

AN EXAMINATION OF FRAUD IN THE UK IN 2003

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Abstract

This essay explores the concept of serious fraud and fraud and fraudsters in society.. It will explain the concept of fraud with the emphasis being on the fraud which is called economic or white-collar crime. It concludes with a critical analysis of the UK's fraud offence bill.

The Concept of Serious Fraud

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Fraud is defined in the Oxford Dictionary as “the quality of being deceitful; criminal deception; the using of false representations to obtain an unjust advantage or to injure the rights or interests of another; a dishonest trick”.

English law does not provide a definition of fraud, nor is there a substantive offence of fraud at

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criminal law . At common law fraud consists of “a false statement of fact which is made by one party to a transaction to the other knowingly, or without belief in its truth or recklessly without caring whether it be true or false, with the intent that it should be acted upon by the other

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party and which was in fact acted upon”.

‘Fraud’ involves the notion of detrimentally affecting or risking the property of others, their rights or interests in property, or an opportunity or advantage which the law accords them with respect to property. Conversely it is not fraud to detrimentally affect or risk something in or in relation to which others have no right or interest or in respect of which the law accords them no opportunity or advantage.

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Fraud is perceived by some as criminal and unethical behaviour and the term ‘white-collar

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crime’ is often used as an alternative to the word fraud . White collar crime is sometimes classed as crimes of the rich, sometimes as organised crime, or crime of an organised and pre-meditated behaviour, whilst others might view those same as the problems which arise when a business created for an honest purpose, is turned into a criminal one. All this suggests that there

is no single wide field of white-collar crime or economic crime or business crime but that the word “fraud” gives a rough imagery rather than a fixed definition of this type of activity.

In Illinois, however, fraud is much less precisely defined. Fraud in Illinois law does not specify itself but is the term generally used for deception, not necessarily with the result of financial loss.

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The Illinois Supreme Court held in *Re Eugene Lee Armentrot and others* that “Fraud encompasses a broad range of behaviour, including anything calculated to deceive, whether it be by direct falsehood or by innuendo, by speech or by silence, by word of mouth or by look or gesture. Fraud includes the suppression of the truth, as well as the presentation of false information.”. Here, fraud is defined as anything calculated to deceive and it is clear and well established Illinois law .

No only does English law not define fraud, there is no substantive offence of fraud in English criminal law even though there are a offences that cover fraudulent activity and fraudulent conduct involving deception and dishonesty. The contemporary term “fraud” can cover a wide spectrum of criminal activity ranging from minor offences such as benefit fraud to sophisticated frauds involving complicated financial transactions and large sums of money. The offences of theft and deception are contained in the Theft Acts 1968 and 1978. There is also the common

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law offence of ‘conspiracy to defraud’ and the offence of ‘fraudulent trading’ . An English

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example of the offence of deceit is the case of *R v Clucas and O’Rourke* in which Clucas and O’Rourke were convicted of a number of offences of fraud in wagering. They had operated a scheme whereby one of them would contact a bookmaker giving a false name and pretending to

be engaged on a works contract. He would ask the bookmaker to accept bets on behalf of men on a building site. When there were winnings, Clucas and O'Rourke collected them; when there were losses of any substantial amount, they moved on to another place. Section 17 of the Gaming Act 1845 provided that "every person shall, by any fraud...in wagering on the event of any game, sport, past-time or exercise, win from any person to himself, or any other or others, any sum of money or valuable thing, shall be deemed guilty of obtaining such money or valuable thing by a false pretence." The question put to the jury was "were the accused at the time they made these bets with bookmakers intending to cheat and defraud those bookmakers by not paying losses?". The jury decided they were. Clucas and O'Rourke's deceit was the concealment of their intention to move on without paying if they lost on the bets.

More Case-law on the offence of conspiracy to defraud

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In later case-law, in the case of R v Cushion , Justice Williams said that fraud really means no more than dishonesty. This upholds the broad meaning of fraud consisting of the two elements of dishonesty and deprivation but not deceit as was given in the 1975 case Scott v Metropolitan

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Police Commissioner . Yet the element of deceit, though not included in the Scott case, was

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classed as an element of fraud in the case R v Theroux when Justice McLachlin said "To establish the actus reus of fraud, the Crown must establish beyond a reasonable doubt that the accused practised deceit, lied, or committed some other fraudulent act. It will be necessary to show that the act is one which a reasonable person would see as dishonest. Deprivation or the risk of deprivation must then be shown to have occurred as a matter of fact. To establish the

mens rea of fraud the Crown must prove that the accused knowingly undertook the acts which constitute the falsehood, deceit or other fraudulent means, and that the accused was aware that deprivation could result from such conduct.”

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In the case of *R v Zlatie* it was held that non-disclosure can constitute fraud if the non-disclosure would be viewed by a reasonable person as dishonest. Such failure to disclose information would be with the intention to cause pecuniary loss to the other party. Case-law supports criminal sanctions for fraud when it means :-to deprive by deceit or to dishonestly deprive, negligent misrepresentation which puts the property of others at risk, and false representation to obtain an unjust advantage. Today, the criminal law test used in fraud cases is

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the test for dishonesty only and is the 1982 decision of the Court of Appeal in *R v Ghosh*. It has two strands, those being that the defendant’s actions must not only be dishonest by the ordinary standards of reasonable and honest people, but that he must also have realised that his actions were dishonest according to those standards.

Fraud is not classed as an offence by statute

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English courts still have not ventured to lay down precisely what constitutes fraud.

Fraud in its many forms may be said to be any behaviour by which one person intends to gain a dishonest advantage over another. It includes such diverse acts as extortion, embezzlement, forgery, unfair competition, commercial espionage and other white-collar crimes. and serious frauds consist of the most serious of these types of crime, namely complex embezzlement, long

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firm frauds and commercial and organised crimes.

It can be said that, reduced to its basic level, fraud follows an incremental pattern limited only by the perpetrator's greed, opportunities and success or otherwise in concealing previous losses.

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Greed is the motivation. Concealment is an essential part of most large-scale, prolonged

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frauds, this being concealment of losses, concealment of blame, misrepresentation or manipulation.

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Clinard and Yeager (1980) called it organisational crime and Farrell and Swigert (1985)

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studied the complex organisations in which such crimes are committed.

Such organisations usually have high reputations and the crime of serious fraud is perpetrated as

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an ongoing illegal activity as explained by Sutherland . Such corporations are organised around a common goal to achieve profit and adopt a structure that is the most efficient and rational means of maximising this goal.

