

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

CRIMINAL FINANCES BILL

First Sitting

Tuesday 15 November 2016

(Morning)

CONTENTS

Programme motion agreed to.
Motion to sit in private agreed to.
Written evidence (Reporting to the House) motion agreed to.
Examination of witnesses.
Adjourned till this day at half-past Two o'clock.

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

not later than

Saturday 19 November 2016

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The Committee consisted of the following Members:

Chairs: MRS ANNE MAIN, †SIR ALAN MEALE

† Arkless, Richard (<i>Dumfries and Galloway</i>) (SNP)	† Hunt, Tristram (<i>Stoke-on-Trent Central</i>) (Lab)
† Atkins, Victoria (<i>Louth and Horncastle</i>) (Con)	† Huq, Dr Rupa (<i>Ealing Central and Acton</i>) (Lab)
† Dakin, Nic (<i>Scunthorpe</i>) (Lab)	† Mann, Scott (<i>North Cornwall</i>) (Con)
† Davies, Byron (<i>Gower</i>) (Con)	† Mullin, Roger (<i>Kirkcaldy and Cowdenbeath</i>) (SNP)
† Dowd, Peter (<i>Bootle</i>) (Lab)	† Sandbach, Antoinette (<i>Eddisbury</i>) (Con)
† Drummond, Mrs Flick (<i>Portsmouth South</i>) (Con)	Vaz, Keith (<i>Leicester East</i>) (Lab)
Elphicke, Charlie (<i>Dover</i>) (Con)	† Wallace, Mr Ben (<i>Minister for Security</i>)
† Ghani, Nusrat (<i>Wealden</i>) (Con)	† Wood, Mike (<i>Dudley South</i>) (Con)
† Griffiths, Andrew (<i>Lord Commissioner of Her Majesty's Treasury</i>)	Colin Lee, Ben Williams, <i>Committee Clerks</i>
† Harris, Carolyn (<i>Swansea East</i>) (Lab)	† attended the Committee

Witnesses

Donald Toon, Director of Economic Crime, National Crime Agency, Mick Beattie, National Co-ordinator, Financial Crime Portfolio, National Police Chiefs Council, Detective Superintendent James Harman, Head of the National Terrorism Finance Unit, Met Police

Simon York, Head of the Fraud Investigation Service, Her Majesty's Revenue and Customs, Mark Thompson, Chief Operating Officer, Serious Fraud Office, Nick Price, head of Proceeds of Crime, Crown Prosecution Service

Alex Cobham, Chief Executive Officer, Tax Justice Network, Professor Richard Murphy, Director, Tax Research UK

Public Bill Committee

Tuesday 15 November 2016

(Morning)

[SIR ALAN MEALE *in the Chair*]

Criminal Finances Bill

9.25 am

The Chair: We are now sitting in public and the proceedings are being broadcast. Before we begin, I have a few preliminary announcements to make. First, can everyone switch off their electronic devices or move them to silent, if that is possible? As you all know, the rules of the House are clear that no teas or coffees are allowed during sittings. We will first consider the programme motion on the amendment paper. We will then consider a motion to allow us to deliberate in private about our questions before the oral evidence sessions and a motion to enable the reporting of written evidence for publication. In view of the time available, I hope we can take those matters formally, without debate.

Ordered,

That—

- (1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 15 November) meet—
 - (a) at 2.30 pm on Tuesday 15 November;
 - (b) at 11.30 am and 2.00 pm on Thursday 17 November;
 - (c) at 9.25 am and 2.00 pm on Tuesday 22 November;
 - (d) at 11.30 am and 2.00 pm on Thursday 24 November;
- (2) the Committee shall hear oral evidence in accordance with the following Table:

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Tuesday 15 November	Until no later than 10.20 am	National Crime Agency; National Police Chiefs Council; Metropolitan Police
Tuesday 15 November	Until no later than 11.00 am	HM Revenue and Customs; Serious Fraud Office; Crown Prosecution Service
Tuesday 15 November	Until no later than 11.25 am	Tax Research UK; Tax Justice Network
Tuesday 15 November	Until no later than 3.15 pm	British Banking Association; Financial Conduct Authority; Law Society
Tuesday 15 November	Until no later than 4.00 pm	The Herald; Christian Aid
Tuesday 15 November	Until no later than 4.15 pm	Rt Hon Dame Margaret Hodge MP
Tuesday 15 November	Until no later than 5.15 pm	Royal United Services Institute; Corruption Watch; Global Witness; Transparency International UK

- (3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 14; Schedule 1; Clauses 15 to 29; Schedule 2; Clauses 30 to 32; Schedule 3; Clause 33; Schedule 4; Clauses 34 to 44; new Clauses; new Schedules; Clause 45; Schedule 5; Clauses 46 to 51; remaining proceedings on the Bill;

- (4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 24 November.—(*Mr Wallace.*)

The Chair: Therefore, the deadline for amendments to be considered at the first two line-by-line sittings has passed.

Resolved,

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

Resolved,

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

The Chair: Copies of the written evidence that the Committee has received will be made available in the Committee room. We will now go into private session to discuss lines of questioning.

9.27 am

The Committee deliberated in private.

Examination of Witnesses

Donald Toon, Mick Beattie and Detective Superintendent James Harman gave evidence.

9.29 am

The Chair: We are now sitting in public again and the proceedings are being broadcast. Before we start hearing from the witnesses, do any Members wish to make any declarations of interest?

Victoria Atkins (Louth and Horncastle) (Con): I used to practise as a criminal barrister and prosecute for many of the agencies that would use these powers.

The Chair: I think there are many in this place who are guilty of the same thing. We will list that.

Byron Davies (Gower) (Con): I am a former Metropolitan police officer and member of the National Crime Squad.

The Chair: We will now hear oral evidence from the National Crime Agency, the National Police Chiefs Council and the Metropolitan police. Before calling the first Member to ask questions, I remind Members that questions should be limited to matters within the scope of the Bill and that we must stick to the timings in the programme motion that the Committee has agreed for this section, which will end at 10.20 am. Will the witnesses please introduce themselves for the record?

Donald Toon: Good morning, Chair. I am the prosperity director for the National Crime Agency. As part of my role I am responsible for the agency's response to financial crime, including the operation of the UK Financial Intelligence Unit and, therefore, the suspicious activity reporting system. I am also responsible for our work on money laundering and asset recovery. As part of the agency, we have a responsibility to co-ordinate the law enforcement response to serious and organised crime, in this case in respect of money laundering and criminal finances.

Mick Beattie: Good morning. I work for the National Police Chiefs Council, which is the governing body of chief officers for the policing forces of the UK. I report directly to Mick Creedon, the national lead for financial investigation asset recovery. I am also the subject-matter lead for the regional organised crime units, which is the serious organised crime response from UK policing.

Detective Superintendent Harman: Good morning. I am a detective superintendent with the Metropolitan Police Service, specifically the SO15 counter-terrorism command. I head up the national terrorist financial investigation unit. Our responsibility is the investigation and prosecution of terrorist financing offences and financial investigation more generally within a counter-terrorism context.

Q1 Dr Rupa Huq (Ealing Central and Acton) (Lab): Thanks very much for coming in today. I have an easy question first. Because you all enforce this every day, what are the current difficulties with the legislation that we have in recovering assets from individuals who are suspected of involvement in criminal activity overseas?

Donald Toon: One issue is the ability to have an effective overseas end to the investigation. A particular problem around international corruption has been the need to have evidence from overseas, often from a difficult jurisdiction if we are talking about political-level corruption, that is capable of being used in a UK court to take action to recover assets. From our perspective, the introduction of the unexplained wealth order is a particularly important step in response to that.

The other issue, perhaps, has been very much the ability to have sufficient time to be able to get evidence from overseas in standing up a law enforcement response to a suspicious activity report, where that report may be looking for a defence against money laundering, commonly known as a consent SAR. The difficulty there is that we run against a 31-day moratorium period. Essentially, if we cannot have a law enforcement case in front of a court within 31 days for restraint of the assets, there will be a deemed consent and transactions will continue. That is acutely difficult when we are looking for information from overseas. In some jurisdictions that can take an extended period.

Another piece in the Bill that is particularly useful is the extension of the moratorium period, subject to court order, of up to 186 days. In terms of references to the legislative position, it is very much that ability either to get evidence or find a mechanism by which we do not need to rely on overseas evidence, particularly when we are talking about difficult jurisdictions.

The other area that is particularly difficult for us has been very much around the ability to access beneficial ownership information overseas. Although not strictly part of this Bill, that has been a recent focus for legislative change. That is a particular issue for Crown dependencies and overseas territories. I can expand on that as necessary.

Mick Beattie: Yes, I echo those sentiments. Over the past 13 years, operational use of the Proceeds of Crime Act 2002 has thrown up some operational challenges, many of which have been addressed in the Bill. In terms of investigative resources, an example of that would be disclosure orders. The current system operates as follows: if you have a suspect A identified as having accounts in

bank B, then an investigator investigating that person for money laundering would go to the court for a production order. If the court approves the order and it is then served on a financial institution that subsequently gives over the information required that identifies yet another account at bank C, then the investigator has to go back to the court to obtain another production order, and go through the same process of serving an order on the second bank.

If that bank again identifies another account at another bank, then the process is repeated. When awarded, a disclosure order, or something like it, lasts for the lifetime of the investigation, and can be served on anybody with an interest in or information relating to the matter. The resource implications could be massively improved from something like a disclosure order.

As far as items of portable wealth are concerned, legislation exists that refers to cash seizure. We have civil legislation that caters for anything over £1,000 that is deemed to be identified as resulting from criminal conduct or being used in criminal activity, but criminals are adaptive. They can transfer that cash into items of wealth such as watches and jewellery, which are easy to transport. The new legislation relating to that gives us more opportunities to search and seize those kinds of items.

