

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

ECONOMIC CRIME AND CORPORATE TRANSPARENCY BILL

Second Sitting

Tuesday 25 October 2022

(Afternoon)

CONTENTS

Examination of witnesses.
Adjourned till Thursday 27 October at half-past Eleven o'clock.
Written evidence reported to the House.

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 29 October 2022

© Parliamentary Copyright House of Commons 2022

This publication may be reproduced under the terms of the Open Parliament licence, which is published at www.parliament.uk/site-information/copyright/.

The Committee consisted of the following Members:

Chairs: MR LAURENCE ROBERTSON, HANNAH BARDELL, JULIE ELLIOTT, † SIR CHRISTOPHER CHOPE

† Anderson, Lee (<i>Ashfield</i>) (Con)	† Malhotra, Seema (<i>Feltham and Heston</i>) (Lab/Co-op)
† Ansell, Caroline (<i>Eastbourne</i>) (Con)	† Morden, Jessica (<i>Newport East</i>) (Lab)
† Byrne, Liam (<i>Birmingham, Hodge Hill</i>) (Lab)	† Newlands, Gavin (<i>Paisley and Renfrewshire North</i>) (SNP)
† Crosbie, Virginia (<i>Ynys Môn</i>) (Con)	† Stevenson, Jane (<i>Wolverhampton North East</i>) (Con)
† Daly, James (<i>Bury North</i>) (Con)	† Thewliss, Alison (<i>Glasgow Central</i>) (SNP)
† Doyle-Price, Jackie (<i>Thurrock</i>) (Con)	† Tugendhat, Tom (<i>Minister for Security</i>)
† Hodge, Dame Margaret (<i>Barking</i>) (Lab)	
† Huddleston, Nigel (<i>Lord Commissioner of His Majesty's Treasury</i>)	Kevin Maddison, Anne-Marie Griffiths, <i>Committee Clerks</i>
† Hughes, Eddie (<i>Walsall North</i>) (Con)	
† Hunt, Jane (<i>Loughborough</i>) (Con)	
† Kinnock, Stephen (<i>Aberavon</i>) (Lab)	† attended the Committee

Witnesses

Martin Swain, Director of Strategy, Policy, External Communications and Legal, Companies House

Adrian Searle, Director, National Economic Crime Centre

Commander Nik Adams, Economic Crime Portfolio Lead, City of London Police

Simon Welch, National Co-ordinator for the Economic Crime Portfolio, National Police Chiefs Council

Michelle Crotty, Chief Capability Officer, Serious Fraud Office

Dr Susan Hawley, Executive Director, Spotlight on Corruption

John Cusack, Chair, Global Coalition to Fight Financial Crime

Thom Townsend, Executive Director, Open Ownership and member of the Anti-Corruption Coalition (UKACC)

Oliver Bullough, Journalist and author

Bill Browder, Journalist and author

Professor John Heathershaw, Professor of International Relations, University of Exeter

Thomas Mayne, Chatham House

Public Bill Committee

Tuesday 25 October 2022

(Afternoon)

[SIR CHRISTOPHER CHOPE *in the Chair*]

Economic Crime and Corporate Transparency Bill

2 pm

The Committee deliberated in private.

Examination of Witnesses

Martin Swain and Adrian Searle gave evidence.

2.3 pm

The Chair: Our first witnesses, the fifth panel, are Martin Swain from Companies House and Adrian Searle from the National Economic Crime Centre.

The Minister for Security (Tom Tugendhat): May I just declare an interest, very briefly?

The Chair: Absolutely. We will all listen with bated breath to the Minister's declaration of interest.

Tom Tugendhat: I simply refer to my wider declaration in the Register of Members' Financial Interests.

The Chair: Thank you. Mr Swain, would you introduce yourself briefly for the record?

Martin Swain: Good afternoon. I am Martin Swain. I am one of the executive directors of Companies House, with responsibility for—

The Chair: You will have to speak up, because the acoustics in this room are very poor.

Martin Swain: Apologies. At Companies House, I have responsibility for policy, strategy and communications, and legal services.

The Chair: Thank you. Mr Searle?

Adrian Searle: Good afternoon. I am Adrian Searle. I am director of the National Economic Crime Centre. I am here with two hats on: as the director of the NECC, as it is called, and as a director within the National Crime Agency—so I can make comments about both the NECC and the NCA. If it helpful, I can explain a little bit about what the NECC is.

The Chair: No, I do not think so; we do not have time for that. I call Seema Malhotra to ask the first question.

Q76 Seema Malhotra (Feltham and Heston) (Lab/Co-op): I have two questions. The first is for Mr Swain. Thank you both for coming to give evidence today. The Treasury has allocated £63 million so far for the

transformation of Companies House functions, but beyond that there is no clarity on the sustainable funding model for Companies House, with the extra work and demands that will be coming its way. With the increased responsibility that is going to be placed on Companies House, what do you think needs to be done? Is the £12 incorporation fee still an adequate amount for what Companies House will be doing?

My second question is to both of you. Do you believe the Bill should go further and reform the strike-off procedure for companies? There is a recognised issue where companies are building up debts, not filing a return and then being struck off as one of the routes through which money laundering may be taking place, with limited room for manoeuvre after that. Would there be any benefits to reforming that process? Is there any consideration, for example, of companies being placed in a compulsory liquidation procedure? I would be interested in your thoughts on that.

Martin Swain: As you say, we have £63 million through the spending review for transformation. We are two thirds of the way through our transformation programme at the moment. It is fair to say that we have been clear with the Department and Treasury that we are taking on significant new functions and responsibilities. Some of that will require more people and people with different skills from those that we have now. Companies House is a register of information, so a lot of our people do processing work. We will need to move those people off that. We will need to employ skills that we do not currently have, so we are actively talking to the Department and the Treasury about our funding model.

To your point on fees, yes, we could increase fees to pay for additional resources. I know there is some challenge around the fee being too low. Again, we have taken provision in the Bill to charge fees for different things that we currently cannot charge fees for. For example, we cannot currently recover costs for investigation and enforcement activity, as it is centrally funded. We are taking powers to do things differently. I do not think I am at a stage to be able to say we have a definitive figure that we have agreed with the Department or Treasury that would give us our funding model for the future.

The Chair: Mr Searle?

Adrian Searle: I think the question that was probably targeted towards me is not about the resources in Companies House, but the second, follow-up question relating to striking companies—

Seema Malhotra: It was about how to tackle economic crime and whether the reform of the strike-off process is important to that.

Adrian Searle: The strike-off process is not something I have a detailed understanding of. I suspect Martin might be better placed to answer that question.

Martin Swain: Again, it is something we are very aware of. Companies take advantage of the strike-off route to discharge themselves of debts and so on, and for other purposes. My sense is probably that the Bill as drafted gives us what we need. It is about how we take forward the policy in that area regarding where companies are moved to strike off. For example, we get lots of representation with regard to lots of companies being

registered at one address—a registered office being used and abused. The route for that would be to default them to our address at Companies House, for not having a registered office address that is valid. The next step on that would be strike-off, but clearly if we do that we may be having an adverse impact on the system and giving companies a route to use it for criminal activity or to fold without paying their debts. We are very aware of the issue.

Q77 The Minister for Industry (Jackie Doyle-Price): What we have here are the twin objectives of making it easier to do business and to tackle economic crime. I am really interested to hear from both of you whether we have the balance right in the Bill as it stands.

Adrian Searle: I think we have. There is, as you say, a real challenge to get the balance right between a prosperity and a security agenda. As we know, the Companies House reform elements of the Bill are a long time coming, so there has been lots of analysis and consideration of how you get the balance right. What I know from a law enforcement investigative perspective is that the changes being introduced under the Bill will certainly make the job of law enforcement far more straightforward in terms of our ability to investigate criminals and corrupt elites who are exploiting the complexity of the corporate structures to hide their assets, launder their wealth, and so on. I am confident that it gives Companies House and, by extension, the investigative agencies the powers we need. The indications that I have from exchanges with Martin and others in the industry are that the changes do not go so far that they inhibit transparent business practices in a way that undermines our economy. It feels to me that the balance is right.

Martin Swain: It is a very good point. It is a challenge for us as an organisation, because we have very clear direction from our Ministers that we should not create a burden for business, or make it difficult for companies to incorporate or for people to invest in the UK. The concept of balance is always there for us. We will bring in things such as ID verification, but we need to make that really efficient, and make it easy for people to understand the process, so that we do not create a burden for the vast majority of companies on our register that are legitimate businesses. That is quite a tension sometimes, because there is a significant spotlight on Companies House to become more than the passive register that we are at the moment, and to become—I hear this term—an “active gatekeeper” of the register. There is a potential that we move too far into that territory and make it harder for the vast majority of companies to deal with us.

I mentioned our transformation programme. There are two elements to our transformation. One is the legislative reform and all that is involved with that. The second part is digitising our services. That is what we have been focusing on in the last few years: making our systems really quick and easy to use, and to drive data, rather than receiving information on paper. You cannot work effectively with law enforcement from paper transactions; you have to have data.

Q78 Jackie Doyle-Price: That feels like a slight change in culture within Companies House, which has been very much a function for business. We probably need to communicate to the business community that part of

their obligation to make the world a safer place is that they need to accept their changed relationship with Companies House.

Martin Swain: It is a huge culture change for us, not least in becoming more of a proactive agency. I hear it said that Companies House will be key to the economic crime ecosystem; what I say to people is that we will also be part of the business growth ecosystem. It is important that we have that dual role.

Adrian Searle: I think there is real value for businesses in being able to trust the other businesses they are dealing with. There is a strong argument that the transparency agenda supports the business agenda.

Jackie Doyle-Price: I agree. Thank you.

Q79 Alison Thewliss (Glasgow Central) (SNP): How exactly will the verification scheme that you propose work?

Martin Swain: At the moment we are in the design phase for verification. I should say first of all that we will not do the ID verification ourselves; we will outsource that.

Q80 Alison Thewliss: To who?

Martin Swain: At the moment we are looking at two options. We are working closely with Government Digital Service and others on the potential for the Government solution. We have been clear with them about our requirements with them. We are separately looking at market options, whereby we would go to the private sector and outsource via that route, where a number of providers can do identity checks.

Q81 Alison Thewliss: Okay. How are you weighing up the balance of those two?

Martin Swain: It goes back to some of the things that I said about ease of doing business. There are two key parts of our specification: whether we can make it really efficient, and fast and easy for people to do, and whether it is at an equivalent standard to the industry standard. We are very clear that we are operating along the same lines as others in the system.

Q82 Alison Thewliss: We heard from UK Finance earlier that currently the proposals are below industry standard.

Martin Swain: I heard that, and I am surprised that they are saying that. I will have a conversation with them about where that has come from.

Q83 Alison Thewliss: Okay. Will there be verification of the links with shareholders and owners as well, and the control that they have?

Martin Swain: People with significant control will be subject to verification—beneficial owners, but not shareholders who have less than 25%.

Q84 Alison Thewliss: Why?

Martin Swain: It was a decision by the Department and Ministers, post consultation. They consulted on the whole area of shareholders, and the information that they hold, and verification. The decision was that they would not be subject to verification.

Q85 James Daly (Bury North) (Con): The first two words of the Bill's title are "Economic Crime". I think you said, Mr Swain, that you are a passive registry organisation, so how does the Bill help you to turn from a passive registry into somebody who can work with law enforcement to tackle economic crime?

Martin Swain: One of the main measures is ID verification. That is one of the biggest gaps in our register at the moment. We do not verify people who are setting up and running companies. The fact that we will know them and have verified them is key. We are taking considerable powers in the Bill to do things that we cannot do at the moment. We cannot query information that is filed with us. We cannot analyse and proactively share information. At the moment, we are very reactive. I use the word "passive", and "reactive" is another word that I would use. We react to colleagues such as Adrian coming to us saying that they want information on certain things. In the future, we will be able to do our own intelligence work and will proactively be able to work with law enforcement.

Q86 James Daly: I am assuming, Mr Searle, that as somebody in your position, you want to see the transformation of this organisation from a passive organisation to a partner that will work with law enforcement to do what we require.

Adrian Searle: For sure. It is a really fundamental change. I already have folk from my intelligence and investigative teams in the National Crime Agency working with colleagues in the Companies House teams to help them to set the road map for how they will transform.

Q87 Dame Margaret Hodge (Barking) (Lab): Martin Swain, I think that many of us on both sides of the Committee think not that it has to be more regulation, but that it has to be smarter regulation. If there are businesses operating that are pursuing economic crimes, that does not help business creation or the wealth of the economy. I am a bit concerned that you think the new regulatory measures are more burdensome. Are they not just smarter? *[Interruption.]*

The Chair: Order. You will have 15 minutes in which to prepare your answer.

2.18 pm

Sitting suspended for a Division in the House.

2.33 pm

On resuming—

The Chair: We now resume the evidence session. Mr Swain is going to answer the question that was put to him by Dame Margaret Hodge.

Martin Swain: The question was about the balance of burden against tackling economic crime. I think you asked about the need for smarter regulation. I totally agree. Part of the challenge is how we use our powers in future. I would say that the way in which we use our powers will be around the integrity of the register; we will focus our activity on where we can have the most impact to improve the integrity of the register. In doing so, we do not want to create a burden for legitimate businesses.

