

WEDNESDAY 18 MARCH 2009

Present

Avebury, L
Dear, L
Garden of Frognal, B
Hannay of Chiswick, L
Henig, B
Hodgson of Astley Abbots, L
Jopling, L (Chairman)
Marlesford, L
Richard, L

Witnesses: **Mr Stephen Webb**, Acting Director of Policing and Policy Operations, Home Office, **Mr Mike Kennedy**, Chief Operating Officer, **Mr Jeremy Rawlins**, Head of Proceeds of Crime Delivery Unit, Crown Prosecution Service and **Mr David Thomas**, Director, UKFIU, Serious Organised Crime Agency, examined.

Q120 Chairman: Good morning to our four witnesses. We very much welcome your presence with us this morning, representing the bodies some with which we have already had discussions and some we have not. I want to explain a number of housekeeping issues. You realise that this is a session open to the public and subsequently accessible via the parliamentary website. We are taking a verbatim transcript! and this will also be put on the website. You will be sent a copy of the transcript! shortly after this meeting to check it for accuracy and if you have corrections we would be obliged if you would send them as soon as possible. After this session if any of you feel that you would like to add supplementary evidence we would much welcome that on paper. At the beginning it would be helpful for the record if you could very briefly introduce yourselves so that we have it on the record.

Mr Webb: I am Stephen Webb; I am Acting Director of Policing Policy and Operations in the Home Office.

Mr Thomas: My name is David Thomas; I am Head of the UKFIU, the Financial Intelligence Unit that sits within the Serious Organised Crime Agency.

Q121 Chairman: That is SOCA?

Mr Thomas: SOCA.

Mr Rawlins: My name is Jeremy Rawlins; I head the Proceeds of Crime Delivery Unit at the CPS.

Mr Kennedy: I am Mike Kennedy; I am the Chief Operating Officer for the Crown Prosecution Service.

Chairman: Thank you. Lord Richard, would you like to start?

Lord Richard: The CPS delivered its written evidence for which we are extremely grateful – it was very helpful. But in the course of that evidence you did note that a significant proportion of domestic money laundering prosecutions involved assets which were located abroad. What major legal and practical constraints have been encountered in securing foreign mutual legal assistance in relation to those assets? What can you do to try and increase the effectiveness of those prosecutions in cases which flow from criminal prosecutions and convictions here in the UK?

Q122 Chairman: Just before you begin, the format I think we should pursue is that the earlier questions we are going to ask you refer to the Crown Prosecution Service and the later ones are more directed to SOCA. I do not want any of you to be inhibited because the question may not directly refer to your particular responsibilities. If any of you feel having heard the lead answer that you want to come in then please signify that you do and please do not be inhibited. So perhaps Mr Kennedy would like to proceed?

Mr Kennedy: Thank you; that is very helpful. It is difficult to be precise about the proportion of assets that are held abroad relating to the restraint orders held in this country.

We estimate – and it is an estimate – that of the 1760 orders we held last year about 4.5 per cent had some assets that were held abroad, but 4.5 per cent of the 1760 is relatively small. However, the value of those assets we estimate at around 36 per cent. Our colleagues – a different prosecution service but the Revenue and Customs Prosecution Office – estimate that in September 2008 86 per cent of the value of unenforced confiscated assets was held abroad, overseas. There is a range of difficulties and problems that exist, mainly to do with, on the one side, legislative issues and on the other side practical issues. There needs to be, of course, complementary legislation that will allow our investigators and prosecutors to make appropriate orders and to realise confiscation orders made in this country abroad. If there is not appropriate complementary legislation in other jurisdictions it is very difficult, if not impossible for us to make any headway. The way that we in this country now approach the problem, particularly through civil recovery, is something that is not necessarily mirrored in other jurisdictions that are not familiar with this relatively new concept. There are a range of international agreements, particularly through the EU but through other organisations as well, that have developed a framework within which this can happen. However, particularly for civil recovery the concept itself is sometimes contrary to the constitution of the country involved. So not only is it right at the very highest level very difficult to do this, even when there is an agreement or a convention or an international treaty in place, the practical application of that can be difficult because it is against the culture of the country concerned.

Q123 Lord Richard: Can you give an example of what countries you are talking about?

Mr Kennedy: A number of countries in the European Union have constitutional issues and problems; a number in South America; Bangladesh.

Q124 Lord Richard: So which ones in the EU?

Mr Kennedy: There were difficulties in France and I understand in Germany too. But that is at the legal level, the legal framework. If the legal framework does not exist then there are real problems. But even where the legal framework exists there are still the practical barriers – obviously the linguistic difficulties not just in translating requests but in actually dealing with the nuts and bolts and the practicalities of the different legal systems that exist across the European Union.

Q125 Lord Richard: So what would you want to do to try and put it right?

Mr Kennedy: We are doing a number of things, both at prosecutorial level and at the level of the police and SOCA investigators. In terms of prosecution we have focused within the Crown Prosecution Service and appointed a number of liaison prosecutors, or liaison magistrates as they are sometimes known, so that these people who are experts in our own system are appointed to work in other countries. We have appointed one to work in Madrid; we have appointed one to work in France; we have appointed one to work in Italy; additionally we also have one in the United States and we have recently appointed one in Pakistan. This is to help facilitate our requests and to provide somebody on the ground who can deal with the legal issues and explain to the relevant and often very independent judges and prosecutors in those countries what the issues are for us, how we would like to take them forward and how they might help us to take it forward. That is one way that we are dealing with it and I know that my colleague from SOCA would like to say a little bit about the number of fiscal and other liaison officers that have been appointed to work from embassies around the world as well. We focus these particular liaison prosecutors in areas where there have been historically difficulties or lots of business, lots of request for mutual legal assistance, whether it relates to money laundering, terrorist financing or indeed other practical criminal investigations and prosecutions.

Q126 Lord Richard: Where are these prosecutors, in which countries?

Mr Kennedy: The prosecutors that I have mentioned are in Spain, France, Italy, the United States and Pakistan. These are prosecutors appointed by the Crown Prosecution Service but actually representing the United Kingdom and doing work for the Scottish legal system and not just for the Crown Prosecution Service – also for the Serious Fraud Office and the Revenue and Customs Prosecution Office in this country.

Q127 Lord Marlesford: In your interesting table in Annex A, Money Laundering Prosecutions by All Agencies, you say that the figures for 2008 are not yet available but I hope you can make them available so that we can incorporate them into the inquiry.

Mr Rawlins: These figures in fact are provided to us by the Home Office.

Q128 Lord Marlesford: The point that I really want to ask is that you have put a breakdown of the figures, the great majority out of the 6876 prosecutions you split into three categories which cover 6413. Unfortunately my ignorance is such that I am a little unclear as to what these three categories are. They presumably refer to sections of the Proceeds of Crime Act; what are the three classifications in ordinary language that you have chosen to split them into?

Mr Rawlins: Section 327 is the main act of money laundering provision, which deals with concealing or transferring money out of the country or changing the format of criminal property, whereas section 328 is the section which deals with the professionals and others who are said to enter into agreements to assist others to commit money laundering offences. Section 329 is the offence which deals with possession and use of criminal property.

Q129 Lord Marlesford: So the biggest by far is the possession and use?

Mr Rawlins: Absolutely because if we then find someone in possession of criminal property that is the offence that covers it, unless they have done deliberate money laundering acts in terms of concealing or changing the format or taking it out of the country.

Q130 Lord Marlesford: Just following up Lord Richard's point. Are the difficulties equally in respect of all three categories or is one of those three categories more difficult than the others?

Mr Rawlins: I suppose they would be equal. In terms of section 329 that is usually on the basis of what we can show someone has in their possession, so that would be less of a problem; but definitely in terms of 327 and 328 it would not be easy to make a distinction.

Q131 Lord Avebury: You mentioned the figure of 86 per cent in relation to 2008, of assets held abroad. Is it possible that the differences are increasing because that compares with 36 per cent of assets held abroad in the previous year? I think I took the figures down correctly.

Mr Kennedy: Perhaps I was not clear enough. The Crown Prosecution Service figures for 2008 were the 36 per cent. We have been in contact with our colleagues at the Revenue and the Customs Prosecution Office who tell us that in September 2008 their estimate was that 86 per cent of the value of unenforced confiscation orders was assets held overseas or hidden overseas.

Mr Webb: So it is not comparing like with like and RCPO frauds tend to be much more sophisticated; they are often to do with these complex VAT frauds, so there is more likely to be an overseas involvement in areas abroad rather than CPS ---

Q132 Lord Avebury: Maybe if you are looking at the figures in relation to one year it might be at the end of the road when you try to reclaim these assets and the 86 per cent related to cases that have been undertaken during the year and not completed by September.

Mr Rawlins: No, the 86 per cent covers all of their unenforced orders.

Q133 Lord Avebury: Throughout the time.

Mr Webb: Some of which could be very old by now.

Q134 Lord Avebury: In that case it is rather alarming.

Mr Rawlins: Whereas the CPS figure was a study over the first quarter of 2008 so any orders made within that period.

Q135 Lord Avebury: What value are we talking about? When you say 86 per cent, of what total value are the unenforced orders?

Mr Webb: The total of all unenforced orders from all the prosecutors I believe is around £600 million.

Q136 Lord Avebury: Could you let us have a note on that?

Mr Webb: Certainly, yes.

Q137 Chairman: Could we have a note on that, please?

Mr Webb: Certainly, yes.