Q2 Dr Huq: In relation to what you said about portable wealth, do you think the £100,000 limit is about right, or can people convert money into things worth £95,000 by buying paintings up to that value?

Mick Beattie: They can, and obviously they can collaborate among themselves to do that. Getting through that is an operational challenge for us. We have to try and investigate that as part of the investigation, and we have to look for those kinds of things. Anybody who facilitates that is potentially committing money laundering offences themselves, and can be brought into the investigative chain.

Q3 Dr Huq: Is £100,000 a good figure or is it an arbitrary figure plucked from the air?

Mick Beattie: I do not know how the figure came about. It is a high figure, but we are talking about serious and organised crime and criminals here, and they operate in those kinds of areas of value. I would not know the origin of the £100,000 figure.

Detective Superintendent Harman: There are a great deal of positives around international co-operation in the counter-terrorism area, as you might expect. There are strong relationships across the world for the purposes of sharing intelligence, and doing so quickly. As with our colleagues, what can slow us down is when we are looking for evidence that we can use in a court during a criminal prosecution. That can take a bit more time, so the first challenge is the time that it can take.

There is also the issue of the visibility of what money is used for. We may very well be able to show that money was sent out to Syria, for example, and we may have a strong case for believing that that money was used for terrorist purposes in theatre, but to follow that money into the hands of a terrorist and show what it was actually used for is and probably always will be a challenge for us. Where this Bill may help us is in the

fact that the more that banks—they often have an international visibility and reach—can tell us about transactions, the more they can share information with each other and build up that picture. That will help us in our international anti-terrorism efforts.

The other point I would make is that in terrorism we are often talking about smaller amounts of money. Sadly, it does not cost a great deal of money to commit a terrorist attack, depending on its scale. Spotting those smaller amounts within the financial system and dealing with those smaller amounts moving overseas is again more challenging, although not impossible.

Q4 Dr Huq: The Public Accounts Committee did a report on confiscation orders. It said that there was a tension between whether the point is to disrupt crime or recover criminal assets—sometimes they are facing in two different directions. Would you three agree with that? If we enact all the clauses in the Bill, will the new version improve the mismatch between those two limbs?

Donald Toon: I am not sure I would necessarily feel that there was a tension overall. The issue from our perspective is around the roles and responsibilities of the agencies involved that are using the legislation. The statutory duty of the National Crime Agency is to secure an effective response to the threat from serious and organised crime. One aspect of that is to make use of the powers in the Proceeds of Crime Act 2002 for the disruption of criminality. From our perspective, that is the responsibility of the agency. It is about the relentless disruption of serious and organised crime, where we are able to do so, using whatever tools are available to us, rather than purely focusing on the recovery of assets. That said, to be effective in using financial disruption we will very often use either the criminal confiscation process or civil recovery, which ultimately recover assets.

One of the points to cover is that, from our perspective, it is very much about asset denial. If we are talking about overseas, large-scale corruption, the point is about denying the criminal, the corrupt individual or their representatives access to the funds. If that means the funds are ultimately dissipated, for example, through legislation, we have still denied the criminal that access. Our focus is fundamentally around the vulnerability within the system, rather than purely about getting money and assets back for the Government and the taxpayer. That is a particular point when talking about overseas criminality.

Q5 Dr Huq: Do you think £100,000 is about right as a threshold or should it be lower for the unexplained wealth order?

Donald Toon: I think it is a perfectly reasonable value. The vast majority of property involved is of high value. If we are talking about property in the UK linked, for example, to non-European economic area politically exposed persons, it is almost certainly going to be of significant value. A small case from our perspective would be somewhere a little under £1 million. The majority of the casework in that space will be multiple millions, if not much higher.

Mick Beattie: For me, anyone who enters the criminal justice system should not be leaving it with their criminal assets intact. It is all about removing those criminal assets. First, they provide the symbolism of wealth and status

that money or assets can provide. Secondly, removing those assets is a good mechanism for reinforcing the compensation programme—we can compensate victims as a result of confiscation, with the enforcement capability behind it. It also stops reinvestment into crime, as mentioned by Donald. Commodity purchase is required to perpetuate the continuing criminality.

For me, it is all about removing those assets and everything associated with it and the image that is portrayed by the retention of those assets. It is well documented by some that serious and organised criminals are quite happy or quite prepared to do the time relevant to a prison custodial sentence. What really hurts them and their associates and family members is the denial and removal of the assets and the image that portrays to the public. It gets a lot of positive reception when we carry that out. From a public perception point of view, we know how much they appreciate the removal of assets.

Q6 Dr Huq: And on asset recovery?

Detective Superintendent Harman: Counter-terrorism is quite a different context for asset recovery, as you will appreciate. The people we are interested in are not looking to make a profit, and they are not looking to embark on an enterprise that is going to last for a long period of time and create a huge amount of wealth. They are looking to get money to achieve an objective. Our absolute priority is keeping the public safe and stopping a terrorist attack. Our absolute priority is therefore getting hold of that money and controlling it before it can be used. It is not much good to us to be retrospective after the fact: we are looking at stopping the attack. For us, it is about seizing assets before they can be smuggled overseas, seizing assets while they are sitting in a bank account, and interrupting and intercepting transactions that banks have hopefully reported to us as being suspicious.

Yes, of course, some of our terrorists do use crime to make money to commit terrorism, but really, we are not so much in the business of seizing huge amounts of assets. We are looking at stopping the cash before it can be used to hurt the public.

Q7 Dr Huq: What do you think of the £100,000 figure?

Detective Superintendent Harman: It sounds a reasonable figure to me when we are dealing with a higher end, it certainly does, but we operate less in that realm. We are more about the slightly smaller amounts causing a great deal of harm.

The Minister for Security (Mr Ben Wallace): I want to clarify the point: the seizure threshold is £1,000 and the unexplained wealth order threshold is £100,000. I did not want members of the Committee to get confused about the two. If we are talking about taking money out of a bank account, it is at the £1,000 level; if we are talking about confiscating assets on an unexplained wealth order, it is £100,000.

The Chair: Order. Can I just say to the witnesses that we have only a very short period of time and there are at least five other members who want to ask questions? The Minister may also do so at the end. Your replies are

very informative and welcome, but could you make them more succinct? Similarly, could Members confine themselves to instant questions that people want immediate replies to and that can be given?

Q8 Mrs Flick Drummond (Portsmouth South) (Con): Are you confident that the enforcement agencies will have sufficient resources to make full use of the new powers in the Bill?

Detective Superintendent Harman: Yes I am. In fact, the Bill is very helpful for counter-terrorism in that one of its sections allows us to make more of the resources we have. To be brief, about 40% of our financial investigators are police staff, or “civilians”, as they used to be called. Under current legislation, you have to be a warranted police constable to conduct a lot of the financial inquiries that we need to do. The Bill offers those civilian investigators new powers similar to those of a constable, allowing us to make the most of the resources we have. We are very pleased to see that in the Bill and confident we will make good use of it.

Mick Beattie: Likewise, I gave an example of the attendance at court which can be reduced by the disclosure orders. Obviously the policing bill has been cut, as is well documented and, yes, that has been challenging, but there have been some positives. The Government have recently provided additional funding for ACE teams—asset confiscation enforcement teams—which allows us to go chasing confiscation. They have provided additional funding for section 22 where you can revisit outstanding orders—it is a little technical—and, only recently, they have announced additional funding for the regional asset recovery teams, all of which will benefit from the improvements identified in the Bill.

Donald Toon: You have already heard about the disclosure orders but I also think the power to require information for the Financial Intelligence Unit and the information sharing provisions are important in making us more efficient. The one thing I would bring out is that it is not just about resources in law enforcement. We are talking about the ability to harness resources and capability from across the regulated sector, in particular financial institutions. From that perspective, I think it is a huge strengthening of capability.

Q9 Roger Mullin (Kirkcaldy and Cowdenbeath) (SNP): I would like to take a slightly different tack and ask about the existing powers that you have that this Bill seeks to build upon. I am concerned that the National Crime Agency has declined to deal with the Hermitage case, which has been discussed, and which involves about \$30 million laundered in London. Although the evidence provided to the National Crime Agency has been sufficient in other jurisdictions to take action, there has been a refusal to take action here. Why is that the case? Is it a lack of resources or a lack of will?

Donald Toon: Frankly, it is neither. In the Hermitage case, the overwhelming majority of the actual criminality took place outside the UK. One of the key issues in terms of where we focus our attention has got to be the prospects of actually being able to bring the major criminality in front of a court, and hopefully achieve a conviction. The fact is that a number of overseas jurisdictions are investigating criminality that took place in their jurisdiction. The vast majority of the criminality

did not take place in the UK, and those responsible are not in the UK. We have supported, we are supporting and we will continue to support inquiries in the UK that are designed to help to bring those people to justice in the jurisdictions where they can actually be targeted.

Q10 Roger Mullin: With all due respect, what I quoted was \$30 million that was laundered in London. I am not talking about the other money laundered through Hermitage in other jurisdictions. My understanding is that they have been buying up different types of assets in London—they are not merely property assets—and that the individuals involved regularly visit London, which would seem to bring it entirely within the remit of the UK to do something about it.

Donald Toon: We have a remit in the UK to do something, as you say, but from our perspective, we have a remit to do something in support of those who are better placed to target the main criminals. My understanding of the position is that I am not at liberty at the moment to go into the detail to which you refer.

Q11 Scott Mann (North Cornwall) (Con): I have three questions for you, Mr Toon, if I may. What have been the most significant challenges for the NCA in tackling economic crime? How will the measures in the Bill help the NCA to tackle economic crime? The third question is a small supplementary on the seizure orders and unexplained wealth orders. A small number of people make money from online gambling. Could you tell me how the Bill might affect them?