The benefit of focusing on the integrity of the register is that we create value. As Adrian said, we already contribute a significant amount of money to the UK economy. If we can improve the integrity of the register so that people are making better decisions based on the data, and people are not being defrauded because of the way in which we are improving the integrity of the register, to me that is what smarter registration should be about.

Q88 Dame Margaret Hodge: I agree. May I just ask you about the authorised corporate service providers who are going to do a lot of this work for you? We have concerns, because although they are theoretically regulated by HMRC, there is pretty much zero supervision and very little regulation. How do we know that we are not just opening a loophole that will enable people to use companies simply as a way of laundering money and committing other economic crime, such as fraud and so on?

Martin Swain: We will not be replacing the AML supervision, which rests with the AML supervisors. The Bill introduces a number of measures around ACSPs which we currently do not do. For an ACSP to file with us, they will need to register with us.

Q89 Dame Margaret Hodge: With you or with HMRC?

Martin Swain: With us. This is separate to their AML supervision. In order to file with us, they will need to register. We will verify the identities of the people who run the agency—the agents—and we will require them to confirm who they are supervised for for AML purposes. We will cross-check that with the AML supervisors. There are also some new offences in the Bill, so people will be required to maintain their records of their supervision with us. If they are suspended from their AML supervisor and do not tell us, that will be an offence. They will also have to maintain records of verification, which we will have the power to check. None of that exists at the moment. An agent can file with us without any of those things happening.

Q90 Dame Margaret Hodge: But the AML supervision still remains with HMRC.

Martin Swain: Yes.

Dame Margaret Hodge: But it does nothing.

Martin Swain: I am not going to answer from HMRC's perspective. If we are talking about smarter regulation, the benefit is that we will have a power and an ability to go back to HMRC and raise flags where we see activity from agents that is not consistent with what we want.

Dame Margaret Hodge: That is very helpful, thank you. I have a quick question for Adrian.

Adrian Searle: Can I come in on that earlier question? The requirement that the company service provider has a UK footprint is a significant shift. Prior to this Bill, overseas-based service providers could provide that third-party service to registered companies. That is a fundamental challenge. When there is a UK footprint, whether it is the supervisory bodies or, potentially, the investigative agencies, we have got a starting point that we can go after, which you cannot do when there is an overseas base.

Q91 Dame Margaret Hodge: They have to go after them, but that is for another day.

Adrian, with your wider remit, there has been a huge decrease in the number of cases that have been taken by the SFO and indeed by all the agencies. One reason is the fear of costs landing on those agencies—for example, the NCA—if they lose the case. Can you give us a view? Do you think we should have a cost cap, in the way we have with unexplained wealth orders? Do you think we should have the American system whereby no costs at all are given to the litigant or the person accused of wrongdoing at the end? What is your view of that?

Adrian Searle: We are certainly very keen to continue to look at that. The cost capping in the UWO regime is attractive. I understand that other colleagues and Government, in particular the Ministry of Justice, have had conversations. They are having concerns raised that that undermines the core principle of loser pays. There are different views on this issue.

Q92 Dame Margaret Hodge: I think there is a difference between civil and criminal. The UWO is a civil offence, so it is easier. Some lawyers will say that if you end up convicted of a crime, you ought to have the right to a full defence, with the cost paid for.

Adrian Searle: We find cost capping an attractive proposition, but we also understand that it is challenging. In addition, we are speaking to colleagues in the Home Office and the Treasury about the establishment of a regime that will help us to manage the risk associated with potential big financial costs if we were to lose a case. There is a governance system that they are proposing to put in place that will help us to manage those risks. It is still early days, and conversations are ongoing, but at least colleagues in Government recognise the challenge that we face. There is no doubt a chilling effect on the agency from the risk associated with financial costs.

Q93 Dame Margaret Hodge: Are you also talking to the Treasury about keeping some of the fines that you manage to secure in the cases that you take?

Adrian Searle: I assume that is a reference to the ARIS system—the asset recovery incentivisation scheme. As it currently stands, we get 50%.

Q94 Dame Margaret Hodge: Does that go through all the agencies—the NCA, the SFO and HMRC? If they have a successful litigation, can they keep 50% of the fine they secure?

Adrian Searle: It is certainly true for the NCA and policing. I would need to check whether that runs across the whole system. I can come back to you on that.

Dame Margaret Hodge: It would be really helpful to have that.

The Chair: We have to move on.

Q95 Liam Byrne (Birmingham, Hodge Hill) (Lab): Martin, has your budget been agreed for 2023-24?

Martin Swain: Not yet, to my knowledge. We have had the confirmation of part of our £63 million, but we are in conversations with the Department around future budgets.

Q96 Liam Byrne: What advice have you given to colleagues about what your budget should be in order to fully operationalise the measures in the Bill to a gold standard?

Martin Swain: It would be very difficult for me to describe what a gold standard would be at this point. We have put in a significant proposal to the Department as part of our spending review preparations.

Q97 Liam Byrne: And how much is that?

Martin Swain: I cannot give you a figure on the budget, but in terms of numbers of people, it was in excess of an extra 100 people.

Q98 Liam Byrne: An extra 100 people. So you think you need at least an extra 100 people in order to operationalise the measures in the Bill.

Martin Swain: That was our assessment at the time. It obviously depends how quickly we can digitise services because, as I said earlier in the session, the quicker we can digitise things, the more we can move people off manual processing into other work. I think it also depends on what the final shape of the legislation is when it gets through. We saw that with the Economic Crime (Transparency and Enforcement) Act 2022, where there were things, as the legislation went through, that changed and we had to adapt and do things differently. It would be wrong of me to estimate it at this point, before the legislation has passed.

Q99 Liam Byrne: Okay. It is obviously a matter of great national shame that UK corporate structures have been used so extensively for money laundering—not just the Azerbaijani laundromat, but the Danske Bank money laundering scandal, which was about €200 billion, with about 40% of that laundered through UK corporate structures. When you are putting your business cases together to Ministers, do you explain to them the economic damage done by economic crime to the broader UK business environment?

Martin Swain: I would probably say we do not need to. We have this package of reform, and it is fair to say we have worked really closely with the Department and people like the Treasury on what the package of reform needs to look like. We have been heavily involved, and we have been able to influence some of the thinking around what the reform needs to look like. However, I think nobody would disagree with the need to reform Companies House. Certainly, we would not; we welcome these reforms with open arms. As an agency, it is probably fair to say that we are hugely excited by the prospect of being able to do things that we have not been able to do in the past.

Q100 Liam Byrne: And the Department shares your excitement so much that it has failed to agree your budget for next year.

Martin Swain: I have not said they failed to agree it. We have not got to that point of agreement yet.

Liam Byrne: Okay. Thanks, Chair.

The Chair: A very quick one from Stephen.

Q101 Stephen Kinnock (Aberavon) (Lab): You talked about outsourcing identity verification, but is that not just a recipe for disaster? If we keep on outsourcing these things, rather than Companies House controlling the process, you are just going to open it up to more fraud and dodgy dealing?

Martin Swain: I do not think we would have the capacity to do ID verification internally, certainly not within the timescale that we are looking at bringing it in. I go back to my point—and I will pick up the point with UK Finance—that we will be operating ID verification to standards that are appropriate across sectors that use ID verification. With any aspect of these reforms, there is potential for gaps in the system. What we are trying to do is design out gaps in the system. However, I think we know from the current companies framework that there are gaps in the system, and even where you plug those gaps, others will appear.

The Chair: Thank you very much indeed to both of you for your evidence. It has been very helpful. We now move on to the next panel.

Examination of Witnesses

Commander Nik Adams, Simon Welch and Michelle Crotty gave evidence.

2.45 pm

The Chair: Good afternoon. We now have Commander Nik Adams from the City of London police, Simon Welch representing the National Police Chiefs' Council, and Michelle Crotty from the Serious Fraud Office. May I ask each of you to introduce yourselves briefly, please?

Commander Adams: Good afternoon. I am Nik Adams, commander in the City of London police and the current lead on economic and cyber-crime.

Simon Welch: Good afternoon. I am Simon Welch, the national co-ordinator for the National Police Chiefs' Council on the economic crime portfolio.

Michelle Crotty: I am Michelle Crotty, chief capability officer at the Serious Fraud Office.

Q102 Stephen Kinnock: The national policing fraud strategy of 2019 said that, although the majority of the police response to fraud is delivered by local forces, capability and capacity varies widely across different areas. The strategy said that the regional organised crime units were "extremely limited" in their capacity. Has the situation improved since 2019, and if not could you say a word about what extra resources or powers might be required? I am not quite sure who is the best person to answer that.

Commander Adams: Shall I start, as the City of London senior rep? I have the advantage and the disadvantage of having been in this job only since April, so I can give you a view of where I think things have got to. I obviously was not part of the network when that report was written. I think it reflected an approach to economic crime that has been very much built bottom up historically, which led to the assessment that policing was fairly fragmented, with different levels of investment and different prioritisation across forces.

As long as economic crime and fraud, in particular, are not part of the strategic policing requirement, it is difficult to really get police forces to galvanise that response. We have seen, however, some fantastic work by the Association of Police and Crime Commissioners to get fraud and economic crime into police and crime plans. We have seen through the support that the City of London police has provided, as the co-ordinating force, a great deal of consistency starting to layer on in local forces. In this year alone, we have visited 29 out of all 43 forces to look at their delivery of the economic crime response and of shared good practice across the country. That bottom-up has given us those improved levels of consistency.

Through the spending review and the police uplift programme, we are seeing significant investment at both a regional and a national level to help us to build some of those capabilities. By the end of this year, we will have proactive economic crime teams built around a consistent model in every single regional organised crime unit. With the anticipated investment from the economic crime levy, we will see the growth of regional economic crime teams—proactive financial investigation at a regional level—and, with our support, the continued network of those teams across the country, which will give us a growing and more consistent approach as we go forward.

Q103 Stephen Kinnock: The challenge that we have is that money laundering prosecutions have dropped by 35% over the last five years in the UK, and the number of crimes being investigated—[*Interruption.*]

Dame Margaret Hodge: I will read out the two figures. The number of crimes under investigation has halved in the past three years, and convictions for fraud offences, according to national crime statistics, have decreased by 67% since 2011. What you are talking about is theoretical; it is not what is happening. At the same time, fraud is going up and up.

Stephen Kinnock: Will you say a word about why that is? The system seems not to be working, so what do we need to do to fix it?

Commander Adams: I will start and then bring in Simon, who is an expert on money laundering. The first thing to say is that fraud is getting increasingly complex. About 70% of all fraud emanates from overseas and, as Adrian touched on, it is very difficult for us to obtain prosecutions and convictions across jurisdictions. That is a real challenge for us, as are the growth in technology, the way in which fraudsters are now exploiting people and the changes in tactics.

Fraudsters are moving away from unauthorised payment fraud, where people's details are stolen and used fraudulently—banks are now preventing somewhere in the region of 65p in every pound of that type of activity—and we are now seeing much more sophisticated frauds, where people are socially engineered, or manipulated, into physically approving transactions. That of course is much harder for technological solutions to prevent, when the target is a human being.

Of course, all that complexity requires a much more complex and sophisticated policing response. As I described, the growth that is coming down the line—in particular

the proactive growth—will not start landing until the end of this year and then, of course, we are several years before we have fully experienced and really competent and effective investigators working on those crimes. All those things will layer on over a period. We anticipate that the technological advances will continue, both in support of us and in challenging us in how we can investigate and progress these crimes. Simon, do you want to comment specifically on money laundering?

Simon Welch: On money laundering, the amount of offences—detected offences—is going down. Criminals are getting a lot more savvy about our tactics and things like that, so we find that they are not having assets in their own names so much—vehicles, houses, things like that—and our opportunities for confiscation are probably going down a bit. However, what you can see from the seizure figures is that the cash value is up, but the volume is down. We are targeting and getting good results from the cases, but it is a smaller number of cases. In reality, POCA is now quite old, and people are used to us going after the money, so they take far more steps to protect that money from us being able to confiscate it.

Q104 Jackie Doyle-Price: Clause 156 extends the pre-investigation powers of the Serious Fraud Office. What is the benefit of that? How will that improve the ability to track all economic crime?

Michelle Crotty: At the moment, we have those pre-investigation powers for overseas bribery and corruption. They allow us to investigate earlier, in particular to identify banking evidence earlier, and to see whether there is a case to pursue. By extending that to fraud and domestic-based issues, we are enabled to do that in those cases. At the moment, we have to take on a case formally and to commit resource in order to exercise the powers. To some extent, we can negotiate on occasion with companies to get that material, but if we have the power of compulsion, it would make it quicker and easier to get the material and so identify whether there is a case there.

Q105 Jackie Doyle-Price: So it enables you to be fletcher of foot—

Michelle Crotty: Yes.

Jackie Doyle-Price: And to address some of the questions we heard earlier—if you can act more quickly and establish whether a crime has been committed, that is clearly more efficient.

Michelle Crotty: It is more efficient and means that, if we follow the money and there is a reasonable explanation, we can screen a case out more quickly, rather than committing more resource and taking longer to reach that decision.

Q106 Alison Thewliss: The Home Office report, “National risk assessment of money laundering and terrorist financing 2020”, states:

“Company formation and related professional services are therefore a key enabler or gatekeeper of”

trade-based money laundering. Is there enough in the Bill to remove that risk?

