

Fraud sentencing: a systematic literature review

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1 Literature Review Summary

The purpose of this review was to consider sentencing purposes and practices relating to fraud in Scotland. It addresses twelve deliverables split into three themes – fraud sentencing processes, fraud perpetrators, and fraud victims. The review considers available statistical data on fraud sentencing, existing literature of fraud perpetrator typologies, and existing research on fraud victim typologies. Within these areas, the review also discusses the characteristics of fraud offence type, perpetrator, victim, and their relationship to sentencing decisions. It was not the intention of this review to provide a detailed account of the current law relating to fraud in Scotland.

It is important to note here, that fraud sentencing is relatively neglected in academic research. The focus of this review is recent research from the UK but acknowledges the breadth of information published in North America and Australia, among other countries. There is much that can be learnt from this literature given the increasingly global nature of fraud. Nevertheless, it is important to bear in mind that the characteristics of fraud in other jurisdictions should not be applied directly to UK as a whole nor Scotland individually, due to differing criminal justice systems and criminal justice perspectives. Research from countries outside of the U.K. can still be used however as a point of reference, and to highlight the need for a harmonised approach where fraud offences are inter-jurisdictional, for example those committed online.

2 Legal Framework for fraud offences in Scotland

Unlike England and Wales, Scotland does not have a Fraud Act. Fraud, as defined by Stocker and Keen (2022), is a common law offence committed when someone achieves a result under a false pretence. Proving an intention to deceive is essential in all cases. In Scotland, fraud is mainly dealt with under common law. Common law fraud is the common ‘catch all’ for fraud prosecutions in Scotland (Fraud Advisory Panel, 2020). Fraud can however also be prosecuted under civil law as a delict to allow for recovery of loss (ibid). A victim of fraud, whether that be an individual or a business, can choose to seek compensation and recover their assets by suing the fraudulent party under civil law. These courts differ to criminal courts in that they offer speed, control, and ‘*a real focus on obtaining redress for the victim*’ (Fraud Advisory Panel, 2012; 3). Very powerful civil remedies include without-notice freezing orders, search and disclosure orders, and damages (ibid). There is no jury present in court, nor is a criminal conviction granted (ibid). Although there are positives to using civil courts, the largest barrier to this route is the cost; in civil proceedings, victims must often meet their own legal fees and investigation costs (ibid). Nevertheless, it is important that victims are made aware of what options exist when getting their money back from fraudsters.

In Scotland, the sole prosecuting authority for fraud is the Crown Office and Procurator Fiscal Service (COPFS). Most prosecutions are dealt with by the local Prosecutor Fiscal; it is their duty to consider the presented evidence before then making further enquiries where necessary (Fraud Advisory Panel, 2020). This decision is made in the public interest, and where enough evidence supports a case, the Prosecutor Fiscal will decide whether criminal proceedings should take place (COPFS, 2022). Any crimes considered serious enough are passed onto the Economic Crime Unit – the primary investigators and prosecutors of serious fraud and economic crimes. Cases of fraud, depending on the severity, are heard by a Sheriff, a Sheriff and jury, or in the High Court, with less serious fraud offences being heard by a Sheriff alone (ibid).

The concept of seriousness is made up of two dimensions – harm and culpability. Particularly in cases of fraud, defining the concept of ‘harm’ has documented

complexities; this is elaborated upon in more detail further into this section. Defining culpability is a more straightforward task. It is determined by weighing up the factors of a case to conclude the offender's role and the extent to which the offending was planned (Sentencing Council, 2014).

The symbolic power of criminal prosecution is often called upon to preserve public confidence and increase deterrence (Eisenberg, 2017). A criminal conviction, and the subsequent negative publicity that follows, can be disastrous for the accused and can thus have a higher dissuasive effect (Hansen, 2009). This is of particular relevance when sentencing corporate financial and white-collar frauds because of the reputational damage caused (Johnson et al., 2014). Mitigating and aggravating factors influence sentencing decisions. It cannot be denied that in cases of fraud, monetary loss and financial impact are key considerations. Understandably for many fraud victims, it is extremely important that they are able to recover their losses. However, not all fraud cases result in a prosecution, and not all fraud cases with successful prosecutions then lead to compensation (Fraud Advisory Panel, 2013). Methods of civil redress used as an alternative to or in combination with criminal proceedings, may therefore be more beneficial to the victim, as discussed later.

