

Lord Chancellor addresses the Cambridge Economic Crime Symposium

In my previous incarnation as Solicitor General I was honoured to last speak at the 35th symposium and so it is a particular pleasure to be asked back now as Lord Chancellor.

This is now my third symposium. It's my pleasure to join you as much as now as it was then. As we leave COVID it's great to be here in the company of many, many people who have great expertise in economic crime – the facts of it and how we can and should react to it.

What strikes me is that the facts on economic crime continue to be staggering. Fraud for example is the most common type of crime in the UK with 4.6 million offences in the year ending March 2021 and accounting for approximately 42% of all crime committed against individuals. What is just as stark is the cost to our society, estimated to run into the billions every year.

And what about the toll on people's health – on their mental and physical wellbeing – that is much more difficult to quantify but it is easy to see just how real it is and how damaging its long-term effects can be. It also undermines trust in business, distorts markets, and erodes investor confidence in our economy – all things that we should not be prepared to accept at the best of times but, for obvious reasons, can ill-afford in the current climate.

This type of offending has changed enormously in recent years and COVID-19 has only accelerated that. Indeed, in the two years since the government published its Economic Crime Plan to strengthen the UK's whole system response to economic crime, the increase in the availability and uptake of digital services across the economy, as well as the stark realities of the pandemic, have increased the opportunities for economic criminals to exploit and given rise to new ones.

These include taking advantage of our growing reliance on online banking, shopping and communication in order to commit fraud; making more use of popular crypto assets for the purpose of laundering money; and even targeting COVID-19 stimulus measures in order to try and defraud the public purse.

For us in government, these last 18 months have obviously been dominated by overcoming the challenges posed by COVID and that has been true across almost every area and level of government, but nevertheless we have continued wherever possible to make progress in our mission to deter, to prevent, and to punish a broad range of economic crimes.

The question at hand when I spoke at the symposium four years ago was: whose responsibility is economic crime and are they really up to it? My answer then was that all of us have a duty in relation to economic crime and that, if we

are serious about combatting it, we need a co-ordinated response – one that is rooted in relationships between the criminal justice system and the private sector.

As we continue rising to the challenge of economic crime it is that relationship building which remains a focus for us as policymakers. This was emphasised at the meeting of the Economic Crime Strategic Board chaired by my colleague, the Home Secretary, back in February. It included leading figures from the financial, legal, and accountancy sectors and was able to agree a number of actions within our seven strategic priorities to build on our response to economic crime.

Collaboration is the theme that runs throughout that work. The upcoming delivery of the Fraud Action Plan will outline that whole system response, with specific ambitions such as looking at the ways in which we can work with the private sector to 'design out' fraud right at the source; boosting public/private co-operation more generally to address vulnerabilities; and improving high-value intelligence sharing.

Capitalising on the UK's presidency of the G7 to strengthen the international response to illicit finance and corruption was also among the actions that arose out of that February meeting. I think the G7 is critical to this because these are global criminal enterprises we are talking about and the UK alone cannot put them out of business.

All these actions were of course detailed in the update to the Economic Crime Plan that was published earlier this year. It also gave a snapshot of the progress we are already making. From publishing the third National Risk Assessment of Money Laundering and Terrorist Financing, to allocating tens of millions of pounds of funding for reform and to combat economic crime.

I think it is fair to say that we now know more about this type of crime and are better resourced to meet the threat of it than ever before – but we are not complacent, and we have not slowed down on this, and we are determined to go further.

Now the Beating Crime Plan that we published in the summer is a great example of how we want to capitalise on the gains we have already made. The Plan itself looks at the many different levers we can pull on in government to bring down those stubbornly high rates of crime in our country in a number of different categories, which very much includes economic crime.

Our approach as set out in the plan is about facing up to the realities of the threat as it exists today. As I have already mentioned, we know that it is constantly changing and evolving to exploit weaknesses in new ways of doing things and those new technologies in particular.

That means we need to be agile and, instead of focussing on individual frauds, take a systemic approach to ensure that we reduce the opportunities to carry out economic crimes successfully, as well as making sure that criminal justice agencies have both the tools and skills to deal with it. The Beating Crime Plan sets out a framework for how we will do that.

One of my priorities as Lord Chancellor has been to improve our response not just to crime itself but to how we treat victims of crime. That should be our starting point no matter which part of the criminal law we are looking at and, first and foremost, the framework commits us to providing better care to victims.

This will include specific measures such as expanding the National Economic Crime Victim Care Unit, but we will also look more broadly at how we can improve our communications with the public about this type of crime.

We know that protecting people also means strengthening defences where they are at risk. By working with the technology, financial, telecommunications, and accountancy sectors we are going to agree sector charters that I believe will make people more safe and secure, as well as looking again at the case for additional regulation in paid-for advertising online, which we know is a conduit for fraud.