Q138 Lord Hodgson of Astley Abbotts: Just on that last issue of Lord Avebury's question. When we get the breakdown can it differentiate terrorism from, say, VAT fraud because we are interested in the impact of money laundering as far as terrorism concerned. I am not denigrating VAT fraud but it is a completely different issue and not the subject of our main inquiry. My question is when you look at the different sections of the Proceeds of Crime Act, if I have failed to carry out a health and safety survey about asbestos regulations do I have to make a report under section 329?

Mr Rawlins: No, the reports are under section 331.

Q139 Chairman: Could you speak up?

Mr Rawlins: I apologise. The offence would be a non-reporting one.

Q140 Lord Hodgson of Astley Abbotts: No, I am reporting. I am saying to you that I am I selling my company; I have failed to make a survey under the asbestos disposal regulations; I have therefore committed a criminal offence. The value of my company is therefore £600 higher than it should be and I am therefore benefiting from the proceeds of organised crime and I have to make a report. Under what section am I making that report?

Mr Rawlins: It is section 332 and 331 that really deal with the reporting offences and the consent regime which requires reporting and these ---

Q141 Lord Hodgson of Astley Abbotts: But I am possessing and using criminal property.

Mr Rawlins: If you are saying that you are possessing and using potentially there is an offence then under section 329 but that does not mean that you will be prosecuted under section 329. Clearly the CPS has a discretion whether or not to prosecute and you will be aware that it is a two-stage test: firstly on evidential sufficiency, but secondly whether it is in the public interest and clearly in the circumstances you have outlined it would not be in the public interest.

Q142 Baroness Henig: I think part of this has already been touched on possibly by Mr Kennedy, but can you elaborate on the reasons which prompted the United Kingdom to propose that the FATF undertake a study of confiscation and related issues, including cooperation? What timeframe has been established for the completion of this study and what do you hope will come out of it?

Mr Webb: In the Home Office and with Treasury and other colleagues we have done quite a lot of work attempting to analyse the criminal cash flows and such like and what that has really brought home, as you would expect, is the sheer degree to which the organised criminals in this country are intertwined with colleagues overseas. So many of the frauds, many of the trafficking offences would involve assets both here and overseas. The other thing that came to our mind particularly was the extent to which on a more mundane level it is much more likely now how even quite ordinary UK citizens will have assets abroad than they used to, with hundreds of thousands of property in Spain and France and such like. The tighter we have made the regime on the proceeds of crime and recovering criminal proceeds in the UK the more important it is to ensure that international cooperation rises in pace because otherwise there is obviously going to be a major incentive to shift assets overseas. We committed to do some work in the 2007 Asset Recovery Action Plan that the Home Office put forward and FATF seemed like an obvious helpful forum for doing this and we secured agreement in October 2008 in a meeting in Rio de Janeiro – unfortunately I could not attend! So we have a commitment for a 12-month project, which we are chairing jointly with the Dutch, who are very close partners in this area and will be taking over the FATF Presidency in April or May. We have already had a preliminary report in February and there is another one due in June. The purpose of the report is to examine practice at the moment, identify potential problems, identify best practice, raise awareness and then identify some potential areas for future action, whether in FATF or in other international forums. We see it as quite a constructive process, really just auditing the quite complex process that Mike talked about for recovering assets from one jurisdiction to another. Certainly we discussed a bit last week the overall performance on asset recovery and the proportion we are getting back from overseas is still relatively small and that is something we would look to drive up.

Q143 Baroness Henig: We have already heard that the range of potential problems in this is very considerable. I therefore wonder what would be the UK priorities.

Mr Webb: I think the priorities we will come to later but one of the big priorities is to improve the mutual recognition in civil recovery because that is an area in which we are very interested and we are putting a lot of effort into it and yet a number of the Anglo-Saxon countries have schemes – some other countries do but a lot of other countries are still trying to get their heads around this as a concept and how they would cooperate with it in practice. We also have a priority in agreeing asset sharing agreements, particularly with the countries where most UK criminal assets would be based. There are lots of complexities but equally it is in the interests of everyone not to have criminal assets in their country and if we can share the evidence and they can use their local powers to enforce it then we can come to an amicable agreement potentially about sharing the assets; or, frankly, even if we do not get a share of the assets that it is taken off the criminals is actually the most important thing.

Q144 Lord Dear: I would like to turn the light, if I can, on to civil recovery. We noted in the written evidence from the CPS of the difficulties faced by the UK in getting cooperation from the EU partners in a civil recovery context. We wondered whether you can help us as to whether the UK is affording full support to the Commission's desire to take forward discussions on this topic and whether there are any prospects for securing enhanced cooperation within the EU in this area?

Mr Webb: We are delighted by the Commission's interest in this area and we like to feel that we had quite an important role in attracting their interest. We sent a lot of experts over there to various groups to explain our system and how it works. I had a useful meeting a few months ago with Irish colleagues because obviously the Irish actually pioneered this area and we want to do as much as we can together. Mike has already discussed some of the constitutional issues that some of the countries have. For some of them it may be insuperable

and others may feel it is a problem where it is not necessarily. The sort of work we have done, we have been working in EU working groups and the multi-disciplinary group on organised crime; we have also been working with Italy and the US through the G8 in their group that looks at the Palermo Convention, and obviously this working paper of the Commission on proceeds of organised crime, *Ensuring that crime does not pay*, has a number of recommendations about civil recovery that are very important to us. A minor victory we secured a couple of years ago, in 2007, when we had a Council direction on the asset recovery offices, which are sort of single points of contact, we secured the agreement that their remit should cover civil recovery and not just prosecution. So that gives people the power to use this network to pass round requests in the civil recovery area. It is going to be a slow process, but there are already well understood processes for mutual legal assistance in the confiscation cases that can be made to work better. But civil recovery will be very much the next thing on which we look for more progress and it is going to be a process of awareness raising and negotiation in international forums. I think probably the way we will look to do it is first an enabling provision to assure people that there is an international framework to allow this sort of thing to happen. It is going to take a long time, I think, before we get consensus among the EU to make it compulsory to recognise these because some countries do have some concerns which will take a while to deal with.

Q145 Lord Dear: That is quite disappointing in a way because colleagues will join me I think in recognising that we often hear that sort of answer when we are dealing with the relationships between this country and Europe; and one understands that you cannot build Rome in a day but at the same time what you have said is admirable, that we are working very hard to do it. Is there anything that you can draw to our attention which would enable us to make reference within the report that would help, recognising that not everyone is travelling at the same speed? Is there anything that we could do to help?

Mr Kennedy: I think that the success of the system, both in Ireland and in this country – and indeed the United States have adopted not quite the same but a similar system, as I understand it, and the United States have negotiated a series of bilateral agreements with countries around the world to encourage them to have the same system in place in those countries so that the US can use civil recovery – I think there is an opportunity in the United Kingdom to, as it were, piggy-back to some extent and pursue the same line as the United States has pursued. The United States is often in quite a strong negotiating position and is able to secure agreements that perhaps the UK might not be able to do so easily; but there is an opportunity there to do that. There is also an opportunity to talk about the sharing of assets recovered. An incentive is something that is always very encouraging, particularly when we are talking about such large amounts of money.

Q146 Lord Dear: So the two countries concerned would take a proportion each of the monies received, rather than it all going back to the initiating country?

Mr Kennedy: Or not coming back at all.

Mr Webb: The default position is that it all remains in the country that enforces it, not the one that initiated the request; so an asset sharing agreement then enables something to come back to the initiating country. We have some of those with a number of key partners – the US, Canada, some jurisdictions like that – and, as I mentioned, last week we secured an agreement with the UAE. So driving forward on bilateral agreements, piggy-backing where possible with partners like the US – and that was one of the things we were discussing with Irish colleagues – would be helpful. Then getting enabling provisions through in Europe and actively working with the European Parliament and with the Commission to follow up this communication that is mentioned in your question five. We are in the best place on civil recovery we have ever been since we brought it in in this country and I think it is in the

Commission's interests and that is quite promising. But it is a slow process and we are very aware of that.

Q147 Chairman: Can I follow that up? Mr Webb, do you see any chance of the Commission making new proposals during the remainder of this year?

Mr Webb: This year would probably be a little quick. I do not know if my CPS colleagues have a view on that. Not formal proposals in terms of starting a directive.

Q148 Chairman: That is what I mean. Do you see it next year?

Mr Kennedy: Can I help possibly? I had an informal lunch with Commissioner Jacques Barrot, who is the Commissioner for Justice, Freedom and Security, as I am sure you know. He was quite interested to talk about what might be possible during the remainder of his period as Commissioner, and one of the things I mentioned to him was in fact the opportunities that were being missed for asset restraint and confiscation throughout the European Union, and whilst the structures were in place there might be some things he could do, particularly at a practical level, and he is looking quite closely at setting some fairly firm objectives for Eurojust, an organisation for which I used to work, to encourage them to actually set up networks of people and packages to help develop the cooperation in this sort of area because it is something that Eurojust has not really focused on heavily during its early years of existence.

Q149 Chairman: The Commissioner's term ends at the end of this year, does it not?

Mr Kennedy: I believe it does, yes, and that is why I think he was anxious to get something rolling before we left. Of course it is possible that he could be renewed.

Q150 Lord Avebury: What I would be interested to get hold of is some impression of the proportion of the £600 million you talked about earlier, whatever that figure is, that is

attributable to constitutional or statutory difficulties in the countries concerned of the EU. First of all, is the £600 million to be broken down into EU and other? Secondly, if you are looking at the EU total of that £600 million how much of it can we effectively say is irrecoverable intrinsically because of the constitutional or statutory difficulties in the compass to which it relates; and would require this kind of blanket or universal amendment to the laws throughout the whole of the European Union.