Simon Welch: It is difficult to say. We have heard about the verification processes going on. With the authorised corporate service providers, if we strengthen

all that and make things more difficult, we target harm. At the moment, you can register a company from abroad, and there is little opportunity for us to follow that up, especially in a jurisdiction that it is difficult to get information from. The idea of having ACSPs in this country, where we can see them and start the inquiry from the UK, would be very desirable. I am not sure whether the Bill goes that far; I have not read that bit too much.

The Chair: Sorry, you are going to have to speak up. We all wish to hear the answer.

Simon Welch: Sorry—I appreciate that. Authorised corporate service providers, if they are based in this country so that we have a starting point for our inquiry, would be something that we would welcome. That would make it easier for us to start an inquiry. At the moment, if it is coming from a jurisdiction that is not particularly co-operative with us, it might be difficult for us to get that information, so, clearly, we would want to see that.

Q107 Alison Thewliss: Michelle, you were nodding. Do you have anything to add to that?

Michelle Crotty: No. Anything that will help us to identify suspects is welcome, as my colleague has said.

Q108 Alison Thewliss: Okay. Are the measures in the Bill enough to disincentivise the use of shell companies, limited partnerships or Scottish limited partnerships for criminal purposes?

Simon Welch: If they can still get the companies and they can still make them work, they are going to make them work. It is if we make it prohibitively difficult for them to do that—if we make it difficult for them to create their verifications, because they will have to work harder to get the verification sorted out to make sure they have got the IDs sorted out. We have talked about the fee of £12.50 for registering a company. There are lots of arguments about that—frictionless trade and things like that—but we have the lowest price for registering a company pretty much anywhere in the world.

Alison Thewliss: Yes—by some margin.

Simon Welch: So is there a view for increasing that and using it for Companies House to invest in verification? That is something that could be looked at.

Q109 Alison Thewliss: Do you have a view about where you would like the level to be? The Treasury Committee suggests £100.

Simon Welch: I do not know. If you were to ask a businessman what they were prepared to start a company for—how many companies they are looking to start? At the end of the day, if you were just building a couple of companies and you knew you were going to get a really good service, you might be quite happy to pay £100 or whatever. I do not know what is a reasonable price.

Commander Adams: One of the challenges for us in our investigations is how desirable shell companies are to criminals who want to create a legacy pattern that an organisation has been running for many more years than it actually has. Of course, if you are then into a large-scale boiler room-type fraud, whether you are

paying £12, £100 or £1,000, it is simply a drop in the ocean compared with the amount of money you are going to make at the end of that. Making it harder for people to inappropriately and unlawfully use shell companies in the way they are at the moment is what will help us ultimately.

Q110 Alison Thewliss: There has been a growing trend of people setting up companies using someone else's address and name. Presumably those will still exist on the register after this legislation comes into force. What would you like to see happen to clear out the fraudulent things that are already on the register?

Commander Adams: If I am right, the Bill allows for retrospective work to take place. However, as you have alluded to, there are simply millions of entities on there. As you heard from colleagues earlier, the resourcing of those retrospective checks, given all the work that has to be done—there are something like 1,500 companies registered every day in the UK; it is phenomenal—is going to be a real challenge. We would want to see resourcing to do those retrospective checks, to remove those companies from the register as quickly as possible.

Q111 James Daly: What is your view of how clauses 1 to 98—part 1 of the Bill—regarding Companies House reform can assist law enforcement to tackle economic crime more effectively?

Commander Adams: Again, you heard from colleagues earlier about this. The big thing for us is making sure that checks are undertaken to ensure that individuals who are setting up companies or have a significant stake in them are verified, to give us, as Adrian said, those investigative lines of inquiry into individuals. For us, that is the biggest game changer in what we are currently seeing, but of course it will require the right level of scrutiny and adequate robustness in those checks, and the capacity to do them at speed.

James Daly: Ms Crotty?

Michelle Crotty: The same—anything that allows us to identify the people behind it and then to use that to follow up with lines of inquiry. Capacity is certainly something that we would be concerned about, but the work that the NCA and the NECC are doing with Companies House should help with that, in terms of training Companies House staff.

Simon Welch: It would also be nice to be able to data wash some of the registrations through law enforcement indices before they were actually registered. That is obviously another quantum leap from where we are now. I think we are looking at sharing that data, but that is another thing for Companies House to work out, in liaison probably with the NECC. I think that would be preferable for us. Then we could prevent these companies from opening up in the first place, and stop them being used as vehicles for criminality.

Q112 Dame Margaret Hodge: Michelle Crotty, what would you feel about the introduction of an offence of failure to prevent economic crime?

Michelle Crotty: We are very strongly on the record as saying that that is an offence that we would like to see. We have seen good results with it in relation to bribery and corruption since its introduction in 2010.

Nine of our 12 deferred prosecution agreements have involved a failure to prevent bribery offence. We think that it not only punishes but helps to reform corporate behaviour. What we have seen with the Bribery Act 2010 is that companies have very much focused on putting adequate procedures in place because that is the defence that it provides them. The prosecution is one part of it, but actually the preventive work in terms of adequate procedures is as important, if not more important.

The other thing that we would say in terms of the impact on business is that for a failure to prevent economic crime offence many of the adequate procedures would already be in place in terms of anti-money laundering and other areas. Clearly that is something that the Committee, and guidance, would need to work through, but the impact on business may not be as heavy as some might fear.

Q113 Dame Margaret Hodge: Do the other two witnesses agree?

Commander Adams: Yes. Ultimately, as Michelle said, I do not think that the imposition on business would be that significant. There are lots of areas where we see unintended consequences of thresholds upon which, or below which, things are not reported to law enforcement. That sort of legislation would give us the ability to ensure that there are policies and processes in place in institutions to provide the sorts of checks and balances that identify patterns that might fall outside some of the clearly defined breaches of legislation. That, for me, would be the galvanising benefit of that power, in a not dissimilar way to financial institutions reimbursing victims, which helps to galvanise effort and investment into preventing crime, to avoid spending money out the other end. All those sorts of measures are really helpful. Particularly through Adrian's role as director of the NECC, I think he would say that the things that help to galvanise the partnership and the whole-system response to fraud is where we will ultimately see our biggest successes.

Q114 Dame Margaret Hodge: The other brake on pursuing the bad people is the fear of failure, and therefore the burden of costs on the public purse. Would you like to see the cost capping that has been introduced on unexplained wealth orders extended here, or do you have other ideas about how we can try to make that brake less solid?

Michelle Crotty: The SFO would like to see those. We understand the concerns that other parts of the system have in terms of how you ringfence a cost regime just for economic crime. In terms of what the SFO can recover in any one year, we can retain £900,000 of legal costs if we win. Clearly, it is the other way if we lose, and there are ongoing discussions with the Treasury. I gave evidence to another Committee last week that, where we do not have a fund available to us for that that sits within our budget, we have to go and negotiate one with the Treasury if we lose. We would certainly welcome some protections, but we understand the challenges around fitting them into the broader scheme.

Q115 Seema Malhotra: I want to come back to some comments made by DCI Welch, which were very instructive on the challenges—we have heard it in some of the data

as well. I think you referred to criminals not putting assets in their own names, thereby making them harder to find and seize. Do you think that the Bill gives sufficient powers for tackling fraud, especially through the use of fraudulent names and addresses? If not, what else needs to be done to help you all do your work more effectively, but is missing from the Bill?

Simon Welch: Obviously, we are putting more resource into this area. If we are to go after them proactively, we are building up our intelligence around this. Historically, fraud has not been given the same emphasis as other types of criminality, so I think we lack in some areas. If we start to build that up, to get more intelligence that is actionable for us to work on, and to go after some of these people proactively as opposed to reactively, we will be getting ahead of the game, and then we will be able to arrest these people and prevent other people from becoming victims. It is important to invest in this area. It is a difficult time for us, because recruitment and retention of staff are challenging. We are looking to build, and are getting investment streams coming into us. We are looking to develop that all across the piece. We are looking at the intelligence and at the proactive capability and the investigative capability to take this on.

Q116 Seema Malhotra: Is it all about resources, or is there more?

Simon Welch: Resources are a big part of it, but there is experience as well. If we bring in new people, they are unlikely to be the most experienced investigators. Unfortunately, in recent times, we have lost a lot of our middle-ranking, experienced investigators, so we are having to bring people through quite quickly. There is quite a quick turnover now, especially in things like crypto investigations, because those skills are very desirable in the private sector. It is really difficult for us to hang on to those people, so we are going through a bit of a treadmill trying to recruit and hang on to them. Mr Adams is looking at things like structures and strategies within the force to try to hold on to people and to look at different ways of retaining those skills and experience to make us that much better at investigating these things.

Q117 Seema Malhotra: Do the other witnesses have anything to add? Is there anything specific that will assist in some of these challenges? How much are resources constraining what you are able to do?

Michelle Crotty: It is fail to prevent for us, and it is capacity, capability and retention. As my colleague said, we can train people up with fantastic training, but the real challenge is that they are then very valuable recruits—not just to the private sector, but within the law enforcement community and in how we operate jointly to ensure that we build a pathway for people within law enforcement, as well as out into the private sector.

Commander Adams: The final thing to add to all of that is technology. The licences for the tools that we are able to use at the moment, particularly some of the tools for tracking crypto assets, are expensive. When you start to build up those layers of individual costs that Simon described on the tools and technology, to be really effective we have to bring those together with

highly skilled and highly competent individuals. All that is a challenge for us at the moment, in the recruitment environment that we face.

Q118 Liam Byrne: Nik, I want to crystallise a couple of things. Is it your impression that economic crime is growing?

Commander Adams: I am not sure that my impression is the thing to take as gospel here. We see from the crime survey, our annual reporting and the growth in trends around victimisation that fraud is growing year on year. We predict that there could be anywhere from 25% to 65% growth in fraud over the next four to five years. If we were to go around the room and ask for a show of hands on who has received a smishing or phishing message, versus those who have been burgled in the past 12 months, I think we would be staggered at the volume.

Q119 Liam Byrne: Simon, is it the position of the National Police Chiefs' Council that more resources are needed to tackle economic crime? Do you have a gut feel for the order of magnitude of the increase needed?

Commander Adams: It is a really complex landscape. We have a great deal of investment from the private sector in some of our specialist capabilities. We need more investment at the frontline of policing in undertaking economic crime investigations at that most basic level. That does not mean more people; it means investment in training to ensure that all frontline officers can deliver that.

Q120 Liam Byrne: Yes—but Simon, what is the National Police Chiefs' Council perspective on that?

Simon Welch: As Mr Adams says, we could always do with more people—if you ask, we will always say we want more staff—but the reality is that it is difficult to bring them in at the moment because we are not offering wages that are competitive with some of the other agencies or the private sector. We are struggling to build that up. If we can build that up and maintain some trajectory so we can hang on to some of the staff to get them to an experienced level, we will start to see more impact on performance there, but we need to work on that really hard.

Commander Adams: I touched at the beginning on the investment and the proactivity around both financial investigation and fraud investigation. We have to see some of that investment land, get people into the posts, do the work that City of London police is doing as the national lead force to co-ordinate that activity across the country, and see what effect that has. That will then inform the business case and the arguments that we make for more or different resource in the future.

Q121 Liam Byrne: Understood. Nik, you also said that you were watching criminals move assets into proxies, basically, in order to safeguard them. We heard this morning that the Bill will not place a duty on Companies House to verify who has the economic control of a particular asset. That sounds like a problem to me. Do you agree?

Commander Adams: That might be one for Simon.

Simon Welch: Yes. You can identify a person of significant control, but sometimes it can be difficult if you are looking at the people who ultimately have

control of some of those companies, because you have people stood up saying they are that person, but there are people sitting behind that person. It depends how good your intelligence is whether you can work these things out. Very often, if you investigate these people, you will be able to see that they have control of the company. If you do not investigate them, you will not be able to tell. You need to be on them with the right intelligence to work it, and then you might have an opportunity to show that they were running that company.

Q122 Liam Byrne: Yes, so we may have to beef up the verification requirements for Companies House.

Simon Welch: As an ex-policeman, I will always say yes to that, but obviously there are implications, because you need the resources down there to do it. Obviously, we will always go for the gold standard wherever possible, because if you are doing that, you are stopping people getting in at the first level, but there are obviously implications of the cost of that. But yes, of course we want the highest standards of verification.

Q123 Liam Byrne: With your indulgence, Sir Christopher, I will ask a last question to Michelle Crotty. We have heard at the Foreign Affairs Committee that it is often difficult to get evidence from bad regimes even though kleptocrats may have made their fortunes in those countries and laundered that money through UK corporate structures. Given the unavailability of that evidence, do we need to think about onshoring offences that might help us freeze or seize assets for the committal of a crime here in the UK?

Michelle Crotty: It is certainly an issue for us. We would be interested in the proposal. If the evidence is overseas, even if the offence is based here, I think we would want to think through the mechanics of the prosecution. There would be some detail to work through, but in principle, I think we would welcome looking at that kind of offence.

The Chair: If there are no more questions, I thank the witnesses for their attendance and their contributions.

Examination of Witnesses

Dr Susan Hawley, John Cusack and Thom Townsend gave evidence.

3.13 pm

The Chair: We now have evidence from Dr Susan Hawley from Spotlight on Corruption, John Cusack—via Zoom—from the Global Coalition to Fight Financial Crime, and Thom Townsend, representing the UK Anti-Corruption Coalition. Can I ask Dr Hawley and Thom Townsend to introduce themselves first?