Donald Toon: I outlined earlier a couple of the biggest problems. Essentially, at the top end of money laundering, asset hiding and asset tracing, we are talking about something that is fundamentally international in scope and often involves us dealing with difficult jurisdictions. That has been an ongoing problem, notably around our ability to access sufficient information to track asset movements and identify ultimate beneficial owners. The fact that we have provision in the Bill for information sharing with the private sector is from our perspective hugely valuable. We have been working with the banks in a joint money laundering intelligence taskforce for about the past 16 or 17 months. This legislation essentially gives more cover for the banks to be able to share information effectively. Currently, they can do that only through us, through our gateway.

It is important to bring out that, with the capability that we have had so far, 58 arrests have flowed from the ability to share information with the banks. We have identified more than 2,100 suspicious accounts. Most importantly—there is something here about the shared intervention response—we have also had 730 bank-led internal investigations into customers and the use of particular accounts, which is hugely valuable to us. We are often dealing with large multinational financial institutions. They are in a very strong position to track the movement of money and see transfers between particular accounts, which enables us to identify the routes that we need to go down to track beneficial ownership. That information sharing provision, together with the work that has been done around improving transparency on beneficial ownership, is hugely valuable.

I have already mentioned the value of the unexplained wealth orders. Equally, there is the power to require provision of further information. We have an issue with

suspicious activity reporting. Yes, we get a very large number of reports and that number continues to rise, but it is overwhelmingly from the banks. We have significant concerns about the quality and number of reports that we get from other parts of the regulated sector. Often, banks report suspicious transactions involving other parts of the regulated sector. It is very unusual for us to be able to see and track those transactions as they have gone through, say, the legal profession, accountants or company service providers. We should see better quality reporting in that space. The power in the Bill will give us the ability to seek additional information, either where we have a report and it lacks quality or where we have a report that leads us to want to start asking questions of other parts of the regulated sector that have been involved in the transaction. That is hugely valuable from our perspective.

The Bill as a package is really valuable, but not just because of that. I have mentioned the SARs moratorium period. That moratorium period has been so difficult, not just from our perspective, but from the perspective of law enforcement's ability in the round to make effective use of SARs. With a seven-day turnaround and a 31-day limit, as soon as we go international, even with supportive jurisdictions, it is very hard to get information within that 31-day limit to be in a position to get a restraint order. That we can now see that go up to a maximum of just over six months—186 days—and that there is court oversight to give safety, is a hugely valuable step forward. Those are the major advantages of the Bill.

On the point about internet gambling, I confess I have not focused on that area. I would expect that, when we are in a position to be able to track those who are making particular profits, they could be targeted using the same provisions. The interesting thing is that while the information-sharing provision starts with the banks and the financial sector, the intention is to broaden that out and share information with the wider regulated sector. That would take us into things such as the gambling operators.

The Chair: Order. Before we proceed, I will say to the witnesses that this is your time. You have asked to appear and you have come to give evidence. This section will end at 10.20 am, no doubt whatsoever, so you are using your own time. You need to be more succinct to get more questions asked of you and replies given.

Q12 Scott Mann: Just quickly to pick up on what Mr Toon said, could you give me the timeframe for the 58 arrests?

Donald Toon: Those 58 arrests would be over a 15-month period.

Q13 Peter Dowd (Bootle) (Lab): I want to come back to the issue of resources and capabilities. You all gave an answer but I did not get the sense that you were convinced that you have adequate resource. You told us that the capabilities in the Bill would give you just that—capability. You also said that additional resource was being put in and that other agencies, such as banks themselves, would do a lot of the investigation but you did not tell us that you believed that you were going to get sufficient resources for the proposals in the Bill and what you were being asked to do. I will ask a second time: do you believe that you will get sufficient resources to do the job that you are being asked in the Bill?

Donald Toon: From our perspective, the vast majority of our resource is not specific to criminal finances. We operate on the basis that we deploy resource against the particular problem we are dealing with at the time. We have got approximately 4,500 resources. We are capable of flexing that. Could we do more with more? That is always the case in any organisation but the Bill will make us more capable and efficient in terms of delivering results. We think we deliver decent results now and will be better at it.

Mick Beattie: Again, it is a case of competing demands. Obviously, in policing we have to refocus now with this emphasis on child exploitation and the emergence of cybercrime in recent years. That has really impacted on the limited resources that we have. There are approximately 1,800 financial investigators in and around the policing community. We could all do with more but, in terms of the balance around the competing demands, we have a very strong and productive capability.

Detective Superintendent Harman: Yes, I do think that we have sufficient resources to take advantage of what is in the Bill, a specific example being the seizing of portable items. We are expanding our teams at the ports who intercept illicit cash and goods; we are not reducing them. That is one example. As I touched on, an area of the Bill would enable us to make better use of the resources that we do have. To answer your question directly: I am content.

Q14 Peter Dowd: So it is reasonable to assume that you will not be coming back to us within, say, the length of this Parliament to ask for any more resources, all things being equal?

Detective Superintendent Harman: I would like to talk about financial investigation and that area of counter-terrorism. Obviously, counter-terrorism is a huge national issue and I would not like to speak for the assistant commissioner for national counter-terrorism. In relation to whether I can take advantages of the powers and measures in the Bill, yes, we have resources in place to do that.

Mick Beattie: I echo that. In terms of financing investigation, the Bill gives a lot of opportunities for improved efficiencies. I reiterate that only recently we have had notification of another financial injection to policing's financial investigation capability.

Q15 Peter Dowd: That is not the question I asked. I am getting quite exercised about the response to this question. You have told us that you have the current resources, and therefore it is reasonable for me to say, on the basis of your projections of the level of crime out there and in the future, that you do not believe you will be coming back to us with any significant additional asks for at least the length of this Parliament—both in terms of legislation and, more importantly, in terms of finance.

Mick Beattie: I do not think I am in a position to answer that question.

Peter Dowd: It is a no, then.

Mick Beattie: For me, it is about financial investigation. In terms of policing plc, financial investigation is one capability. There are competing demands across the policing—or any law enforcement—landscape. By comparison

and proportionately, I believe that we have a strong capability. Yes, we would like more financial investigators; yes, as the regime becomes more aware of the capacity and capability of financial investigation and what it can bring, there will always be requests within my organisation for more capabilities. In terms of an overall policing budget, though, that is not for me to respond to.

Q16 Antoinette Sandbach (Eddisbury) (Con): To pick up on that last matter, is it not correct to say that proceeds of crime seizures in effect go to central funds and can be used, and there is part that is returned to the agency bringing the prosecution? To a certain extent, therefore, it is self-financing.

Mick Beattie: Of the money confiscated, 50% goes back to the Treasury and the remaining 50% is split three ways between the prosecuting element, the law enforcement agency and the court services. It is called the incentivisation fund. So yes, it goes back directly into law enforcement.

Q17 Antoinette Sandbach: So strengthening and broadening your powers will enable you potentially to seize more assets. Clearly, therefore, the aim of these measures is to deal with money laundering. How does the new criminal offence preventing the facilitation of tax evasion link in with that money laundering aspect of your investigations?

Mick Beattie: I am not a tax expert and do not represent Her Majesty's Revenue and Customs. In terms of investigative capacity, as a senior investigating officer presented with an investigation, in determining your strategy you will look at what outcome you hope to achieve. It could be a criminal justice outcome, a disruption option or along those lines. You will look at all measures to achieve that. In some cases, the information, intelligence or evidence is such that a tax investigation may be more effective than a criminal investigation. We work with the National Crime Agency and HMRC colleagues in determining who should lead the investigation. In terms of legislation strengthening HMRC's capability, it is clearly going to be advantageous to us in decision-making around the best strategy for a financial investigation.

Q18 Antoinette Sandbach: One criticism often levelled at law enforcement agencies is that they do not take enough steps nationally to recover assets that are the proceeds of crime. Apart from the disclosure orders and the aspect of portable goods—for example, jewellery—that you have already spoken about, what particular powers will help you with that asset recovery, and is there anything that is not in the Bill that you think should be?

Mick Beattie: The Bill contains technical amendments that, though they are not specific in themselves, tighten things up. Some of the legislation was restrictive and stopped upon a conviction; money laundering investigation powers would often stop. The Bill will nudge some of those on, to allow those powers to remain while there is a confiscation investigation. The powers in previous Bills have strengthened the investigative capability into the confiscation process, where there was a gap before in terms of what we could and could not do in serving production orders on accounts, for example. That has definitely helped.

Q19 Antoinette Sandbach: Is that the same, for example, with regard to extending the powers to revisiting orders under the Proceeds of Crime Act 2002, which was a gap that was not there previously?

Mick Beattie: The power to revisit the disparity between a benefit amount and a realisable amount is primarily the current role of the asset confiscation enforcement teams I mentioned earlier, which have been funded additionally by the Home Office directly from ARIS. The asset recovery incentivisation scheme has been top-sliced and a portion of that has been given to the three agencies to proactively do section 22 revisits.

Q20 Antoinette Sandbach: Are you therefore satisfied that the current procedures in the Bill tackle the major challenges you face in your aspect of the investigations?

Mick Beattie: It definitely improves some of the operational difficulties we have highlighted. We have been privy to the formation of the Bill, we have been invited, we have been allowed to comment and we have contributed to the drafting of the Bill. You always want more. There is more we would have liked around information sharing. But there are definitely advantages to the Bill that will help criminal investigations.

Q21 Nic Dakin (Scunthorpe) (Lab): Thank you for your evidence. You seem to be saying there is more that perhaps could be done, Mr Beattie. What additional things should we take the opportunity to look at in the Bill, to make sure you have the powers you need to do your job?

Mick Beattie: A lot of what we would have liked, we have got. Information sharing between the private and public sectors is done through the NCA UK Financial Intelligence Unit, which is under a lot of pressure. It is a unit that services the whole of UK law enforcement. The Bill allows communication between the banking sector and the UKFIU, which would then release that information to policing. If we had a particular interest, we may have to go back through the UKFIU back into that institution. We would have liked a little bit more direct access, but it is not a problem. It is something we can overcome.