Mr Webb: The £600 million is actually criminal confiscation orders that do not cover the civil, so there would not be constitutional bars in any of the countries. What we have already broken the £600 million or so figure down to is where there are assets that we know of in the UK that we are proceeding against; assets that we know that exist overseas; and then a category that we call hidden assets because sometimes in a criminal confiscation the level of the criminal benefit order that was secured from the court would be higher than the level of assets that we know exist. For example, if we know that a trafficker has generated an income of a certain amount and we do not know where some of it has gone we will try to secure an order to the full level of the criminal benefit that they have secured, so that if later the assets turn up we can go back and reclaim it. So quite a significant proportion of that £600 million we simply do not know where the assets are. That does fit in rather well with the point that my Lord Chairman made where what we are quite clear about at the moment is the extent to which we have international cooperation – whether it is something that needs more legislation or whether actually we have the tools already – and there is a problem in cooperation with our colleagues and that is really one of the prime reasons, as in your last question, that we wanted to do this FATF study; we wanted to look on a case by case basis and look at a sample of areas and at what are the real blockages to coordination because certainly in the criminal confiscation order field we feel that we ought to in principle have the powers already. So there should not necessarily need more legislation for us as it could be the kind of process of

peer review that we have with FATF on our money laundering system that could usefully work in this area too to drive up performance. But it is something we are quite open minded about whether we need more powers or whether we just need to make the existing system work better.

Q151 Lord Hannay of Chiswick: I want to follow up on Lord Dear's question. Surely the answer to his question as to whether there is anything that we can usefully do in this report to strengthen the move towards better civil recovery, since our report goes to the Commission as well as to the British Government, is that we should be urging the Commission, whichever Commission it is – either this one or the next one – to be more active in this area and, where necessary, to make the necessarily proposals. That is broadly speaking the answer, is it not?

Mr Webb: That would be extremely helpful, yes.

Q152 Lord Dear: Could I carry on looking at blockages in the system. The confidentiality laws that govern overseas institution financial and secrecy laws I guess would act as a significant barrier in terms of cooperation in money laundering, and you have already alluded to that, I think – both money laundering itself and terrorist financing. You have already talked about the EU; could you take us outside of it into the EEA and EFTA as well in the context of those two areas?

Mr Kennedy: I do not think there is quite the problem that perhaps there was in the past in relation to criminal offences and secrecy. Of course it is the definition of the country concerned as to what might be criminal or what might not be. Tax fraud, for example, is regarded in Switzerland as criminal so there would not be a problem in getting through the bank secrecy laws that existed there because they have a complex appellate structure which causes problems too. In terms though of tax evasion, that is not regarded as criminal within the Swiss system, as I understand it, and that is at least until the G20 last week and the

meeting of finance ministers. That would have caused problems in terms of secrecy and I do not know the detail of what has been agreed, but I think we may possibly be quite encouraged by what was said there but we would need to look at the detail and see it in that context.

Q153 Lord Dear: You have mentioned in effect the definition of terms and this sub-Committee has met this problem before where different people work off different understanding of dictionaries. Would it be useful if we were to suggest that countries try very hard to have a common definition?

Mr Kennedy: Yes.

Q154 Lord Dear: It would put you all on the same playing field – a mix of metaphors – would it not?

Mr Kennedy: I am sure there would still problems but at least if we had the same baseline it would make life a lot easier.

Q155 Lord Dear: It should not too difficult, surely, for countries to come to some sort of contract with 90 per cent of the definitions and have those in common use.

Mr Kennedy: One would hope so but there have been problems, as you probably know, in defining terrorism itself.

Lord Dear: We have met the problem before.

Q156 Lord Marlesford: A supplementary to your answer to Lord Dear. You made a distinction between tax fraud and tax evasion. I do not understand that; what is the distinction? Can you define the two?

Mr Kennedy: I could not promise to give a definition of the Swiss law ---

Q157 Lord Marlesford: No, in Britain.

Mr Kennedy: As I understand it a fraudulent tax crime involves some sort of mental intention to defraud, to deceive the authorities. Evasion is effectively not declaring or not providing the information.

Q158 Lord Marlesford: This is the British definition, is it?

Mr Kennedy: No. I think that is my understanding; it is a British man trying to give a definition of what I understand the Swiss law to be.

Q159 Lord Marlesford: What would it be in Britain – the distinction between the two?

Mr Kennedy: Again, I am not an expert on revenue law but I understand that if one does not make a complete declaration when one completes a tax return that that is itself a criminal offence.

Q160 Lord Marlesford: That is fraud not evasion, is it not?

Mr Kennedy: It is crime. The difference I think is that evasion in Switzerland is not crime.

Mr Webb: Can I just give you an example where this has been a problem for us in terms of national cooperation where, again, in the VAT fraud, the antique fraud, it is actually straightforward theft – you are getting money back, spurious rebates from the tax people when there has never intent to trade honestly. Sometimes we have had difficulties with jurisdictions that have seen that as is that just not another sort of tax evasion when we would argue it is straightforward theft from the Exchequer. That is something we have never had trouble with in Switzerland because they would recognise that as theft. But this is quite a complex area for us and our colleagues from CPS. I am not an expert on tax law.

Q161 Baroness Garden of Frognal: Could I follow that on a little further, this talk of definition of terms and the slight confusion about that. Could you say what part language

difficulties play within this confusion, the languages amongst the different countries? I take it that English is the language that is used predominantly; would that be the case?

Mr Kennedy: Certainly it is the baseline language across Europe that most people tend to speak if it is not their mother tongue – most people tend to speak English as their first second language or, indeed if it was not English, it would be their third language. So in my work in Europe English certainly and French to some extent – but English certainly – was the language that was used. But it is often quite difficult to describe something in English that has an exact equivalent in the legal system of another country and this is often where the confusion can arise, particularly when in mutual legal assistance or cooperation situations there is a requirement that is in the law of another country in their language – in German, French, Italian or Slovenian, whatever it might be – to actually find that equivalent in the English language definition. But that does cause a problem, particularly when we are dealing with concepts that might be completely alien to some of the systems that we are talking about across cross-country constitution. There is also a range of other difficulties to do with the accuracy of translation, for example, when requests are made, which are very practical but often are a significant torpedo to some of the requests for assistance that we receive in this country and indeed the letter that we send out. There are also very different responsibilities. A judge in this country has quite a different responsibility from a judge in France or in Germany, and a prosecutor too, and indeed police officers, particularly when we are getting into the area of money laundering and fraud and customs and tax offences, and the responsibilities can be a completely different part and not a natural equivalent part of the legal system.

Chairman: I think Lord Dear wants to come in on that issue.

Q162 Lord Dear: This may be a thoroughly naïve question and you are perfect liberty to state that in public if it is. But it occurs to me suddenly, listening to your reply to the last

question, that the same sort of problem had to have been addressed in extradition proceedings, getting compatibility between the rules of one country and the rules of another. I wonder whether in looking for a solution to this we could not work off the same base, i.e. that if you have a definition which satisfies extradition surely the money laundering legislation could fall into the same set of criteria.

Mr Kennedy: I would think so but my colleague can perhaps help you.

Mr Rawlins: On money laundering we are very fortunate that there are a number of international agreements on this – and there are also of course the three money laundering directives – so in deciding what is money laundering and what an offence should include at a very minimum is quite clear. I think the issues that we were discussing earlier, the ones of taxation and the different approach taken by countries such as Switzerland to taxation, I think that on money laundering itself we are very clear what is involved and we are very clear what the minimum standard is and in the UK we have gone beyond that minimum and we would hope to encourage international partners to go further.

Q163 Baroness Garden of Frognal: If I may come on to the next question, to which Mr Webb has already referred to the document *Proceeds of Organised Crime: Ensuring that Crime Does Not Pay*. In that the Commission makes a range of further proposals for the recasting and extension of the relevant EU legal framework, which you have touched on. But I wonder which of these recommendations, if any, would be of the greatest potential benefit to the UK in the view of the CPS?

Mr Webb: I think definitely the ones about mutual recognition of the civil recovery regime. There are a number of other proposals that we would support, as Jeremy said, but in fact we have already done them progressively, some of the changed definitions in money laundering; but we have a very broad definition in our legislation already so we think that we can tick off most of the things on the list already within our existing regime. If we could get the

Commission's weight behind a civil recovery regime and encourage the need for recognition and support of it that would be a fantastic benefit to the UK, Ireland and those other partners around who use these sorts of tools.

Q164 Baroness Garden of Frognal: Would there be additional resources required to make that effective?

Mr Webb: I do not think so; I think it is very much about mutual recognition of the systems. We are already doing these investigations and targeting assets in this country and we would like to be able to extend and target them to assets overseas and get them realised. Actually if you recovered more assets from that process from the same investigation it could even make savings.

Q165 Lord Hodgson of Astley Abbotts: In the CPS evidence, paragraph 21, suggests the emergence of innovative mutual legal assistance developments on banking evidence, but indicates that actual cooperation is pretty rare as regards customer information and that kind of monitoring. Could you explain why you think this is the case and would you attribute it to the fact that several of the multilateral instruments which envisage these forms of cooperation are either not in force or not widely ratified?

Mr Rawlins: I have made some further inquiries on this to find out from investigators why it is that it is not used too often, and the answer is that apparently often this kind of information can be obtained informally so that the request that is then made will be for a production order because the investigators have already discovered then where the accounts are held. Definitely, so far as the current monitoring orders are concerned, delay can be an issue. If assistance is not obtained quickly it is likely to be too late then to be looking at a particular account over a given period of time. That particular order is often used where, for example, investigators are waiting for money to go into an account to then take out a restraint order and

clearly speed is then of the essence, so that may well put people off when making use of it. There are issues around whether we can get that assistance in all cases because some of the agreements are not yet fully in force, but, of course, even where they are in force within the EU there may be issues such as, like ourselves, we do not have a central database of all bank accounts which would then make it difficult to obtain that information quickly.

