SERIOUS CRIME BILL 2007

# Going public with fraud data

David Bowden

As chart 1 shows, 2006 was another bumper year for fraud. Figures from CIFAS show that recorded fraud was up by 12.6 per cent in the calendar year 2006 compared with 2005.

There is, however, one big omission from these figures. CIFAS only records data provided to it from its subscriber members who are banks, insurance companies and finance houses.

What about all the data held by the public sector? Wouldn't it be useful to know that an address given on an application for finance for a new car had been suspected of being used for multiple fraudulent benefit claims?

This may all be set to change if the Serious Crime Bill 2007 manages to pass through parliament.

## Key provisions

The part of the Bill of most interest to motor financiers is Part 3 Chapter 1 (Sections 61-64): "Prevention of Fraud: Sharing Information with Anti-Fraud Organisations".

Clause 61 will enable a public authority to disclose information as a member of a specified anti-fraud organisation for the purpose of preventing fraud. Clause 64 attempts to permit the disclosure of "sensitive personal data" to an anti-fraud organisation without the data subject's consent.

The Green Paper which preceded the Bill seems to contemplate that the Home Office is already convinced that only CIFAS can be an "anti-fraud organisation". The explanatory note prepared to accompany the Bill is also silent as to who can be an anti-fraud organisation. Clause 61 of Serious Crime Bill refers only in general terms to "specified anti-fraud organisations".

An amendment which may come back at report would mandate a statutory code of practice for anti-fraud organisations to follow.

The proposed statutory code will in effect place the rules of CIFAS on a statutory footing. If this happens, then CIFAS will no longer be run by its members for its members' benefit. CIFAS will also lose some flexibility as updating or amending its rules will then need parliamentary approval.

## Information Commissioner's view

The Information Commissioner's Office (ICO) has put its position to the Home Office. ICO stresses that it would be wrong to believe that more sharing of information necessarily leads to greater prevention or detection of fraud. ICO says that CIFAS must improve its systems as the Credit Reference Agencies have done — so that data are recorded against individuals' identities rather than against addresses. ICO wants CIFAS to have a formal disassociation mechanism in place that now exists at the CRAs so that individuals at the same address can disassociate themselves from a "black sheep" in a family unit.

ICO says that if public sector data are going to be shared with CIFAS, the data subject must be told and given the opportunity to correct incorrect data. ICO says that if individuals know that CIFAS checks will be carried out, then this of itself should or could have a deterrent effect on fraud. ICO says CIFAS must have proper and robust complaint mechanisms in place, that it should not be assumed that data from different sources are of good enough quality to be combined, and that if not, the data should not be shared.

## Data quality questions

As to data quality, it is unclear what the position is within the public sector. The Home Office papers fail to address this important practical issue. There will be a lot of work required within the public sector to ensure that the data they capture are of the required quality and matches the existing data fields already in existence at CIFAS.There will be systems work needed to ensure that data fields in public sector IT systems match those at CIFAS and to ensure there is interface capability. As some public sector departments are running old mainframe computer systems — the scope for some of this maybe limited. Laying this Bill is the easy part — but without the IT architecture to support it, the proposed new CIFAS system for the public sector will not work.

ICO will require some human supervision and intervention to ensure that fraud data registered with CIFAS are accurate and that data matches are authentic. The Bill makes no provision for how this is to happen. More importantly, it allocates no resource for this. A public sector organisation uploading fraud data to CIFAS will remain the data controller. It will therefore remain responsible for dealing with data subject access requests and resolving complaints. What will happen when someone is turned down for hire purchase on a car at a dealer's showroom because they filled in their tax return incorrectly last year? Will we see an increased risk of reprisals to motor dealers, their staff, stock and premises? Only time will tell.

One way around this would be to mark public sector and financial sector fraud data differently with CIFAS. Car dealers will have to gear up to deal with public sector complaints if only to recognise them as such and to direct complaints to the correct data controller.

For those building scorecards for financial services companies, they will need to decide whether public sector CIFAS flags should be given exactly the same weight as those from financial services CIFAS members. This is likely to need some careful fine tuning in the light of experience.

The novel scenario will be where there are public sector CIFAS data only. This will prove the most challenging — it may be that the fraud is trivial or a long time ago or there is doubt about a genuine data match. Initially, this is going to require close monitoring of actual cases before it will be possible to come to reliable automated decision making on these cases.

We will return again to this subject later in the year when the Bill is close to concluding its stages in the House of Commons.

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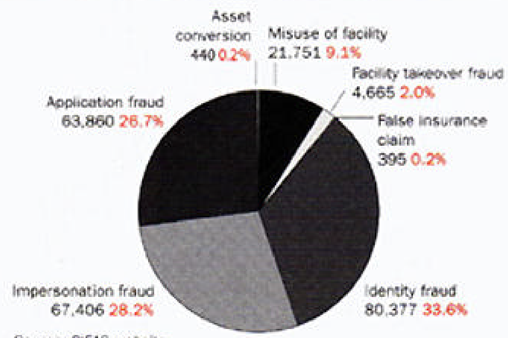
**CHART 1: CIFAS RECORDED FRAUD DATA 2006**




Source: CIFAS website