations that investigate or prosecute criminal conduct. Indeed, there are many organisations in the United Kingdom that investigate or prosecute fraud. However, for the vast majority of these organisations, the investigation or prosecution of fraud is a secondary function sitting alongside other primary responsibilities. It may help if I give you some examples. I shall confine myself to the main agencies that are involved in these kinds of cases but the truth is there are dozens of others who have some responsibility for the investigation or prosecution of fraud in their particular areas of operation.

Clearly, the primary responsibility for investigating criminal conduct lies with the 35 Police Forces of England and Wales. The cases brought by these Police Forces, are prosecuted by the Crown Prosecution Service, a national organisation created in 1985 to ensure national standards of service in relation to the prosecution of crime in England and Wales.

The remit of both these organisations is very broad. It covers a very broad spectrum, but not all, of the criminal offences that exist in England and Wales. As a consequence, the resources each of them is able to devote to fraud is, in real terms, very small. Central government initiatives for dealing with crime tend to concentrate on criminal conduct that has a high local impact and this is where Police Forces and the Crown Prosecution Service are, quite properly, directing the vast majority of their efforts. This is putting increasing pressure on the resources available to conduct fraud investigations, which tend to have a low local impact as the impact of most frauds are spread across the country and, more often than not these days, internationally too.

The Serious Fraud Office has jurisdiction over all serious or complex fraud committed in England, Wales and Northern Ireland but is a relatively small organisation of approximately 250 permanent staff who are able to conduct approximately 80 investigations and prosecutions at any one time. It will be readily appreciated that this means that only a very small percentage of fraud is dealt with by the Serious Fraud Office, albeit these are the most serious and complex of cases.

The Department of Trade and Industry has responsibility for the "regulation" of limited companies and undertakes criminal investigations in relation to the operation of those companies, including instances of fraudulent conduct on the part of the Directors. The DTI is a very large department and has wide-ranging responsibilities, the regulation of companies and the investigation of suspected crime being a very small part of that remit. As a general rule, there is a strong tendency for the DTI to prosecute so-called 'regulatory' offences, such as failure to keep accounting records. In addition, they will often prosecute instances of misconduct by Directors in companies that are failing. For example, it is not uncommon for Directors of companies to seek to strip assets from companies when they realise that things are going badly. Equally, it is quite common that in failing companies, Directors will seek to cheat their creditors or continue trading after the point where the company is insolvent and they should cease trading. The DTI will routinely investigate and prosecute less serious instances of these offences.

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Both Her Majesty's Commissioners of Inland Revenue and Her Majesty's Commissioners of Customs and Excise (Customs and Excise) investigate and prosecute the evasion of taxes or excise duties. Once again, both organisations have a primary function, which is the collection of revenue and it is seen as a necessary function to encourage the payment of due taxes or excise duties that they also be able to investigate and prosecute where there is deliberate evasion.

What might be regarded as a potentially small area of the duties of Customs and Excise, prosecuting tax evaders to encourage compliance, has in fact become a very significant part of their functions. Customs and Excise investigate a very considerable amount of organised crime within the UK. Organised crime activity directed at evading customs or excise duties in relation to tobacco, alcohol and hydro-carbon fuel oils is now very big business. In recent years these areas have been subject to concerted attack by organised crime gangs in an attempt to take advantage of loopholes and avoid the payment of duties, which in the case of alcohol can be 75% of the price of the goods in question. It has been a very low risk option for these gangs and returns profits not so far behind that for drugs and at a much lower risk of either detection or prosecution.

Following a number of unfortunate results in recent trials where Customs and Excise cases collapsed, the Government announced that an enquiry would be conducted by a senior judge. I was fortunate to be asked to assist the judge, Mr Justice Butterfield. As a result of his report, the government has decided that the prosecution of Customs and Excise cases would be conducted by a new body to be called the Customs and Excise Prosecution Office which is due to be set up in the next year.

Just to illustrate the importance of these cases, the sums involved can be extraordinary. The value of these frauds can often reach tens of millions of pounds for an individual case and the sum regarded as lost to the Treasury in any year is counted in terms of a billion pounds or more. The importance of these cases cannot be over-stressed and the need to ensure that they are successfully investigated and prosecuted is a real priority for the UK.