Q166 Lord Hodgson of Astley Abbotts: Could I follow that up at a slightly lower level?

One of the anecdotal sort of evidence one gets is that firms wishing to try and operate effectively across Europe and thereby operating and talking to a reputable firm of solicitors or accountants in another European jurisdiction in order to short-circuit some of the elaborate mechanics that are envisaged, are told, informally or formally, “That is fine, go to it, but do not think that that in any way releases you from any of your responsibilities under UK law”, and that therefore any attempt to try and get to a level playing field is negated because our regulators, our enforcement officers, are not interested in hearing, “I went and talked to this firm in a jurisdiction which has signed all the papers”, because that is not a defence in any way.

Mr Webb: The defence to the charge of non-reporting, do you mean?

Q167 Lord Hodgson of Astley Abbotts: What I am endeavouring to discover is, if I make reasonable endeavours as a firm of solicitors about a customer of mine and I go to a reputable firm and I am told that this potential client of mine has been checked by them and is fine, at that point I am therefore able to take them on, but they are subsequently found to have been involved in an offence. I am told anecdotally that the fact that I took reasonable precautions does not stop my firm being vulnerable to an attack for prosecution. If we are seeking a level playing field with minimum interference with our commercial activities, should that not be a defence?

Mr Webb: This is in the “Know your customer” provisions. It is due diligence under the Money Laundering Regulations.

Mr Rawlins: There is, in fact, for those within the regulated sector provision to have not made a report if objectively they should have been aware of circumstances that meant that they should have made a report (ie, providing the regulated sector is properly trained, and, of course, it is an offence to employ it if they have not been trained) and they have not made such a report, so, providing there has been training there, it ought to be possible to recognise those signs and to make a report, and if in fact those signs objectively were not there then there was no need to make a report and therefore there is no risk to the firm.

Mr Webb: If you are talking about the Money Laundering Regulations themselves, which are a Treasury and FSA responsibility, I know a lot of work has been done on the underlying guidance and firms are encouraged to do a risk-based approach, so it strikes me that if you have made all reasonable endeavours to identify the customer you would be in very little danger of any prosecution. As I say, I am afraid that is a part of the regime that the Treasury leads on rather than the Home Office.

Chairman: I take it that Lord Hodgson is quoting a hypothetical situation. If you would like to ponder over this and send us supplementary evidence I think it would be most welcome, but if Lord Hodgson wants to come back again, please do.

Q168 Lord Hodgson of Astley Abbotts: In paragraph 11 you talk about the SOCA guidance to the private sector. Does the guidance in any way refer to the reliance that can or cannot be placed upon reputable firms in other EU jurisdictions?

Mr Thomas: I will speak on behalf of SOCA. SOCA’s guidance does not include that but that guidance is out there in the shape of the Joint Money Laundering Steering Group guidance and other guidance from professional bodies. It is not provided by SOCA guidance. I think that assistance is available to firms.

Q169 Lord Hodgson of Astley Abbotts: Could we have a copy, please?

Mr Thomas: Yes.

Mr Rawlins: The Law Society has guidance of its own on this issue. As I understand it, it is updating that guidance and further guidance I am sure will be issued.

Q170 Lord Dear: Article 33 of the Third Anti-Money Laundering Directive and also Recommendation 32 from FATF both acknowledge the importance of statistical information for the analysis of the effectiveness of AML and CFT systems, and they impose obligations on parties to retain the information. As we understand it, FATF mutual evaluation of the UK has noted some deficiencies in this regard here in this country and it would help us to know, firstly, what were those concerns, and, secondly, whether they have been addressed.

Mr Thomas: I shall take that question. I was certainly interviewed during the FATF process and represented the UK at the FATF plenary. The point made by FATF in Recommendation 32 was that there was in their judgment insufficient statistical information released to the public in relation to Suspicious Activity Reports

Q171 Lord Dear: That is the feedback from SOCA back to the initiator of the SAR?

Mr Thomas: It incorporates that as well as part of the feedback and there are other statistical standards set in relation to money laundering prosecutions and convictions. Since the FATF evaluation SOCA, on behalf of the cross-agency, cross-department community within the SARs review have produced a public Annual Report. The Committee has asked for a copy of that report and we have just this morning given you last year's report ending September 2008. It is the second such Annual Report produced by SOCA on behalf of the SARs regime as a whole. It is produced by what is known as a SARs Regime Committee which consists of SOCA personnel, representatives from the BBA, the Law Society, the ICAEW, the FSA, and law enforcement and other government departments, so it truly is a representation of all those

with an interest in making the system work. The SARs Regime Committee, with its, if you like, independent cross-section overview, recommends this report to SOCA which adopts it, SOCA presents it to ministers who adopt it and then it is made a public report. Within the report, as you can see, are statistics in relation to the number of SARs received month by month, sector by sector, how many of those relate to consent, which is a particular type of SAR, those that relate to terrorism financing and have been referred to the terrorist unit in the Metropolitan Police, and a whole range of statistics relating to efficiency gains and various measurables about how quickly requests are dealt with, et cetera. There is also, importantly, a list of all the agencies which use SARs. That is not required under the standards but the SARs Regime Committee felt it was useful to show the extent to which SARs are now embedded in all law enforcement and other activity across the UK, and there are qualitative measures of the effectiveness of the regime in terms of quotations from key stakeholders and the like and some analytical examples. We feel that that does meet the required standards and is certainly a significant improvement on the situation prior to the FATF evaluation.

Q172 Lord Dear: Does FATF believe it meets those requirements as well?

Mr Thomas: I believe it will. We are waiting for their re-evaluation and this will be a key part of that. I am confident that they acknowledge that improvement.

Q173 Lord Richard: Do the SARs figures include Scotland?

Mr Thomas: Yes.

Q174 Lord Richard: So that is the whole of the UK?

Mr Thomas: Yes.

Q175 Lord Dear: Feedback, in essence, was a lot of what FATF was concerned with, and certainly the anecdotal evidence we get from people who labour under the SARs procedure, is

that they never hear back or they hear back very infrequently about what individually is referred to the system. Are you picking up on that point? I have not read the report and I guess that this is good in generality to some extent, but would you go back specifically to the initiator itself and tell them the result of what came in from that?

Mr Thomas: In part. This is an area of work where SOCA puts in, quite rightly, much energy and resource. It recognises the importance of referring specifically back to the regulated sector within the framework of a much better collaborative environment. We have certainly made it our strategic objective from day one to improve the relationship with the regulated sector and in fact improve the relationships across all of those parties within the regime, including law enforcement, which complete that virtuous circle, if you like, of using SARs and feeding back. Having created that collaborative relationship, and I think you have heard evidence from the regulated sector about the improvement in relation to transparency, collaboration and openness, within that framework we have been able to have very grown-up discussions about what precisely will be most useful for firms to know about, so focusing on the effects of what we give them rather than the process of giving that information. The results of that discussion are that there are two requirements behind feedback which are agreed between ourselves and the regulated sector. The first is to assure those that report that there is some utility in what they do. This goes from the micro level of an individual reporter to a whole sector. It is the same concern. You want to be assured that what they provide is of use. The second requirement is that they report in the appropriate way, describing what they are seeing in a way that is most helpful, so they want feedback in order to drive up the quality of the reports they give us. We have been running for a couple of years now a programme of activity to address those two requirements that do not necessarily require individual, one-by-one, tailored feedback. The discussions that we are having with the Law Society, which has made comments to this Committee, I know, and the BBA and the ICAEW and a whole host of

others is that the programme of informing regulated sectors how the system works is helping to meet those requirements. Our measure of success, if you like, is that we want to get to the stage (and we are seeing it) that reporters are sufficiently confident now that they know how the system works, whether they hear directly or not, that the SAR has been used. It is a very healthy position to get to. I was very pleased to hear the oral evidence of the ICAEW that that sector recognises that, whether or not individual members hear. We are also sending that message about the key things to make a perfect SAR, what we would expect to see in it, the six questions of who, where, when, how, why, et cetera. I think that programme is working. All of our debates, which are not quite daily but certainly weekly, with a whole range of the regulated sector are telling us that that is exactly the right way to go about this. It certainly is positive. Having said all of that about the strategic approach which is dealing with the individuals concerned, we do also provide a degree of tailored, one-by-one feedback. You have heard about consents. You have heard evidence to say that every consent receives a reply. Contact is made by SOCA or law enforcement to the reporter. If you take the Law Society as an example of how this works, 67 per cent of all SARs submitted by the legal sector, which includes Scotland; it is not just the Law Society of England and Wales, relate to consent, receive one-to-one feedback in addition to other feedback that comes from investigators, et cetera, so it does exist. Our primary concern is to satisfy the requirements behind the feedback that reporters are confident of the SARs they use, and we are seeing that because they are used more and more, and that they understand about what sort of information is the most helpful, and I am confident about that as well.

Q176 Lord Hannay of Chiswick: Is there now a sufficient evidence base upon which to assess the extent to which the mechanisms of international co-operation in the AML/CFT spheres are in fact being utilised (on both an incoming and an outgoing basis), and to what effect? If so, has any such detailed assessment been undertaken?