Fraud as an offence as stipulated by the Home Office

Although there is no statutory offence of fraud in the United Kingdom, the Home Office sets out the offences that it considers are offences of fraud in

“Counting Rules for Recording Crime”, a Home Office Publication in April 2003, some of which are financial fraud offences which this work will concentrate on, these being

False statements by Company Directors, etc. under Theft Act 1968 section 19

“..an officer of a body corporate or incorporated association (or person purporting to act as such), with intent to deceive members or creditors of the body corporate or association about its affairs, publishes or concurs in publishing a written statement of account which to his knowledge is or may be misleading, false or deceptive in a material particular...”

- **Common law offence of conspiracy to defraud;**
- **Carrying on business with intent to defraud** under section 458 of the Companies Act 1985 and **Fraudulent Trading** under the same section

“... any business of a company is carried on with intent to defraud creditors of the company or creditors of any other person, or for any fraudulent purpose..”.

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- **fraudulent misappropriation of funds** under the Proceeds of Crime Act 2002
- **Engaging in a course of conduct which creates a false or misleading impression as to the market in or the price or value of investments**, contrary to section 47(2) of the

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- **Obtaining pecuniary advantage by deception** (apart from cheque and credit card fraud) under Theft Act 1968 section 16
- **Conspiracy to defraud** (apart from cheque and credit card fraud) under Common Law and Criminal Justice Act 1987 section 12
- **Suppression, etc of documents**, under the Theft Act 1968 section 20
- **Evasion of Liability by Deception**, under Theft Act 1978 section 2
- **Assisting another to retain the benefit of criminal conduct**, under Criminal Justice Act 1988 section 93A

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Financial Services Act 1986

- **Concealing or transferring proceeds of criminal conduct**, under Criminal Justice

Act 1988 section 93C

- **Cartel offences**, under The Enterprise Act 2002 sections 183 and 185
- **Forgery**, under Forgery and Counterfeiting Act 1981 section 1
- **Copying a false instrument**, under Forgery and Counterfeiting Act section 2
- **False Accounting** under the Theft Act 1968 section 17(1)

“..a person dishonestly with a view to gain for himself or another or with intent to cause loss to another-

- (a) destroys, defaces, conceals or falsifies any account or any record or document made or required for any accounting purpose; or
- (b) in furnishing information for any purpose produces or makes use of any account, or any such record or document as aforesaid, which to his knowledge is or may be misleading, false or deceptive in a material particular...”

These are some of the classifications which the police in the United Kingdom use for bringing charges of fraud. although an analysis of the charges brought by the SFO in five years cases to 2003 show that the SFO used only five charges in total, they being, the charge of fraudulent trading in 18% of these cases, false accounting in 14% of cases, theft in 12% of cases, corruption in 8% of cases, the remaining cases, 48%, brought on the charge of conspiracy to defraud. The analysis proves that the Serious Fraud Office uses most commonly the charge of “conspiracy to defraud”. This most used charge therefore deserves examination.

The common law offence of conspiracy to defraud

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A person who agrees with one or more other persons by dishonesty to deprive a person of something which is his or to which he would be or might be entitled, or to injure some

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proprietary right of another person , is guilty of conspiracy to defraud at common law. Following the implementation of section 12 of the Criminal Justice Act 1987, the Director of Public Prosecutions issued guidance as to the circumstances in which it would be appropriate to prefer a charge of conspiracy to defraud.

“Where an indictment contains counts alleging substantive offences and a related conspiracy count, the prosecution must justify the joinder or be required to elect to proceed on the substantive or conspiracy counts. Where substantive counts meet the justice of the case a conspiracy count will rarely need to be added but may be added where the substantive counts do not represent the overall criminality of the case. Where a Crown Prosecutor is proposing to lay a conspiracy count, before doing so he should give consideration to the risk of the trial being

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lengthy and complicated or otherwise causing unfairness to defendants.”

The maximum penalty provided by section 12 Criminal Justice Act for the offence of conspiracy

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to defraud is ten years . The charge of conspiracy to defraud is much used today because in a conspiracy to defraud charge it is only necessary to prove the essentials of a charge. Tax evasion schemes, for example, are particularly likely to be caught by conspiracy to defraud charge. To bring complexity to the charge, conspiracy to defraud can occur over more than one territory. An agreement formed in one territorial area may be aimed at people in another area or other areas, or may reach into such areas in the course of its performance. This is an aspect of criminal conspiracy that has made it difficult to relate to the theory of territoriality which has so much influence on common law rules concerning the administration of criminal justice. The Criminal

Justice Act 1993 makes provision for such problems by making provision about the jurisdiction of courts in England and Wales in relation to certain offences of dishonesty and blackmail.

It states that Group A offences are offences under the Theft Act 1968, under the Theft Act 1978, under the Forgery and Counterfeiting Act 1981 and under common law offence of cheating in relation to the public revenue. It states that Group B offences are conspiracy to commit Group A offences, conspiracy to defraud, attempting to commit a Group A offence and incitement to commit a Group A offence. It does not matter whether such a guilty person is British or not, as long as the offence had effect on England and Wales and gives extended jurisdiction over certain conspiracies. If persons conspire to defraud and that fraud is to be committed abroad, as long as they conspire in the UK, they can be charged with an offence, although they planned to commit the offence in other countries. Before the Criminal Justice Act 1993, they would only be charged in the UK if they conspired to defraud in the United Kingdom, even if the conspiracy to defraud occurred abroad.

This legislation was used in 2003 to convict two Al-Qaeda fund-raisers to 11 years imprisonment

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. The two defendants had conspired to defraud persons and companies in the United Kingdom in order to commit other crimes abroad. The judge said to Benmerzouga and Meziane

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, “You have both been convicted by the unanimous verdict of the jury of conspiracy to defraud in respect of banks and credit card companies and entering into a fund-raising arrangement for the purpose of terrorism.”