Dr Hawley: Hello. I am Dr Susan Hawley, executive director of Spotlight on Corruption. We are a UK anti-corruption charity that monitors how the UK enforces its anti-corruption laws and keeps its international anti-corruption commitments.

Thom Townsend: Good afternoon, everyone. My name is Thom Townsend. I am the executive director of Open Ownership and the incoming chair of the UK Anti-Corruption Coalition. Open Ownership supports more than 40 Governments around the world to implement exactly these types of reforms.

John Cusack: Hello everyone. My name is John Cusack. I am the chair of the Global Coalition to Fight Financial Crime, which is an NGO. It is a 20-member organisation, both public and private, with large members such as Interpol and Europol, as well as Open Ownership—Thom's organisation—and RUSI, which you may well know in the UK too.

Q124 Seema Malhotra: Thank you all for coming to give evidence today. I want to start with a couple of questions. First, in your view, does the Bill provide adequate guarantees against companies that have opaque corporate ownership based in secrecy jurisdictions? Could and should the Bill be further improved to prevent companies' continued use of offshore and opaque corporate ownerships?

Secondly, does the Bill provide enough mechanisms to help with transparency around the new responsibilities of Companies House, and should there be reporting—to Parliament, or certainly publicly available—on new powers? What would you want to see in order to have confidence that measures are having impact?

The Chair: Who wants to go first?

Thom Townsend: I think that there are significant areas of improvement for the piece of legislation that we see before us. Primarily, from our perspective, we focus on reform of company registrars around the world, so my focus is very much on how Companies House can better operate. The key area we would identify is around the verification mechanism, as you would expect, and that splits out into two points.

One is around how we verify someone's identity versus how we identify and verify the statement of control and ownership that they are giving about their involvement with the company. That second part—their status—is not covered here. We are not putting in place mechanisms to understand whether the disclosure of beneficial ownership is accurate, and that is a significant problem. A colleague talked previously about having a gold standard, but we are far off that. We see company registrars in countries around the world taking meaningful steps to attempt to use their data and powers to begin to understand whether those statements are true. That needs to be significantly beefed up in this legislation.

On the second part—the ID of individuals—there are grave misgivings about that being outsourced to the trust or company supervisor profession. There are other ways of identifying people: in an ideal world, Companies House should be doing that. That is a big change for this piece of legislation, but frankly, that is where most of the world is going.

Q125 Seema Malhotra: Could you give an example?

Thom Townsend: It is worth saying that countries that are doing very well on this typically have a national identity card system that is the foundation of their ID process. There are other ways of doing it. I think about Estonia, France, Germany—the list could go on, but it is based around their national ID card system. Clearly, we do not have that. The Government have done significant work on their own identity verification programme, which has had mixed results. We know we can do this. It does not necessarily need to be outsourced to that profession, which of course is supervised, but we collectively have severe misgivings about it.

On the second point around the accountability mechanism, we would like to see a very strong mechanism for Companies House to be coming to Parliament on a regular basis to talk about how this is looking and how it is performing. It is a much broader conversation about the kinds of indicators we would like to see reported on. That is a much longer conversation, but I will pass over to colleagues at this point.

John Cusack: I share Thom's views, principally, on this. I spent 30 years working in banking as an MLRO—that is the previous history to my current role—and I spent many, many occasions trying to establish beneficial ownership. It is not easy, but it is the key to understanding risk and understanding who owns and controls a bank account, real estate or a company. That is absolutely key. I would like to see an obligation on the companies register that is essentially equivalent to that which a bank has in relation to knowing its customer, to the extent that that is possible. That is where we need to get to. Thom was explaining that some of the better countries are trying to get to that kind of standard.

Secondly, I believe that the registrar of companies needs to have a much stronger obligation than is currently set out in the proposed legislation—it needs, again, to be slightly similar to my old obligations as an MLRO. There needs to be an obligation to operate an AML programme that is worthy of the name, and to have strong and meaningful controls in order to be able to demonstrate that Companies House and the companies register are doing a similar job to what other people do in the private sector.

Dr Hawley: I would like to strongly back that up. It is essential that the “know your customer” rules that the private sector has to use are used by Companies House as well. There is no point having a registry that SMEs cannot rely on because it is not as accurate as it needs to be. That has been a problem now that the big companies simply do not use the corporate register because it is so inaccurate. There is a long way to go on that.

We also have real concerns, as Thom mentioned, about the authorised corporate service provider provision in the Bill. In essence, it relies on another part of the system—the anti-money laundering supervision system—and the danger is that we are just playing whack-a-mole. We are just pushing the problem down the road. We know that HMRC, in its supervision of TCSPs, has had lots of very serious questions about whether it is up to the job, and it just recently revised its average fine level down from £250,000 to £8,000. There are real questions about whether that is a serious deterrent. In its recent report, it found that nearly 50% of its cases that went up to the governance panel had to be returned to the case officer for serious work to be done again. Either the Bill needs to address the AML supervision regime—I can tell you some of our suggestions, because it would not be that difficult to come up with a transition—or there are real questions over whether that clause should be in it at all.

A final point, which was picked up earlier by colleagues from law enforcement, is about how this will be funded. The registry will be meaningful only if there are proper resources. It can be completely cost-neutral to the Treasury. We are heading into a difficult fiscal time, so it needs to be cost-neutral. As the gentleman from the National Police Chiefs' Council said earlier, we have almost the lowest registry fee. We are the 6th lowest, in company

with Rwanda, Timor-Leste, Ukraine and South Africa. Most other countries charge an average of £150 to £300, compared with £12. That could go an enormous way to getting the right IT infrastructure. We know a lot of this will have to be done with technology and AI. Making sure that the fees for Companies House are set at a realistic level to make this properly verified is essential.

Q126 Jackie Doyle-Price: To follow up on that point, we have a principle in this country that the fees should match the operational costs. We are adding to what Companies House will be doing in that active management. That would make a case for an increase in the fee to meet the costs, would it not?

Dr Hawley: Absolutely. The key thing is what John alluded to—clause 88. What is the requirement in the Bill for how far the registrar has to go? If it is the minimum amount, the fees will be minimal. If we are going for the gold standard, the fees will need to be higher to reflect the greater verification work.

Thom Townsend: Just a quick thought: what strikes me, reading the Bill, is that it is not quite clear what Government want Companies House to be, when you delve into the detail. Is it around minimising criminal activity, as in the fourth objective? Is it about preventing, which comes up in clause 88? That needs to be resolved to give a very clear idea in primary legislation of what we want Companies House to be. It should be the first line of defence in the UK economy from the perspective of integrity and preventing crime.

Q127 Jackie Doyle-Price: I guess it comes back to the discussion that we are having about the twin-track objectives that pull in opposite directions: to enable it to be part of the framework for tackling economic crime, but also to enable business. In your opening comment, you stated that we are a way away from the gold standard. I think we would all agree with that—that is why we have this Bill, frankly, and I certainly have ambitions for it—but I want to probe you on what you said about a national identity card system. Surely you are not suggesting that we cannot improve this kind of scrutiny without a national identity card system. There are other ways to establish that, and other ways of knowing your customer.

Thom Townsend: Absolutely. My point was just that countries that do have been able to go further and faster as a result of having the underlying infrastructure. But no, absolutely, you can do that. We have brought down the cost of identifying people in this country very rapidly, with KYC for new banking, and taking a video of yourself. We have a lot of technology and lots of ways to achieve that end. It does not have to be done through the trust and corporate service provider industry—it simply does not.

Jackie Doyle-Price: That is helpful.

John Cusack: I will just add to Thom's point about clause 88. The language concerns me greatly. This will be dependent on the registrar's diligence and, essentially, on the financing that the registrar has in order to carry out their activities. The language—that the “registrar must carry out such analysis of information within the registrar's possession as the registrar considers appropriate”—

is extremely timid. If there is no money for it, the registrar will not be doing anything. That is really problematic. We would not apply that in any other circumstance; we would want to set out the obligation—the expectation—and to fund that appropriately, not the other way around.

Q128 Alison Thewliss: I have some questions about whether the Bill is sufficient to deter the abuse of shell companies, limited partnerships or Scottish limited partnerships.

Dr Hawley: We focused more on what is not in the Bill. I do not know whether John or Thom want to address that.

Thom Townsend: I would hand over to John on this one.

John Cusack: The Bill is positive. It is one of the contributions that will definitely help, and it is trying to fix a long-standing problem. At the end of the day, however, if we want to deal with financial crime, economic crime, we need convictions—investigations, prosecutions and convictions—and asset recoveries. That comes from resourcing the public sector, as well as demanding high expectations from the private sector. I am worried that in the UK the financing of law enforcement, and of the FIU in particular, is insufficient to assure the objectives that we all want, which are to mitigate, manage and reduce harms from economic crime. This is a long-standing weakness in the UK, as it is in many other countries, and that would definitely help, but let us not kid ourselves that it will make a material difference to the economic crime situation in the UK.

Q129 Alison Thewliss: Do you share my concerns that previous Bills to tighten things up—for example, for Scottish limited partnerships—have not been met with enforcement action? Since the changes to the persons with significant control regime came into force, only one fine has been issued, to the value of £210. Would you like to see more enforcements and more follow-up of those who are not applying the current rules?

John Cusack: Yes, of course. I would support that. However, I would also say, with respect, that the idea is to do prevention with the changes. When we put a lock on the door of an aeroplane, the fact that no one has stormed the cockpit is not how we judge whether a lock on the door is appropriate. We are tightening things up and preventing financial crime, but yes, absolutely, we need to see more enforcement. You would hope that these measures will mean that people will no longer necessarily look to UK companies and Scottish limited partnerships as the vehicle of choice for abuse, and they will look elsewhere.

Q130 Alison Thewliss: May I ask about the issues with the register as it exists? There are lots of things on it that are inaccurate, deliberately false or involving the misuse of people's personal information and addresses. How much do you feel that Companies House has to go back actively into the register to figure out what is wrong with it and to put it right?

Thom Townsend: When this legislation passes, there will be a lot of remedial work to sort out what is there—there is no doubt about that. Everything that you have just described is true, and it is probably a lot worse even than we are aware of. As you just mentioned,

we are clearly starting from such a low bar that any legislation will have some kind of deterrent effect, but it is important to think not just about ensuring that we hit the gold standard with a piece of primary legislation. It is also the resourcing, but ultimately nothing that we can do will create a 100% perfect system.

Essentially, we are trying to remove as much noise as possible from the system to give law enforcement the best possible chance of focusing its resource where it can make the most difference. It is important not to think about this in zero-sum terms of: is it possible to commit crime or not? It is really just about making an environment where it is somewhat more manageable to detect, and then enforce. As it stands it, is the wild west on that register. If you wanted to do enforcement, we would be here until the end of time.

Q131 Alison Thewliss: Yes. Finally, can I ask you, John, whether there is any particular recommendation that you would like to make on the register of overseas entities section of the Bill?

John Cusack: Not necessarily, because what I am most interested in is getting the Bill out in its current form with a financed and adequate registrar with obligations, and resolving that underlying issue. One of the reasons people use UK companies is not so that they can open UK bank accounts, because then you go through the gamut of UK obligations in the regulating sector, even though that happens occasionally when buying real estate and other things. Actually, people buy and acquire UK companies and Scottish limited partnerships so that they can open accounts abroad, because the UK is seen as a first-class jurisdiction. That means that when they open those accounts abroad, not many questions are asked, or not as many as would be if they were acquiring a Nigerian company, for example, which would ring all sorts of alarm bells. The interesting thing about the companies registry is that the abuse by foreigners does not necessarily translate into a UK economic crime issue per se, even though it is something that we also all want to address.

Q132 Dame Margaret Hodge: Indeed, it can sometimes lead to terrorism as well as other crimes. May I ask one short question of you all, and then a longer one? We have talked about the importance of looking at persons with significant control. Do you think that we should reduce the threshold of having a 25% shareholding to 5%? Would that help?

John Cusack: For my high-risk customers, I always had it at 10% in my financial institutions, and 25% for non-high-risk customers, because I really wanted to ensure that I had almost everybody who could possibly be interested in the company or a relationship. I stuck at 10%, but you can always argue it lower or a bit higher.

Thom Townsend: Yes—whether it should be 5% or not, it needs to be lower. There is an argument to be made between 10% and 5%. My sense is that we have a 25% global standard on this because it is a sort of round number.

Dr Hawley: It is really interesting to look at what Jersey and Guernsey are doing on financial crime. They have a 10% threshold, and they are introducing a lot of other very interesting economic crime measures that go far further than we have in the UK, including a failure

to prevent money laundering offence. They also have a measure to forfeit accounts based on a suspicious activity report, so they are really looking at very radical measures in Jersey and Guernsey that will make the UK look quite behind.

Q133 Dame Margaret Hodge: Good. Thank you for that. I recognise that you have all made an incredibly important contribution to the debate, so thank you for that, and for the support that you have given us in developing our thinking. I sincerely mean that. I think we all see the Bill as a start, and we would like to add to it. The pragmatic reality is that we have to prioritise what we add in. For each of you, what are your three top priorities for what could be added to strengthen the effort against economic crime? It is a bit of a tough one. I have a list that is longer than three, but I would be interested in your top three.

