



## **Helping you see the risks**

### Quarterly UK Fraud and Corruption Enforcement Update

October 2021



Welcome to Eversheds Sutherland's quarterly Fraud and Corruption Enforcement update which provides a quick overview of recent key developments relating to criminal investigations and enforcement actions concerning fraud, bribery and corruption in the UK.



## Plans gather pace for replacement of Action Fraud platform

On 27 July 2021, the UK Government published its Beating Crime Plan (the “Plan”) which sets out the UK government’s strategy for cutting crime with a key focus on tackling fraud.

The Plan sets out a framework for tackling fraud which notably includes a proposal to replace the much maligned Action Fraud platform with an improved national fraud and cybercrime reporting system. Action Fraud, which was put in place in 2009, is the system through which almost all UK-related frauds, including cyber-fraud, should be reported, from small frauds against individuals to large frauds against corporates. Action Fraud is run by the City of London Police (“CoLP”). Reports received are passed to the National Fraud Intelligence Bureau (“NFIB”) which is the UK’s national policing lead for economic crime. The NFIB assess the report and where appropriate assigns it to the relevant local police force or law enforcement agency for investigation.

Work has already begun on the project to replace Action Fraud: on 2 July 2021, the CoLP launched an invitation to tender to suppliers to procure technology for the new national reporting centre for fraud and cybercrime. According to a press release produced by the CoLP, the contract with the current supplier was due to end in 2022 and it was always the intention to procure a new supplier to take on the fraud reporting service beyond this time. The CoLP says that the proposed replacement is nothing to do with the criticisms Action Fraud has faced but is due to the advances in technology, as well as demand for the service rapidly growing.

The number of fraud reports has indeed continued to rise. According to Action Fraud’s website, it received 233,826 reports of fraud in 2020 with reported losses in respect of the frauds totalling £1.58 billion.

It remains unclear as to what the replacement for Action Fraud will look like exactly and when exactly it will be implemented, but it is hoped that it will be more successful in helping to fight and prosecute fraud than the current system.

Eversheds Sutherland previously published an article which reviewed the Plan in detail – you can [read that here](#).



## Bribery investigation of O2 is confirmed

After several years of speculation in the media, it has been confirmed that telecoms company O2 is being investigated by the Serious Fraud Office (“SFO”) for potential breaches of the UK Bribery Act 2010.

Since 2017, O2 Holdings Limited has included a note to its annual financial statements explaining that it has been “addressing a request for disclosure made by governmental authorities which is related to possible violations of anti-bribery laws and regulations.” In its most recent annual report, for the year ending 31 December 2020, the company stated that it “continues to co-operate with the governmental authorities investigating this matter which is still ongoing”, and is continuing to conduct internal investigations.

The latest annual report also states that the company has made a “reliable estimate” of the outcome of the matter, and made provision for this amount in its accounts for 2019.

No further details have been confirmed of the nature of the outcome which is anticipated, nor of the facts behind the investigation or specific alleged breaches of statutory provisions.



## SFO concludes two more bribery-related Deferred Prosecution Agreements

On 19 July 2021, the SFO received approval by Mrs Justice May, sitting at the Royal Courts of Justice, for separate Deferred Prosecution Agreements entered into with two UK-based companies. Reporting restrictions are currently in place, and so the identity of the companies has not been made public.

[According to the SFO](#), the two DPAs share a common Statement of Facts, will remain in place for 2 years, and have resulted in total payments of £2.5 million (comprising disgorgement of profits and a financial penalty). The DPAs relate to bribes which were paid in relation to multi-million pound UK contracts.

These two cases bring the total number of UK DPAs to 12, with most relating to bribery. The financial penalties in these cases are relatively small, and the DPA periods relatively short. However, they mark a further flurry of activity in the area of negotiated settlements, and illustrate the value of this tool to the SFO.



## SFO brings corruption-related charges against five individuals working in the construction sector

Five individuals have been charged with bribery and money laundering in relation to suspected construction sector corruption. In a press release, the SFO confirmed that the charges relate to an investigation which was opened in February 2017.