But a charge of conspiracy to defraud, although the most used charge by the SFO, is no longer

used in the form of the offence of conspiracy to defraud by a limited company. although this charge has been successfully used in the past in the case of *R v I.C.R.Haulage Ltd* [\[31\]](#) in which the appellant company and nine individuals were charged with conspiracy to defraud by overcharging. One of the nine individual defendants was the managing director of the company. The company was convicted and appealed and the appeal was dismissed. In his judgement, Justice Staple used another such case, *Director of Public Prosecutions v Kent and Sussex Contractors Ltd* [\[32\]](#), to support his argument in which Lord Caldecote CJ said “The real point we have to decide ..is whether a company is capable of an act of will or of a state of mind, so as to be able to form an intention to deceive or to have knowledge of the truth or falsity of a statement....The offences created by the regulation are those of doing something with intent to deceive or of making a statement known to be false in a material particular. There was ample evidence on the facts as stated in the special case, that the company, by the only people who could act or speak or think for it, had done both these things, and I can see nothing in any of the authorities to which we have been referred which requires us to say that a company is incapable of being found guilty of the offences with which the respondents have been charged.” In the same case Justice Macnaghten said “It is true that a corporation can only have knowledge and form an intention through its human agents, but circumstances may be such that the knowledge and intention of the agent must be imputed to the body corporate... If the responsible agent of a company, acting within the scope of his authority, puts forward on its behalf a document which he knows to be false and by which he intends to deceive, I apprehend that according to the authorities that my Lord has cited, his knowledge and intention must be imputed to the company”.

Today, companies are prosecuted by bringing charges of conspiracy to defraud against identified

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senior individuals . Whether this is the best course or not is yet to be settled. In the case of a one-man company, though, that man could not be charged with conspiring to defraud with the

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limited company, as was seen in R v McDonnell where McDonnell was charged with conspiring to defraud with a limited company of which he was a sole director. Directors are charged instead of the company because in many cases the company concerned becomes insolvent at the same time and directors of an insolvent company will become liable to contribute to the assets of the company in liquidation, although this liability does not depend on fraud being proved..

A conspiracy to defraud charge (see the writer's survey results of SFO cases in Appendix 1) is often used because the SFO have been successful as it can more easily prove that one individual had the necessary mens rea, much like the corporate liability in R v P & O European Ferries

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(Dover) which, though not a fraud case, was a case of corporate liability and in which it was established that it was necessary to be able to identify one individual who had the necessary mens rea.

The agreement to commit a crime of recklessness can be classed as a conspiracy because the central focus of conspiracy to defraud has been upon the requisite mutual state. So the scope of common law conspiracy to defraud is very wide.

The SFO has used the charge of conspiracy to defraud in cases of misleading the markets and insider trading. Insider trading is very difficult to prosecute and there are very few cases brought

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to trial in the United Kingdom. The Guinness case , although it involved the manipulation of share price, was not brought to trial as an insider trading case but on charges of theft and false accounting. The Guinness case involved a financial operation to ensure that the Guinness share price was supported during the take-over bid for Distillers plc. The bid for Distillers was largely to be satisfied by Guinness shares and therefore the higher the price of Guinness shares, the fewer shares would have to be issued in consideration. It can be argued that this was a case of conspiracy to defraud, although this charge was not used in this case.

The ‘conspiracy’ can be argued to be as follows: During the period of the take-over bid in 1986, a very large proportion of Guinness shares were acquired by a group of supporters who were given company indemnity against loss; they were also given success fees. Among these supporters were the Guinness Pension Funds. These Funds were the Martins Fund which bought 36,000 Guinness shares, the Irish Fund which bought 100,425,986 Guinness shares, the Senior Executive Fund which bought 87,000 Guinness shares. Mr Roux bought 5,000,000 Guinness shares. Mr Parnes bought 2,950,000 Guinness shares. Mr Parnes was paid £3,350,000 in 1986 when he submitted an invoice for “Corporate Finance and Success Fee”.

A conspiracy to defraud charge can also be brought as a private criminal prosecution as in the

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case of Sears Group Properties Plc v Andrew Scrivener in which Sears sued the group technical director for conspiracy to defraud the company between 1991 and 1997, alleging that Scrivener conspired with suppliers to overcharge on contracts for fitting out retail premises. Sears claimed damages and an injunction restraining Scrivener from using or disclosing confidential information.

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The Law Commission reported on the scope of creating a general offence of fraud that juries and all other parties concerned would find easier to understand that the charge of conspiracy to defraud. It proposed that the eight deception offences under the Theft Acts be meshed to cover the various actions alleged in serious fraud indictments. The Theft Act offences usually

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employed to prosecute fraud, overlap and are often criticised as being too technical. The Commission said that the statutory offences do not always give an accurate picture of the fraud in question. The Commission quoted Lord Hardwicke

“Fraud is infinite, and were a court once to ...define strictly the species of evidences of it, the jurisdiction would be cramped, and perpetually eluded by new schemes which the fertility of man’s invention would contrive.”

The new Fraud Bill does not model the fraud offence on the offence of conspiracy to defraud which it considers to be too wide. In arriving at a new definition of fraud, the Commission

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quotes Stephen

“ ... two elements at least are essential... first, deceit or an intention to deceive or in some cases mere secrecy; and secondly, either actual injury or possible injury or an intent to expose some person either to actual injury or to a risk of possible injury by means of that deceit or secrecy.”

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The Commission stated that it accepts these two elements and adds that of dishonesty. The new offence of fraud will not require proof of deception as the Commission rejects the concept of deception which must operate on the mind of the victim. The Commission stated that the concept

of dishonesty in the fraud offence emphasises the act of the perpetrator and need not be proved to have caused the loss in question. So the offence of fraud would mean making a positive misstatement, or dishonestly making a false representation, or dishonestly failing to disclose information to another. In all cases, it is not necessary that any consequence is brought about by the fraud. The draft Bill does not contain any special defences and the offence has a maximum of ten years.

A critical analysis of the UK fraud offence as proposed.

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The UK's proposed fraud offence as recommended by the Law Commission may appease the public who are dismayed by the rising rate of "fraud". The new offence will be based on misrepresentation, non-disclosure and abuse of trust. There is to be a new offence also of obtaining services dishonestly and this offence will not require the proof of misrepresentation and of non-disclosure as the fraud offence will require. The Law Commission had rejected the offence of conspiracy to defraud, stating that conspiracy is too close to dishonesty. This new fraud offence is compared with the old offence of conspiracy to defraud to see exactly what are the differences that warrant a new offence of fraud.

The full recommendations of the Commissioners are as follows

“Fraud

1 Any person who, with intent to make a gain or to cause loss or to expose another to the risk of loss, dishonestly

(1) makes a false representation, or

(2) fails to disclose information to another person which

- (a) he or she is under a legal duty to disclose, or
- (b) is of a kind which the other person trusts him or her to disclose, and is information which in the circumstances it is reasonable to expect him or her to disclose, or

(3) abuses a position in which he or she is expected to safeguard, or not to act against, the financial interests of another person, and does so without the knowledge of that person or of anyone acting on that person's behalf, should be guilty of an offence of fraud.