What it also requires is a more comprehensive understanding of how frauds are perpetrated, so that we are better prepared to combat them. We are replacing Action Fraud with a new national fraud and cybercrime reporting system, as well as bolstering the response from the National Crime Agency and the national security community – so that we can learn more and identify the most dangerous individuals and prolific criminal gangs involved in this sort of offending.

The City of London police naturally deal with more economic crime than many constabularies and act as national lead force for fraud. We want to increase their capacity and that of Regional Organised Crime Units to investigate these crimes; and establish a new fraud investigative function within the National Crime Agency itself, which will target the most complex and serious frauds.

The measures contained within the Beating Crime Plan are a continuation of the work we started in our Economic Crime Plan – they complement, they build upon the changes we have already made as we react to the ever-growing and ever-changing threat of economic crime in our country.

What sits beside all that work is corporate criminal liability law. I am hugely proud of the world-class and internationally renowned work we do to prosecute a range of highly complex economic crimes. But we must always be prepared to look again at whether the law in this area is sufficiently equipped to tackle economic crime, or if we need reforms to better hold companies to account for their own criminal wrongdoing, or that undertaken on their behalf.

Back in 2018 when I was Solicitor General, I posed the question about whether a new corporate offence of failing to prevent economic crime, similar to those already put on the statute book by this government concerning failure to prevent bribery and tax evasion, could be helpful.

The test for the introduction of new legislation always needs to be a rigorous one, but I know that the Serious Fraud Office have previously raised

concerns about restrictions that prevent them from prosecuting these offences successfully and I firmly believe expanding and reforming the law in this area merits more work.

In November of last year I published the government's response to our Call for Evidence on Corporate Liability for Economic Crime and whether the law in this area was fit for purpose. A range of stakeholders responded expressing many differing views on the existing legal framework, but I was not satisfied that the findings provided a conclusive evidence-base on which to justify immediate reform. They did however raise some important questions, in particular about the operation of the identification doctrine which represents the general common law test under which corporations can be attributed with criminal liability.

With that in mind, in November last year, I – along with colleagues from right across government – asked the Law Commission to carry out an in-depth review into the current law on corporate criminal liability for economic crime offences. Specifically, whether new offences need to be created that would make it easier for criminal justice agencies to prosecute fraud, money laundering, and false accounting.

In their current form, there is concern that the law on corporate criminal liability does not always appropriately criminalise corporate misbehaviour, especially when applied to large corporations. Reform may indeed be needed to ensure that organisations of all sizes can be held to account and serious crimes can be punished appropriately.

At the same time, it is of course important to ensure that any reform does not impose an undue burden of compliance on companies – so it must also take account of the impact of increased costs on law-abiding corporations to ensure they are not overburdened by processes they are expected to follow. To help ensure that any options they propose do take account of this, the Commission recently issued a discussion paper and carried out a short consultation between June and the end of August this year.

The responses to this will inform the Law Commission's options paper that will be provided to the Government by the end of this year or early next. This work should give us a more comprehensive understanding of the options for reform and their implications.

The analysis is taking place at an opportune time and will be able to take into account the impact of both the new tax evasion offence introduced under the Criminal Finances Act 2017 and the additional regulatory requirements introduced in the Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017.

I continue to be grateful to the Law Commission for undertaking this work and I hope that what will result from it are recommendations that will strengthen the law and ensure that firms that aid and abet this sort of criminal behaviour realise that it will not carry on with impunity.

To bring all this back to the question at hand during this symposium, the

answer is sadly quite simple. Corruption and illicit finance pose a huge threat to our security, to our prosperity. It has the ability not only to undermine the values we hold dear as a society, but also to prop up the kind of authoritarian regimes that wreak havoc in the world. We are all acutely aware of the knock-on effect this has for human rights internationally and on our efforts to combat environmental damage – both of which it puts in huge jeopardy.

The instability this sort of crime poses both to our economy and in terms of our national security, mean that if we do not get it under control then we will all pay a much bigger price than we are already paying now. But it need not be this way.

By drawing together the various strands of work I have mentioned, I think we are starting to make a real difference. If the public and private sectors can continue to work in tandem, then it will be possible to improve our response – both at the source where these crimes are committed and operationally where they must be met with every resource of the law.

We are determined to keep up the pressure on this issue, so that we can really see results. At the same time, we want to proceed with the sensible caution that will make sure the UK remains transparent on economic crime, as well as being open and fair to global businesses. It is this careful balance that will ensure we maintain the confidence of investors and maximise their investment in our country at a crucial time for our economy.

Ultimately, we want to make sure that it is not society who must pay for economic crime, but instead the criminals who carry it out. As we begin to recover from COVID, it is imperative that we work together to make that happen – particularly on those emerging threats that I mentioned. I know that this symposium is a conduit for debate on that basis and I hope the discussions that you have had and will have throughout the remainder of the week are fruitful ones.

Once again, my grateful thanks to you all.