In the early stages, I can understand the reticence from the banking sector. This is a new area of business for them, piloted through the joint money laundering taskforce very successfully. I can understand the small-steps mindset in relation to that—get some understanding, some evidence and some culture. So we are very supportive of what we have got in the Bill.

Donald Toon: From our perspective, the Bill takes us forward on a range of difficult issues, but it does that in a balanced and thought-through way. From law enforcement's perspective it is always easy to want more power, but that has got to be balanced against the fact that, for example, the financial services sector has to continue to do business.

We are satisfied that this makes the changes and we have been able to set out a clear, operational, evidenced case for the change. Do we think this will stop and it will be the panacea for the future? No, because we are involved in an arms race here. There are people on the other side—whether professionals involved in providing money laundering services or serious criminals—who

will always be looking for another opportunity. That is why the Proceeds of Crime Act 2002 has had to be amended so many times since it was first introduced.

Do we think this will stop further amendment? No. Does it actually address the issues we can evidence now? Yes.

Detective Superintendent Harman: I echo that. The answer for us now lies not in more legislation. The Home Office consulted very closely with us. We are seeing the legislation in here that we asked for. The answer now for us is about co-operation with the financial sector, about sharing information. Just like we asked the public for information to help us to fight terrorism, now we are asking the regulated sector, and I think the Bill will help with that.

Q22 Richard Arkless (Dumfries and Galloway) (SNP): For the most part, my questions have been dealt with by colleagues previously asking about additional powers, but I will come back to one point. There is a huge array of regulatory bodies that cover money laundering in the UK. Do you think that consolidating these would make life easier for you in the pursuit of money laundering activity?

Donald Toon: The Treasury has been doing work on this space now. From our perspective, all those regulated bodies are covered by anti-money laundering regulations and are required to submit SARs. We need to see clear, consistent standards across all parts of the regulated sector. I do not care whether that is achieved through one supervisory body or a number, provided they are all operating to the same set of standards and the same commitment to ensure that SARs are produced—and produced to the necessary quality—and they are prepared to take action against those parts of the regulated sector that they supervise when they do not live up to those standards.

Mick Beattie: I support that. The police get nearly 400,000 suspicious activity reports a year. There are definitely gold nuggets in there, but some of those reports are of such a poor standard, or they are defensive reporting or a means for the bank—really, their own regulators could have a role around the quality of the SARs submitted.

Detective Superintendent Harman: I do not have anything to add to what Mr Toon said.

Q23 Richard Arkless: You make it clear that there is an urge for law enforcement to have additional powers, but a balance needs to be struck. It is for Parliament to strike that balance, so take that out of your contemplation. You are not responsible for striking that balance, so what extra powers would you like to see in the Bill?

Donald Toon: As I have said, what we have in the Bill is what we are able to stand up a sensible evidential case for. We are conscious that we will see the opposition try to adapt. How they adapt, and in particular how some of the powers bed in, is what is going to inform the next stage. It is not something we feel that we are crying out for at this point.

Mick Beattie: I would like to see the courts given the power to defer Crown ownership on assets. I can understand the reasons—third-party ownership and the issues clogging up the courts—why that was not accepted, but that would have been a bonus.

Detective Superintendent Harman: As has been said, we see the powers in the Bill that we feel we need. I do not think we are looking for more powers; we are looking to ensure that we are using the powers well and we are co-operating with all partners in delivering our aims.

The Chair: We have eight minutes left before we must wind up this session, and a number of Members still want to ask questions. You will have to be brief on both sides. I call Mr Davies, briefly.

Q24 Byron Davies: My question is simply this, with respect to unexplained wealth orders and politically exposed persons. It is perhaps more to you, Mr Harman, than anyone. The measures reflect the concerns about those involved in corruption overseas and laundering of the proceeds of crime. How operationally viable do you think those are from an investigation point of view, particularly with some of the more difficult countries that we have to deal with?

Detective Superintendent Harman: I think there will be challenges, as you have highlighted. The unexplained wealth orders will help us to deal with the higher end, if I can call it that, of terrorist financing, where there are perhaps sham companies or charities being exploited and it is far more complicated. Such a power will ensure that people account for the money that they have. It will be challenging. To be honest with you, it will be a small part of our casework in the terrorism financing context, but it will be helpful.

Donald Toon: From our perspective—we run the international corruption unit for the UK—we see this as a hugely valuable step forward. We have a real problem at the moment in a number of jurisdictions where we cannot get usable evidence yet we have assets that are of deeply questionable probity. We do not expect the numbers to be huge, because the cases are large and complex, but we do think this is a very useful step.

Mick Beattie: We support that. Most of our international investigations go through the NCA anyway, so we agree with that.

Q25 Carolyn Harris (Swansea East) (Lab): I have one observation and one concern. The observation is that one of my colleagues mentioned that you would need to come back for more money, and another colleague said you would be self-funding. That means you will have to bring in far more than you cost to run, so just be aware of that.

I am really concerned that you are not concerned about money laundering in the gambling industry. You seem to have little or no evidence that that is an issue. I am very concerned that high street bookies are able to launder, and if they are not actually reporting any excessive or unusual activity, that is a great concern.

Donald Toon: Can I correct the position? The specific question I was asked was about the application of these powers to online gambling. Do we see the gambling industry as a potential risk for money laundering? Yes. Traditionally, it has been an area where money laundering has been relatively straightforward, in the sense of being able to demonstrate the source of funds. Actually, we have seen quite a lot of improvement in the way the gambling industry has targeted that, particularly through the casino structure. We work with the industry and the

main industry bodies, and we work very closely with the Gambling Commission on the regulation of that, and we do see some very good reporting. Is it still an abused area? Yes. It is an ongoing risk; we do seek to target that risk. It was a specific question I was responding to.

Q26 Carolyn Harris: Is there a benchmark to which you would expect bookmakers to report high or excessive use in a high street bookmakers?

Donald Toon: We would expect them to apply an objective test for suspicion and report. That is the point where we work with the Gambling Commission on making sure that that test is right.

Q27 Carolyn Harris: But you leave it them to decide at what level they report?

Donald Toon: It is an important point. It is absolutely the decision of any part of the regulated sector, including gambling operators. It is their decision when they should report. Should they fail to report when they should have done so, there are consequences. If they could be shown to be facilitating money laundering when we had gone into a major investigation and tracked back, then there would be potential consequences. Either we would seek to take action ourselves, or we would refer them—it does not matter which part of the regulated sector we are talking about—to their supervising regulator for action.

Q28 Carolyn Harris: Would it be helpful if it was a mandatory reporting level? For excessive use of a fixed odds betting terminal, for example, if we set a level and said, “Anything in excess of £1,000 a day,” from someone who would not normally spend that money?

Donald Toon: Frankly, no, I do not think it would. Every time you set a level, all you do is encourage people to create a level of complexity that always keeps below the level.

Mick Beattie: It is about the suspicion. It is all relevant to that individual, that money laundering reporting officer, their level of suspicion and the circumstances or action that determines that suspicion.

The Chair: This will have to be the last question. You only have two minutes.

Q29 Nusrat Ghani (Wealden) (Con): I apologise for being late this morning; I was at another Committee meeting. My question is to Detective Harman. I think you have already tackled funding of terrorism this morning but, as we know, terrorism has no borders nor does the funding, and with technology it becomes increasingly difficult for you to follow the flow of these funds. The Bill proposes more information sharing between the public and private sectors, which you have said will be incredibly helpful. Could you share whether there will be pushback from the banking sector and, as we seize the assets of terrorists, what might they do? What will be their next steps, so we can be ahead of the curve? Can you give us some advice on where they might end up putting their funds, so we can be a position to start seizing those funds once they come out of the mainstream?

Detective Superintendent Harman: It is a big topic. Briefly, our relationship with the financial sector—the banks and the MSBs—is fantastic. We have a very positive relationship. There are some official mechanisms

for that such as the JMLT that has been mentioned. So, I do not expect any pushback, quite the opposite really. The banking sector wants to work with us, obviously respecting their client confidentiality and the rules around that, but they do want to work with us, and they do work with us. This really gives a legal gateway for the goodwill, if you like, that already exists. We look forward to working with them as the way people bank changes—becomes more digital and so forth. We will evolve with that; that is our intention.

The Chair: That brings us to the end of the allotted time for the Committee to ask questions. I thank the witnesses on behalf of the Committee for their excellent presentations and the queries that they have answered. We will now move on to the next panel.

Examination of Witnesses

Simon York, Mark Thompson and Nick Price gave evidence.

10.20 am

The Chair: We will now hear evidence from HMRC, the Serious Fraud Office and the Crown Prosecution Service. Gentlemen, please present yourselves and give a brief background to why you are here.

Simon York: Good morning. My name is Simon York. I am the director of Her Majesty’s Revenue and Customs fraud investigation service. We deal with criminal attacks and the most serious tax fraud against the tax system. I am here because we use a range of proceeds of crime powers alongside tax powers. We also have a specific provision in the Bill on the corporate offence of failing to prevent the facilitation of tax evasion, among a number of important provisions for us.

Nick Price: I am Nick Price. I am head of the Crown Prosecution Service proceeds of crime service. Why am I here? We have been working closely with the Home Office and partner agencies in bringing the Bill together.

Mark Thompson: I am the chief operating officer of the Serious Fraud Office. I was appointed only in September and before that I was head of the proceeds of crime division in the SFO for the previous four years. That is why I am here.