Dr Hawley: I would say that that is the easiest. It is a great question and I will jump in, because I have my three. It would be really fantastic if Parliament signalled that its intention is not to pass a Bill that will just stay on paper; it needs to be properly resourced and make a real difference in terms of economic crime. There are three different cost-neutral ways of doing that, some of which you mentioned in earlier discussions. One is cost protection across civil recovery for law enforcement. The US-style system really works. If we want US-style enforcement, we need US-style rules.

Another way is to increase Companies House fees to match the scale of verification that we need. The other way is to invest far more. In the US, 100% of forfeiture goes into a central fund, and local police get up to 80%. We heard earlier that the NCA gets 50%; some police forces only get 18%. We also desperately need to find ways to match the money that law enforcement brings in. Law enforcement brought in £3.9 billion over the last six years. If that had been reinvested in law enforcement, we would have top capability in this country.

There are two other things. I have mentioned AML supervision already. If we could make the Office for Professional Body Anti-Money Laundering Supervision a body that genuinely raises the consistency of supervision across the board while the Treasury works out the bigger picture on supervision, it would make a really big difference. OPBAS could name and shame supervisors who were not performing, and that needs to apply not just to the legal and accounting sectors, but to HMRC and the FCA.

Finally, there is corporate liability reform, which you also referred to earlier. We have been waiting for it. It was in 2015 that there was the first Conservative party manifesto commitment to have a failure to prevent economic crime offence. The Law Commission has now spoken; we have been waiting a long time for it. Ideally, you would have a failure to prevent fraud offence, a failure to prevent false accounting offence and a failure to prevent money laundering offence, but you also need to bring in a change in the identification doctrine for the schedule 8 offences to make this work.

Thom Townsend: Unsurprisingly, verification—the first thing would be to think very hard about whether it is the trusts and service providers sector that we want to do that, to think much more broadly about what other mechanisms are available to us, and to cast the net widely around the world; there is a lot happening.

Secondly, the statements of beneficial ownership and significant control should be verified too. That is a far harder task, because the world has not figured out entirely how to do that. There are some really good examples; places such as Austria are doing good work, but it is largely about using data from across Government to make sure that you can red flag those statements.

Thirdly, we probably also need something in the Bill about having a more permissive data-sharing environment, to make sure that Companies House is getting what it wants. If you look at how the Bill is currently drafted, we have data that is “in the registrar’s possession” or “available to the registrar”. It is very unclear what that means, and it needs to be much broader than that.

A supplementary fourth point is to think long and hard about how we are using an identity, once verified, persistently in a lifelong way. Australia, New Zealand and India issue unique identifiers to directors—and, in Australia’s case, to beneficial owners—for life, which makes the investigation process much more straightforward. There is a lot of good practice out there. We need to look very hard at that and think about how we incorporate it into what the UK is doing.

John Cusack: As far as the Bill goes, I have mentioned one point already, which is the item in relation to beefing up the obligation on the registrar. The second piece is on the information-sharing provision in the Bill—I think it is clause 148. It is a limited information sharing item that essentially requires a SAR to be filed before private information sharing can take place. There is also the exit, pretty much, of the customer, which is potentially problematic. We are going to find that one potential bad actor leaving one bank cannot then open an account somewhere else, but we will also find that innocent people will be involved in that. I would rather have something broader, which allows the detection of unidentified financial crime, whereas, in this particular case, we are going to get identified suspicion being shared, which will potentially lead to some very serious unintended consequences, even though I am very supportive of the provision.

The last thing that I would say outside the Bill is that, ultimately, it is about asset confiscations and asset seizures. The UK is doing okay, but it is not doing anywhere near as well as it should be, and it is certainly underperforming compared with a number of important countries. I will give you one example. Italy not only seizes the amounts that Susan was talking about, but over four or five years it seizes almost £10 billion a year in asset confiscations, because it treats the Italian mafia as a matter of national security and targets its resources accordingly. I would like to see not a change in the law, but the rightsizing of the resources across the piece, whereby they are directed toward the tip of the spear, so that law enforcement FIUs in the UK and asset recovery can be prioritised and targets set, and we get close to the Italians, rather than being where we are today.

Q134 Liam Byrne: Susan, can I ask you to spell out what will happen if we do not align the verification procedures in the Bill with the obligations that currently bite on the AML sector?

Dr Hawley: I alluded to one point earlier, which is that if this is not a registry that companies and people can rely on, it will have been a waste of time and money. I alluded earlier to SMEs particularly not having the

resources and having to rely on Companies House in a way that large companies would not; they would do their own intelligence. It will be bad for business and the business community, and it will be bad for the UK's competitiveness. If you look at our competitiveness rating under the World Economic Forum measures, we are pretty good on quite a lot of things—in the top 10—but for tackling serious and organised crime we are 70 out of 141. That is a competitiveness rating, so it will dent our competitiveness. Actually going for gold standard practice will be good for the economy, and will make us more competitive.

Q135 Liam Byrne: Thom, the registrar's objectives are set out in clause 1. They are pretty woolly. How would you like to see them improved?

Thom Townsend: Objective 4 does really need to say "prevent". It is an objective related to the registrar's functioning. The registrar should be responsible for taking really active and clear measures to prevent criminal activity under its bailiwick.

Q136 Liam Byrne: It currently says "to minimise" the extent to which companies do bad things.

Thom Townsend: That seems like a ridiculously low bar.

Q137 Liam Byrne: My final question is: what is the correct interrelationship with the registries of beneficial ownership that are coming into place?

Thom Townsend: Sorry, what do you mean?

Liam Byrne: We have registries of beneficial ownership for assets and property. We have to try to make it possible for law enforcement to connect companies, individuals and assets. Do you think we have the framework for connecting those three dots effectively?

Thom Townsend: As it stands, no. Some form of this legislation will go a lot further. We need to look at how we are uniquely identifying people. In that case, there is an argument for bringing that ID process in-house so you have clarity around it. You can assign that identifier, which then gets used across the panoply of datasets that law enforcement have in their possession to do that interconnectivity. We run the risk a little bit, as the legislation is currently framed, of creating another island that is a bit better connected but probably will not sit at the heart of the process and be that effective first line of defence that the UK economy should have.

Q138 Seema Malhotra: I want to come back to asset recovery. There is a question about automatic strike-offs by Companies House. Would any reforms to those procedures—for example, for companies that potentially want to be placed in a compulsory liquidation process—be better, and allow for investigation and potentially asset confiscation by insolvency practitioners where those companies may have been guilty of criminal activity and money laundering?

Dr Hawley: Ensuring that companies cannot just liquidate has been incredibly important to law enforcement in the past. I am very sorry, but we might have to get back to you on that because I have not looked specifically at that clause.

Q139 Seema Malhotra: I want to come back to some of what we have heard about Companies House. It feels as if quite a lot of the new functions might be outsourced in different ways. Mr Townsend, you made a point about what could and should be done in-house. I would really appreciate hearing your view on whether more can be done in-house. Is there not a danger that that might weaken the safeguards that we bring in?

Thom Townsend: I think there is a balance between speed and effectiveness. Companies House is fantastic at what it does now—it provides a really good service to register a business quickly, and it is really easy to use—but it has never had to do the kinds of things that we are now proposing it does. It will be a long journey to get from where it is today to the sort of high-functioning all-singing, all-dancing machine that we are proposing.

There is a balance between achieving the objectives of the Bill, and the wider goals of dealing with corruption and countering kleptocracy in the UK. We will probably have to look at some sort of transitional arrangement but, ultimately, we should have a much more aspirational and ambitious vision for what we want Companies House to be in five to 10 years' time, put the resourcing in place, and ensure oversight and accountability to drive that forward and make it happen.

The Chair: Would anybody else like to answer that question? No? In that case, I thank all three members of the panel for their help in giving evidence.

Examination of Witnesses

Oliver Bullough and Bill Browder gave evidence.

3.46 pm

The Chair: We come now to the next panel, for which we have until 4.30 pm. This panel comprises two people, both journalists, authors and experts—if I may put it like that—on the Russian Federation. I extend a very warm welcome to Bill Browder, who is in the room, and to Oliver Bullough, who is appearing via Zoom. Bill, would you like to introduce yourself?

Bill Browder: Good afternoon. Just to correct that, I am not a journalist; I am an activist and author. I am the head of the Global Magnitsky Justice Campaign. Basically, my life for the last 13 years has been the result of the murder of my lawyer in Russia, Sergei Magnitsky. My campaign has taken two tracks. One is to get the Magnitsky Act, which imposes asset freezes and visa bans on human rights violators and kleptocrats, passed in different countries, including the UK—35 countries have the Magnitsky Act.

The second part of my activity has been to trace the \$230 million that Sergei Magnitsky discovered, exposed and was killed over. We found that that money was going to 24 different countries, and we filed 16 different criminal complaints. From those criminal complaints, I have had the opportunity to see at first hand who does it well and who does it badly, and let me tell you: this country does it badly.

This country has never opened a criminal investigation into the money laundering connected to the murder of Sergei Magnitsky, even though many other countries have done, and have frozen and seized assets. I hope that we will have the opportunity to talk about why that

is the case, because I think I can make some proposals for the legislation that might cause this country not to be at the bottom of the league table.

The Chair: We will come to the questions in a minute. Oliver Bullough, would you introduce yourself, please?

Oliver Bullough: It is great to be here. I am sorry that I am not there in person. It is half-term and I have the children in the other room, with instructions to be quiet. It is an honour to appear alongside Bill, who I have known for a long time and whose work I have been following since even before he was an activist outside Russia—when he was still fighting corruption inside Russia.

I am a Russia enthusiast—a Russophile. I worked in Russia as a journalist for a long time. I inevitably came across corruption, because it is difficult to spend any time in Russia without coming across corruption, but the more that I investigated corruption and the more time I spent looking into it, the more I realised that it cannot be understood as simply a Russian phenomenon. The money does not stay in Russia; it moves out of Russia and too often it ends up in the UK, where it buys real estate, football clubs and many other things. I have been spending, I suppose, most of the last decade attempting to map how money moves from kleptocratic countries via tax havens and ends up in cities such as London, in order to work out how corruption really works and cut through some of the simplifications that are often used.

Q140 Seema Malhotra: Thank you both for taking the time to give evidence today. I have a broad question for you, because the contributions that you have already made and that I think we will hear from you will really enrich our discussions. Obviously the Bill makes progress on improving law enforcement bodies' ability to identify fraudulent and criminal activity in our economy, but in the light of what you have just said, Mr Browder—on the lack of action that we have actually taken on the Magnitsky issue—where do we need to go further in identifying criminal activity and economic crime, and in seizing those assets? What can we learn from other countries about things that you say the UK does not do well, and where can the Bill be improved?

Bill Browder: Thank you. This is the crux of the whole issue. By the way, it was not just Magnitsky money that was not investigated. We have this problem; since Vladimir Putin has come to power, he and 1,000 people around him have stolen \$1 trillion from the Russian people. This has been the largest destination of Russian money laundering. In 22 years since he has come to power, not a single money laundering prosecution has come out of Russia—not one—and we are talking about \$1 trillion.

What is going on here? What I have learned is that the law enforcement agencies effectively refuse to open criminal cases unless they are 100% sure that they can win without any tough fight on the other side. Why are they so risk averse in opening cases? It comes down to simple risk-reward for them. Their budgets are very thin, as law enforcement does not have a lot of money, and when they go to court here on any type of civil case—it is not true in a murder case, but it is true in a civil case—if they lose at any point, not just at the end of the case, but at any point procedurally during the case, the

loser has to pay the winner's court fees, and there is no budget for that. Therefore, the UK law enforcement agencies will not take that risk.

I have seen it done differently. We presented the United States Department of Justice with the same information. They do not have that problem; they can open a case, conduct an investigation and build their case as they are doing their investigation, and if they lose, nobody loses their job, nobody is bankrupted, and no departments have to go back and beg for more money from the Government. Whatever money they have spent on their lawyers is the money they have spent.

What has to happen here—this is plain as day—is that you have to get rid of this adverse costs issue in a civil case brought by the Government. You could easily write an amendment to the law as it is written, because it is not here right now, to say that if the Crown Prosecution Service brings a money laundering case or an economic crime case, there are no adverse costs. If you make that point, it will change the whole dynamic—the whole risk-reward—for these people.

Q141 Dame Margaret Hodge: You talked about civil cases, Bill, and I think we should publicly recognise the contribution that Bill Browder and Oliver have made in this space—it is brilliant. You talked about civil cases but say, fingers crossed, we get a criminal offence for failure to prevent, what would you do in those cases to ensure that costs do not act as a brake on the enforcement agencies taking action?

Bill Browder: The same thing.

Q142 Dame Margaret Hodge: So you would do it for both civil and criminal cases.

Bill Browder: I was not even aware that in a criminal case, a murder case, nobody pays adverse costs. I am not sure if you bring a criminal case in these other—

Dame Margaret Hodge: I think in a murder case they would, actually.

Bill Browder: Would they?

Dame Margaret Hodge: I think so, yes. I am no lawyer—God, I am looking around the table for a lawyer.

The Chair: When I practised as a lawyer, if somebody was acquitted they would be able to ask for their costs to be paid out of what are called central funds, so the taxpayer would be paying for them, not the prosecuting authority.

Bill Browder: However you want to define it, what I would say is I have seen how it works in other countries and they do not have this issue. Therefore, there is no disincentive to bringing a case. It is just remarkable. In every single aspect of the Magnitsky case, we brought it to law enforcement. We brought it to the National Crime Agency; they refused. We brought the company formation agents that were involved in forming the companies during the stuff connected to the Magnitsky case to HMRC. They never shut down a single company formation agency, even though they regulate them.