2 Fraud should be triable either way, and on conviction on indictment should be punishable with up to ten years imprisonment.

Obtaining services by deception

3 Any person who by any dishonest act obtains services in respect of which payment is required, with intent to avoid payment, should be guilty of an offence of obtaining services dishonestly.

4 The offence of obtaining services dishonestly should be triable either way, and on conviction on indictment should be punishable with up to five years' imprisonment.

Abolition of existing offences

5 All the deception offences under the Theft Acts 1968-1996, and conspiracy to defraud, should be abolished."

The new fraud offence has the mens rea of intention on the part of the defendant. Conspiracy to defraud is the attempting to defraud and the incitement to defraud – the same elements as the fraud offence. The fraud offence intends that all the deception offences under the Theft Acts and conspiracy to defraud will be abolished. But what of the cases where the offence occurred

abroad ?

At present the charge of conspiracy to defraud is the most used charge by the Serious Fraud Office because in a conspiracy to defraud charge it is only necessary to prove the essentials of a charge. (Tax and VAT evasion schemes, for example, are particularly likely to be caught by conspiracy to defraud charge). To bring complexity to the charge, conspiracy to defraud can occur over more than one territory. An agreement formed in one territorial area may be aimed at people in another area or other areas, or may reach into such areas in the course of its performance or plot. This is an aspect of criminal conspiracy that has made it difficult to relate to the theory of territoriality which has so much influence on common law rules concerning the administration of criminal justice. The Criminal Justice Act 1993 makes provision for such problems by making provision about the jurisdiction of courts in England and Wales in relation to certain offences of dishonesty and blackmail.

It states that Group A offences are offences under the Theft Act 1968, under the Theft Act 1978, under the Forgery and Counterfeiting Act 1981 and under the common law offence of cheating in relation to the public revenue. It states that Group B offences are conspiracy to commit Group A offences, conspiracy to defraud, attempting to commit a Group A offence and incitement to commit a Group A offence. It does not matter whether a guilty person is British or not, as long as the offence had effect in England and Wales and gives extended jurisdictions over certain conspiracies. If persons conspire to defraud and that fraud is to be committed abroad, as long as they conspire in the UK, they can be charged with an offence, although they planned to commit the offence in other countries. Before the Criminal Justice Act 1993, they would be charged in the UK only if they conspired to defraud in the UK, even if the conspiracy to defraud occurred

abroad. The new fraud offence adjusts this 1993 Act. For instance, it deletes from section 2 Criminal Justice Act 1993, the parts relating to sections 15 and 16 of the Theft Act 1968 but it still leaves the following in section 2, namely that Group A offences are

- section 1 Theft Act–theft,
- section 17 Theft Act–false accounting,
- section 19 Theft Act– false statements by company directors,
- section 20(2) Theft Act– procuring execution of valuable security by deception,
- section 21 Theft Act– blackmail, and
- section 22Theft Act – handling stolen goods.

This is ambiguous; it seems to mean that theft is not fraud, that false accounting is not fraud, that false statements by company directors are not frauds, that procuring execution of valuable security by deception is not a fraud, etc. The case of *Barings Futures (Singapore) pte Ltd v*

[\[43\]](#)

Deloitte and Touche is a case that illustrates the false statement by a company director. If an accountant signs off incorrect audits, those statements are false statements and a fraud.

At present, the common law offence of conspiracy to defraud can technically be committed by a limited company, even though this has not occurred since 1944 in the case of *R v ICR Haulage*

[\[44\]](#)

Ltd in which the limited company and nine individuals were charged with conspiracy to defraud by overcharging and in the case of *Director of Public Prosecutions v Kent and Sussex*

[\[45\]](#)

Contractors Ltd Justice McNaughten said “It is true that a corporation can only have knowledge and form an intention through its agents, but circumstances may be such that the

knowledge and intention of the agent must be imputed to the body corporate...If the responsible agent of a company, acting within the scope of his authority, puts forward on its behalf a document which he knows to be false and by which he intends to deceive, I apprehend that according to the authorities that my Lord has cited, his knowledge and intention must be imputed to the company". On this matter of fraud by a company, the Law Commission's draft Bill is silent.

Looking at the mechanics of recording crime to see what will result from a new fraud offence -

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even in 1999, The New Law Journal editorial said that "...there is not even an authoritative measure of the extent of fraud in the UK. Police and private sector estimates vary from £400 million a year to £5 billion and the Association of British Insurers puts the total at nearer £16 billion...Even within the police there is no agreed definition or consistent recording practice. The City of London Police statistics are analysed by value according to type of fraud. The West Yorkshire Police figures cover 6 monthly periods and are broken down ..and analysed by victim type..."

The DTI submitted that 1,000 persons were charged in 1993 with the offence "conspiracy to

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defraud" and that 321 were convicted in the UK. In the UK Commons Hansard Written

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answers for 25 January 2001, the figures given for the common law offence of conspiracy to defraud were 1003, 1069, 1119, 1175 and 1174 persons charged during the years 1995, 1996, 1997, 1998 and 1999 respectively and that the actual convictions were 383, 477, 500, 466 and

420 respectively for those same years. In a population of over 63 million persons, this is hardly cause for alarm and the charge of conspiracy to defraud cannot be the culprit for the extent of fraud nor for the lack of conviction for fraud crimes.

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The Home Office Counting Rules for Recording Crime [\[49\]](#) give the standard ways in which the Home Office counts fraud and forgery for the UK. For Home Office statistics, the following are

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counted as “fraud and forgery” -

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– frauds by company directors ,

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– false accounting ,

[\[53\]](#)

– cheque and credit card fraud ,

[\[54\]](#)

– other frauds ,

[\[55\]](#)

– bankruptcy and insolvency offences ,

[\[56\]](#)

– forgery of drug prescription ,

[\[57\]](#)

– other forgery , and

[\[58\]](#)

– fraud, forgery associated with vehicle or driver records .