3 Defining Fraud

'The police tend to focus on violent crime and other crimes that you can see and you can observe. But fraud is killing people and costs the country billions of pounds every year. I think the time has come for policymakers to make a decision.'

(Her Majesty's Chief Inspector of Constabulary, Sir Tom Winsor, calling for greater recognition of fraud in England and Wales, 10th March 2022)

Fraud covers a broad range of activities that involve the use of misrepresentation to secure an advantage, or to cause disadvantage to others. Fraud is described as a 'gigantic' area of crime for industrialized countries, causing significant monetary loss to a wide range of victim types, including individuals, and organisations such as retailers (Button and Cross, 2017:3). Opportunities for fraud have grown with recent advances in mobile and internet technology, creating a 'growing and common problem that touches us all regularly' (Button and Cross, 2017:14). Police Scotland (2021) recognise that so-called cyber-fraud, is the most common and changing type of financial crime affecting Scotland. Loveday (2017:101) also claims that in England and Wales, 'fraud and cybercrime now constitute the greatest threat confronting the police service'. Loveday acknowledges the competing and evolving demands made on the police for all crime types but suggests that the police need to step up in responding to fraud and cybercrime, now a serious threat to public wellbeing.

In the broadest sense, fraud can encompass any crime for gain that uses deception as its primary technique. Bossler et al. (2020:3) define fraud as the 'criminal acquisition of money or property from victims through the use of deception or cheating'. Action Fraud, the UK's national reporting centre for fraud and cybercrime (see www.ActionFraud.police.uk), describes fraud as 'when trickery is used to gain a dishonest advantage, which is often financial, over another person'. *The Fraud Act 2006* (Crown Prosecution Service, 2019) sections 2-6 refers to the following categorizations: fraud by false representation; fraud by failing to disclose information and fraud by abuse of position (see Ismail et al., 2021). This covers financial and occupational fraud including misuse of documentation, and asset misappropriation. *The Fraud Act 2006* however, does not apply to Scotland. Instead, fraud prosecution

in Scotland relies on case law, that is law declared by judges and derived from custom and precedent.

Within the broad categorisations of fraud are multiple different offence types. It is not within the scope nor intention of this report to provide detail on each of these. For reference, we have adapted work from Levi (2008:392) in a table below to demonstrate how vast and varied fraud is.

| Victim Sector | Victim sub-sector | Examples of fraud |
|---------------|---|--|
| Private | Financial Services Non-financial service | Embezzlement Insurance fraud Cheque fraud Payment card fraud |
| | Individuals | Charity fraud Pension-type fraud Counterfeit money Investment fraud |
| Public | National bodies | Benefit fraud Tax fraud |
| | Local bodies | Embezzlement |
| | International | EU funds fraud |

Table 1 – Fraud victim typologies adapted from Levi (2009:392)

The following section covers a sub-set of fraud offences in greater detail. Current empirical research on fraud sentencing in Scotland and the U.K. focused on the areas of cyber-fraud, benefit fraud, white-collar fraud, and romance fraud. These are not the only types of fraud that exist, as highlighted above, however they appear to be the most commonly researched areas of fraud.

3.1 Types of Fraud

3.1.1 Cyber-fraud

The increasing use of the internet including online banking and social media has multiplied the ways in which individuals engage in interpersonal communication and financial management, including how they can be exposed to fraud (Bossler et al., 2020). The transition of fraud to online spaces makes it possible to target a massive population of potential victims around the world simultaneously. In this way, online fraud can be understood as a cyber-enabled crime in that technology has made fraud easier through virtual environments. There are many different categorisations of online fraud, though they all involve one common element: a request for money, property, or personal information from a victim (Cross and Kelly, 2016). Cyber-frauds (also referred to as cyber-scams) are any type of fraud that exploits mass communication technologies (e.g., email, Instant Messenger, social networking sites) to trick people out of money (Whitty, 2019). Examples include foreign lotteries and sweepstakes, advance fee fraud, and romance scams.