Nobody brings any cases at all. There are three possible reasons. It could be the reason I have just stated, which is the most charitable one: that there are economic disincentives. I could also say “incompetence”, but I don’t want to say that, or I could say “corruption”, but I am going to stick with the fact that the economic incentives are not there for them. Whatever the reason is, this country should be ashamed of itself. It is an absolute shame, and nothing will change from this law unless there is actual law enforcement. What can we put in place so that the laws are enforced? At least get rid of the economic disincentives.

I will add one more thing, which is that in countries like the United States, if the Department of Justice wins a forfeiture case, they get the money and then they can fund future investigations from that money. When you are talking about a budget of the prosecution service being several billion pounds, you win one big case and you could fund the entire prosecution service.

Q143 The Chair: Mr Bullough, do you want to answer those questions as well?

Oliver Bullough: I agree with Bill that the UK has a shameful record when it comes to its failure to investigate and prosecute financial crime. I would add, however, a fourth explanation to Bill’s list of potential reasons why that is not happening. For many years or perhaps many decades, there has been a belief in Britain that making things as simple as possible is good for business—the idea that it is simple and cheap to set up a business and better to have less regulation than more regulation is invariably good for Britain’s business climate.

Alison Thewliss mentioned Scottish limited partnerships earlier. We saw this phenomenon when Scottish limited partnerships were discussed in the House back in 2017 after the exposing of the Moldovan laundromat. There were suggestions by her colleague then—the SNP’s Treasury spokesman, Roger Mullin—about trying to tighten up the rules around SLPs, but they were torpedoed by the Treasury because of concerns that that would lead to investment funds having to spend extra money on meeting regulations.

I believe the estimates for each fund would be between £14,800 and £27,600 per investment fund. That is the cost supposedly to the UK economy. If you compare that to the cost of fraud to the UK economy, which is estimated by the University of Portsmouth at approximately £130 billion, you see how absurd it is to be worried about saving £14,800: we are faced with a problem that is costing us more than £100 billion.

The cost of fraud, which is rampant—40% of known crimes—is a huge tax on businesses and individuals in the UK. It is made possible by the fact that we have been failing for so long to do anything about economic crime. If you look at that quantity of fraud, as estimated by the academics in Portsmouth—there are higher estimates—it is equivalent to about a fifth of the total tax take. It is like adding another VAT to the UK economy, or twice as much again as all taxes levied on corporations. That is the cost of economic crime on the British economy.

There has been a philosophical failure to realise that making things easy is not always good. At some point, you are making things so easy for criminals that you are essentially making things difficult for honest people. In

this case, by adding regulation we will be deterring criminals and therefore making things easier for honest people. That is something that, for far too long, people in public life in the UK have failed to realise.

I am here talking only about the effect on the UK. On top of the cost of fraud to the UK, hundreds of billions of pounds are laundered through the City of London every year; that is the National Crime Agency’s estimate. It clearly a guess—a round number—and it could be more; it could be less. That is money being stolen by criminals, drug traffickers and kleptocrats, and laundered through the UK. They are keeping this money. Essentially, it is being taken away from good people and kept by bad people. If we could stop this happening—instead, confiscate the money and keep it for ourselves or return it to the people it is taken from—it would be what is called in rugby a 14-point swing. We would be taking it away from one team and simultaneously giving it to the other one.

I agree that the three suggestions that Bill made for why the UK has been so bad at fighting economic crime are all possibilities, but my favourite fourth one is that we have been simply philosophically failing to understand why economic crime is a problem. This Bill is a real opportunity to do something about that. I was listening to some of the earlier panels; I would like to second what was said by almost everyone, which is that a new law is very good, but a new law is definitely not enough on its own. We need far more resources for Companies House, the National Crime Agency, the Met, the City police, the Serious Fraud Office and all the police agencies to be able to use this Bill.

As I understand it, the funding per officer at the National Crime Agency is estimated at one third of their counterparts at the FBI. Leaving aside the fact that there are far fewer of them, just per officer they are funded at a third of the level of the FBI. If we want them to be able to do the same job that the Bill is talking about, and that American prosecutors and investigators are able to do, we need to fund them adequately. We should at least be funding them as well as their colleagues at the FBI if we want them to be able to do as good a job.

Q144 Jackie Doyle-Price: It is partly about powers and laws. It is partly about resource, but fundamentally it is about the behaviour of the regulators. Mr Browder, some of the things you alluded to earlier would be about informing those behaviours. Coming back to the extent of laundered money that goes through the City of London, to what extent do we need to make sure that we are driving behavioural change within the institutions through which these monies are being routed?

Bill Browder: People are very simple: they operate on the basis of rewards and punishments. There are big rewards for people in the City of London to launder money. Banks make money off transactions and accounts and so on. Company formation agencies make money off selling directors and forming companies. Lawyers make money setting up these structures. There is no consequence if they are involved in in dirty business—none. Nobody faces any consequence.

What we have just seen at Companies House is remarkable: thousands of companies being registered for no commercial purpose other than to launder money. These companies then set up foreign bank accounts. We

know who the directors are. Some of the directors are UK citizens. The company formation agencies are UK company formation agencies. We report it to the police, and nothing happens. If nothing is going to happen, then you are not going to change the culture.

America has the Foreign Corrupt Practices Act. Most American corporate executives do not want to be prosecuted and therefore do not make bribes abroad. Austria does not, and so they do. We are in a situation where there is no consequence for doing any of this type of stuff. It does not matter what is written in this law; it does not matter what was written in the previous law. There was a great law passed called the unexplained wealth order. It is a beautiful law, which solved a huge problem, which is not having to get evidence from the bad guys in the kleptocrat countries, and just using the evidence that we have here. We have used it in four or five cases, and most of the cases have actually been on behalf of dictators going after their enemies. We have a total failure of law enforcement. It probably should be studied as a separate issue: why is law enforcement not doing its job? Why is it failing?

You can write as many great laws as you want—there is some good stuff in this law, and good stuff in the previous laws—but if no one is going to enforce it, then you are never going to change the risk-reward and people are going to carry on doing stuff. All this will continue, and I will sit here 10 years from now making the same allegations about how this is a centre of money laundering.

Oliver Bullough: I would like to agree with everything Bill just said. People are more or less rational: they act according to their incentives. We can try and change the culture in the City of London as much as we like but, essentially, if there is no prospect of being arrested, prosecuted and jailed, or at the very least given a large fine, for committing these kinds of crimes, then someone will always be available to commit them because the reward will be sufficiently large and there will be no downside.

I gave a talk to a school a couple of years ago. One of the kids had been sitting silently throughout, and he put his hand up and asked me at the end, “Yeah, Mister, if you know all this about money laundering, why don’t you just go and do it?” I still do not really know the answer to that question, because there is no real reason not to do it. It is a gimme of a crime. You are 99.9% likely to get away with it.

What is particularly frustrating is that when we have prosecuted fraud and put resources into prosecuting fraud, it not only pays for itself, but is a huge profit centre. We saw that from Lord Agnew, who ran a small anti-fraud office from the Cabinet Office during the covid pandemic. He had a small anti-fraud budget that returned tenfold the amount of money that was paid. It is a complete no-brainer to go after this money and these crimes. We would be benefiting the country in every way.

I agree with Bill; it is very frustrating to hear talk about changing culture, when what we really need to do is to change people’s incentives. The way to do that is to enforce the laws that we have.

Q145 Tom Tugendhat: Mr Browder and Mr Bullough, thank you very much for coming. We have spoken about these issues at the Foreign Affairs Committee,

which I used to chair. In the past, we have consistently covered the need for transparency. I hope you will agree that the Bill demonstrates a desire to be much more transparent. I hope you will also agree that many of the anti-money laundering provisions go much of the distance towards addressing the concerns we have raised in the past.

We will be listening for further ideas in the future, but do you agree that the Bill at least sets out the first steps to where we really do need to be going to make sure that the crimes begin to be prosecuted? Just to answer your question, Oliver, the reason you do not launder money is that you are and remain a person of integrity; sadly, you are not very rich for it, but there you go. That is the price.

Bill Browder: I have never had any trouble with the laws as they are written here. We probably do not even need this. It is a great law—congratulations; I applaud you on putting it together. It is 252 pages of mind-numbing stuff—

Tom Tugendhat: Of detail, Bill!

Bill Browder: It is great. There is no problem with the actual legislation. This is a rule-of-law country, and the laws have been written, and continue to be written, very well. There is just a huge disconnect between that and the enforcement.

I would add one little detail, if you want to get into the nitty-gritty. We have seen that UK companies are used abroad to set up accounts—this was mentioned by Dr Susan Hawley and perhaps one other—because it looks legit to have a British company with a Cypriot or Latvian bank account. Somehow, when you get a transfer from a British company with a European bank, everything then—that is how these people get away with it.

I would therefore add one small provision to this law, which is easily done. When people are setting up their companies, they should have to disclose, on an annual basis, where they have foreign bank accounts. If you were to do that, then every anti-corruption investigator could go around and start looking at that. I do not think that it is a huge additional disclosure requirement. People have to disclose their income, expenses and so on, so why not disclose where they have bank accounts?

Q146 The Chair: Mr Bullough, do you want to join in on that?

Oliver Bullough: I think it was Samuel Johnson who said, about a dog walking on its hind legs, that

“It is not done well; but you are surprised to find it done at all.”

I am happy that the Bill exists; I was happy that there was another one earlier in the year. I would prefer it, however, if Parliament sat back and, instead of passing two fairly minor economic crime Bills in one year, put them together into one with all the other things that desperately need doing, take a long time over it and, when passed, really ensure that the law, as passed, is enforced.

Bill mentioned unexplained wealth orders. Those were a fantastic idea—perhaps hugely overhyped when they were brought in, but a great idea—and a real potential silver bullet for tackling top-end economic crime by both organised criminals and kleptocrats. Sadly, after

the failure of the case against the daughter of the former President of Kazakhstan, they have not really been used at all. That is because the National Crime Agency does not have the money it needs to do the job, and that is because politicians have not sufficiently prioritised fighting economic crime. That is where the money comes from.

Yes, by all means, it is good to have another Bill, but I would far prefer to see the existing laws properly enforced by properly-resourced law enforcement agencies with continuous political support than have another Bill. I say that as someone who has been banging on about the problems with Companies House for absolutely ages.

Q147 Dame Margaret Hodge: I would say, Oliver, that we need both. It is not an either/or, and if we can amend the Bill with even more powers, we can hopefully get even closer to that.

I want to deal with another issue, since you are both Russia experts. There is a mood across the House to tackle the issue of seizing Russian assets as well as freezing them. I know that you have both been working in that space, so could you comment on that? How do you think it could be done, do you think it is a good idea and how much is at stake, to the extent that any of us know the figures?

Bill Browder: Shall I go first, or do you want to, Oliver, since I have been hogging the first response?

Oliver Bullough: No, Bill, you can go ahead.

Bill Browder: We are on our third Prime Minister in seven weeks; there is an economic crisis going on; the purse strings are tight. There will be pressure here not to send as much money to Ukraine because we are worried about our money at home. There is also pressure in the United States. Some 30 Democrats wrote a letter to Biden saying, “Let’s just settle this thing and give the Russians what they want”—or something along those lines—“and not spend this money.” There is also pressure from the Republicans on the other side, saying, “No blank cheque for Ukraine”.

We also cannot let Ukraine go, under any circumstances, because, if we do, Vladimir Putin will be knocking at the door of Estonia or Poland. Therefore, how do we pay for it? Ukraine needs the money and the military equipment. Well, let us let the Russians pay for it. It is a simple thing: the Russians have started this war, created all this conflict, caused all this destruction and killed all these people, and we have \$350 billion of their central bank reserves frozen, as a first step.

Why are we not using that money to support the Ukrainians? There are people who say, “That’s never been done before, and therefore we shouldn’t do it.” I would argue that it is pretty straightforward. In Parliaments around the world, what do you do? You make laws. If it has not been done before, make a law so it can be done. It is not a legal issue; it is purely a political issue. Should we dig into our own pockets, or should we let the Russians pay for their own war? We should start by letting the Russians pay for their own war.

I am having the same conversations elsewhere. I was just in Canada, speaking to the Canadian Parliament, last week, and I have been speaking to the US Congress. It is a no-brainer. It is a more complicated issue when you start going to the oligarchs, because you have to prove that somehow they are connected to the Government. But when it comes to the Government themselves,

\$350 billion is being held right now by the UK, the EU, Canada, the United States, Australia and Japan. That is an easy way to solve this financial problem and help the Ukrainians win this war.

Oliver Bullough: I would like to add to that. One of the reasons why it is complicated to take money away from oligarchs is that, once the money is here, it benefits from the rule of law that we have and so on. It is always harder to take egg out of a cake once it has been baked. It would have been a far better idea not to allow the money to come here in the first place. The lesson I would like to see learned from the current Ukraine crisis is that it is far more cost-effective and efficient not to allow kleptocrats to launder their money through the UK in the first place. If we do not support kleptocratic networks, those networks will not survive. They will not be able to come to such strength and vitality that they threaten their neighbouring countries.