The new fraud offence is silent as to whether it makes the relevant sections of all these acts repealed, except that the proposed Fraud Act will that -

- (1) abolish the common law offence of conspiracy to defraud, Criminal Justice Act 1988; [\[59\]](#)
- (2) the Visiting Forces Act 1952 section 3, would have inserted “the Fraud Act 2002” in paragraph 3;(this is not included in the Home Office list under fraud);
- (3) the Theft Act 1968 will have omitted s 15 and 16, and sections 24 and 25 will be altered;
- (4) Criminal Law Act 1977 will omit section 5(2) ; (this is not counted by the Home Office as fraud);
- (5) Theft Act 1978 will omit section 4(2)(a) and 5(1);
- (6) Limitation Act 1980 will have section 5(b) altered ; (this is not counted as fraud by the Home Office);
- (7) Finance Act 1982 section 11(1) will change ; (this is not counted by the Home Office as fraud);
- (8) Nuclear Materials Act 1983 section 1(1)(d) is altered;(this does not feature in Home Office Counting rules ;
- (9) Police and Criminal Evidence Act 1984 section 1(8)is altered;
- (10) Criminal Justice Act 1987 section 12 is omitted ;(this is on the Home Office Counting rules);

In total, the new Fraud Act will repeal Theft Act 1968 sections 15,15A,15B,16,18(1),20(3),24A (3), Criminal Law Act section 5(2), Nuclear Material Offences Act 1983 section 1(1)(d), Criminal Justice Act 1987 section 12, Criminal Justice Act 1993section 1(2)(b) and 2(b),5(b),6(1) and 6(5).., Theft Amendment Act 1996 sections 1,3(2) and 4 and Criminal Justice and Court Services Act 2000, schedule 6 paragraph 1.

This will not clear up the confusion of recording fraud by the Home Office, not to mention the confusion that occurs when various police forces count crimes in various ways and so the public will be none the wiser about the true extent of fraud.

According to the Home Office Counting Rules, the maximum ten year sentence now applies to the following offences:-

53/1 - False statements by company directors,

53/4 - Giving false information knowingly or recklessly when applying for a Confidentiality Order, etc.

60/21 - Forgery of a drug prescription or copying a false drug prescription

60/22 - Using a false drug prescription or a copy of a false drug prescription

61/21 - Forgery or copying false instrument (other than drug prescription)

61/27 - Possessing materials or dies to make counterfeit coins or note

61/31 - Counterfeiting etc of dies or marks (other forgery etc)

Conspiracy to defraud at common law also carries the maximum of ten years sentence.

It can be argued that since conspiracy to defraud charge was only used in just over one thousand

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instances, consistently, in recent years' figures, that, the offence is not the problem. It may be that the problem is one of evidence gathering, entrapment and breaches through inadequacies of following the PACE guidelines and prosecution presentation. The new fraud offence would still leave many other "fraud" offences under various statutes or the status quo. Are conspiracy to

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defraud trials lengthy because of the charge used or because of prosecution defects in bringing a case to trial without breaching PACE or breaching the Human Rights Act 1998 ?

Conclusion

Fraud is a significant problem in the UK . The ways of combating fraud in the UK have clearly not been ironed out yet and even though there is a proposed criminal offence of fraud, this has not been thoroughly worked through to consolidate fraud as it is written into many statutes over hundreds of years . The UK has a lenient sentencing regime for fraud offences .

APPENDIX FOUR– R v POUND GREEN AND OTHERS (2004) unre

A former architect to the Talbot Village Trust in Dorset was sentenced today at Southampton Crown Court. Guy Pound was jailed for three years' for his part in a £3.5million building contracts fraud.

Guy Pound and two quantity surveyors, Anthony Green and Peter Beard, were convicted at Winchester Crown Court on 16 February 2004. Green and Beard have already been sentenced. At Southampton Crown Court on 26 March 2004, they were each given prison sentences of 9

months, suspended for 12 months.

Confiscation proceedings against all three defendants are underway. A hearing date has yet to be confirmed.

The Talbot Village Trust (“the Trust”) is a registered charity founded in the late 19th century. Its trustees are local landowners. It owns land in Wallisdown near Poole in Dorset. In the 1980s it began to sell some of its land to realise capital to finance developments for charitable projects on other parts of its land portfolio. The case centred on six construction projects undertaken between 1985 and 1995 amounting to £15 million. They include the construction of accommodation for the elderly and needy, hostels for Bournemouth University students, accommodation for Cheshire Homes and related road projects, all on Trust land. These contracts were commissioned through the Trust’s agents, Savills of Wimborne, Dorset.

The three defendants provided construction-related services to the Trust. They fraudulently manipulated contracts by invoicing for work not done and disguising inflated professional fees in the contracts.

The SFO investigation, with the Dorset Police Commercial Branch, was opened in May 1999. The defendants were charged in June 2001 and the trial opened in January 2003. (Two other persons, senior executives in a Bournemouth building company, were also charged and tried but were acquitted).

APPENDIX FIVE– R v PETER YOUNG (2003) unreported

In 1996 Peter Young was a fund manager at investment bank Morgan Grenfell in London. He joined the company in 1992. In 1994 he was given responsibility for a £300 million PEP fund called European Growth Trust. By 1996 it had become one of the largest unit trust funds in the country. At that time Young had responsibility for more than one billion pounds of investors' funds.

Certain regulations applied to the European Growth Trust. The fund could not hold more than 10% of the shares of any one company . It could invest no more than 10% of the fund in unapproved securities. The purpose of this regulation was to avoid over-exposure to riskier investments. Overseeing Young's compliance with the rules were Morgan Grenfell's internal compliance function and the trustees, General Accident.

In 1996 Morgan Grenfell discovered some irregularities with the European Growth Fund and Young was dismissed. The matter was referred to the Serious Fraud Office.

In 1998 Young was charged with conspiracy to defraud and with offences under the Financial Services Act 1986. In 2000, after hearing medical evidence in relation to Young's mental health in a Fitness to Plead Hearing, a jury found that Young was under a disability and was unfit to be tried. There is a requirement under the Criminal Procedure (Insanity) Act 1964 that in such a situation, evidence should be put before a jury in a Hearing of Facts in order to determine whether the defendant did the acts alleged in the indictment. The jury found that Peter Young committed the act alleged.

APPENDIX SIX– R v MITCHELL KIRKUP AND OTHERS (2004) unreported

Five company executives were sentenced today at Leeds Crown Court having pleaded guilty to defrauding business victims of nearly £5 million in a worldwide advance fee fraud conducted through their Anglo American Group venture capital business based in West Yorkshire. They made false promises as to their ability to deliver finance projects amounting to US\$24 billion.