Mr Thomas: I can take that one in relation to exchange of international information on an FIU-to-FIU financial intelligence basis, so it does not cover the whole range of anti-money laundering international co-operation, but I can tell you that there are regular FIU-to-FIU exchanges of suspicious transaction information. There are 108 FIUs around the world that are members of the Egmont Group. Egmont is an international group of like-minded FIUs, although no FIU is the same, but we all have similar standards about receiving Suspicious Activity Reports from the private sector and sharing that information and making use of it. The Egmont Group has a secure mechanism for sharing and it has agreements behind that about appropriate use. I think we have provided you with some statistics on this. In 2008 the incoming requests from a variety of FIUs around the world to the UK numbered some 1,500, which was double the previous year, and similarly we have outgoing requests, which in 2008 were slightly down on 2007, and I make no comment about the relevance of that but I can say that the channels are being used. It is difficult to judge whether there is a right level and therefore the effectiveness of that. I am encouraged that it is an open channel and it is being used. What lies behind that is that each investigator within the UK and overseas makes the appropriate decision whether to seek the information and will always apply the test of necessity and proportionality, so just because the information may lie elsewhere does not necessarily mean there should be a request and does not necessarily mean it will be requested. The summary of that is that the channels are open, they are being used and are they being encouraged to be used. We do set certain criteria about the questions that the UK asks. We avoid the term “fishing expedition”. There must be a basis for making that request. We vet all of the inquiries coming in so that they satisfy the UK criteria about relevance and proportionality. We believe all valid questions that are received deserve as full an answer as possible, which we deliver. We do not have a complex or elaborate structure about tracing

thereafter the effect of that exchange of information. We satisfy ourselves that it was a valid reason and that we have a duty to reply.

Q177 Lord Hannay of Chiswick: And is that Egmont network increasing in size?

Mr Thomas: Yes. Not so long ago, maybe six or seven years ago, the number was in the 20s or 30s. Now it is 108 and there is a considerable in-tray of applications to join. We estimate that there are about a further hundred FIUs in jurisdictions that are not yet members of Egmont. These FIUs operate a wide range of standards. Egmont wants to encourage the growth, wants to encourage the standardisation and wants to encourage, and is encouraging, that exchange of information.

Q178 Lord Hannay of Chiswick: Could I now go on to a specific issue which we tried to grapple with without huge success last week, which is the very large increase in illegal money transferred in the international system as a result of piracy operations off the Horn of Africa? We asked some questions of your Treasury colleagues last week about why FATF had not focused on this. For example, the FATF press release of 11 March contained a large number of items which referred to countries as disparate as Turkmenistan and São Tomé and Príncipe, but had nothing about this problem which has been, as far as we can tell, growing in scale and size for the last year or so at least, if not longer. What I would like to ask you is whether all these systems you talk about are being properly utilised in the context of the laundering of the proceeds of these crimes committed off the Horn of Africa.

Mr Thomas: The macro picture of all of the processes and the international standards does apply and will catch that which enters it. There are some cases (and some may be appropriate to the Somali pirates case) whereby the money taken by the pirates, which is then deemed to be criminal, – I think that was part of the discussions last week, that it becomes criminal once it is in the hands of the pirates, the criminals – may or may not enter the financial sector,

particularly if you take into consideration the jurisdiction in which they are based. There are no formal structures, no government. It is unlikely to enter the formal financial sector. If it were to enter then it is as vulnerable as any other criminally associated money. The answer to that particular current problem is being addressed by the authorities at a global level but it may not be best addressed by using the financial sector and its controls.

Q179 Lord Hannay of Chiswick: I see. You would not perhaps explain that last remark, which struck me as a little Delphic?

Mr Thomas: I would be happy to expand on that perhaps in a submission.

Mr Webb: I suppose the point is that if the money is in cash and goes to a jurisdiction where there is really no financial centre, and there is an issue in some of the jurisdictions about taking criminal action, the Egmont Group will only really kick in if someone is doing a criminal action against the pirates and is looking for co-operation from other jurisdictions. We are in the position at the moment where taking criminal action against pirates is extremely difficult and where they may not be using the financial system at all once they have got the money, so it may be less productive. At the moment there has been some success, obviously, with a large deployment of naval forces in the area but in the long run we would want to get a criminal justice outcome.

Q180 Lord Hannay of Chiswick: Is there no obligation at all on somebody who, under British law legitimately pays an insurance claim which then enables the criminals to get the money; and they then as a counterpart release the ship and the crew, to notify you that this money is knowingly going to a criminal purpose even though they are themselves not committing a crime?

Mr Webb: We do owe you a formal submission on that which we are working on. My understanding is that a lot will depend on the precise circumstances of who you are dealing with and how the money is being freed.

Q181 Lord Hannay of Chiswick: I had not realised that.

Mr Webb: We promised it at the last session and we are working on that. It is quite a complex legal conundrum.

Q182 Lord Marlesford: May I follow that up, because frankly I very much agree with Lord Hannay? The letters “SAR”, as I understand it, stand for “Suspicious Activity Report”, and therefore apparently the most trivial matters are required to be reported by the regulated sector. It is to me frankly incredible that a company which is within the regulated sector can even receive a request to make payments to pirates without, under the law, having to make a report to SOCA of that fact. Am I right in thinking that that is the situation?

Mr Webb: As I say, we will try and clarify the precise legal position as much as we can. I do share people’s surprise at this. In a suspicious activity the suspicion is a suspicion of money laundering, so it all bears on whether this money is criminal property in any way. The issue is whether it belongs to a shipping company or an insurance company and at what stage it then becomes criminal property. As I say, it can vary quite a lot, depending on the precise circumstances of the case. We have very much taken on board the Committee’s surprise at this and we will try and clarify the position for you.

Q183 Lord Hannay of Chiswick: And you will cover the point that Lord Marlesford has made?

Mr Webb: Indeed.

Q184 Lord Hannay of Chiswick: Whether or not it is quite legal, is it nevertheless not bizarre that British companies do not have to notify under this system that they know this is going to an illegal purpose, even if what they do is not illegal?

Mr Webb: It is a fair point and we will try to cover that.

Q185 Lord Avebury: When you say that the money may not enter the financial sector does that mean that people use the dollar bills that they get from piracy transactions as a medium of exchange, say, within Somalia or within East Africa without it entering the banking system at all?

Mr Webb: Yes.

Q186 Lord Avebury: I must say I find that extremely surprising because you would imagine that everybody in East Africa is aware that money is obtained by pirates through criminal means and they would be rather cautious about accepting dollar bills that they think are not going to be capable of being lodged in the banking system. I am surprised that you think this money would remain being circulated in East Africa without anybody being too bothered about accepting it as a medium of exchange.

Mr Webb: Our understanding is that it is a very largely cash driven economy because there will be very considerable lack of trust in whatever financial institutions there are in that country and pirates themselves are obviously violent and armed criminals and are capable of looking after the cash themselves and they probably would not feel the need to put it in banks. At some stage, once it has gone through a number of hands, it may reach somebody who does put it in the financial system, but certainly in the initial use they could get full value for the money and they would never ever need to put it in the financial system.

Q187 Lord Avebury: Are the numbers of the bills recorded?

Mr Webb: That would be an operational matter. If law enforcement heard about it at all that would be an operational decision for them.

Lord Avebury: Do you mean that the insurance company that hands over the money is not obliged to make a record of the numbers of the bills?

Lord Richard: Not if they used one-dollar ones. A million used one-dollar bills? That is a fairly hefty transaction.

Q188 Lord Avebury: So, even if they were not obliged to make a note of the numbers of the bills, if they did come back into the banking system no-one would pay attention to them?

Mr Webb: You would not necessarily know. That would be the position.

Q189 Chairman: I am going to move on, but before I call Lord Hodgson I want to go back to a question which occurred to me and it follows what Lord Hannay asked. If you look outside the context of the Financial Intelligence Unit, and I am thinking in particular here of the Home Office and the CPS, do you and other similar bodies keep comprehensive statistics with respect to, for instance, mutual assistance and asset forfeiture? I think it is important to know whether this is just confined to the FIU. Could you please tell us that?

Mr Kennedy: We do not keep comprehensive statistics in relation to mutual legal assistance requests that we make as an organisation. We do not have that data. They grew in the mid nineties, when the figure was in the region of 300 or so, to several thousand, if not more, at the moment, and we do not have any comprehensive data on any requests that the Crown Prosecution Service makes on behalf of investigators. In relation to statistics on financing terrorism, we do not have any data on convictions. We are setting up a database within our Counter-Terrorism Division, which is responsible for the prosecution of terrorist offences, including terrorist financing, to enable that sort of information to be more readily available.

Q190 Chairman: And asset forfeiture?

Mr Kennedy: We have data within the Crown Prosecution Service on the numbers of restraint orders and confiscation orders that are made, so in that sense it is covered.

Mr Webb: We have a joint asset recovery database that has quite a lot of data on individual orders, including, in some cases, where we think the assets may be. The UK central authority, the new database that I mentioned at last week's session, will certainly give us better data on requests incoming and outgoing and with better categorisation of the sorts of purposes for which the requests were made. In terms of "comprehensive", it is obviously going to slightly depend on your definition of "comprehensive" but we will certainly have better data in place within the next six months to a year.

Mr Kennedy: I think we have supplied some data already to the Committee about the Crown Prosecution Service's confiscation orders. The Crown Prosecution Service, as I am sure you know, is divided into 42 areas around the country. Part of my responsibility with the Director of Public Prosecutions is to hold to account each of the Chief Crown Prosecutors for their performance, and part of their performance is a target in terms of restraint orders in relation to value and in relation to confiscation. This has proved to be quite an incentive, as I say, to ensure that performance is driven up and it has in fact increased in the past four or five years since we have been recording this data and more recently since we have had targets in this area.