Yes, it is important to confiscate Russian money to return it to Ukraine. Yes, it is important not just to freeze but to seize oligarchic property. But it is also important to put in place the powers, and particularly the law enforcement structures, that we need to prevent more kleptocrats from coming here. Next year, it might not be a threat coming from Russia; it might be a threat coming from China or somewhere else. We would find ourselves in exactly the same situation: trying to work out what to do with money that we had frozen when, if we had not allowed it here in the first place, we would not even have to have this discussion.

Q148 Dame Margaret Hodge: I think we all share the frustration that there are existing powers, and hopefully a few new ones, and they are just not implemented. We have discussed whether that is because of a fear of costs coming back to us, or because of the lack of funding for the enforcement agencies.

Let me put to you another issue. If we strengthened accountability, those working in the Executive agencies might work a little harder at putting into effect the laws that we parliamentarians pass. Bim Afolami has an idea of establishing a Select Committee of the House that would look at the regulators—the enforcement agencies—and could ask for individual cases to be heard by the Committee in private, to see whether there are systemic issues at play, which could lead to public reporting on those issues.

That is one idea. There are others around. Do you think the lack of accountability, particularly for the enforcement agencies, could be a contributing factor to the fact that we just do not do enough—that we do not use our existing structures enough—even without the money and even with the cost issue?

Bill Browder: I think so. This is not the first time I have had this conversation with Members of Parliament. I have been in front of many Committees—the Home Affairs Committee, the Foreign Affairs Committee, this Committee and others—to talk about this lack of enforcement, and I have talked with many Members of Parliament. There is no disagreement with me. Every political party supports the idea of not having London be the money laundering capital of the world. I think everybody agrees. Many good Members of Parliament have put pressure on different Governments, put questions to them and had conversations, and I have seen many Government Ministers agree. Then, all of a sudden, we

get to this total disconnect: law enforcement cannot be instructed by Parliament or the Government to open or pursue a criminal case or explain why it has not done so. It is living in its own world.

The only thing the Government can do is replace the people in executive positions in law enforcement; that is the only sanction. There has to be a better way. There are arguments about not wanting to politicise law enforcement and I totally sympathise with those, but at the same time if it is completely failing it needs root-and-branch reform—whether parliamentary oversight, Government oversight or some other mechanism. It is just failing and it has continued to fail in a way that is totally unacceptable. I would hate to be sitting here a decade from now having the same conversation.

Q149 Alison Thewliss: Can I ask Oliver first whether the Bill could do more to deter the abuse of UK corporate structures such as limited partnerships, including Scottish limited partnerships, and shell companies? What more would you like to see in this area to deal with this issue? In your book, you talked an awful lot about the use of such structures for property and other things. Can more be done here?

Oliver Bullough: It is probably fine. Hopefully, if things are actually enforced and Companies House is given the money it needs to do the job and it is ambitious about that, this may work. Personally, I would like the threshold for a person with significant control to be reduced significantly: perhaps to 10% or 5%. Perhaps there should not be a threshold at all, but if you control you need to declare it.

The Bill is potentially an improvement. I still do not think it is the kind of root-and-branch re-evaluation of Companies House that we need. An amazing variety of corporate structures are available in this country. I do not think anyone has stopped to say, “Do we really need limited liability partnerships and limited partnerships? Why do we have both?” Does anyone stop to think about why they exist at all? Limited partnerships were created as a bit of a strange afterthought back in 1906 anyway. Why do they even exist?

I would like to see discussions like that, personally, but as it stands I think that bit of the Bill is probably okay—certainly if it is enforced properly. If there were an Oliver Bullough-ocracy, there would be all sorts of different changes to how companies could be used. I would not allow people to use foreign companies to own UK property at all; you would have to own it via British companies if you wished to use a company. But that is not going to happen so it is silly to talk about it.

On Margaret Hodge’s point, in the Oliver Bullough-ocracy I would definitely like to have something similar to the Senate’s Permanent Subcommittee on Investigations, with the power to investigate whatever it likes and do really forceful, well resourced investigations into Government agencies or anything at all. That would really help to cut through some of the failures to understand why the failures are happening and to really bring accountability to these bodies, which have been able to hide behind the lack of oversight for a long time.

Q150 Alison Thewliss: What more would you do to tighten up the company verification scheme proposed for Companies House? Would you put in place more measures to make sure that those registering companies were real people at real addresses?

Oliver Bullough: I heard the Companies House official talking earlier; I did not join at the beginning so I did not catch his name. He was saying that there would be difficulties with resourcing the verification of all that, particularly when it comes to the issue I wrote about recently in my newsletter, about what I call “offshore shell people”—people essentially acting as a kind of shell company. It is noticeable that while the number of offshore companies owning property in the UK has flatlined over the last decade, the number of people with overseas addresses has increased by 250%. Clearly, scams can always be used and things are always coming in. Making sure that Companies House can have the resources to do all that is a tough ask.

This is perhaps stretching way beyond what is in the Bill, but I am not sure that it would not be a good idea to have what the British Virgin Islands has, which is that an ordinary person cannot just file things with Companies House; they have to go via a lawyer or another registered professional. I am not sure that that would not be a bad idea, because then you would not have this issue at all of people being able to log on.

Just to show how absurd it is, I was at a conference the other day and a participant from Canada could not believe me when I said how easy it is to file things at Companies House, so we logged on together and she created a company then and there. She is a tax consultant; there was no “tax consultant” option on the dropdown menu, so she called herself a taxidermist. That is how absurd the system is. There is a lot of scope for improvement before we need to worry about fine-tuning the details.

Q151 Alison Thewliss: Thank you. Bill, is there anything that you would like to add about how Companies House is being abused and what could be tightened up there?

Bill Browder: One of the things we have seen is that the same individuals—these money launderers—will find a drunk Latvian person, get their passport and then register them in hundreds and hundreds of companies. If those companies get shut down, then they can register them as the directors of other companies; they then become directors of those companies.

Why is it okay to have a person be a director of 400 companies? That does not make any sense to me. Why should there not be some limitation—maybe 10? Ten companies is a lot of companies—but 400 companies, or a thousand companies? That limitation would be an easy thing to put in here, and that would make it harder for the criminals, because there are not that many people who are ready to give up their passports to do money laundering. The number of people who are involved in this is quite small when you actually look at it, because most people do not want their names being used for these terrible schemes.

Q152 Alison Thewliss: You also have multiple companies—in the hundreds—registered to single addresses. Would that also be an issue that you would like to see tackled?

Bill Browder: In theory, yes. This whole post-box idea just lends itself to anonymity and so on. Why do people not just register their companies at their own home or their own business address if there is a legit company? What is this business with 2,000 companies in one strange industrial park in Glasgow?

Q153 Alison Thewliss: And Scottish limited companies have been used for various—

Oliver Bullough: I did an investigation a while ago and there was a woman who was a director of four companies, I think, despite the fact that she had been dead for five years. Clearly, someone had been using her signature to sign off on the companies, and that is clearly a misuse of information. Clearly, that is falsifying company information and is already a criminal offence. Despite the fact that I had written about it, nothing was done; no action was taken. As I say, there are a lot of easy wins here before we need to worry about the details.

Q154 Alison Thewliss: I want to ask about Scottish limited partnerships, the implication being that they are used in sanctions-busting and various other things to do with the war in Ukraine and Russia's activities around the world. Does that misuse cause a reputational damage to the UK and to Scotland?

Bill Browder: Well, Scotland is so dwarfed by London that you do not have to worry about your reputation, because the reputation is so bad here that no one will even be paying attention.

Q155 Seema Malhotra: Coming back to law enforcement, the Bar Council has suggested that the new regulatory objective that the Bill will add to the Legal Services Act 2007, focused on promoting the prevention and detection of economic crime, is incompatible with barristers' duties and may confuse the role of lawyers. What is your view on that?

Bill Browder: I have written a whole book about this. The bad guys in Russia are a big part of the problem, but you cannot export this type of corruption and money laundering unless you have somebody doing the importing. And who is involved in the importing? It is the western enablers—the lawyers.

I have had shocking experiences with western law firms that are benefiting from this. If there were some kind of duty whereby they had to actually look into the source of their funding or the legitimacy of the business, I think that would be an extremely powerful thing, if it was actually enforced. There is a whole other long discussion of law that one could have about the role of western enablers, and particularly the lawyers.

The Chair: I am afraid that under the rules that we operate on, I have no discretion to allow this very interesting sitting to continue, so we have to finish. I thank both our witnesses for a really fascinating sitting. Their great insight and knowledge on this subject has been of immense value. Thank you very much indeed.

Dame Margaret Hodge: On a point of order, Sir Christopher. May I ask whether our proceedings are covered by parliamentary privilege?

The Chair: The answer to that is yes, they are, but it should not be abused.

Examination of Witnesses

Professor John Heathershaw and Thomas Mayne gave evidence.

4.30 pm

The Chair: We now come to the ninth panel. We have Professor John Heathershaw from the University of Exeter appearing via Zoom and Thomas Mayne from Chatham House. Good afternoon. I am going to ask Professor Heathershaw, first, to introduce himself briefly.

Professor Heathershaw: My name is John Heathershaw. I am professor of international relations at the University of Exeter. I work on aspects of money laundering related to post-Soviet political elites.

Thomas Mayne: I am Thomas Mayne. I am a research fellow at the University of Oxford and a former visiting fellow at Chatham House. I am one of the authors of "The UK's kleptocracy problem", a report we released at Chatham House in December.

First, by way of very quick introductory remarks, on the day we launched the report, the then Foreign Secretary, Liz Truss—how time flies—was also speaking. That was a nice coincidence. She was asked about our report and her response was that the UK has the strongest money laundering regulations and laws in the world. As we have heard today, we could debate whether that is true or not; there is some evidence to suggest that it is. However, as we have heard a lot today, without enforcement, laws are useless.

Secondly, I am an expert in kleptocracy and anti-corruption measures. Kleptocracy and money laundering are two slightly different things, and I hope we will get into some of the differences today.

Q156 Seema Malhotra: Thank you for coming to give evidence to us. I have two questions for the panel. First, we have heard about weaknesses in the UK's anti-money laundering supervisory system. I think the estimate from OPBAS was that last year only 15% of supervisors were effective in using predictable and proportionate supervisory action. To what extent do you think the Bill is bridging the gap to where we need to be? In your view, how do we compare with our allies across the world on this matter?

Secondly, would you expect kleptocrats, in the light of this regulation, just to move their assets to unregulated sectors? Are we going to have the protections we would want for Britain, or are we in danger of seeing some of the behaviour simply displaced?

Thomas Mayne: First, on supervision, I do not think there is enough in the Bill. The findings of OPBAS—that the risk-based approach we have put in place really is not working—are quite shocking. What is the solution to that? I know that Dr Hawley was here earlier; Spotlight on Corruption has just released a report on the supervision of the legal sector. There is a debate in that on whether there should just be a single sector supervisor, which is something we should look at.

Generally, I think supervision is lacking and it is very uneven. Across sectors, we are seeing very different layers of enforcement actions. For example, I think the Council for Licensed Conveyancers—obviously, it deals with real estate, which, as we know, poses some of the highest risks for money laundering—produced zero enforcement actions in a three-year period. There are varying levels of not only supervision but enforcement activity. That is definitely something that we should look at that is not really in the Bill. John, do you want to say anything on that question, before we move on to the second one?

Professor Heathershaw: I think the accountability question pertains to parliamentary supervision of those regulatory agencies. As I understand it, there is nothing in the Bill to enhance that. There would be scope for a specific cross-departmental parliamentary Committee

in this area, I think. As we know, money laundering crosses different Departments, so greater accountability for poor performance by the supervisors could be tackled through that kind of oversight.

Thomas Mayne: Was the second question whether we are worried about capital flight from the UK?

Q157 Seema Malhotra: No, it was to ask whether, unless we perhaps look at making other sectors regulated, you would expect kleptocrats who are abusing our economy to just move their assets in the light of this regulation, if it starts to make it harder, to unregulated sectors. Some of that could be unregulated sectors of the crypto economy, and it might be other sectors as well.

Thomas Mayne: That is certainly a risk. We are way ahead of the game, in some respects, in terms of which businesses we regulate. I know that there is an ongoing discussion about whether PR agencies should have regulation. I am not an expert on crypto, but I think we should look at bringing it into the existing regime where, if there is a suspicion of money laundering, you have to report it by law.

Professor Heathershaw: To add to that, it is not simply a matter of liquidating assets to move them into other denominations or unregulated sectors. The nature of money laundering is that it is a social and political phenomenon as well. It is about achieving a place to stay where you can protect your assets through the rule of law, and maybe gain some social influence, get your kids into school, and use your residency to garner a wider profile and clean up your reputation. That means that the property and bank accounts are hugely important; they will not just be liquidated overnight.

When we are talking about the kind of money laundering that Tom and I look at by political elites and those from kleptocracies, they are seeking to gain a whole set of goods that you cannot simply get through putting all your assets into crypto, or into a more loosely regulated jurisdiction such as Dubai. There are certain things that the UK, and London in particular, offer that will not simply fall out of the way in a beggar thy neighbour, “Well, we’ll just move ourselves into a sector or jurisdiction that is loosely regulated,” way. I do not think that that should cause us to worry about losing market share, or the problem shifting into another sector, because the problem will always remain in the legal and regulated sectors that are our principal concerns. They will always be there, too.