Lastly, of the major organisations, I would mention the Financial Services Authority. The FSA is the regulator for most of the regulated markets and organisations within the UK Financial Services Sector and, much as with the Inland Revenue and Customs and Excise, the ability to investigate and prosecute for criminal conduct is considered a necessary power to enable them to conduct their primary responsibilities of regulating the markets effectively.

I have, very briefly indeed, outlined the major organisations involved in investigating and prosecuting fraud and it may not be readily apparent but there is a considerable amount of overlap between many of these organisations in the areas that they cover and the cases that they take.

Many of the cases that the DTI might investigate, could easily be investigated by either the Police or, if it fits our criteria, the Serious Fraud Office. Cases that the Financial Services Authority might choose to investigate could equally be investigated by the Police or the DTI or the SFO. Many frauds will involve the fraudulent evasion of tax, after all if you are stealing from your creditors why would you bother paying taxes? Indeed if your company is in trouble your least urgent creditor is the government, everyone else comes first. The option of not paying your taxes is usually the first step for many on the road to wholesale fraud.

As I am sure you will appreciate this can lead to a certain amount of confusion and discussion as to which is the most appropriate agency to investigate a particular case. To enable us to deal with these matters, we have devised a number of mechanisms to allow us to do this with the minimum of fuss and difficulty.

The primary method of deciding where a case should be investigated is an informal group called the Joint Vetting Committee. The JVC has a membership of the Serious Fraud Office, the Crown Prosecution Service, the Police Service and the Assets Recovery Agency.

The purpose of the JVC is to allow consideration of cases which might be investigated by more than one organisation to decide which is the most appropriate of them to investigate, according to the circumstances of each case. In SFO terms, these are usually the cases that are on the borderline of our acceptance criteria. Often cases will be discussed at the JVC where there is no clear answer to the question as to how the case

should be taken forward. The Committee discuss the best possible options for dealing with a particular case, including where it is not considered that a criminal prosecution is likely to be possible, and whether it would be suitable for action under the auspices of the Proceeds of Crime Act and intervention by the Assets Recovery Agency.

I should explain that the UK has recently created the Assets Recovery Agency with a view to depriving criminals of the proceeds of their criminal conduct. This agency has a variety of powers which are not limited to bringing criminal proceedings, but also include recovery through the Civil Courts and even taxation powers where this is considered appropriate. In appropriate cases, even though it may not be possible to proceed with a criminal investigation, it may well be possible to establish that the monies in the possession of the individual are the proceeds of criminal conduct to the civil standard, and may be susceptible to recovery, or where the individual is in possession of monies which do not tally with his reported income, then they are able to 'tax' him on these funds, often applying interest and penalties for failure to report this 'income'.

In addition to the JVC, the SFO has bilateral meetings with the Financial Services Authority and the DTI, and occasional meetings with the Customs and Excise on an "at need basis".

In addition, we have regular meetings of a network of organisations involved in fighting fraud which allows us to share intelligence, identify trends in frauds within the UK and address issues of mutual interest.

In this way, whilst our approach is fragmented and, frankly, a little confusing to the casual observer, it has developed into a highly sophisticated and mutually supportive system. It is not regarded by any of the various participants as such but we each play an important role in ensuring that the various organisations involved maintain an appropriate approach to the work they undertake.

Let me explain this further. As a result of the interlocking and overlapping functions of the various departments, it is inevitable that any changes in approach or direction by any of the organisations involved, quickly become known within the law enforcement community. For example, in respect of the reduction of police resources I mentioned in my other paper, this was very quickly identified by a number of the organisations within the law enforcement community. As a result it was impossible for the issue to be ignored. The police have been forced to acknowledge the fact of the significant reduction in resources they are applying to fraud and, in fairness to those officers who are dedicated to the investigation of fraud, they have done so readily because of their dedication to pursuing this type of crime.

The response of the government has been to approve a proposal that the City of London Police fraud squad should be expanded and assume the position of 'lead force' for all SFO cases in London and the South-East of England. Whilst this is very welcome, it is only a partial answer and does not begin to address the growing weakness in the investigation of smaller frauds that do not meet our criteria.

This proposal arose from a working party set up by the government called the 'Improving the response to fraud' (IRF) group. This group included participants from all of the major stakeholders interested in the effective investigation and prosecution of fraud; including the SFO, CPS, Treasury, Home Office, DTI and the Police. It produced two reports, the recommendations of which have not yet been pursued. It did consider the option of creating 'lead forces' from a few police forces to assist the SFO but this was not the favoured option of the group.