Q191 Lord Hodgson of Astley Abbotts: When you come to reply to Lord Hannay and Lord Marlesford on this question about piracy could you draw to our attention any differences that occur in the case of kidnap and ransom, which is also quite a substantial activity though not so well publicised at present but nevertheless has the same sort of implications? My question is for Mr Thomas. It has partially been covered already because we have talked about a feedback and you have given us some evidence about that, and it refers, obviously, to

paragraph 26 of the Treasury's notes, which talk about the improvements that have taken place. We continue to get evidence about difficulties in this area and it would be helpful if you could say a bit more about what the legal and practical constraints are for the UKFIU and how you think you could improve them. There are three areas which we have not covered before which are perhaps worthwhile looking at. First, I am told the authorities became very excited with a firm who asked for a Spanish bullfighter buying property in this country because bullfighting is illegal here and he was therefore committing a crime; secondly, under the new regime the position of politically exposed persons who are extremely hard to track down because usually you are dealing with people who are overseas – how you identify them and how you provide guidance to firms about for example, a Nigerian chief, who might or might not have a particular involvement in an unattractive aspect of Nigerian life; thirdly, UK trust law, which does not exist on the continent, where the ultimate beneficiaries to the trust are almost impossible to identify and where anecdotal evidence suggests that you are taking an unreasonably stringent approach.

Mr Thomas: Could I reverse that order and start with PEPs? The requirement to report to SOCA suspicions relating to financial activity in relation to PEPs is in place. Firms have a wealth of material, I would say, to draw upon to inform them who those people might be. There is open source material from specialist internet-based companies that provide that information. The relationship between SOCA and reporters on the subject of PEPs is healthy and good, I think, and within the last 12 months a substantial number, tens of millions of pounds, has been identified by firms that are subsequently under restraint by law enforcement with the intention of returning tens of millions back to the country from where it was stolen. I think the system is working well. I do appreciate it is difficult to identify all the public servants that may be in every country of the world at every level who may be involved in crooked activities, but I am confident that the financial institutions have sophisticated systems

to be able to identify this; they have proved that they do so and they have proved to be providing us with the right information and action has been taken and fed back to them, so I am comfortable about where we are jointly with PEPs. What I am hearing from the regulated sector partners is that they too are pleased with that situation, so it is gratifying to know that stolen funds from an impoverished country are being sent back, and that is the UK policy. I am not sure how to answer the UK trust point. I do not recognise any point that says that SOCA or the authorities are giving anybody in the regulated sector a hard time. Just generically I do not recognise that position. We have a partnership approach. We share information that we think might be helpful to reporters and they report back what they think is appropriate. I do not recognise a particular problem so I cannot elaborate on that. The Spanish bullfighting anecdote I remember from many years ago and I thought it had gone away. I am told it has.

Q192 Chairman: Wait a minute. I have never heard of that case. Take the case of a Formula One racing driver who takes part in a road race somewhere abroad where it is legal. It is illegal in this country, with the exception years ago where there was a special law passed. If it were to apply to a bullfighter because bullfighting is illegal here, would it not also apply to a racing driver who performed on a track which he would not be able to do here because it would be illegal?

Mr Webb: It would have done in the past but we have changed the legislation so that it needs to be illegal in both countries except for serious crimes, so there would no longer be any reporting requirement on that. I was looking for the precise reference. I believe it was in the Serious Organised Crime and Police Act 2005. We recognised the sector's concern and fixed it.

Lord Hodgson of Astley Abbotts: I think there is a miscommunication about trust law that I think firms are concerned about. It is impossible to trace back a trust which is in an overseas

jurisdiction in order to find out the ultimate beneficiaries but I do not think they are confident at the moment that reasonable endeavours inquiries will be accepted by you as a defence.

Chairman: Lord Marlesford, I think you wanted to come in on this.

Q193 Lord Marlesford: Indeed; thank you, my Lord Chairman. The SOCA report will be extremely helpful and I am sure we will look forward to looking at it in detail. The total number of Suspicious Activity Reports is shown as being at the present time, taking the two most recent years, something over 200,000, and therefore presumably there must have been since this system was set up at least a million in total. My concern is to get some feel from you as to how many of these turn out to be trivial matters that require no follow-up of any sort, because we have had evidence of those from some of the professional bodies and it may well be that the system is being revised so that the more trivial reports are no longer made in the way they were. We were given one example in evidence. What would help us, I think, would be if you could give us, for perhaps the most recent year for which you have got it available, what you do broken down with these 200,000-odd reports into who they get forwarded to, percentage-wise or whatever, whether they go to the police or to the Inland Revenue or to HMRC, or terrorist branches, and then how many of them are, as it were, and I am sure nothing is ever destroyed, merely filed away as being irrelevant. I suppose behind this is one's feeling that there must be the possibility of developing a system so that either some form of *de facto, de minimis* acceptance emerges so that people do not produce unnecessary ones, or indeed that the general rules of proportionality, which is something the EU is increasingly covering in policy matters, could apply.

Mr Thomas: I will explain how the system operates and how full value is extracted from the SARs that come in. You quite rightly said that there have been about 200,000 in the last year and that accrues into a database of some 1.5 million now, I think. The position many years ago, pre-SOCA certainly, was that SARs came in from a wide variety of reporters, and there

are many of them out there with a wide range of business size and business nature reporting a wide range of different activities. These were read by analysts and decisions were made, having made checks with other databases about the potential for action, and then sent out to the appropriate law enforcement agency – a police force, as you say, HMRC, DWP or whoever it may be, and many FIUs around the world operate on that basis and that is largely enabled by numbers where it is possible for humans to deal with an in-tray and read each report. The UK has not operated like that for several years and I think as a result of that is much more efficient and effective. All of the SARs which populate the database each day are subject to immediate checks, not just those that come but again all of those in the database because new information may change the nature of an old one; that often happens. Every day during the day and overnight we have a horizontal washing through the database of various checks which relate to subjects, persons, companies, locations, account numbers, those things that are of particular interest to us because there is active investigation or an intelligence interest. We extract those immediately using key word searches, for example, anything relating to terrorism, anything to do with Somali pirates or whatever we happen to be looking at. They are extracted and dealt with appropriately. We also run continuously an extraction of other words that we find helpful, such as “one million”, anything with a high value. At the same time that entire database is made available to over 75 different UK agencies. When I say “made available”, it is now desk-top accessed to investigators from every police force in England and Wales, Scotland, Northern Ireland, all of the national agencies that have prosecution powers – HMRC, DWP, the Serious Fraud Office, together with other agencies such as trading standards, and some county councils. That means that whilst the FIU and SOCA are busy extracting maximum value on the more strategic serious related issues, every day there are over 1,500 trained and authorised users across the country who as their core business are examining SARs that relate to their own public duty. For example, Avon and

Somerset Police will look primarily at all of those SARs in the database that relate to Avon and Somerset postcodes or persons of interest to them, and this is happening with every agency, so there is a proliferation of activity, which we have clearly encouraged, and we are pushing that out still further. We therefore are coming rapidly to the conclusion that there are few SARs with no value because of the diversity of interest. You will see in the back of that report¹ a range of agencies that use the database. It includes, for example, the Department for Business, Enterprise & Regulatory Reform, so when we hear of some SARs that on the face of it may seem trivial to reporters in terms of good business governance, I believe there is a value in that information and that value is drawn from it at strategic level to inform policy, that value is drawn from it to direct resources, particularly amongst law enforcement, it reveals hotspots of activity geographically, and it enables continuous use. We have found that a single SAR, and I hope you find this helpful, is often used several times by several different users for different purposes because the information within it informs HMRC about taxation, it may inform local police about fraud or theft, it may inform a government department about another issue or a weakness in a financial product or whatever it might be. SARs have multiple uses and they very rarely become time redundant. We are seeing usage of SARs become relevant many years after the date they were lodged, and I am very encouraged by that. There is no concept of an in-tray, “Is this actionable or is it not?”, “How many are in the non-actionable box?”. It does not work like that, I am pleased to say. Statistically, measuring all of that activity is almost by design difficult. It is the price to pay for such proliferation of use and I would not necessarily be keen on introducing new processes to track all of that activity because it may serve as a disincentive to action. We are in a good place. We cannot answer all the questions but we are getting closer to understanding the value of the regime.

¹ The SARs Annual Report 2008

Mr Webb: If I could just take an analogy from another area I am responsible for, the more these reports become mainstream the more difficult it is to say precisely what results come from any individual report because it would be one of a whole range of investigative tools used. CCTV is another thing I am responsible for and it is used in so many police investigations now that I would not like to answer how many convictions have been achieved as a result of CCTV; it is very difficult to say. CCTV will be looked at in hundreds of thousands of investigations and will play a varying role, sometimes peripheral, sometimes absolutely crucial, and there will be a huge burden on the police to ask in every case, “What was the key bit of evidence in this case?”. It is important but the more mainstream it gets the harder it will be to give you good answers on that sort of subject.

Q194 Lord Hannay of Chiswick: Regulation EC 1889/2005 on controls of cash entering or leaving the Community envisages that relevant information will be made available to national FIUs and may in appropriate instances be shared with similar bodies in other Member States and third countries. How has this worked in practice to date and has it been of value to the UK’s FIU? Perhaps I could ask you to take into account a continuing theme of our inquiry, which is: is the playing field level? Are all Member States operating these controls in a reasonably harmonised and serious way? Secondly, if the answer to that is no, does that put the UK at a disadvantage in being reasonably rigorous itself or, as some of our witnesses have suggested, does it, because of the very great importance to the UK of its own financial sector, mean that we need to be rigorous however good or bad the level of co-operation elsewhere in the EU is? If you could cover those questions it would be very helpful.

