

Public needs direct action to crack down on digital scammers- Edward Garnier KC

Economic crime — bribery, money laundering and fraud — is back in the news and on political agendas, although it has not really been out of the spotlight over the past 20 years.

Two pieces of proposed legislation before parliament, the Economic Crime and Corporate Transparency Bill and the Online Safety Bill, provide an opportunity to improve protection for the public from financial crime, so long as the government does not pull its punches.

In February 2022 Kwasi Kwarteng, then business secretary, said that fraud and online scams were not problems that “people experience in their daily lives”. How wrong he was.

The absence of investigations and prosecutions did not and does not mean that people were and are not suffering from this most insidious of criminal offences. Hardly a day passes without this newspaper or a television programme reporting on the latest example of an elderly person — or not so elderly businessperson — being electronically mugged of their savings by some unscrupulous villain hidden behind a sophisticated computer scam.

Of course, there is no blood on the carpet, nor broken bones, but the number of people deeply affected and whose lives are turned upside down by fraud and online scams is huge. The crime survey from England and Wales for the year to September 2021 showed that fraud represented 42 per cent of all crime. It still does. Criminal computer hacking took the figure to 57 per cent.

UK Finance research revealed that there had been 2.8 million cases of bank card fraud and 150,000 cases of online bank transfer scams — and the figures are showing no sign of going down. Nowadays only an idiot runs into a bank with a sawn-off shotgun to steal the money — it is far easier and safer to do that armed with a computer sitting on an armchair at home or, better still, from some sunny beachside bar.

The Home Office has recently published its fraud strategy, which sets out a plan to stop crime at the source and pursue those responsible wherever they are in the world. The aim is to reduce fraud by 10 per cent on 2019 levels by the end of 2024. Not exactly ambitious — and to achieve that fairly modest cut the government sets out a long list of worthy aims wrapped in warm words.

The strategy commits ministers to measures including establishing a national fraud squad with more than 400 new posts; making fraud a priority for the police; putting more fraudsters behind bars through better investigation and prosecution; and banning “SIM farms”, which are used by criminals to send thousands of scam texts at once.

The government says that it will replace Action Fraud, the country’s reporting service, with a state-of-the-art system, ban cold calls on financial products so that fraudsters cannot dupe people into buying fake investments, stop people from hiding behind fake companies, create new powers to take down fraudulent websites, and shine a light on which platforms are the safest, making sure that companies are properly incentivised to combat fraud.

It is all part of a long list of well-intentioned aims — but let’s see what the success rate has been by the end of next year. I am not holding my breath, not because I am a natural cynic but because there are gaps in the Economic Crime and

Corporate Transparency Bill and the Online Safety Bill, which if filled now would be of greater practical utility than shining a light. What the public need is not several thousand words of strategy but direct action backed by the criminal law.

Two suggestions: first, the tried and tested failure to prevent bribery offence is ready to be replicated across a whole host of economic crimes beyond bribery and tax offences. It has been shown to work, has improved corporate conduct and is now widely accepted in banking, insurance, accountancy and the legal profession as a public good.

Yet the government is extending it only to fraud offences and limiting it to large organisations, which, by its own definition, covers 0.5 per cent of corporations and partnerships. Ministers say that is to stop compliance costs inhibiting profitability, growth and start-ups. Exempting all burglars under 6ft 6in from criminal liability under the Theft Act would be an attractive policy for many criminals, but that does not make it a good idea. The criminal law is there to set the public boundaries to acceptable behaviour, not to fit in with the commercial desires of potential perpetrators.

Second, the government must require internet service companies to play a more active part in the suppression of online crime. They have the means to do more but have no incentive to do so when it brings with it a cost.

The Online Safety Bill should be strengthened to make these vast international money-making companies help in reducing online crime. Amendments to the bill are ready and waiting to be accepted by parliament, and the government needs to obey the will of parliament.

The UK must be seen as a safe and honest place to do business. It is not anti-business to force corporate Britain to help to make it safe — it is pro-honest business and honest business is good business.

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