The sentencing details are:

- Paul Mitchell (born 27/8/61) – 3½ years’ imprisonment
- Richard Kirkup (born 9/7/44) – 3½ years’ imprisonment
- Angela Mitchell (born 27/12/59) – 2 years’ imprisonment
- Mark Mason (born 11/6/61) - Community service order 120 hours
- Victoria Chapman (born 22/4/66) – Community service order 120 hours

Anglo American Ventures Ltd was set up in early 1993 to assist businesses seeking start-up or “seed capital” and development capital. The defendants claimed both for themselves and for the company to have substantial expertise and success in the business of sourcing funding for commercial enterprises and that the company was established in its field. Anglo American advertised its service globally. A fee was required in advance to consider an application for capital. As time went by further fees were required from victims at different stages. However no venture capital was made available to any client within the five year trading period. The reality was that Anglo American neither had the expertise nor the ability to successfully fund or raise finance for projects. Nearly £5 million fee income had been generated for Anglo American. It was an advance fee fraud from the start.

The advertising prompted many thousands of potential applicants to ask for further details. Over 4,000 of them were subsequently sent “Offers of Support” by Anglo American with a fee request ranging between one to ten thousand pounds depending on the scale of the venture required to be evaluated. Collectively these requests would have generated £13 million. Not all took the bait, but about eleven hundred did, sending in over £1½m in application fees alone from 78 countries. Many went on to suffer further and more costly deceptions at later fee paying stages of their applications. Some would proceed as far as joint venture plans requiring greater fees. There were 317 proposed and agreed joint venture plans and 79 paid up plans. Usually expressed in US dollars, they represented projects totalling \$24 billion. The reality was that Anglo American only ever managed to connect three clients to nothing more than a bank loan and other financial assistance amounting to around £100,000. This starkly illustrates the scale of the wild promises made by Anglo American.

Paul Mitchell and his wife Angela Mitchell, and Richard Kirkup were founding directors of Anglo American. Mark Mason, became a director at a later date. He knew Paul Mitchell and Richard Kirkup when the three had worked for the same life insurance company. Victoria Chapman had known Angella Mitchell when they both worked at an office interiors company. Chapman joined Anglo American as office manager, later becoming “assistant director”. The company also employed staff in more junior positions who are not implicated in the fraud. The principals in the fraud were the Mitchells and Kirkup. Paul Mitchell was its architect. These three defendants were the most highly rewarded.

The original registered address for this imposingly named international finance operation was 9 Moor Knoll Drive, a modest house in East Ardsley, West Yorkshire. It was the home of the Mitchells. However the corporate stationery was modified to show the address as “Unit 9, Moor Knoll Drive”. This was to give the impression of trading from offices on a business park. To add to the illusion of a global operation, company letterheads were adorned with the names of foreign cities “Los Angeles-New York-Hong Kong-Johannesburg-Geneva” to suggest offices and connections throughout the world. It was a fiction. There was no global presence.

Anglo American moved to office premises at Langham House, 140-148 Westgate in Wakefield in 1994 and later to a prestige location in Bond Terrace, Wakefield. They also used a Mayfair accommodation address to which potential victims would be invited to conduct business.

Anglo American Group Plc was created as the holding company for “Ventures” and also for a similar operation called Spiredale Ltd, but it was “Ventures” that brought in the bulk of the fees. (The Group Plc was not a stock exchange listed company).

The defendants made false claims about their credentials and the company’s operations in their communications with clients. Paul Mitchell styled himself as an investment banker. Angela Mitchell and Richard Kirkup made similar false or inflated claims about their expertise. They projected themselves as top-flight business professionals. The clear intention behind this facade was to convince potential clients that Anglo American was an introducer to loan facilities of some substance and experience. Correspondence would cite claims of a team with over 20 years experience in funding projects world-wide. It was a fiction.

The company website, brochures, advertisements and its corporate video all carried the same illusion. Advertisements were placed in the Wall Street Journal, the European, The Times, the Financial Times and other significant business newspapers. The company website also drew in a lot of the income. The promotional video typifies the intended illusion. It included pictures of a power station with the caption “Location India –Financing a new power station - \$150 million” to suggest it was an Anglo American assisted project. The power station neither had any connection with Anglo American; nor was it in India. It was the Drax power station in North Yorkshire.

Other video fictions include a \$100 million coal mine in China, a \$50 million timeshare and resort complex in Spain, a \$27 million manufacturing plant in Southern Africa and a \$10 million cellular phone project in Russia.

The Anglo American corporate brochure stated that the company had “successfully contracted joint venture projects totalling in excess of US\$ 2 billion.” Individual project requirements of up to \$500 million were claimed to be deliverable. False career claims featured in the brochure for the Mitchells and for Kirkup. It also included a fabricated attestation from the company’s (unidentified) solicitors and a bogus press release announcing a \$50 million finance deal for production of edible oils in India, though no details were given for independent verification.

The brochure included a quotation from Shakespeare’s play, Julius Caesar, to suggest the corporate ethos;

“There is a tide in the affairs of men, which taken at the flood, leads on to fortune; Omitted, all the voyage of their life is bound in shallows and miseries. On such a full sea we are now afloat;

and we must take the current when it serves, or lose our ventures.”

With promotional tools and messages such as these, the fraudsters pulled in £4.8 million. Clients were attracted from across the world. Advance fees were taken for a wide variety of business ventures. One example is a \$6 million scheme for four exclusive menswear shops marketing a French designer brand in prestige locations – Covent Garden or Sloane Street in London; Rue St Honoré in Paris; Via della Spiga in Milan; Fifth Avenue or Madison Square in New York. Another example was a, \$83 million basket of joint ventures through a broker in the Czech Republic. These were for a Rover car dealership, a shopping centre, a health clinic, a leasing business and a golf and hotel complex. Other examples further illustrate the diversity of the aspirant projects.

- Tourism projects in Austria;
- Mineral water production in Italy;
- Renovation of merchant ships in Greece;
- Powerboat business in the UK;
- Stud farms in France
- Financial restructuring of a company in Portugal;
- Tour operator in the USA;
- Ford car dealership in Brazil.

No project seemed to be too big or diverse for them to accept a fee. Their claim was that they had the right contacts for whatever the business.

This case is a classic example of advance fee hurdles; each jump either pulling in additional fees

or making the applicants cut their losses and withdraw. Many applicants were referred to organisations listed in a published venture capital handbook who usually advised that that the venture was not practical. This therefore was a fruitless route for the applicants, most of whom had already explored the usual sources of loans. It was hardly the service expected of a supposedly well placed and experienced operation. Anglo American had no special contacts and no influence in the venture capital sector. Of the thousands of clients they attracted, only three received any financial assistance, one of which was a bank loan that could have been acquired through routine banking channels. These “successes” amounted to not much more than £100,000. Conversely, there were many more examples of applicants being passed on to other so-called venture capital introducers in other countries who were known to the defendants and who also sought up-front fees from the applicants.