Mr Thomas: In terms of the decision relating to cash declarations collected at the border and being provided to national FIUs, HMRC do provide cash declaration data to the UKFIU and we value that. I will expand on that shortly. I just want to add that the context of that is that we do more than compare cash declarations with the FIU material. We have a very good

relationship with the UK Border Agency and HMRC and examine closely all cash cross-border movements. All cash seizures we debrief and get intelligence from those. SOCA and HMRC issue intelligence assessments to our partners nationally and internationally, so we do share our findings and our judgments at strategic and tactical level with international partners. Turning to the data around the cash declarations, we have received during the period June 2007 to March 2008 2,076 declarations from 1,904 travellers. This was the first tranche of data from HMRC. We compared that with the full SARs database and found that we had 812 accurate matches on travellers, so those that have made cash declarations have also been the subject of SARs. In fact, 971 travellers have been the subject of SARs and 23 per cent of those appear in more than one SAR, which is the cumulative intelligence value. What does that mean? It is still subject to much analysis but I can say that so far 13 individuals have been referred to the Metropolitan Police in relation to suspected terrorist financing, so that alone I think is significant value. Five travellers who made declarations we now know are subject to law enforcement activity in relation to drugs, corruption, fraud and other matters, and there have been several international ones, including those relating to suspected corrupt politically exposed persons, and we are sharing that information with our EU and non-EU partners. That is now an embedded process whereby HMRC, the UK Border Agency and SOCA share and circulate that intelligence. Is that happening equally and at equal pace throughout the EU? I do not know accurately but I feel confident enough to say I do not think so. It is much like other parts of cross-EU controls: things move at different paces.

Mr Webb: But we are not imposing any more burdens on the actual travellers at the frontiers than anyone else is doing. It is just that we may be doing more with it when we get the declarations in.

Q195 Lord Richard: In its report of December 2007 on the implementation of the Council Decision on co-operation between the FIUs the Commission identified some difficulties in the

implementation of Article 4(2). They said that “many administrative FIUs cannot exchange police information or can provide such information only after a long delay”. What has been the experience on that? What steps have we taken to try and address the issue? Thirdly, is there a need for the Council Decision to be amended and, if there is, how would we amend it?

Mr Thomas: I recognise that description. Just looking wider than the EU for the moment, I talked about 108 FIUs across the world. They are all structured and formatted in different ways, split between what is described as “administrative”, which may be based within a central bank, for example, or within law enforcement or within a prosecutor’s office, a judicial FIU, or be a hybrid of all of those things. Within the EU it is reasonably well split between administrative and law enforcement based. I think there are 11 administrative, 11 law enforcement, one judicial and two hybrids. The UK’s experience is that we understand the limitations of administrative FIUs in obtaining and sharing law enforcement information. The UK is fortunate in that the UKFIU is within SOCA, our law enforcement agency, and therefore we have very close links with all law enforcement agencies across the world, particularly in Europe. We are the Europol UK office. We have European law enforcement officers in London and we have officers throughout the EU, so the practical implication of this difficulty is that we obtain the information we need through another means with some minor inconvenience but it is effective for the UK.

Q196 Lord Richard: It is a European solution?

Mr Thomas: Yes. The service that the UK provides to administrative FIUs is that we share with them all our enforcement information, so they get an enhanced service. In the light of that would I or SOCA think that there is a requirement to change the Council Decision, which would require substantial legislative and structural changes? I think not. For the UK it works, as much as it can.

Q197 Lord Hodgson of Astley Abbotts: Paragraph 8 of the Treasury notes talk about the establishment of SOCA's liaison officers which includes five liaison officers who engage with host country FIUs to develop financial intelligence. Could you give us some background to this? Are they of any value, where are they, are we going to add more, and what is the cost of them?

Mr Thomas: The development of financial SOCA liaison officers is reasonably recent, within the last 12-18 months, and it augments an extensive SOCA liaison network around the world. The purpose and role of these financial liaison officers is quite broad relating to criminal finances. It is to improve intelligence flows. They are there to improve operational activity between those countries and countries in the region that they also cover, and SOCA and UK law enforcement. They also operate on policy matters such as sharing agreements and a whole range of things to improve the UK's reach into criminal finances overseas. They operate in North America, South America, Europe and the Middle East. How effective are they? They are effective in a whole range of things. One measure, although it is not a description of their total effectiveness, is that between April 2008 and January 2009, ten months, they were responsible for denying to criminals overseas £79 million worth of assets. These are assets held overseas in the possession or control of overseas criminal groups who have active links with UK crime. This is not money that is counted in the UK statistics about assets recovered but is impact in taking money out of crime groups that facilitates crimes in the UK. We are very content with that activity so far and the other activity in terms of relationship building and intelligence gathering, and we are certainly going to expand our reach in this field. This may be an expansion of specialist financial liaison officers; we are reviewing that, or it may be expanding the role of the existing network of liaison officers to include this work, but certainly we are increasing our efforts. The cost I do not have to hand.

Officers overseas are expensive. I hope I have outlined some of the value they bring back. We see it as very cost effective. I can provide that.

Q198 Chairman: You referred to criminals and criminal groups. How do you define those?

Mr Thomas: Criminal groups are those criminals who are known by us and the host country where they are operating to be engaged in serious crime such as significant drug trafficking, human trafficking and the like, that impact directly on the UK.

Q199 Chairman: When you say “known”, do you really mean “suspect”?

Mr Thomas: I mean “suspect”, occasionally proved in prosecutions overseas.

Q200 Chairman: So those people you are pleased to describe as criminals or criminal groups are just suspected of being involved in crime?

Mr Thomas: Thank you. That is my terminology. “Suspected criminals”.

Q201 Lord Hannay of Chiswick: In what manner and to what extent does the FIU.NET system, hosted within the Ministry of Justice in The Netherlands, reinforce operational co-operation within the EU? What further developments in your view at UKFIU are required for FIU.NET to achieve its full potential?

Mr Thomas: FIU.NET is an IT network to allow EU FIUs to exchange information. There is a parallel network in the Egmont Secure Web that links all FIUs, including the EU, so FIU.NET is, as you know, an EU initiative to link EU-only FIUs. I have to say that my assessment of that is that it is still a rudimentary tool. I know that some EU FIUs use it to a great extent and are very happy with the service it provides. It does not meet the UK’s requirements. It is not sufficiently sophisticated to match the operations and intelligence operations that we run. We are committed to making it work and the UKFIU sits as a member on the board of partners, the strategic group, to ensure that FIU.NET moves forward

in a helpful way. From the UK's perspective we are not extensive users, I have to say. We do not feel ourselves disadvantaged by that because there are other networks open to us to exchange information but we are engaged strategically and in terms of finance in making that work.

Q202 Lord Hannay of Chiswick: Thank you very much. Does this imply that you do not think that there is a straightforward duplication of effort in having FIU.NET and the Egmont net working, as it were, side by side? You do not think that is a complete waste of time? You think that FIU.NET amongst EU members only has a real, useful purpose; the only problem is that at the moment it is not fully effective?

Mr Thomas: That is absolutely it. I do see a real and discrete purpose within the EU.

Q203 Lord Hannay of Chiswick: Could you perhaps explain why that should be when Egmont already exists?

Mr Thomas: Egmont is a system that has evolved over many years and is many things. It is an exchange of information which satisfies at basic standards. It also serves as a posting site, an email exchange. It can be over-cluttered. It is a multi-purpose tool. FIU.NET seeks to deliver, and I think there is a requirement for it to deliver, a sophisticated solely intelligence-sharing network across the EU and for that to lead to direct action. Egmont Secure Web assists that but does not address it.

Q204 Lord Avebury: Is it possible for us to have a note on what the changes would be to FIU.NET to make it fully effective as far as the UK is concerned?

Mr Thomas: Yes.

Q205 Chairman: And at the same time could you tell us whether it is a disadvantage that not all European Union members participate in FIU.NET initiatives?

Mr Thomas: It will be a disadvantage once it is a fully functioning effective tool. I think some Members are holding back to see how FIU.NET develops before they commit to it, but once it continues on the path of development it would be clearly advantageous for all EU Members to be connected to it and use it.

Q206 Chairman: How many do not participate now?

Mr Thomas: I am not sure exactly. I believe it is around six or seven. I would need to verify that in a submission.

Q207 Chairman: You can perhaps let us know at the same time as you reply to Lord Avebury's questions.

Mr Thomas: Yes.

Q208 Lord Dear: Mr Thomas, I am sorry; there is no respite because the next question is for you too. You probably do not know but this Committee as a Sub-Committee recently looked in depth at Europol and that makes us even more interested to know how you think Europol performs in this area.

Mr Thomas: SOCA has a particular position in Europol, being the UK office, of course, in everything that Europol brings to the world of law enforcement, its very structure, its IT capacity and connectivity between countries. Its experts are drawn from different Member States. It also brings that expertise to the world of anti-money laundering and to a lesser extent terrorist financing, but it is valuable in terrorist financing, so there is certainly a role for it to play. The UK contributes to the intelligence submission to Europol's overall picture. We draw from it. We contribute to the thinking about continuous improvement, as we do to many things, particularly around Europol's approach to wider intelligence gathering as well as co-ordinating and driving operational activity, which it does very well. SOCA would like

to see an expansion of its organised crime threat assessments work towards perhaps an EU control strategy expansion and publication of an EU intelligence requirement.

Q209 Lord Dear: Would that be a redefinition of terms or an injection of extra resources?