Q30 Dr Huq: Thank you for coming in. I guess to the layperson there are many bodies involved in these issues—the police, who we have just heard from, the CPS, HM Courts and Tribunals Service and the Serious Fraud Office. The natural thinking is that there should be more co-operation between different bodies. I notice that the report from the Home Affairs Committee says that one person should take the overall lead. Where do you stand on being more joined-up and having a more overall person? It said for the recovery of criminal assets it should be the National Crime Agency that co-ordinates and oversees the various different agencies operating at local levels, with the proviso of adequate resources and tools. Where do you stand on the point about an overarching person and who that should be, if we did have one?

Simon York: We all work closely across law enforcement on a whole range of issues tackling criminality including the proceeds of crime, and that co-operation is really

important. What we find particularly useful in HMRC, though, is the ability to use tax powers, proceeds of crime powers and criminal investigation powers in concert. That is what we find works best. We will use whatever combination of powers gets us the right result that allows us to confiscate, recover and prevent the losses. It is important to us that we have the ability to do that in the range of other things.

Q31 Dr Huq: And you are happy with how it is at the moment with you all working in concert. Does anyone think there should be overall supervision?

Nick Price: We all work very closely together. It is worth the Committee being aware that the CPS has lawyers embedded with HMRC, the NCA and the regional organised crime units where the regional asset recovery teams work. We work very closely with the SFO. So, we already work very closely.

In terms of overall supervision, the Committee will be aware that there is a Criminal Finance Board that is ministerially chaired. Sitting beneath that are a number of sub-groups. There is a criminal finance improvement plan. Those things draw together the agencies with real strategic oversight as well.

Mark Thompson: The only thing I would add to that would be the need for integration between those tackling proceeds of crime and those who are in a criminal investigation. I actually think one lead agency would make things worse, not better. The reason these things are successful is that I have proceeds of crime people working in the Serious Fraud Office alongside our criminal investigators, and that is the best way to tackle these crimes.

Q32 Dr Huq: Part 3 of the Bill introduces the controversial criminal offence of failing to prevent the facilitation of tax evasion. Some people who have given evidence to the HMRC consultation have argued against the new corporate offence. How do you rate the risk posed to the Exchequer from illegal tax evasion, compared with tax avoidance and other activities that contribute to the tax gap? There are some really scary figures; the most shocking one I saw was that over the last 26 years, the Government have collected 26p of every £100 generated by criminal activity. What do you think of the new offence? Nobody here has a crystal ball, but could you comment on the scale of offshore tax evasion?

Simon York: We estimate the tax gap in relation to tax evasion as a whole as around £5 billion a year. That includes a range of different types of evasion, such as what is colloquially known as offshore evasion. This is certainly an important issue. Corporates can be significant facilitators of tax evasion, as we have seen on a number of occasions. There is a real public and, I think, political appetite to tackle it. We find a difficulty in attributing criminal liability to these sorts of corporate entities. We think this is an important proposal in improving corporate behaviour in this area—deterring bad behaviour and improving good behaviour. This is by no means the only provision or capability that we need to tackle tax evasion, which is a very broad issue, but it is an important one in tackling a very specific area.

Nick Price: I cannot really add a great deal to what Simon said on that topic.

Mark Thompson: Me neither. Tax is HMRC's primary responsibility.

Q33 Dr Huq: This is modelled on section 7 of the Bribery Act 2010. Am I right in thinking that so far under that Act there have been zero prosecutions—*[Interruption]*—or a very low level of prosecutions, shall we say?

Mr Wallace: We are getting there.

Dr Huq: That is only from 2010, so it is not an old Act, and again, nobody here is Mystic Meg, but do you have the tools in this legislation to bring about successful prosecutions or are there too many obstacles, such as that the SFO is involved and that behavioural change would be needed, as you said? Do you foresee there being a low or high level of prosecutions when the Bill is enacted?

Simon York: A good result would be that corporates change their behaviour and that there is less facilitation of tax evasion, and consequently, less tax evasion. We certainly have the tools, through a combination of this proposed legislation and our existing capability—HMRC is a very competent and successful law enforcement agency and criminally investigates many people and convicts them successfully every year, so I think we have that capability. Do I think we will have a lot of prosecutions in this area? I hope not, but I think we will be looking for a number to act as part of this deterrent to show that the legislation has teeth and to show that we mean business.

Nick Price: I would just make a quick general observation: all prosecutions are difficult and we operate an adversarial system, which of course we are well used to. This is a really useful piece of potential legislation, with some really useful elements to it. Are we going to see a phalanx of extra prosecutions coming over the horizon? Perhaps not, but there are some really useful aspects of the Bill that we will no doubt deal with shortly.

Mark Thompson: In my experience, it is not inherently a numbers game, in terms of numbers of prosecutions. We have found that the section 7 offence of the Bribery Act is a useful tool for us as prosecutors. It focuses the corporate mind and there has been a large response from the private sector in complying with that. I would be surprised if the tax evasion offence did not have the same implications.

The Chair: Thank you. May I point out that we have got 30 minutes left, and eight other Members of Parliament want to ask questions? I remind both witnesses and Members that it is your time, and that witnesses are here today to answer as many questions as possible.

Q34 Mike Wood (Dudley South) (Con): This question is directed in particular to Mr Thompson. Could you tell us more about the challenges faced by the Serious Fraud Office in investigating a suspected criminal financial activity, and how the specific measures in the Bill will help you to do that more effectively? In particular, I would like to know more about how unexplained wealth orders might be expected to help in pursuing foreign officials suspected of grand corruption.

Mark Thompson: Members of the SFO and I have been involved in consulting with the Home Office as this process has developed. Unexplained wealth orders provide an avenue for us to start civil recovery investigations effectively in a way that we cannot do at a moment. Where information is held abroad, or is in jurisdictions where co-operation is unlikely, this tool provides us with a way of kicking the process off and taking action against property in the UK that we suspect to be derived from crime. As things currently stand, the thresholds for pursuing civil recovery are, in many cases, high enough to make this difficult. That is how I would see our using the legislation in the first instance.

Q35 Nic Dakin: The new corporate offence relates only to tax evasion, which makes sense. But is there a case for extending it to dissuade companies from facilitating quite aggressive tax avoidance?

Simon York: At the moment this is a criminal offence, and tax avoidance is not a crime, which is why that would be difficult. We are currently consulting on additional legislation that would penalise the enablers of tax avoidance, so we are seeking legislation in that area too.

Q36 Victoria Atkins: Thank you, and it is a pleasure to serve under your chairmanship, Sir Alan. I want to pick up on the point about avoidance and evasion. Mr York, you said that these powers are directed at tax evasion, which is a crime. To give us an idea of the complexity of veering into the world of tax avoidance and tax efficiency, is it not right that a person simply investing in a pension can be described as being tax efficient because that prevents them from paying as much tax as they would otherwise pay?

Simon York: Certainly it can be tax efficient. We tend to use the phrase “tax planning”, so a pension or an ISA or something like that would fall into that category. Tax avoidance is typically where people are using schemes—which are often quite contrived and artificial—to do something that Parliament never intended. They are not lying to us, or being fraudulent, or misrepresenting something, but it is all artificial. We will criminally investigate the kind of situation in which people step over that line—which sometimes they do—and when they are part of something that might appear to be an avoidance scheme that actually becomes fraudulent, or where they are deliberately going out to defraud and disguise it as an avoidance scheme. We have had some significant wins over the past 12 months on big complex frauds disguised as avoidance. When it crosses that line, we will come right down on that. But if it is avoidance in the theoretical, pure sense, we will tackle that through civil litigation and take those cases to court.

On the subject of tax avoidance, the Government have done lots of work on tax avoidance over the last five or six years, and 40 loopholes have been closed down. In particular, we have brought in the accelerated payments legislation which completely changes the economics of tax avoidance, and makes people pay upfront while we wait for tribunal results. There are some really striking figures. The flow of new schemes is now down 99%. In 2006, there were 600 new schemes a year; last year there were seven. A couple of years ago, there were 2,300 new users of avoidance schemes; last year there were 410. We are really taking the bottom out

of the individual market of avoidance schemes. The proposed legislation is to tackle another intractable problem, which is evasion, which is a criminal offence.

Q37 Victoria Atkins: On behalf of all the lawyers in the room, only one person may be convicted, but that conviction may mean that many hundreds of millions of pounds has been stolen from the Exchequer. With one conviction, you have solved that crime. Is that correct? In other words, one conviction does not necessarily reflect the extent of the damage that that particular defendant has inflicted on the UK economy.

Simon York: Not necessarily, no. We will use whichever approach we think is the most effective. Sometimes—for example, in relation to organised crime or groups of wealthy individuals—we will use a mixture of our civil tax powers and criminal investigation powers quite deliberately to get the biggest impact. My team recovers or protects about £5 billion a year through a combination of civil and criminal activity.

Q38 Roger Mullin: I have two short questions. First, what types of business formations are most susceptible to use by criminals?

Simon York: I think most sorts of business formations can be susceptible. Companies, partnerships, limited liability partnerships, Scottish limited partnerships and trusts are all used most widely for completely legitimate purposes but all, in the wrong hands, can be used to attempt to obscure ownership or value, or to launder profits of crime. They can all be used in different ways.

Nick Price: I am not sure that there is a specific type that lends itself to criminal activity any more than any other.

Q39 Roger Mullin: Perhaps this is for HMRC again then. How effective are we at supervising for anti-money laundering purposes all trust or company service providers that register UK companies?

Simon York: HMRC is the supervisor—TCSPs are not regulated in any other area. Our strategy is that we have teams that conduct anti-money laundering supervision, try to support that industry, particularly those that are susceptible or vulnerable to money laundering, and help them. My teams tend to get involved when we clearly suspect some of those organisations of facilitating crime, money laundering, tax fraud or whatever. Our strategy is to, again, use a combination of the money laundering supervisory regulatory powers and our tax powers. We have some really quite significant projects—I cannot go into too much detail—on the go at the moment in relation to TCSPs in particular.