As I have mentioned, these new arrangements do not provide a fully comprehensive regime for dealing with fraud, however. The harsh reality is that the investigation of fraud across the UK is inconsistent and incomplete. The IRF Group was concerned not just with the most serious cases but with concerns about the national response to fraud at all levels. There remains a considerable amount of fraud which is not satisfactorily handled or investigated. That is assuming it is investigated at all. Let me explain.

The fraud squads of local police forces are at best getting smaller, at worst being disbanded. This is because, as I have already mentioned, central initiatives have required police forces to concentrate their resources on crimes having a high local impact and police forces, like most government departments, are being required to be more responsive to local needs and issues. This is an entirely proper thing for them to

do and no one would deny the need and importance for just such an approach. Local issues such as domestic burglaries, car crime, street violence, street robberies and vandalism are issues that directly affect the feelings of safety and security of the local community.

However, as a direct result of this downward pressure on fraud squad resources there is an equal pressure on the selection of cases they are willing or able to accept for investigation. Routinely fraud squads now only accept more serious cases on which to devote the limited resources they have. Many forces will not allow fraud squads to investigate frauds valued at less than £750,000, except in the most exceptional circumstances. In consequence, smaller frauds must be handled on a local level by detective officers who are unfamiliar with such cases. Sadly, it is often the case that when these frauds are reported the victim is turned away and advised to proceed through the civil courts as the matter is a 'civil dispute'. This response merely reflects the inability of local officers to handle these cases and their desire to avoid the need to do so.

Fortunately we are moving towards recording more effectively the frauds that are being reported and whether or not any investigative action is taken, and this will allow us to get a much better idea of the scale of the problem and push for the allocation of greater resources to this area of criminal activity. Currently we have no proper measure of the level of fraud in the UK. The Home Office crime reporting statistics make no mention of fraud and there is no specific category of 'fraud' to capture this information. Equally, as there is no 'offence' of fraud, it is prosecuted using a variety of charging options, 'frauds' that are reported currently get rolled into other categories of crime such as theft.

II. PRACTICALITIES OF FRAUD INVESTIGATION

Whilst these weaknesses in our system exist, let us concentrate on what we are able to achieve and how we do this.

The approach used for the investigation of fraud in the UK is dependent upon which agency is undertaking the enquiry. Each agency has its own powers and approaches to fulfilling its functions in this regard. As I mentioned previously in this paper, the various agencies have different purposes in mind when pursuing fraud cases. Many are intent on seeking to reinforce their primary function, securing compliance with regulatory practices or rules, or payment of taxes or duties. In such agencies, it may be possible for those involved to avoid criminal proceedings by agreeing to submit themselves to suitable administrative penalties. After all, if your main function is gathering taxes, if someone offers to pay the tax due, together with interest and penalties, you may not consider that criminal action is ultimately necessary.

There are a wide range of powers available to some of the agencies working in this field and these powers are by no means consistent or equivalent with each other. You may imagine that this might cause some problems. You would be correct to think so. In inter-agency investigations, where two or more agencies co-operate in a particular case, it is often very difficult to decide which agency should exercise their powers in situations that arise. Great care is necessary to avoid the suggestion that the power used was selected only because it was a wider power than others available. An example may assist. In the UK the widest powers available to investigators lie with HM Customs & Excise, in a joint investigation with the police it would be improper to use wider Customs powers where the police would usually exercise their own more limited powers.

It may help if I were to outline some of the powers available to some of the various agencies concerned to show you what I mean.

Let me start with the police, the main powers of the police are contained in the Police and Criminal Evidence Act 1984. This Act provides the police with three main powers to search for evidence:

- Section 1 - Stop & Search – This type of power is available only to police officers, who may stop and search someone at any time when they suspect the person has in his or her possession stolen goods.
- Section 17 - Search following arrest – Again this is a power available only to a police officer who may search the premises where a person has been arrested, where he believes that further evidence may be found there.
- Section 8 - Search Warrant – This is a normal warrant to enter premises and is less extensive in terms of material that can be seized than the search powers available to some other agencies. For example, it does not entitle an officer to remove journalistic material.

In addition the police may use their powers under Section 9 and Schedule 1 of the Police and Criminal Evidence Act 1984 to secure the production of material to them, where they can satisfy a judge of the need for the order. In using this power the police can gain access to material that they would be unable to seize under a search warrant.