By the time the business ceased to trade in 1998, £4.8 million in income had been dishonestly obtained over the five-year trading period. Yet, despite the level of revenue, it had few assets. Pre-tax profits were negligible. The defendants rewarded themselves handsomely. They sucked cash out of the business in the form of salaries, dividends and benefits, first class travel, a plush office and high quality motor cars. (Jaguar, Bentley, Porsche, BMW, Lotus and Aston Martin with private number plates AAG - for Anglo American Group, the holding company). When the business traded at a loss in 1997 they still continued to misuse the fee income.

Together, the Mitchels officially gained over £400,000 (plus company benefits and facilities). Kirkup gained over £200,000. Secretly, they shared £1 million siphoned off over the period of trading which they put in an Isle of Man bank account. This was concealed from the auditors, their own accounting staff, the Registrar of Companies and the Inland Revenue. False sets of

accounts were filed on behalf of the company. Mason and Chapman were not found to have benefited from the secret £1 million, but they enjoyed good salaries, commissions and cars. The creation of Anglo American was found on one goal. It had been set up and operated from the start as a fraud for the benefit of the Mitchells and Kirkup and later also for Chapman and Mason who enhanced their earnings as turnover increased, knowing it to be a dishonest enterprise.

The Department of Trade & Industry received complaints from victims and commenced an investigation in October 1997. A court order shut down Anglo American in May 1998. The DTI had already alerted the SFO who launched an investigation in March 1998, jointly conducted with officers from the West Yorkshire Police fraud squad. On the 9th and 10th of that month, search warrants were executed at Anglo American's offices and the homes of the Mitchells and Kirkup. As an illustration of the reach of the fraud, investigations were conducted in seventeen jurisdictions by invoking mutual legal assistance arrangements and involving the cooperation of Interpol and many other overseas police forces.

All five defendants were charged in March 2002 with two counts of fraudulent trading in respect of Anglo American Group Plc and its "Ventures" subsidiary. A trial was scheduled for Leeds Crown Court on 26 January 2004, but just ahead of the opening the Mitchells pleaded guilty. The remaining three defendants considered their positions and by 10 February, changed their pleas. Kirkup admitted to the fraudulent trading charge. Chapman and Mason pleaded guilty not to fraudulent trading but to substantive counts of obtaining money by deception added by way of amendment to the indictment. Consequently, no trial accrued.

In passing sentences, HHJ Shaun Spencer QC said, "In terms of an example of greed, this case

takes some beating”. He commended the SFO and the West Yorkshire Police for the conduct of the investigation and the preparation of the case, citing in particular, officers DS Phil Hirst and DC Steve Butler and SFO case secretary Keith Billington.

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Oxford English Dictionary, 2003, Oxford University Press

[2]

In a recent case, *Cannane v J Cannane Pty Ltd (in liquidation)* [1998] 153 ALR 163 at 172, the judge said “It is notoriously difficult to provide an exhaustive statement as to what is involved in the concepts of ‘fraud’ and ‘intent to defraud’.

[3]

Derry v Peek [1889] 14 App Cas 337 at 374.

[4]

Page F, “What is fraud?”, *New Law Journal*, 28th Feb 1997. In this article the writer says that fraud is not yet universally recognised or understood as a crime in the way that theft is because for many centuries it was purely a civil matter.

Waters, T, “Fraud in prospect and hindsight”, *Fraud Intelligence*, Jan 2002. In his article, Mr Waters says that the UK authorities are currently “grappling with difficult questions concerning the definition, prosecution and regulatory treatment of fraud”.

[5]

See Croall, H,(1992),”White Collar Crime”, Open University Press, at pg19.

[6]

In re Eugene Lee Armentrout, Jay Robert Grodner, Charles A. Petersen, Kim Edward Presbrey, William H Weir and William John Truemper, Jr, 99 Ill.2d 242 [1983]

[7]

An example of which is the case R .J O'Connor v R [2004] EWCA (Crim) 1295, in which a managing director of a company organised a scheme whereby he would post shirts to previous customers, whose bank details he had kept, and charged then for these shirts without sending out any documentation with the goods explaining the basis upon which it had been sent, whether or when the recipient would be charged for it or how he should go about rejecting or returning it; he was found guilty and appealed on the grounds of no case to answer and on fresh evidence that was not given at trial, but his appeal was dismissed.

[8]

R v Clucas and O'Rourke [1959] 1WLR 244

[9]

R v Cushion [1997] 150 ALR 45

[10]

Scott v Metropolitan Police Commissioner [1975] AC 819 (HL)

[11]

[1993] 2 SCR 5

[12]

[1993] 2 SCR 29

[13]

R v Ghosh [1982] QB 1053.

[14]

Editorial, New Law Journal, 21 May 1999, "The definition of fraud" states that the most disturbing revelation of the 1999 Fraud Advisory Panel's annual report is that, 13 years after the Roskill Report, there is still no clarity as to how best to tackle the growing menace of white collar crime. There is no legal definition of fraud and government departments, professional bodies, business organisations and the police all have their own working definitions. The article states that "even within the police there is no agreed definition or consistent recording practice. The City of London police statistics are analysed by value according to type of fraud, but the Metropolitan Police statistics use the number of cases per type of fraud. The West Yorkshire Police figures cover six-monthly periods and are broken down between three offices and are analysed by victim type...."

[15]

Geis, G, Meir, RF, Salinger, LM, "White Collar Crime", 3rd ed, 1995, Free Press.

[16]

In Croall, H, (1992), "White Collar Crime", Open University Press, at pg 73, Croall asserts that "...As

in the case of conventional crime, a combination of individual, cultural and structural factors must be considered and white collar crime cannot simply be attributed to greed, acquisitiveness or even capitalism and its associated values. Greed or a desire for success may well provide initial motivations...”

[17]

Spencer Bower, “Actionable Misrepresentation”, 4th ed, 2000., pp108-9

“A representor may have acted on inquiry or materials which would not have satisfied a person of normal intelligence, much less a trained judge, but this counts for nothing if the belief – the individual being who he was – really and truly existed. Belief is nonetheless belief because it is irrational”.

[18]

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Sutherland, EA, “White collar Crime”, 1949, Holt, Rinehart and Winston.