Q40 Antoinette Sandbach: I want to come back, Mr York, to attributing criminal liability to corporates. You felt that that would prompt good behaviour. For example, there have been some well publicised cases of licence payments where profit will be taken out of the UK because of some form of licensing agreement or other device that removes profits from the UK. How do you see the new advisory part 3 capability in tackling that? That is tax avoidance, rather than tax evasion, is it not?

Simon York: It could only be used to tackle that sort of behaviour if that, in itself, was a criminal offence. I think what you are describing is typically the sort of tax

planning or avoidance that multinationals might engage in. If that was fully presented to us and it was completely upfront, this would not be the appropriate response to that. If, however, anything was misrepresented to us and it effectively became a fraud and a criminal offence, and that was being facilitated by someone else, it could. But this is not really aimed at that at all.

Q41 Antoinette Sandbach: Can I perhaps take it to the other extreme, where, for example, single parents are trying to claim support from non-resident parents who are not declaring their income appropriately? That would be tax evasion. Would you see this offence as dealing with those people's accountants and advisers? In other words, if professional accounts have been filed and there is then a tribunal finding that there has been an inappropriate amount declared for income tax, would you get involved?

Simon York: Our interest is in tax and tax evasion, so if we see tax evasion in whatever form, we will tackle it. We certainly could tackle scenarios like that. It is already a criminal offence for individuals to evade tax and for others to directly facilitate that evasion of tax. What is new here is that the Bill deals with a corporate body failing to take reasonable steps to prevent its representatives from facilitating the evasion of tax by someone else. It is that third stage; it is when you get to the corporate, which under current English law it is really quite difficult to attribute criminal liability to. That is what this offence is designed to address, so I do not think it would directly affect that sort of situation, but we would tackle that in other ways.

Q42 Antoinette Sandbach: Could it, for example, affect a high street accountant that was providing advice on something that may be on one or the other side of the line?

Simon York: It could if that accountant was a corporate body and its representatives or employees were facilitating or enabling tax fraud. Yes, it could help there.

Q43 Antoinette Sandbach: Mr Price, will unexplained wealth orders help the CPS make greater use of its existing civil recovery powers?

Nick Price: Unexplained wealth orders are interesting. We welcome that provision, and we have worked closely with partners in bringing it forward. The CPS is not an investigatory body, as you know. We think that these orders are likely to be used more by our partner agencies. Will it mean that we do more by way of civil recovery? As you know, the NCA already has its own capability to do that; it is likely that HMRC will get its own capability to do that as well—there are provisions in the Bill that would enable that—and the SFO likewise. We are likely to do a small additional amount of civil recovery work, and unexplained wealth orders may well be part of that, but I think the vast majority of that work is going to be done by the other agencies.

Q44 Antoinette Sandbach: Will extending the moratorium period on SARs assist you in getting the material that you need to get cases to a point where you can charge?

Nick Price: This is a very significant and welcome change for us. There are cases that we have not been able to take forward for early restraint simply because

the moratorium period was far too short and the investigation simply could not be completed in the time that we had. Why is early restraint important? It is, I suppose, a trite observation in this field, but if you are unable to restrain assets at an early stage in proceedings, the likelihood of them being available later on is pretty remote. The extension of the moratorium period is critically important to us. There is considerable judicial oversight of that provision—you will have seen that in the Bill—so we very much support that.

Q45 Peter Dowd: The Chartered Institute of Taxation has expressed some concern that the new corporate offence of failure to prevent the criminal facilitation of tax evasion may lead to a string of prosecutions in relatively small cases where current civil penalties already provide enough punishment. What is your view about that?

Simon York: That is probably unfounded. Our approach here, like it is with all our criminal investigation work, would be to focus on where the behaviour is at its worst and most fraudulent, and therefore on where it is having the most impact, particularly where a corporate is having a very wide impact on a wide group of taxpayers and where the amounts involved are large. That is typically our approach. We would be equally selective with this power.

Q46 Peter Dowd: Some people suggest that HMRC has got form for not going after the big organisations—the Googles—for tax avoidance. What confidence can you give us that you will not just avoid the big ones because they are in the “too difficult to do” box?

Simon York: Our track record on this side is that, last year, we charged around 1,200 people with criminal offences, and about 12% of those were for frauds involving more than £0.5 million. You will probably have seen reported in the press some extremely big, valuable and complex frauds that have been in criminal court for over a year—that sort of thing—and that we have won. We are increasingly targeting that sort of behaviour. We have had extra investment from the Government, particularly to build our capability to tackle wealthy individuals, corporates and offshore evasion, and we are busy doing that at the moment. We have a significantly stronger pipeline of that sort of work currently.

Q47 Peter Dowd: Which brings me nicely to my last question, which is about your confidence in whether you as enforcement agencies have sufficient resources under the new provisions to do your job properly.

Simon York: In my part of HMRC, I have 4,500 people carrying out investigations into serious fraud, both criminal and civil investigations. Within that, and relevant to what we are talking about here today, I have a team of over 400 who deal with proceeds of crime in the widest sense—financial investigators, criminal taxes teams, insolvency practitioners and so on. It is something we treat as very important. We have had increasing investment over the years from Government, so the size of my team has increased quite significantly over recent years.

Nick Price: The CPS set up a proceeds of crime service just over two years ago. Operating on a national basis obviously means that we can be as efficient as we possibly can be, and we can meet the peaks and troughs in demand in terms of the various casework we are

dealing with. We deal with work from the very top end at my end of the scale, down to the other end of work. As I say, that is on a national basis.

We are sufficiently resourced, and we also benefit from additional resource from the top-slice arrangements in relation to the asset recovery incentivisation scheme, or ARIS. That money is financing a specific project: we are working in conjunction with the police asset confiscation enforcement or ACE teams in the RARTs and ROCUs—regional asset recovery teams and regional organised crime units. That work is focused around section 22 revisits. You will of course be aware that there are some really important provisions in this Bill that enhance our ability to deal with revisits. I will add very quickly that we have seen a 150% increase in the number of revisit cases we are dealing with, so the provisions in the Bill are critically important to our work.

Mark Thompson: From our point of view, the proceeds of crime division has roughly doubled in size in the last two to three years. It remains a high priority for the SFO, and our funding model allows us access to additional funding from the reserve if we have cases that exceed a certain size. I make no complaint about resources at the moment.

The Chair: Order. We have 11 minutes left and I will stop this at 11.30 am, so help yourselves: please give yourselves more time for each other.

Q48 Mrs Drummond: I will be quick because you have touched on a lot of the stuff about which I was going to ask, particularly about the overseas corporate offence and how that works in practice. Mr York, will this actually pick up companies that operate mainly out of the overseas territories and the Crown dependencies?

Simon York: Yes if they are facilitating tax evasion in the UK or if their representatives carry out their business in the UK and are facilitating tax evasion that happens somewhere else. It catches Crown dependencies and overseas territories in the same way it catches other jurisdictions.

Q49 Mrs Drummond: Even though they have headquarters over there?

Simon York: Yes. That is precisely one of the targets of the legislation. If a company is facilitating tax evasion that is occurring in the UK—someone evading UK taxes—it would absolutely catch that. Equally, if that organisation is based overseas but its representatives are doing business in London to help someone in London to evade taxes in France, it would catch that as well.

Q50 Richard Arkless: First, to Mr York, the UK tax code has a reputation for being unnecessarily complicated. I am sure you are acutely aware of those allegations. To what extent does that complication play a role in criminality? Does it make it more susceptible to criminality? Do any specific examples arise out of the complication that would encourage, facilitate or make criminality easier?

Simon York: I am not sure that it does. Criminality is always pretty straightforward at its core. It is people lying, misrepresenting things and forging things. Sometimes that is disguised within the complexity of the tax system. I mentioned some times when people disguise a fraud as avoidance. We also get quite a lot of criminal attacks over

the years that revolve around the VAT system, particularly the cross-border European stuff, known colloquially as MTIC—missing trader intra-community—fraud or carousel fraud. That can appear quite complicated but it is typically the criminal who is creating the complication to try to disguise the activity.

Q51 Richard Arkless: I am acutely aware of time. Mark and Nick, do you think that the threshold of £100,000 for unexplained wealth orders is at a fair level? Should it be lower or higher? International standards would dictate that it should be a little bit lower. What are your views?

Nick Price: From my perspective, it is a reasonable level at which to set the threshold. If you look at the two gateways into an unexplained wealth order—politically exposed persons or people suspected of involvement in serious criminality—you see that the likelihood in those cases is that the overall values will be far more than £100,000. For me, that is broadly where it needs to be.

Mark Thompson: I would agree with that. To make the criminality serious enough, I would have thought that it needs to be at a level that marks that sort of criminality. I think it is about right.

Q52 Richard Arkless: Many properties in my constituency are valued at less than £100,000 but more than £50,000, so I hope we are not basing that on London property prices.

Mr Thompson, on corporate economic crime, it is clear that the provisions in the Bill extend to employees facilitating tax evasion, and it does not go beyond that. Do you think there is a case for going beyond that? It strikes me that there is nothing in the Bill that gets at what the public understand as being the problem with corporate criminality. There is nothing that could catch the riggers of the LIBOR market, for example. There is nothing that could catch swathes of unscrupulous mortgage advisers giving 120% mortgages to dogs in kennels, which many people would argue has caused a great deal of the suffering that we are still all trying to recover from. Is there is a case for that?

Mark Thompson: There is a case for it. The SFO has made that case previously. The Attorney General has also called for consultation. My understanding is that there has not been a consultation yet on that measure, and that the Government may consider one. We have made the point before that it is inequitable that bribery and tax evasion attract these sort of corporate penalties, but that money laundering does not—it is a crime that attracts 14 years in jail. It also seems unreasonable that it is easier under the current law to prosecute small and medium-sized enterprises and not big corporates because of the way they operate. We have made that point before, but my understanding is that it was never going to be in this Bill anyway. It is a wider matter.