More detailed definitions are being developed of what constitutes online fraud due to the increase in scholarship in this area. This type of fraud is persistent, complex, and ever-changing, so definitions must be robust and comprehensive. Button and Cross (2017) categorise online fraud into 'cyber-dependent' and 'cyber-enabled':

Cyber-dependent frauds consist of computer hacking to secure personal information or divert money, and computer monitoring including the use of spyware, keystroke logging, and viruses that gather passwords or bank details.

Cyber-enabled frauds include sales of non-existent goods or services, phishing scams that coerce information from people, and credit/debit card fraud.

Reports of cybercrime have increased during the COVID-19 outbreak, with lockdown measures beginning March 2020. Reports were amplified during April and May of 2020, the months with the strictest lockdown policies and measures (Buil-Gil et al., 2021). The increase was most evident in the number of frauds associated with online shopping and auctions, as well as the hacking of social media and email, the two

most common cybercrime categories in the UK (Buil-Gil et al., 2021). This increase in cyber-dependent fraud has mainly been experienced by individuals rather than organisations; these organisations include private companies, public limited companies, and charities (Buil-Gil et al., 2021).

3.1.2 Benefit fraud

Benefit fraud can be defined as the act of obtaining a state benefit that a person is not entitled to (Action Fraud, 2022). Within this simplistic definition, there are many different acts that are considered to be benefit fraud:

- Giving false information about the claim, such as not declaring earnings
- Failing to disclose changes in circumstances
- Non-disclosure of property, capital or income
- Non-disclosure of partner
- Non-declaration of non-dependants or sub-tenants
- False claims by homeowners
- Using a false address or failing to declare a change of address
- Landlord fraud such as claiming fictitious tenancies.

Providing false information and failing to disclose changes are the most prevalent types of benefit fraud (Minkes and Minkes, 2010).

3.1.3 White-collar fraud

White-collar crime is financial crime committed by individuals in privileged positions in business and public organisations. It is described as ‘a crime-as-choice theory, where individuals make the choice of crime when they perceive crime as more convenient than alternative actions.’ (Dearden and Gottschalk, 2021:1486). White-collar crime can be categorised into the following (adapted from Salsabila et al, 2022):

- Corporate crimes, such as misleading advertising, tax evasion, environmental pollution by factories

- Crimes committed by company employees, such as embezzlement of money, theft by employees
- Crimes committed by government employees, such as police brutality, accepting bribes, embezzlement of money, embezzlement of state money.

Perpetrators of white-collar crime tend to have a relatively high level of education, and they work by taking advantage of their networks. The impact of this crime has been particularly significant in the context of the pandemic globally (Salsabila et al, 2022).

3.1.4 Romance fraud

Romance fraud has been described as ‘instances where a person is defrauded by an offender(s) through what the victim perceives to be a genuine relationship’ (Cross et al, 2018:1304). Whitty (2013) claims that the offence involves both identify theft and mass marketing fraud, as the fraudster creates online dating profiles using stolen photographs and contacts numerous victims on mass. The fraudster is said to carefully manipulate their victim, balancing their communications with them by moving between romance and financial elicitation to keep their fraudulent intentions hidden (Carter, 2020). Carter describes their interactions with victims as a form of online grooming and the process they employ a ‘linguistic balancing act’ which involves maintaining a romantic façade to conceal the long-term goal of extorting money (2020:283). The overwhelming majority of offences are initiated online through dating apps, social media, and direct email, with offenders often using more than one approach (Cross et al, 2018). This type of fraud relies on the offender being able to establish and build a credible relationship with the victim, as seen in other types of fraud such as investment fraud. Social isolation during the COVID-19 pandemic has seen an increase in this type of fraud, also relating to the increase in victimisation of older people (Cross, 2021).