Contrast this with the powers available to an Inspector appointed under the Companies Act who may require information to be provided to assist in the enquiry he or she is undertaking. However, the power has no direct sanction for failure to comply, the most that can be done is to ask the Companies Court to have the person who is refusing to comply with contempt of court. This is very much a last resort as the penalties can be severe and often leads to extensive delays in the Inspectors gathering the necessary information for their purposes.

Then consider the SFO's powers. Under a search warrant granted in accordance with section 2(4) of the Criminal Justice Act 1987, it is police officers who are empowered, in the presence of an appropriate SFO officer, to search and seize material. Using this power the limitations of police search powers are overcome and any material is capable of being seized, except for material which is subject to legal professional privilege (otherwise known as Attorney-Client privilege).

I have deliberately not gone through any of these powers in any detail but I hope you have a flavour of the prevailing organisations, their powers and the overlap and complexities of the situation in the UK.

Having outlined the powers available to the investigators and prosecutors, I feel it is only proper to give you an indication of the responsibilities and obligations of the prosecutor.

The primary obligation placed upon the prosecutor relates to the disclosure of unused material, that is material in his possession which is not to be produced as evidence but which has been collected during the course of the investigation. The requirement to disclose information to the defence is contained in the Criminal Procedure and Investigations Act 1996. The regime has been amended by the Criminal Justice Act 2003 but these provisions are not yet in force.

The requirement to disclose unused material comes in two parts; we must disclose material which undermines the prosecution case and we must disclose material which might assist the defence. The first part is readily understood and fairly straightforward. The second is highly speculative and is currently the cause of most problems in fraud trials.

The problem arises from the fact that it is for the prosecutor to decide what is or is not relevant to an issue the defence are raising. This mainly happens because the defence are, understandably, reluctant to disclose what their defence will be at too early a stage. This in turn makes disclosure very difficult for the prosecutor who must interpret the information he receives in deciding whether disclosure is made or not. As you might imagine, different prosecutors take different views as to whether to interpret matters in a more liberal manner or more strictly. This is what causes the problem. If the prosecutor takes a strict view of the position then he will disclose very little information. As the requirement to disclose is one that continues throughout the life of the case, including the trial, the prosecutor will often have to make decisions about what should be disclosed as the defence emerges during the trial and will be forced to disclose material as the trial progresses. This can lead to further disclosure as the defence review the material provided. This in turn will often lead to allegations of bad faith against the prosecutor who can look as if he has been 'withholding' the material in an attempt to disadvantage the defence. At least he is often portrayed that way and, if it happens too often, it can be very hard to refute such an impression. That is why the SFO takes a very open view of disclosure, permitting the defence access to any material which they ask for, provided they give a reason for wanting to do so.

Habitually in major cases, the defence will often concentrate on seeking to establish procedural defects or failings in the process of the investigation and prosecution as a means of trying to have the case stopped. Indeed it is now common, that if such attempts fail, the defendants will plead guilty because they cannot dispute the evidence against them and have no defence to the charges brought.