[21]

A recent case of Fraudulent Trading was R v Freeman and Hodgkinson [2003]. The case concerned the failure and bankruptcy of the tank container manufacturer Universal Bulk Handling Ltd . This was a loss making business whose performance was fraudulently hidden by the two defendants.. The company was formed in 1958 and became a wholly owned subsidiary of Hadleigh plc in 1990, after which business was poor and the defendants began to falsify the accounts, concealing the true state of affairs from Hadleigh plc and the auditors. In 1999 Hadleigh carried out an investigation which led to the discovery of Universal Bulk Handling’s fraudulent trading, an overall discrepancy of £11.5 million between what the accounts declared to be owing to the company and what in fact the company owed to both its suppliers and its customers, which caused Hadleigh to be placed into receivership.

[22]

An example of such a case is Cronos Containers NV v Palatin [2002] EWHC 2819. The defendants were Mr and Mrs Palatin and Klamath Enterprises SA. Mr Palatin owned the shares of Klamath. Mr Palatin in 1994, defrauded the claimants by causing 5 separate payments from one of the claimants’ customers to be paid into an account at Barclays controlled by the Palatins. The monies were then used to improve a property owned by Klamath.

[23]

an example is the case of R v Chauhan; R v Holroyd [2000] CA (Criminal Division). In this case the defendants engaged in a course of conduct which created a false or misleading impression in the company’s (International Food Machinery plc) accounts thereby permitting the company to proceed to flotation when it would otherwise have not been able to do so, and created a false and misleading impression as to the value of the shares in International Food Machinery plc, and backdating sales contracts and inflating stock values to make the company seem more profitable than it was.

- [24] The meaning of dishonesty is given in *R v Ghosh* [1982] QB 1053
- [25] See *Scott v Metropolitan Police Commissioners* [1975] AC 819 .
- [26] The meaning of defraud is found in *Welham v DPP* [1961] AC 103.
- [27] Crown Prosecution Service Practice Direction dated 9 May 1987.
- [28] In 1998, there were 1175 cases of conspiracy to defraud (in England and Wales) with an average sentence of 2 years. None of the convictions carried the full possible sentence of ten years. Source: Crime and Criminal Justice Unit (RDS), Home Office, October 2000.
- [29] “Al-Queda fundraisers sentenced to 11 years”, *Times Newspapers* April 1, 2003. It is to be noted that the maximum penalty for this offence is ten years. Home Office statistics show that, since 1995, there has never been any person sentenced for the full maximum sentence of ten years. Source: House of Commons Hansard written Answers for 25 Jan 2001.
- [30] The case was *R v Benmerzouga and Meziane* [2003], unreported. The two men lived in Leicester and had collected the names and credit card details of almost 200 different bank accounts on computer disks and envelopes found littered around their homes and cars. The cards were sent to associates across Europe allowing them to fraudulently amass more than £200,000 for terrorist causes.
- [31] [1944] KB 551, Court of Criminal Appeal
- [32] [1944] KB 146
- [33] Pettet, B, “Company Law”, 2001, Pearson Education Ltd. pg 32.
- [34] [1966] 1 All ER 193
- [35] 1990] 93 Cr. App. R 72

[36]

Guinness plc v Saunders and Another [1987] BCC 271.

[37]

Sears Group Properties v Andrew Scrivener [1998] unreported

[38]

Law Commission Report No. 276, "FRAUD – Report on a reference under section 3(1)(e) of the Law Commissions Act 1965, presented to Parliament in July 2002. This report examines the law on fraud, and in particular considers whether it is readily comprehensible to juries; is adequate for effective prosecution is fair to potential defendants; meets the need of developing technology including electronic means of transfer; and makes recommendations to improve the law in these respects.

[39]

For example, in the case of R v Preddy, appeals by the defendants against the accusation of mortgage frauds were allowed on the basis that the bank credits which they had been charged with obtaining under section 15(1) of the Theft Act 1968 were not 'property belonging to another'.

[40]

Stephen, "History of Criminal Law", 1883.

[41]

The concept of dishonesty is defined in R v Ghosh [1982] QB 1053

[42]

(Law Com No 276) Fraud Report on a reference under sections 3(1)(e) of the Law Commissions Act 1965, presented July 2002, Cm 5560.

[43]

[2003] EWHC 2371 (Ch)

[44]

[1944]KB 551

[45]

[1944] KB 146

[46]

Editorial, New Law Journal, 21 May 1999, Vol 149 No 6889 p 737

[47]

Memorandum submitted by Dr Elaine M Drage, Director, Trade Policy 2, DTI, to Select Committee on International Development, 2000.

[48]

<http://www.parliament.the-stationery-office.co.uk/pa/cm200001/cmhansrd>

[49]

Home Office Research Development & Statistics Directorate, April 2003.

[50]

Home Office Research Development & Statistics Directorate, April 2003.

[51]

Recorded as crime type 51- maximum sentence seven years.

[52]

Recorded as crime type 52-maximum sentence seven years.

[53]

Recorded as crime type 53A.

[54]

Recorded as crime type 53B.

[55]

Recorded as crime type 55-maximum sentence seven years.

[56]

Recorded as crime type 60-maximum sentence ten years.

[57]

Recorded as crime type 61-maximum sentence ten years.

[58]

Recorded as crime type 814-maximum sentence two years.

These offences counted under the eight above headings, comprise offences under the Theft Act 1968, Companies Act 1985, Protection of Depositors Act 1963, Theft Act 1978, Criminal Justice Act 1987, Fraudulent Mediums Act 1951, Public Stores Act 1875, Post Office Act 1953, Stamp Duties Management Act 1891, Agricultural Credits Act 1928, Gaming Act 1845, Law of Property Act 1925, Land Registrations Act 1925, Criminal Justice Act 1988, Social Security Administration Act 1992, Computer Misuse Act 1990, Enterprise Act 2002, Deeds of Arrangement Act 1914, Insolvency Act 1986, Forgery and Counterfeiting Act 1981, Mental Health Act 1983, Coinage Act 1971, Hallmarking Act 1973, Protecting the Euro Against Counterfeiting Regulations 2001 (SI 3948/2001), Road Traffic Act 1988, Vehicle Excise and Registration Act 1994, Transport Act 1968, Goods Vehicles Act 1995 and Road Traffic Regulation Act 1984.

[59]

2002 having been the proposed date of the statute. The Bill is still at consultation stage.

[60]

House of Commons – International Development – Minutes of Evidence – Memorandum submitted by Dr Elaine M Drage, Director, Trade Policy 2, DTI – http://www.parliament.the-stationery-office.co.uk/cm200001/cmselect/cmintdev/39/0_25/06/03

[61]

Barbara Ann Hocking, “The fame, fortunes and future of the ‘rump of the common law’: Conspiracy to defraud and English Law”, Justice Studies, Queensland, Australia 4058.