4 Methodology

To review data regarding the twelve deliverables (see 5.1 below), initial systematic review design was guided by three well established frameworks; Cochrane (2022), The Campbell Collaboration (2022) and PRISMA (2020). Considered the gold standard in systematic reviews, Cochrane provides a reputable structure to evaluate data with the goal of promoting evidence informed decisions. The Campbell collaboration has a research inventory that covers a broad range of evidence-based reviews that include crime and justice, education, and social welfare. PRISMA is the Preferred Reporting Items for Systematic Reviews and Meta-Analyses, which provides a 27-item checklist to follow in reviews, using the Cochrane structure to underpin the requirements.

4.1 Deliverables

- Existing academic work on the principles and purposes of the sentencing of fraud (including benefit fraud) offences.
- Existing literature on the practice of sentencing fraud (including benefit fraud) cases.
- Existing research on effective approaches in the sentencing of fraud (including benefit fraud) cases, including exploration of what this means with regards to outcomes (e.g., desistence or public protection).
- Public perceptions of fraud (including benefit fraud).
- Any work analysing the impact of sentencing guidelines in other jurisdictions on the sentencing of fraud (including benefit fraud).
- Published statistical data on the sentencing of fraud (including benefit fraud) cases.
- Any work addressing the intersection between gender or minority ethnic backgrounds and sentencing for fraud (including benefit fraud).
- Any work on how the assessment of risk interacts with sentencing for fraud (including benefit fraud) and the indicators of further or more serious offending.
- Any work on disposals such as fines, CPOs or imprisonment.

- Any work looking at the profile of offenders convicted of fraud (including benefit fraud) in contrast to the general offending population.
- Any work exploring the background of offenders with regards to previous convictions or socio-economic status.
- Any work exploring the impact of fraud (including benefit fraud) on victims, and how that should be taken into account when sentencing.

4.2 Search Strategy

Fraud comprises a multitude of offenses across broad areas including financial (bank card, failure to pay, fraudulent selling), cyber (cryptocurrency, lottery, romance), public purse (benefit, revenue, tax evasion) and corporate. To identify relevant literature, broad scope databases were used namely EBSCO, Google Scholar, Westlaw, Open grey, ProQuest Dissertation & Thesis, relevant support agencies, Governmental reports/data and hand searches of literature and journals. Search items used included: *fraud, impact, victim, impact on individuals, reporting (lack of), sentencing, recidivism, cybercrime, hacking, malware, computer misuse, risk factors, scams, susceptibility, white-collar crime, England, Wales, Scotland*. The search modes were Boolean-AND/OR/NOT, with expansions including related words and search within full text. Searches were time limited to 2007-2022 to capture up to date literature.

4.3 Procedural Issues

Evidently, the designation of fraud covers a myriad of criminal behaviour. However, primary searches demonstrated a dearth of literature regarding fraud generally and sentencing specifically (Button and Cross, 2019; Levi, 2009). In part, this may be due to the amount and levels of fraudulent behaviours (Button and Tunley, 2015), lack of clear definitions (Button et al, 2013), low levels of reporting (Correia, 2019) and not being a priority for law enforcement (HMICFRS, 2019). This presented procedural issues for the research team when following the systematic review structure. Therefore, the research proceeded using an adapted process utilising broader search terms without specific inclusion/exclusion criteria to enable greater capture of

applicable literature. Additionally, experts in the field were consulted from the wider Policing and Criminology team within the School of Justice at UCLan.

4.4 Data Extraction

The adapted process identified items appropriate to address the twelve deliverables, which were collated into subgroups and assigned to specific researchers. Subgroups were categorised as; background, statistical data, and policy; characteristics of perpetrators; victims typologies and perception of sentencing. Forming the basis for the chapters included in this report. Similar to systematic reviews, search terms were refined and used across academic databases, grey data, books and reports (Appendix 1). Once completed, experts in the field were consulted to ensure quality of included literature.

5 Processes and practices of sentencing fraud

Very little literature specifically focuses on the sentencing of fraud offences in the U.K. (Button et al., 2013; Levi, 2010). Although this research gap was acknowledged by Button and Levi nearly ten years ago, it remains true of current empirical work relating to sentencing and fraud. This section will therefore use available statistical data in Scotland, and wider empirical work from Europe and Australasia, to contextualise fraud sentencing processes. European and Australasian studies have been referenced to examine similar criminal justice systems to Scotland, England, and Wales.