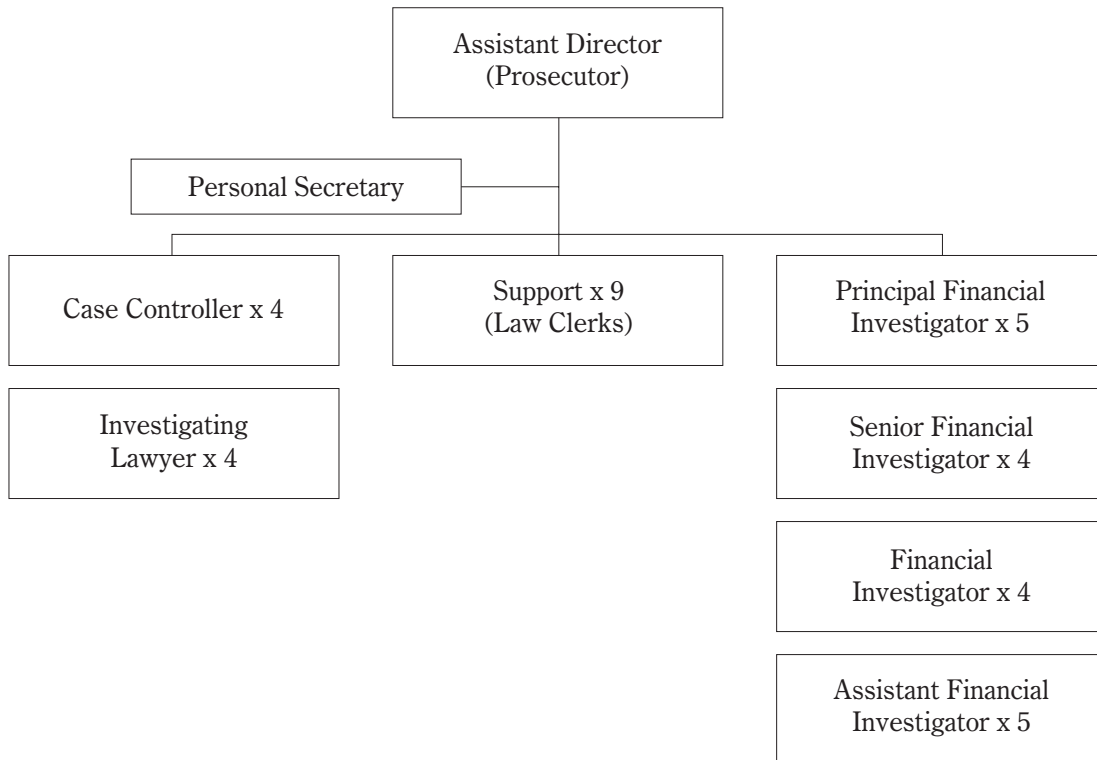
I turn now to the methods by which we investigate serious fraud cases.

III. THE SERIOUS FRAUD OFFICE APPROACH

I will outline the way we operate at the SFO. This should give you a fairly clear idea of the general approach to fraud investigations in the UK as most police forces now operate in broadly compatible ways. It is perhaps an indicator of our success that the police feel they can follow our methods, albeit with inevitable changes to suit local needs.

The SFO has four operational divisions, each of which is responsible for cases arising in London and the South-East and for separate parts of England, Wales and Northern Ireland. I also mentioned in general terms our divisional structure and case teams. You can see below how our divisions are organised and the possible make up of case teams.

Outline Divisional Structure



Possible Make Up of a Case Team



What each team will actually consist of will depend upon the needs of the specific case.

I would now like to move on to explain how we work. Crucial to success is an investigation plan agreed by all parties. This will be formulated and will define the overall scale, scope and direction of the enquiry; it will define the roles and responsibilities of each of the team members and the resources that will be

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employed in the investigation; it will set out where the investigators will work (this might be at our offices or at a satellite office set up in the local police area, whichever is most appropriate) and whether or not they are committed to other responsibilities or dedicated to that particular investigation; it will detail methods of exhibit and property handling, storage and responsibilities for document control; it will also cover the use of information technology; in addition it will specify what initial lines of enquiry will be pursued, the target dates for achieving these, what tolerances there are within the plan and the performance indicators that will be used.

Regular case conferences are held - usually each month - at which the direction of the enquiry will be reviewed and new objectives set. All decisions are recorded in the minutes which become part of the Policy file. For example, decisions such as who are suspects and who are witnesses will be recorded together with reasons for discontinuing lines of enquiries, decisions as to charge or to offer no evidence and acceptance of guilty pleas and the media strategy for the investigation.

To try and keep things simple we use a fairly basic type of project management tool in the form of task sheets.

We have also developed in-house expertise in computer forensic technology. Much of the material we rely on is now kept in electronic format and to be able to access and interpret that material is vital. We have a small unit of about eight people which we are hoping to expand over the next year. Data recovery using outside firms can be extremely expensive but is often unavoidable. For example we are getting ever increasing volumes of computer data in our cases, now sometimes reaching thousands of Gigabytes. In such circumstances, the use of external support is essential if we are to process and review this volume of material in an efficient manner.

We work closely with similar specialist computer forensic units in the Customs and Excise, the Inland Revenue and in the police and when, for example, searches are taking place and there are numerous premises to be visited we will try to help each other out by pooling resources - all of which is an additional strain but a good use of the resources available to us all.

Precise roles and responsibilities in any given investigation will depend upon the nature of the case and, to some extent the resources available. In every case the intention is to create a team which will make the most effective use of the abilities of police officers and SFO staff. Flexibility is vital. In our Memorandum of Understanding with the Association of Chief Police Officers suggested roles and responsibilities might include:

Lawyers

- Advise on legal issues.
- Liaise with lawyers representing the defence or any 3rd party interest.
- Conduct Section 2 interviews as needed.
- Assess evidence.
- Prepare letters of request.
- Prepare and serve Section 2 orders for production of documents as agreed.
- Recommend prosecution decision.
- Instruct counsel.