Mr Thomas: I think it fits within the existing terms. We are not proposing that that would require extra resources. It is very similar to what the UK has done in shifting impetus in order to understand crime more and then make judgments about how best to act as a result of that.

Q210 Lord Dear: Has SOCA already made that sort of suggestion to Europol and not been successful?

Mr Thomas: It is not that we have not been successful. It is part of our dialogue with Europol.

Q211 Lord Dear: But you intend to do it again in the coming year?

Mr Thomas: Oh, absolutely, yes.

Q212 Lord Avebury: Can I ask you about the Hawala system which, as you know, we have touched on with other witnesses, and what particular problems this poses for us in relation to AML/CFT strategy? Could I point you in certain directions? Is not the fact that there is a lack of visibility with transactions an incentive to people who are engaged in criminal activities to use Hawala as opposed to conventional systems? Is it a fact that we receive no SARs in relation to Hawala and other unconventional systems of money transfer, and, if that is so, would that not be a hint to the law enforcement agencies to take a closer look at these systems?

Mr Webb: Shall I give you a general view of the regime and then maybe pass on to SOCA for some specifics? Hawalas are regulated by HMRC because HMRC would regard these all as informal money transmission and they fall to be regulated in the same way as other money

service bureaux. They do have to be registered, therefore, and the directors would have to be subject to passing a fit and proper test and have training procedures in place to comply with the Money Laundering Regulations. There has been quite a lot of activity between SOCA and HMRC on raising awareness among areas where Hawalas and other informal systems are being used a lot, and not just awareness raising. There has been a fair bit of enforcement. There was a major operation that you may have seen in Bradford last year that targeted this area, first raising awareness and then doing some enforcing operations on compliance. I think it is fair to say that there are some problems with the sector, often because they are very embedded in certain ethnic communities, which means getting awareness among them is that much more of a challenge. There can sometimes be language issues with them. Finally, the process that often happens of netting off money between the agent in the UK and the agent abroad means that actual transactions are that much harder to trace through the system. There may not be a particular flow that you can see coming in the door of the UK and out the door on the other side. Finally, the fact that their agents overseas are often unregulated, unknown to the authorities and in some cases potentially questionably legal in some countries again makes that other end of the network that much harder to do. One of the emphases in relation to enforcement operations has been to impress on people the importance of making Suspicious Activity Reports when they have due suspicion. There have been some successes in this area but it is clearly still an area we need to keep a very close eye on. As I say, there are some very obvious vulnerabilities in it.

Mr Thomas: This is not an area that is off the radar of law enforcement and our knowledge of how the system operates and who operates it within the UK is quite well developed. There are SARs received from that sector.

Q213 Lord Avebury: Could you give us an indication of how many?

Mr Thomas: Yes. In the SARs that are submitted the submitter describes himself or herself. Very few come in saying, “I am a Hawala trader”. We have SARs from money service businesses, money transmission agents, those that operate in greengrocers, butchers, newsagents that provide that service. These are caught by the provisions. They do submit some SARs. I do not readily make a differentiation between what might be Hawala and what is a money transmission agent. It is the same service. They do provide SARs, we do find them helpful. The difficulty that we have, as Stephen has mentioned, is finding a representative body that will enable us to push out the messages we want to push out. Our real concern here is that these are business people who are themselves vulnerable to abuse by criminals. Our focus is on suspected criminals abusing them, not so much on the businessmen that provide the service, so our concern is that they are vulnerable and we do find them hard to reach. That is principally because there is not a BBA, there is not a Law Society. There are some associations. The Money Transmitters’ Association is a very close partner of ours. Their members are the larger firms and not the individuals that operate in retail premises, so we have a programme that I entitled “The Hard to Reach Sector”, which includes these people. That demonstrates to you our determination to give them information that will help them protect themselves. We run road shows and conferences in city centres and we invite small and medium sized businesses to them. We recognise that gap and we are reaching out to fill it.

Q214 Lord Avebury: Can I ask you whether you reach out in other languages, and particularly in Urdu, and whether it is your impression that there are hundreds, if not thousands, of these small greengrocers and similar businesses which are operating informal money transfer arrangements without having the faintest idea that they are required to report suspicious activities?

Mr Thomas: We do not yet provide other language information.

Q215 Lord Avebury: Do you not think you ought to?

Mr Thomas: We certainly should be thinking about that, yes, as part of our outreach. How many are there? Certainly hundreds but we really do not know. However, we are determined to reach them because we are determined to help them and inform them, and we are trying a number of channels. The language may be an inhibitor.

Q216 Lord Hannay of Chiswick: Do you have any evidence that terrorists or people you suspect of being terrorists perceive this as being a weakness in the system and are trying to capitalise on it, or have you have no evidence of that at all?

Mr Thomas: The information that we have in relation to terrorist financing across the board shows that suspected terrorists and those associated with them use a broad range of services, including by-passing the services and taking cash overseas. There is nothing to indicate a general gravitational pull towards these providers but they are vulnerable.

Q217 Chairman: To wind this session up I have two more questions. The first one harks back to Lord Dear's question about Europol because I cannot resist the temptation, having a former President of Eurojust here. We did refer to Eurojust and its relationship with Europol in our report. I wonder if you feel, now we have got you here, that there is potential for greater contribution by Eurojust in this whole sphere that we have been talking about.

Mr Kennedy: I do. I think there is a huge opportunity. In terms of the types of cases referred to Eurojust in the first five years, each year has always included a majority of fraud and fraud-related cases. The focus seemed to be, perhaps for obvious reasons, on dealing with and encouraging referrals of cases and consequently focusing on helping in terrorist cases, helping in drug trafficking cases and helping in people trafficking cases, but I think there are some real opportunities that need to be seized, not just by Eurojust but by Europol as well. The two should be working much more closely together. During the time I was there the Director of

Europol and I and colleagues in both organisations were trying to develop a much closer practical arrangement so that the information that was being sent to Europol and analysed there, as David has said, which needed quite sophisticated analysis to capture it almost, was actually bearing fruit and was being shared, not just with those who were contributing to Europol but also with the prosecutorial side and the judicial side, using the European understanding of the expressio!. I think there is a great deal of potential for using both organisations to bring together practitioners dealing with these cases to design good practice, not just to build networks of individuals who know each other but to talk about the problems and identify the problems that exist in practice, because no matter how wide and how detailed the agreements are that are reached internationally between governments, the practical implementation of those agreements often leaves a lot to be desired, for a whole variety of reasons, and the more we can get police superintendents working with instructing judges, forgetting the professional barriers that exist, the better that is for effective investigations and ultimately prosecutions.

Q218 Chairman: I am most obliged. Could you tell us about what data protection safeguards apply to the information which you process further to the Suspicious Activity Reports and what is the retention period for those things in SOCA?

Mr Thomas: Let me deal with the safeguards first. It was a key concern of the regulated sector about the appropriate use of the SARs that they submitted to us confidentially. The SARs review produced by Sir Stephen Lander at the outset of SOCA undertook to address the data protection and safeguarding that material. We have a number of safeguards in place which I am very happy to run through. The outcome of those safeguards in place is that the regulated sector members of the SARs Regime Committee, the key stakeholders, have said in the Annual Report that any previous concerns of vulnerability in terms of the appropriate use of their data have now diminished. They are satisfied with the measures that SOCA and our

partners have in place. That relates to securing the data on a secure database with only authorised password user access, et cetera. There is a Home Office circular that dictates the use of this data and protects the confidentiality of it and the identity of those that make it. The effectiveness of that circular, as well as making clear the data handling provisions, is that it is a disciplinary offence to mishandle such data, so all of the users in law enforcement and other agencies take this very seriously and have their own internal mechanisms to protect and safeguard the data and the reporting sectors are content with that. With regard to the retention period, there is a ten-year review period. We have deleted SARs from the accruing database. In practice what that means now is that we link new incoming SARs to any existing SAR. It might be linked to the person and address and account number, it might be any linkage to an earlier SAR, and the most recent SAR becomes the relevant data for review because there is clearly value in that existing material. We have also looked at the criteria which include where there has been a recent law enforcement inquiry or added intelligence from law enforcement that links to a previous SAR. The nucleus of information becomes the relevant data. In summary, despite the prolific use across the country by all these agencies, the material is safe and proven to be safe. Just as a check on that, SOCA has opened up a confidentiality hotline to check on ourselves. It is a public line that is available to any reporter to ring in to an external agency to report any inappropriate use, any breach of confidentiality, real or perceived. SOCA undertakes to investigate that and report it publicly in the interests of transparency, and where there are any systematic failings in any agency we undertake to put that right together with Her Majesty's Inspectorate of Constabulary. So far, in the first year of operation, there have been six reported breaches. Last year there were two reported breaches, leading to the added confidence of reporters. I hope that is helpful.

Q219 Lord Avebury: If we connect this with what you were saying earlier about the increasing rights of access to the SARs database by organisations such as local authorities, do

you obtain the approval of the Information Commissioner every time there is a new class of persons granted access?

Mr Thomas: The class remains the same. It is those that have prosecution powers under the Proceeds of Crime Act. There are some peculiarities within some councils which have prosecution powers. If we were to broaden the classes then yes, most certainly, but it is still within the same classification.

Q220 Lord Marlesford: Do you have a linkage between your database and the Criminal Record Bureau?

Mr Thomas: There is no automated linkage but there are cross-checks being made, so we are in conversation with them and we hope we are doing the right thing but there is no automated linkage.

Chairman: Thank you. I think that brings the session to a close. I want to express the Committee's warmest thanks. You have been extremely interesting and extremely patient with us, if I may say so, and we hugely appreciate the information you have shared with us. With those thanks I close this meeting of the Committee.