Q53 Scott Mann: There are information and data-sharing initiatives as part of the Bill. How would you interact with those measures and with the joint money laundering intelligence taskforce?

Mark Thompson: We do already interact with the joint money laundering intelligence taskforce, and we have a representative who attends it. We have access to that through the National Crime Agency. The data-sharing

provisions are mainly for the NCA, and we would benefit from those arrangements. We entirely support them and think they would be advantageous.

Q54 Dr Huq: Are there any other changes to the existing proceeds of crime regime that you would like to see in the Bill? I was thinking of some sort of parallel enhanced supervision of the property market. Is there anything else on your wish list that you would have liked to see?

Nick Price: From a CPS perspective, we are content with the provisions in the Bill for now. It is too early at this stage to know how those will play out and the impact they will have. Inevitably, we will assess the use of these provisions as we go forward.

Mark Thompson: These are the second changes to the Proceeds of Crime Act 2002 in relatively recent succession. We still need to work out exactly how we use all these powers effectively. Like the CPS, I am content with where we are.

Simon York: We are content and very supportive.

Q55 Dr Huq: Finally, I would like to ask a question that I asked the other selection of witnesses. The Public Accounts Committee's report on confiscation orders said that sometimes there is a bit of tension between whether the point of those orders is to disrupt crime or to recover the proceeds and collect criminal assets. What would you say to that statement?

Nick Price: From a CPS perspective, as I said earlier we deal with cases at the low end of the spectrum, and we deal with cases that are very much at the high end of the spectrum. In all those cases, there are victims. In many of those cases, there are people worthy of compensation. I do not believe there necessarily is, and I would not see it as, a tension. We deal with the full range of cases, and it is important we do that.

Mark Thompson: From our perspective, we only deal with the top end of fraud and corruption cases. Inevitably, there is a financial element, and it behoves us to consider confiscation and compensation of victims in all those cases, which is what we do.

Simon York: Our aim is to take the profit out of crime, whichever way we do that. Whether it is disrupting criminals or recovering proceeds afterwards, it is all part of that overall picture.

The Chair: I thank the witnesses for appearing in front of us. We are grateful for the concise and informative way in which you have helped us today. We will now move on to the next panel.

Examination of Witnesses

Alex Cobham and Professor Richard Murphy gave evidence.

10.59 am

The Chair: We will now hear evidence from Tax Research UK and the Tax Justice Network. You have until 11.25 am prompt. Even if we are not concluded by then, I will adjourn the Committee because Members have to be over in the House for other business. Would you introduce yourselves and outline the work you do?

Professor Murphy: I am Richard Murphy, the director of Tax Research UK. I am a chartered accountant and also a professor of practice in international political economy at City University.

Alex Cobham: I am Alex Cobham, chief executive of the Tax Justice Network and a visiting fellow at King's College London.

Q56 Dr Huq: It is a pleasure to serve under your chairmanship, Sir Alan. It is good to have two academics in front of us; I am an academic trapped in an MP's body.

Part 3 of the Bill would introduce the new criminal offence of failure to prevent facilitation of tax evasion. How do you rate the risk posed to the Exchequer by illegal tax evasion? We have just heard the figure of £5 billion a year. Is that accurate? Is it a conservative estimate? What are your thoughts on tax evasion versus tax avoidance and other activities that contribute to the tax gap? What would you say is the true scale of offshore tax evasion?

Professor Murphy: I have probably prepared the only alternative estimate to HMRC's. My estimate is that tax evasion in the UK could be as high as £70 billion a year, in contrast to the HMRC estimate of £5 billion. Let us put that in the context of a £1.8 trillion UK economy. My estimate of tax avoidance is around £25 billion a year, as opposed to the Revenue's, which again is around £5 billion. I believe its estimates are wrong. I think this Bill is focusing heavily on types of tax evasion that are a small part of the problem. The biggest part of the problem is the domestic economy; the biggest risk within the domestic economy is the fact that HMRC does not collect tax returns from 1 million UK domestic companies a year. The problem is with HMRC in this case.

Alex Cobham: We find Richard's analysis rather more compelling than HMRC's on the tax gap in general. Perhaps the difference is that we consider the international avoidance element to be particularly badly treated in the HMRC methodology. In some ways, if all your estimates are lower than they should be but in proportion, that is not a big deal, because it is not telling you to go the wrong way, but if your estimates of avoidance are significantly depressed compared with your evasion estimates, and you then put your policy emphasis according to those bad estimates, that does matter. I think we would be concerned that the tax gap is not a neutrally wrong estimate; it drives attention towards evasion rather than avoidance. We think evasion is important—certainly Richard's numbers show that—but we are concerned that it encourages HMRC to take avoidance less seriously, and that is a risk.

Q57 Dr Huq: Several stakeholders who responded to the HMRC consultation—these clever people who know how to get around the rules—argued that a new corporate offence was unnecessary. It sounds as if you take issue with that. Do you think there is enough in the Bill to provide the significant behavioural change that is really needed to drive this out?

Alex Cobham: I think the behavioural change question is really important. There are two elements of it: one is how directly it affects the behaviour of actors involved in the process, but the second is how it affects the wider behavioural change. Over the years, we have had any

number of economic models of tax behaviour, all of which have suggested that, in country after country, if we were rational economic maximisers we would be much more abusive about tax than we actually are. The reason for that is that we do not respond just to the risk of being caught and the price of being caught. Paying tax is a social act, and by and large two things drive people's tax compliance. One is the extent to which tax revenues are redistributed and seen to be redistributed in a fair way—the more you think that, the more likely you are to contribute. The other is your perception of other people's compliance. If you think that the people at the top—the big companies and wealthy elites—are systematically not paying their fair share, the prospects of you complying as a normal citizen are much lower. Who wants to be the only mug if the big guys are not playing the game?

There is one thing that I think is really important for the Bill. On the technical side we can have concerns about how it is framed, and on the enforcement side we might have concerns whether the resources are actually there to make it happen, but what is perhaps missing from that discussion is whether or not we have consistent reporting about the performance under this measure. If, year on year, we hear HMRC saying, "This is our estimate of the tax gap in this area. This is the amount of evasion we have stopped and the number of prosecutions, the revenue at risk in that area," then, "This is the number of those cases where we have also gone after the facilitator, and so this is the proportion where we are consistently tracking this all the way through," what you do, apart from giving HMRC a useful metric to demonstrate progress—if HMRC thinks this is the biggest part of the tax gap, then clearly it needs to be tracking this, showing the reduction over time—it also shows the public this is not just one more piece of tax law that may be more form than substance.

Particularly if you think about the Google tax law, for example, there is a growing sense of a lack of trust among the public that when tax laws are passed they are actually meaningful or meaningfully enforced. This is a great opportunity to go the other way, to make sure from the beginning that you will have that accountability and, to go back to your question, to have that in place in a way that is likely to drive behavioural change both of the immediate actors and facilitators but also of the wider public.

Professor Murphy: Can I make three brief points? The first one is that the law as drafted is going to be very difficult to prosecute. We have seen that from the Bribery Act 2010 on which it is based. The number of prosecutions is likely to be very low indeed. This is a strict liability offence—tax evasion triggers the potential liability. The defence that is provided is that there are systems in place. That means that the company—the corporate entity that permits the action—has a defence available to it. That defence will largely be available only to the biggest companies. They will have systems that can be easily documented. Most money laundering training systems now in place in large companies will provide an automatic defence to them: the defence is that they have the systems in place and that there was a bad apple who did the wrong act. Therefore, I think the chance of prosecutions against large companies under this Bill is remote in the extreme.

I think at most this will reinforce the impression that smaller companies are subject to penalty and larger companies are not. First, the chance of prosecution is low because the amounts of money involved will not attract SFO attention—by and large the SFO goes for high-profile cases and there will not be many here that can be prosecuted. Secondly, the behavioural change resulting from this Bill will be very low indeed. There are vastly better ways to achieve behavioural change in this Bill.

Q58 Tristram Hunt (Stoke-on-Trent Central) (Lab): One of the attempts to deliver that kind of behavioural change is among the new clauses I am submitting. Will they garner your support for asking the Secretary of State, for example, to make an annual report to Parliament about unexplained wealth orders, to make it a duty to prevent corruption, and to establish quite swiftly a publicly accessible register of beneficial ownership of UK properties? Do you think the good intentions of the Bill could do with a boost to make sure the foot is on the accelerator on some of this?

Professor Murphy: I would entirely agree with a number of points you make. In fact, I would support all those measures. I do not need to comment further; they would all help.

It is clear that transparency is of enormous benefit. The biggest problem with regard to transparency in this country is that 400,000 companies a year in the UK do not file an annual return with the Registrar Of Companies and do not file accounts as required by law. We have no idea what those companies do. They are struck off. It is assumed they have no tax liability, so it is just assumed they have not traded. That is a completely unreasonable assumption for the registrar to make. HMRC does not pursue these companies. I did some research in 2014 on the recovery of penalties imposed on these companies for non-compliance. More than 99% of the penalties imposed were not paid.

In other words, we have an enormous hole in our economy, so we cannot rely upon these systems of registrars and beneficial ownership. The proposed register of beneficial ownership in the UK is simply a voluntary honesty box arrangement, because there are only four extra people being tasked to monitor it. When 400,000 companies do not even file a return, which is where they would disclose their beneficial ownership data, the chance that we will have reliable information is incredibly low indeed. We have to get down to very basic levels to get this right.

I am not saying that the Bill is wrong, but in terms of direction of effort, parliamentary time and resources, there are many more important tasks that would bring about the behavioural changes that Alex has talked about that would encourage compliance.

Q59 Roger Mullin: I have been concerned for some time about the Scottish limited partnerships and similar vehicles. To what extent do you think that there are particular types of business formations that are most susceptible to criminal activity and tax evasion?