Financial Investigators

- Advise on accountancy issues.
- Adduce accountancy evidence.
- Conduct enquiries of an accountancy nature.
- Conduct Section 2 interviews as agreed.
- Prepare and serve Section 2 orders for production of documents as agreed.
- Advise on operational issues and investigation management; such as the direction and scope of the investigation.
- Assimilate information to enable a prosecution decision to be made.
- Gather evidence to support a prosecution case.

Police

- Advise on operational issues and investigation management; such as the direction and scope of the investigation.
- Assimilate information to enable a prosecution decision to be made.
- Gather evidence to support a prosecution case.
- Exercise powers under PACE and other legislation as agreed.

These are only suggestions; no one has a monopoly of wisdom when it comes to investigating fraud. The combination of a police officer and accountant working alongside each other has been shown, time and time again, to be a very potent weapon in the fight against fraud. The only people who benefit from an insular approach are the criminals.

Since fraud is a document based offence and since both fraudsters, their victims, banks and others are often unwilling to discuss what happened, we use the Director's investigation powers under Section 2 of the Criminal Justice Act 1987 whereby individuals can be required to furnish information and answer questions and to produce documents and give explanations for them. This power can be exercised by any member of the SFO authorised by the Director or by a competent investigator - often an outside accountant brought in for the case - on the Director's behalf. These powers are not however exercisable by a constable; this is not any reflection on their ability as investigators. On the contrary, it is a reflection of the constitutional independence of chief officers and the responsibility they have for the police officers working for them and reflects their own wishes.

Although the problem of obtaining access to documents can be overcome by using the procedure laid down in Schedule 1 of the Police and Criminal Evidence Act 1984, the advantage of a Notice under Section 2 is not only that the procedure is quicker but also a reluctant witness can be required to give an explanation, furnish information and answer questions. In many fraud investigations people with information or evidence don't want to talk. They may have good reasons for not talking. They may be under obligations of confidentiality to their customers, as is a bank; they may simply be embarrassed and would prefer not to be exposed in a trial as foolish or incompetent; they be frightened of civil action for negligence or worse; they may be close to the accused or in some cases they may be the accused themselves. The ability to use our Section 2 powers overcomes these problems.

It also provides a criminal sanction for failing to comply with the Notice either to produce documents or answer questions; provides a sanction for giving false or misleading information; and a sanction for destroying documents, etc. In the case of a defendant, the use which can be made of his answers to a requirement under Section 2 is limited. The Act provides that it can only be used for a prosecution for giving false information. Since the case of Saunders in the European Court of Human Rights the Attorney General has, as a matter of policy, decided that its use in cross-examination will not now be used for fear of offending the Convention on Human Rights.

Whether used on willing, reluctant or frankly hostile recipients Section 2 has proved time and time again that it is a swift and economical way of getting to the documents and to, if not the truth, at least to an approximation of it.

A. Section 2 Powers

- Section 2 (1) The powers of the Director shall be exercisable only for the purposes of an investigation under Section 1.
- Section 2 (2) The Director may by Notice in writing require the person whose affairs are to be investigated or any other person whom he has reason to believe has relevant information to answer questions or otherwise furnish information.
- Section 2 (3) The Director may by Notice in writing require the person under investigation or any other person to produce at such place as may be specified in the Notice and either forthwith or at such time as may be so specified any specified documents which appear to the Director to relate to any matter relevant to the investigation or any documents of a specified description which appear to him to so relate and:
 - (a) if any such documents are produced the Director may take copies or extracts from them;

(b) require the person producing them to provide an explanation of any of them

if any such documents are not produced the Director may require the person who was required to produce them to state to the best of his/her knowledge and belief where they are.

B. Document Management

What distinguishes fraud from most other criminal investigations is the amount of material we have to deal with. Either in hard copy or electronic format it forms the basis of our investigations and ultimately after being sifted is put together in an attempt to show how the crime has taken place. Fraud is a document reliant crime. We are dealing with commercial activity - either real or imagined and before we can bring a case to prosecution with any degree of confidence we have to be sure that we have a grasp of the material; that there are no problems that would arise on disclosure to the defence; that we are absolutely certain about being able to prove its provenance - by which I mean we can prove where it came from, when, whose building, whose room, whose desk and exactly where it was found. And we have to be able to do that in a very short space of time.