Thomas Mayne: I have one thing to add on real estate. We now have the registration of overseas entities as part of the previous Act. It will be fascinating to see what happens in January, when the deadline comes in, with the existing properties that we know are owned by oligarchs or kleptocrats, and what kind of information they put on record. It is not a magic bullet. One problem with the ownership of property is that we will not, and should not, have a searchable database where we put in somebody’s name and see whether they own a property in the UK. It does not work like that, so there may be other properties that are perhaps owned by proxies. Those proxies will have their name on record as the so-called beneficial owner, but they will not be discoverable because we do not know about them, and we do not know that proxies are being used. What will be interesting is, as I say, what information will be revealed about the properties that we do know by January.

Q158 Jackie Doyle-Price: Mr Mayne, you have endorsed what we have heard from the previous panel and to some extent the one before that, which is that rules are one thing, but that unless we enforce them, they are meaningless. You said that in the context of money laundering. In the Bill are quite significant reforms to Companies House and limited partnerships. To what extent are they important tools in the armoury, if your starting proposition is that enforcement is the weakness?

Thomas Mayne: Transparency is incredibly important. We know that, and we know that what has happened to Companies House in the past 15 years is ludicrous. We have heard examples of that today. We are one of the first countries in the world to have a beneficial ownership register, and I think that the Bill will take us to the next stage in verifying the information that is put on to Companies House, but, as Dr Hawley said earlier, will we still be able to rely on that information? There is also a risk that it just becomes another layer of what we might call zombie transparency. We have all this data, but so what? If it does not lead to enforcement actions or to people who are breaking the rules and submitting false information being penalised—sanctioned, fined, jailed—it will be all for naught. It needs to be accompanied by robust enforcement action. We have heard that from many speakers today.

Q159 Jackie Doyle-Price: But it will provide the foundations for that.

Thomas Mayne: Absolutely. If we take the PSC register, which has been in for a few years now, we can point to that and say, “This person has to be the controller of that company. Why is this person living in a shed in Siberia when £100 million is going through their company?” Before the PSC register, we could not say that. Now we have verification procedures coming in, we should be able to say that somebody at least—Companies House or whoever—has checked that this person is real and is the person they say they are, in terms of the information submitted to Companies House. We should definitely have this, but it is only the first step.

Professor Heathershaw: To emphasise that point, we know that even where there is transparency—even where we know the money is going—there is an enforcement gap. For example, Tom and I obviously work together, and we have provided your Committee with two of our most recent reports: one on unexplained wealth and one looking comparatively at the Dariga Nazarbayeva and Zamira Hajiyeva cases, in which we demonstrate that the reason why one failed and the other succeeded was simply the incumbency status of the two. The one who remains in power, has a good relationship with the law enforcement authorities back home and has privileged access—one might argue, an unfair advantage there—is able to defend themselves against that measure.

Unfortunately, the UWO reforms that came through earlier this year in the Economic Crime (Transparency and Enforcement) Act 2022 do not fit that part of the problem. It is also part of a bigger problem. When we look at our dataset of £2 billion-worth of properties in the London and the south-east—included at the end of the Chatham House report, the blue one that you should also have—we find that the 73 cases of incumbents, the people who remain in good favour in the kleptocratic states from which they come, get to retain their properties, but 13 out of the 15 cases of exiles, of those who have

fallen out of favour, lose their properties. That is not explained by exiles being more corrupt and incumbents less corrupt, so there are problems there around enforcement.

That means, effectively, that however much transparency we have, the measures that are being adopted are not really introducing rule of law at all, because what determines the outcome for people—whether they get to keep their property—depends on whether they are in political favour back in the kleptocratic state. That is a real indictment of the way in which the UK system has hitherto functioned. It shows the limits of what transparency can achieve. As Tom mentioned, with this Bill the UK will be a gold standard of transparency across the world, but it will still lack in terms of accountability and enforcement. That is the real challenge.

Q160 Jackie Doyle-Price: So transparency will have no teeth without greater focus on enforcement.

Thomas Mayne: Yes.

Professor Heathershaw: Yes, I would agree with that statement entirely.

Q161 Alison Thewliss: I will pick up on a couple of the recommendations from the “The UK’s kleptocracy problem” report. You were calling for the investigation of and penalties for those who submit fraudulent information to Companies House. Would you like to see Companies House doing that retrospectively with the new powers that they take, by actively going back through that register to prosecute people who have submitted fraudulent information in the past?

Thomas Mayne: I think so. Where do you cut it off? It certainly should if there have been large-scale, egregious actions. Oliver mentioned somebody registering companies in the name of a dead person, and I found an example of that in an investigation years ago. People should be penalised for really fraudulent misuse and prevented from registering companies again in the future.

Q162 Alison Thewliss: Should there be limits on the number of companies a person should be a director of, or registered at a particular address?

Thomas Mayne: On the point about directors, there certainly should be; it is crazy that you have these people with 1,000 companies. I am not sure on your point about addresses. If you are an investigative journalist or a freelancer and you do not want to register a company with your home address, for example, or if you are the PSC and you have your name on the company, is that enough? Perhaps there needs to be some provision about having an office where you have to physically be and sign your name. I am not sure about the proxy address, but certainly, on your point about proxy directors, limiting the number would be a good idea.

Q163 Alison Thewliss: You talked about persons with significant control and whether or not they are really the person controlling that company. There has been only one fine issued to somebody for not registering a person of significant control for Scottish limited partnerships since that was brought into force. Do you think a lot more needs to be done to interrogate those persons of significant control, and assess whether or not they are accurate and the filing has been done properly?

Thomas Mayne: I think so. Obviously it is difficult with PSCs, because I can say I am the PSC of a company and there could be an agreement written in a safe in Liechtenstein somewhere that says it is actually a Kazakh politician or whoever it may be. Certainly, there are probably egregious examples where it is clear that the person is not the PSC. You can do some research on them. There have been some examples today where there is clear evidence that the person is not who they say they are. Yes, there need to be fines, and the fact that there has been only one so far again goes to the point on lack of enforcement over fraudulent information submitted to Companies House.

Q164 Alison Thewliss: You talk in the report about AML controls. Would it be useful to have Companies House be an anti-money laundering supervisor in its own right?

Thomas Mayne: Possibly; maybe that would overburden it. There are already talks, with the verification coming in, about ramping it up.

Q165 Alison Thewliss: In the sense that the trust and company service providers and other supervisors are not doing their job properly, so that would stop those who are registering directly.

Thomas Mayne: It is an option.

Q166 Liam Byrne: One of the ironies of this Bill is that it is called the corporate transparency Bill, but it says very little about two kinds of people who maximise corporate transparency. One is whistleblowers and the other is journalists, or indeed writers of think-tank reports. That is a shame, because we have courts in this country that are being systematically used by rich individuals to silence journalists and sometimes think-tanks. I can speak under privilege in this hearing, so I can talk about Dmitry Leus forcing Chatham House to amend one of its reports, and I can talk about Chatham House agreeing to that because it did not want to confront the legal bills entailed in going to court with Mr Leus. If we are serious about corporate transparency, should we not be introducing anti-SLAPP measures that would enable a judge to throw out a case that was transparently focused on trying to stop people revealing the truth?

The Chair: Before you answer that question, is this question directed to that action in relation to measures in the Bill? I hope it is, because otherwise it will not be in scope.

Liam Byrne: Yes, it is a gap in the Bill.

Thomas Mayne: Absolutely, and many thanks for bringing up the case. As you mentioned, none of the authors had any say in the matter and we did not think it was justified, as the evidence we put in the report is entirely accurate. This is a perfect opportunity for some kind of anti-SLAPP legislation to be put in the Bill. Dame Margaret spoke at a recent debate with David Davis; some other examples were given there. If we do not put it into this Bill, will it just be mothballed and we miss our chance? Meanwhile, more journalists are being threatened, and a lot of information is not being put into the public domain because of the threat of a SLAPP. The Bill is related to transparency, as you say, so is there an opportunity to put that sort of measure in the Bill?

Professor Heathershaw: Obviously, I would agree with that. Our report has been subject to these issues. We have also seen many threatening letters over the years. I think it is fair to say that we are some of the leading researchers in the UK on this specific area, at some of the UK's leading universities. Professionally, it is shocking for me to find that we could be subject to such aggressive letters. The risks were so great, simply because the costs could not be limited.

I think there is a need to introduce a merits test early on to dismiss litigation. I think there is also a need to cap the costs for defendants, because at the moment you have to get very expensive libel insurance to protect yourself, which can be very difficult. Even then, there are huge costs involved.

The question about whether there should be specific legislation from the Ministry of Justice is interesting. At present, that has not been tabled to Parliament and so the opportunity that presents itself—to amend Bills, to provide certain measures, to introduce costs—would definitely be within scope. When you see these cases, many of the people from outside a Government service who have given evidence today—I am sure Oliver Bullough or Bill Browder would speak to this themselves—have been subject to those actions for things they have written that are entirely accurate and in the public interest. In that sense, such a measure is within scope.

It is also within scope because money laundering of this type is always accompanied by reputation laundering, which means seeking to clean the public record of questions about your sources of wealth and misdeeds of the past. It is very much within scope and it would be great for the Bill to consider things like a merits test and a cost cap for defendants in defamation counter-claims.

Q167 Dame Margaret Hodge: Can I follow that up? I am grateful to Liam for raising this point. I think it is in scope. The case in relation to Chatham House is shocking, because of the cost to you as an organisation, which you will have to bear personally. It is particularly concerning that in the case of a journalist like Catherine Belton, whom we are seeing on Thursday, six or seven attempts were made; Charlotte Leslie, who was a Member of Parliament, is also being challenged, as are existing Members of Parliament. You are the experts on kleptocrats. This reputation cleaning, or protection of reputation, that they go in for, is an element that we had not really studied in detail before, until it all hit us individually. Do you have any other ideas? We think it is within scope of the Bill. We think there are clauses that have been developed that could quite easily be added. Is there any other action that you think we should take?

Thomas Mayne: I mentioned earlier the PR industry. I think there is a debate going on, following the Russian invasion, about whether there should be transparency over who you represent. Should it be put on record and in what sense? There are membership organisations in the PR world, but you do not have to sign up to them, so there is an internal discussion going on about whether that should become mandatory. Do you somehow put PR under the scope of money laundering regulations? Maybe that is going too far, but some kind of oversight and transparency of such PR agencies, who sometimes represent the kleptocrats and use their wealth to threaten journalists, should certainly be considered.

Professor Heathershaw: It is my understanding that there was a consultation on a foreign influence registration scheme under an earlier, different Home Office Bill. That is where you may have something equivalent to what the US has in the Foreign Agents Registration Act. If you are looking specifically at kleptocrats linked to foreign regimes, or who are themselves part of foreign regimes, PR agencies are working on their behalf to clean their reputations, potentially in a wider public realm with public institutions, and, of course, to specifically target Government officials to potentially donate to political parties—a non-British citizen can do that while retaining overseas citizenship.

Those things would be in scope of a foreign influence registration scheme. Again, that crosses over into the territory of the Bill. It has previously been proposed as part of another Bill, but I think it is very much needed for the PR industry.

Q168 Dame Margaret Hodge: Under privilege, Liam Byrne, David Davies, Bob Seely and a whole range of us have raised issues of kleptocracy not just in Russia but in other jurisdictions such as Azerbaijan and Kazakhstan, on which I have had debate—I think Liam has probably had debates on other areas. It is very frustrating that only under parliamentary privilege can we get a public airing of some of the examples of individuals stealing money from their people and then laundering it in other jurisdictions to buy themselves football clubs—as someone said—houses and other things. Have you any ideas about what legislative action we could take to support more public debate on these issues and to give voice to those deep wrongs, rather than having to hide behind parliamentary privilege?

Thomas Mayne: That is an excellent question; I am not quite sure how to answer it. As researchers—quite akin to journalism—we all play a game of self-censorship in what we say. Even when you have information about donations from people from overseas—kleptocrats or oligarchs—that is certainly in the public interest, there is always a tendency to draw back and not put it in the public domain. If there were some other forum that allowed that information to be put there without the legal threat, that would be fantastic. At the moment, we rely on you as MPs to bring to certain issues up under parliamentary privilege, because the way the libel laws are set up in the UK is stymieing that kind of debate, which needs to be able to continue.

Q169 Dame Margaret Hodge: Are there any international examples of that working better, or is everybody as constrained as we are?

Professor Heathershaw: On the Chatham House paper, two of our authors are Americans, and they have a first amendment right. They think the situation that has arisen with respect to Chatham House is extraordinary and absurd. You could have a first amendment right in some kind of British Bill of Rights, which has been mooted in the past. In terms of academic and journalistic freedom, you could have a specific statement setting out that anything within professional competence that is evidence-based and without malice is counted as free speech.

I think there is obviously a need to revise the Defamation Act 2013 to say that, unless you can determine that a statement has been made with malice, and if it is within professional competence and accurate, it should not even

be considered admissible as a potential case of libel or defamation. As researchers, our work goes through ethics committees—

The Chair: Order. I am afraid I have to stop you there. I have no discretion to allow you to continue because under the rules set for the Committee, the sitting has to end now. I thank both our witnesses very much for coming along and helping us with our inquiries.

Ordered,

That further consideration be now adjourned.—(*Nigel Huddleston.*)

5 pm

Adjourned till Thursday 27 October at half-past Eleven o'clock.

Written evidence reported to the House

ECCTB01 R3, the insolvency and restructuring trade
body

ECCTB02 Encompass Corporation

ECCTB03 British Private Equity and Venture Capital
Association (BVCA)