Alex Cobham: This is one of the interesting features of the Bill. If the Government were a relevant body, I think the continuing provision of Scottish limited partnerships would make it very easy to prosecute the Government for facilitating evasion. The work of Richard Smith and David Leask, who I think will be giving

evidence later, is very clear on this point. Something like one in four limited partnerships in the UK, but about two in three of Scottish limited partnerships, are structured in such a way that one of their partners is an anonymous company registered in a secrecy jurisdiction.

That is the perfect model for unaccountable business, unaccountable ownership of assets and income streams that may be criminal. The effective facilitation that the UK provides in that way is simply unacceptable. What is good about this Bill is a very clear recognition that that facilitation is unacceptable; what is missing is application to the Government themselves. I think the only consistent action would be to make impossible the use of anonymous partners for limited partnerships.

Professor Murphy: I agree with all that. I extend the concern to the limited liability partnership. I have been a partner in limited liability partnerships and they potentially have a very useful commercial role—they are tax transparent in a way that is very important, which is why I used one. The truth is that they are also used extensively by offshore agents, again using anonymous companies, to create structures that look as though they are present in the UK and give them an air of credibility. In fact, they are entirely controlled offshore and can be used for abuse. Both need a significant review. I can see no legal or commercial justification at all for limited partnerships in terms of their current use. Limited liability partnership legislation needs explicit change to make sure that it cannot be abused.

Q60 Roger Mullin: You mentioned a review, so I take it that you would support the new clause we have tabled calling on the Government to have a specific review of Scottish limited partnerships?

Professor Murphy: Yes.

Q61 Roger Mullin: You have mentioned the issue of money laundering and have given us an estimate of the tax gap. Do you have any estimates of the extent of money laundering in the UK?

Professor Murphy: The money laundering estimates that are available—for example, peer-reviewed work undertaken for the World Bank—would suggest that the UK has a shadow economy of about 10% of GDP. Curiously, that is very consistent with the data reported by HMRC with regard to VAT abuse, where the figure consistently runs at around 10%. It is absolutely impossible that you can lose 10% of VAT and end up with an overall tax gap of 6.4%, by the way. You cannot lose 10% of the top line and yet end up collecting the tax elsewhere. There is no accounting mechanism for that income to reappear in the national profit and loss account to be taxed further down the system—I say that as a chartered accountant. Therefore, absolutely on a basic methodological and logical level, HMRC's estimates have to be wrong, but around 10% is likely. We are relatively low in that figure, by the way; as a contrast, in Germany the figure is 16%.

Alex Cobham: On the money laundering point, an informal or shadow economy of 10% is not out of line with a number of other high-income countries, but at least anecdotally, the number of times that UK vehicles crop up in foreign criminal cases seems disproportionately high. It is true that because the UK has been a leader to an extent in transparency it is easier to do some of this analysis involving UK companies, but that would also be a reason why they should not be used by people

committing crimes and yet, they still seem to be. I think you would probably conclude that at the moment, although the evidence is not consistent, it is likely that the UK is disproportionately important in national money laundering. How disproportionately so is completely uncertain and, again, that makes the case for a review.

Professor Murphy: We do have a disproportionate number of companies per head in the UK compared with any other European country.

The Chair: Can I point out that four Members are still asking to get the floor and you have 10 minutes left?

Q62 Antoinette Sandbach: Professor Murphy, I want to come back to your evidence that the new offence of corporate liability will effectively target small or mid-range companies. In relation to the “bad apple” point you made, do you accept there is still reputational damage for a company if one of its employees is charged, and that that in itself may make big companies' compliance far more rigorous?

Professor Murphy: That is obviously true. No company wants to appear on the front page of a newspaper and no company wants to be prosecuted. I have spent quite a lot of time in the last year or two talking to large firms of accountants—names you will be familiar with—and large companies about their response to the sea change in public attitude towards tax, and I am reasonably convinced that they have noticed that there is reputational risk to them, and that they are changing their behaviour as a result. To that extent, I feel that this legislation is a little too late, in the sense that they are trying to steer clear of some of these activities as fast as they can. Again, that is a reason why I think the impact will be on smaller businesses. The largest ones will have learnt how to get rid of the risk.

Q63 Antoinette Sandbach: If I can go back to the smaller business point, I do not know if you were here when I asked Simon York about the other end of the scale. Some tax evasion is not for the purposes of evading tax—the purpose is to evade other liabilities that follow on from declaring taxable income. That can be supported by small accountancy firms that may not apply regulations as rigorously as they should do. Do you think this offence will have a deterrent effect on the smaller and mid-range companies?

Professor Murphy: I think it will. The reason why is that it is a strict liability offence: the existence of evidence of tax evasion is sufficient to prove liability without motive being questioned. That could be important in certain cases. I can think of a very recent example—it has been in the press—where somebody has not paid tax quite deliberately, it seems, out of a company for which they were responsible. It would make it easier to prosecute in those cases. It will have a deterrent effect. I do not have a problem with strict liability offences for that reason. I know many in my profession do.

Q64 Nic Dakin: You both spoke earlier in giving evidence about the great opportunity to bring about behavioural change or improve compliance. Are there measures we ought to be looking at in this legislation that you would like to see us take the opportunity to put in?

Alex Cobham: I would say it is the reporting of it. If the Bill is seen as having made it on to the books without driving any serious change either in the way that HMRC operates and the extent to which it looks at

enablers or in the ultimate prosecutions and revenue recovery, or if there is a perception of that even without that being the case, that is a missed opportunity in terms of how much impact it has. There needs to be a requirement for consistent reporting of the numbers of prosecutions, and of the transition between prosecution of evasion cases and, for each of them, whether there is a related prosecution of the enabler or not. If the second number is a very small fraction of the first number consistently, there needs to be space to come back and review, but at least having that will drive attention.

Professor Murphy: I would make the non-provision of accounts and a corporation tax return a strict liability offence for tax evasion under the terms of the Bill. I would also require a provision that is very similar to one we are demanding internationally, which is that banks simply report each year to HMRC which companies they provide services to.

We will next year be in the absurd position that HMRC will get more information on a company owned by a British person in the Cayman Islands than they will on a company owned by a British person in Stockport, because there is automatic information exchange from the Cayman Islands and there is not within the UK. If banks were required to provide information to HMRC on which companies they provide services to and the simple value of sums deposited in a bank account each year, we would know which companies were trading and therefore which were due to file accounts and which were due to submit a corporation tax return. Failure to submit would be a strict liability offence. Nothing would scare the accountancy profession or small company directors more than that. Make them personally liable for the tax not paid at the same time and you have solved the problem of tax evasion virtually overnight. It is simple.

The Chair: We have only five minutes left, so I will ask the three Members who want to speak to ask their questions first, and then you can reply. You will get a copy of the minutes, which will include any questions that you did not have time to answer.

Q65 Victoria Atkins: Professor Murphy, there is good precedence in the world of health and safety, where companies are prosecuted for causing workplace fatalities and accidents or bringing about an environment in which they occur. Do you agree that that success in health and safety bodes well for sending out the message to corporate entities that tax evasion is not permissible and will be prosecuted where evidence of it exists?

Q66 Richard Arkless: Professor Murphy, you have highlighted the difficulty with the Bill's proposals on tax evasion in relation to corporate economic crime. Your solution would be a position of strict liability. Do you see any case to extend the provisions on corporate economic crime beyond tax evasion, leaving aside the problem of strict liability and enforcing it? Is there a case, for example, to extend the provisions to catch people who rig the LIBOR market, or perhaps mortgage brokers who fraudulently completed application forms that caused the mess we are in? Do you think there is a case for extending corporate economic crime beyond facilitating tax evasion?

Q67 Peter Dowd: On resources for agencies—enforcement or otherwise—in relation to prosecutions and chasing

up, do you believe that the authorities have sufficient resource to do their job, or are they just misdirecting the resources that they already have?

The Chair: You have only two or three minutes to answer, so please be very brief. If you want to give fuller answers to Members, you can write to the Committee Clerk and we will make sure that all Members get a copy.

Professor Murphy: One brief answer—yes, it is effective. I think there are more effective mechanisms available but I am not disputing it has a behavioural consequence. I am afraid I am not expert enough to comment on the other areas. I simply am not an expert on mortgage fraud or LIBOR in that area. I am a tax specialist not a criminal finance specialist.

Does HMRC have enough resource? No, clearly, it does not. It needs to have a lot more resource and to be seen in local communities so that people realise that the threat is personal in that sense, but it is going in the wrong direction of travel at present. It is the risk of being caught that changes behaviour at the criminal end of activity, and transparency would expose that. That is why I think creating the smoking gun of information is the critical measure that needs to be taken to give HMRC a chance to identify those who are creating most risk.

Alex Cobham: We have a report out with the Public and Commercial Services Union, being launched across the road this afternoon, that says exactly that HMRC neither has enough resources and nor are they appropriately allocated to deal with the relative prioritisation that we think it should have.

Q68 Mr Wallace: The ARIS scheme allows HMRC, the investigators and the prosecutors to keep 50% of the proceeds of any confiscation. If the Bill leads to further confiscation, would you say that therein lies some of the solution that you are going to highlight across the road? If they will be able to keep what they recover, will unexplained wealth orders, for example, or seizures improve their budgets?

Alex Cobham: That seems potentially helpful, but I think you would be wise to look at the bigger question of whether HMRC is appropriately resourced given the bang per buck that it actually gets in different areas, rather than having just that one measure in mind.

Professor Murphy: I would rather have no crime and no proceeds than fund collection through increased recovery.

Q69 Mr Wallace: Unlike Corbyn economics, we live in the real world.

Professor Murphy: But it is the wrong direction of travel.

The Chair: I thank the witnesses for coming to answer Members' questions. If you wish to give fuller answers, please submit them to us in correspondence.

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at half-past Two o'clock.