We put a great deal of effort into controlling the material we acquire, whether it is under the search provisions of Section 2, Criminal Justice Act; whether we have obtained it by issuing notices or whether we have obtained it voluntarily. All material is logged in an ascending order of detail; first of all bags are logged, usually following a search; that is then broken down into files and finally into individual documents or series of documents which are produced by witness statements. The process is laborious and requires a patient assessment by the investigators as well as the in-putters. But it gives an opportunity of a review of the documents at the earliest possible stage and ensures that control is there. It provides the basis for the schedules for disclosure that are needed later, during the trial process.

In order to improve our efficiency and effectiveness we have been developing a new computer based document management system whereby all material is scanned into the system, DOCMAN. Not only will it enable our investigators to access the material on screen rather than the laborious process of going to the exhibit store, drawing out originals and returning them but it gives us the great advantage of being able to search across the entirety of the case material using this system seeking particular names or words in a matter of seconds. It will also enable us to marshal the material in electronic form, both the witness statements and the images of the documents and instead of serving reams and reams of paper copies of the evidence we serve it in electronic form both on the defence and the court.

It would be disingenuous of me to stand here today and suggest that using Information Technology is universally popular with judges. It is not. But I was recently at a JSB Seminar and was struck by the enthusiasm of today's Judges for using information technology in the courtroom. I would like to outline the technology that is available in the UK today and the reasons why we are using these tools. The available tools are:

- Real Time Transcription
- Video links
- Use of images rather than paper
- Use of graphics and animated graphics

1. Real Time Transcription

This is an online service which renders the speech of the persons in court into text as it happens. It has a number of benefits, not least of which is that it avoids the need for the judge to make a handwritten note of the evidence and can save considerable amount of time as a result. This results in the witnesses' evidence being given more naturally because they are not having to stop to wait for the judge to catch up. It also means that the examination of the witnesses can proceed at a speed which the prosecution and defence might wish.

2. Video Links

This is common enough that I need not describe it but the benefits of this tool are often overlooked. Undoubtedly it allows the court to hear from witnesses who may be unable or are unwilling to attend in the

court itself. This is regularly used for business and professional witnesses who live outside the UK and who would be most unwilling to spend several days away from their jobs to perhaps spend an hour or two giving evidence. It may also give the jury a better view of the witness, who could easily be up to 10 metres away from them in the court itself. We tend to use large screens which show the witness in close up. However, the disadvantage of this tool is that for overseas witnesses this can lead to the court sitting at unsocial times of day or in the evening.

3. Use of Images Rather Than Paper

Again, using images is nothing particularly innovative but it saves a considerable amount of court time by getting everyone in Court looking at the same document very much more quickly than is possible normally. In addition jurors are forced to concentrate on what they are being shown not other documents in the jury bundles. Further it can highlight areas or parts of documents that might be of interest and can be used to easily compare two documents (e.g. signatures or handwriting).

In terms of certainty, using these systems also records what was shown and when to every witness so there can be no confusion either at trial or at any later appeal. These systems also allow advocates to append notes to individual Images (that only they can see) so that preparation for the examination of witnesses is made easier. This is also possible by linking Images to the real time transcript of the evidence as it happens. Another spin off is that it can reduce the size of the paper Jury Bundles needed. It should be noted though that using these systems requires large screens, at least 21 inches, to avoid "screen fatigue".

4. Use of Graphics/Animated Graphics

It may sound obvious but the effective use of graphics allows for much clearer and more easily understood presentation of complex facts and events and accordingly saves court time as well improving the case being presented. Animating those graphics can make very complex transactions more easily understood by providing information in simple pieces that are built upon layer by layer and allow the jury to retain their understanding of the whole transaction, which is often not possible with a step by step recitation of the events. However, there is a risk that the graphics produced are too good and make the case too clear for the jury. In such cases the defence will look for reasons to object to their use.

I hope that this very brief and necessarily superficial outline of the situation in the United Kingdom and our approaches in tackling fraud gives you a flavour of the complexities we face. We do not claim to have a perfect system, indeed I have mentioned some of the critical weaknesses in this paper, but we do have a system that provides much of what is required and given that competition for resources will always result in less being made available than would be ideal, it is as good a system as we are likely to get.