

Independent review of disclosure and fraud offences

Terms of Reference

Context

There has not been an independent review of fraud since 1986¹. Since that time, the nature and scale of fraud has evolved considerably, now constituting over 40% of all offences in England and Wales². As the proportion of online-enabled fraud has increased, so have the challenges facing investigators and prosecutors.

One significant challenge is the already large and continually increasing volume of digital material that fraud and other complex crime cases generate. As a result, significant time and resource is required to undertake an investigation and bring a prosecution to court.

The government published the Fraud Strategy³ in May 2023. The Strategy committed to launch an independent review into how the disclosure regime is working in a digital age and if fraud offences, which fall under the provisions of the Fraud Act 2006, meet the challenges of modern fraud.

Scope

The Review will investigate the application of the disclosure regime and the challenges arising for the investigation of all crime types, including fraud, that handle large volumes of digital material.

The Review will explore barriers to the investigation, pursuit, and prosecution of fraud offences in England, Wales and Northern Ireland. The Review will evaluate the nature of current penalties contained within the act and explore the role of civil powers to tackle fraud.

Key Objectives

Due to the broad nature of the Review, it will report in two parts:

1. **Part 1: Disclosure Regime.** The Review will assess the operation of the criminal disclosure regime, as set out in the Criminal Procedure and Investigations Act 1996. There will be a focus on disclosure application for crime types with a large volume of digital material. The Review will also assess the Attorney General's Guidelines on Disclosure and consider legislative and non-legislative modifications that could improve the regime.
2. **Part 2: Fraud Offences.** The Review will assess whether the nature of current fraud offences meet the challenges of modern fraud, including whether penalties fit the crime. The Review will explore if certain fraud offences should be summary only rather than triable either way. This phase will also consider making it easier for individuals to inform on associates in criminal fraud networks and investigate the scope of existing civil powers, and whether they go far enough, to tackle fraud, including exploring a fraud-specific order.

¹ The Roskill Report on Fraud Trials, 1986

² 1 As of the year ending December 2022. Crime in England and Wales: [Appendix tables - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/statistics/crime-in-england-and-wales): Table A1.

³ [Fraud Strategy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/fraud-strategy) p.21-25

Process

As the department responsible for tackling fraud against individuals and businesses, the Home Office will provide the Review secretariat, with policy support from the Attorney General's Office and the Ministry of Justice.

Outputs

The Review chair will report their findings and recommendations, which the government will respond to in the usual way. As the Review will be split into two parts, we would expect reporting on each part of the review separately.

Timing

The Review will report on each part in accordance with the following deadlines:

- Part 1: Disclosure Recommendations – Summer 2024
- Part 2: Fraud Offences Recommendations– Spring 2025