Two of the five are former senior executives and have each been charged with four counts of bribery contrary to s.1 and s.2 of the Bribery Act 2010 (respectively the so-called active and passive bribery offences). The two have also been charged with two counts of money laundering contrary to s.328(1) of the Proceeds of Crime Act 2002 ("POCA"), which criminalises entering into or becoming concerned in an arrangement which the person knows or suspects facilitates money laundering by or on behalf of another person.

Two other individuals have each been charged with two counts of bribery, while the fifth person has been charged with two counts of money laundering (also contrary to s.328 of POCA).

The five are due to appear for trial at Southwark Crown Court in September 2022.





## ECJ Advocate General finds UK government negligent in failure to tackle customs fraud

According to a senior EU lawyer, the UK has breached EU law by failing to collect the correct amount of customs duties and VAT on imported Chinese goods. The alleged breaches date from 2011 to 2017, although the UK continues to deny liability.

The UK remains subject to the jurisdiction of the European Court of Justice (“ECJ”) for breaches of EU law committed during its EU membership. Whilst the opinion of the Advocate General is not legally binding, the ECJ often follows their advice.

The opinion is based on the UK’s refusal to follow a method of calculating undervalued goods proposed by the EU’s anti-fraud office (known as “OLAF”). In court, the UK argued, unsuccessfully, that the approach was counterproductive, disproportionate and not mandated by EU law.

Various member states have criticised the UK for failing to prevent fraud. Similar accusations were made against the UK in 2018 by OLAF, which argued that the UK’s failings allowed criminal gangs to evade EU customs duties by making fake claims about Chinese-imported clothes and shoes and recommended a EUR 1.98 billion fine.

The UK awaits the decision of the ECJ, which is expected in early to mid-2022.



## Reform of the law on corporate criminal liability: Next steps awaited

Following the publication of its [discussion paper](#) on possible reform of the law relating to corporate criminal liability, the Law Commission has closed its call for responses.

The evidence gathering exercise ran until 31 August 2021, and sought to obtain the views of practitioners and market participants as to whether a “failure to prevent” offence should be introduced and, if so, the scope of existing economic crime offences to which it should apply. As part of that exercise, a series of events were held during which the Law Commission discussed various concerns regarding the current law, as well as options for reform. Eversheds Sutherland was pleased to host one of the events on 14 July 2021 addressing the topic ‘Should corporate wrongdoing be a matter for the civil courts’. A recording of the webinar is [available to view here](#).

The Law Commission has now entered the policy development phase of the project, and is expected to publish its report by the end of 2021.





## SFO investigates Gavin Woodhouse

The SFO has announced that it is investigating property developer and entrepreneur Gavin Woodhouse in relation to suspected fraud and money laundering.

The probe into Mr Woodhouse (and the individuals and companies associated with him) concerns a series of investments offered in care homes and hotels between 2013 and 2019. Whilst the SFO will not comment on the details of a live investigation, it is thought that companies owned by Mr Woodhouse received around £80 million in investments from more than 1,000 people during this six-year period.

In order to obtain more information around the circumstances of the investments offered, identify new information and progress the investigation as quickly as possible, the SFO has asked UK-based investors in the suspected fraudulent schemes to complete a questionnaire on its website by 30 September 2021.





## Five fast facts

- 1** Fraud accounts for 42% of crime against individuals in the UK, with 2,000 fraud offences being committed daily in England and Wales
- 2** 8,801 crypto crime reports were made to Action Fraud in 2020, compared with 7,121 in 2019
- 3** UK banks state they successfully blocked £6.70 of every £10 which fraudsters attempted to steal last year
- 4** 1% is the proportion of UK police officers who directly investigate fraud
- 5** 33,115 is the number of 'impersonation scams' that were recorded in the first 6 months of 2021, more than double in the same period of 2020; this led to thefts of more than £129.4 million



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