5.1 Sentencing fraud in Scotland

5.1.1 Fraud statistics in Scotland

Within recorded crime figures in Scotland, fraud is contained in data on 'Crimes of Dishonesty'. In general, crimes of dishonesty accounted for over one third (36%) of all recorded crime in Scotland in 2020-21 (Scottish Government, 2021a). Although theft is the biggest contributor here, fraud is the only offence to exhibit an increase over the past ten years; statistics show an increase of 69% since 2011-12 (See Figure 1). From 2019-20 to 2020-21 alone, recorded crimes of fraud grew by 26%, from 11,939 to 15,031 (ibid).

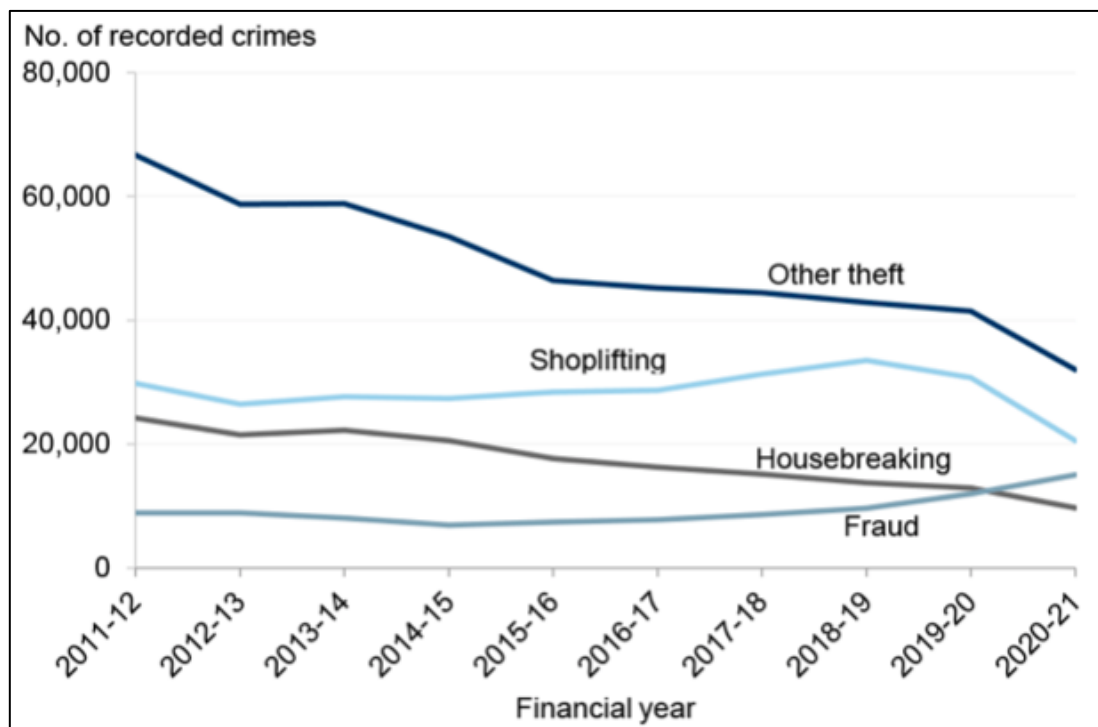


Figure 1 – Crimes of dishonesty (showing the four largest groups) in Scotland, 2011-12 to 2020-21 (Scottish Government, 2021a)

| Crime type | 2018-19 | | 2019-20 | | 2020-21 | |
|-----------------|------------------|-----|------------------|-----|------------------|-----|
| | Estimated volume | % | Estimated volume | % | Estimated volume | % |
| Cyber Fraud | 2,690 | 28% | 3,450 | 29% | 8,580 | 57% |
| Non-cyber Fraud | 6,640 | 72% | 8,480 | 71% | 5,120 | 43% |
| Sample size | 500 | | 318 | | 317 | |

Figure 2– Volumes and proportions of cyber-fraud, 2019-19 to 2020-12 (Scottish Government,

Figures of police recorded cyber-crime in Scotland (2020-2021) provide some context to this most recent increase; it is estimated that 57% of all recorded fraud in 2020-21 was cyber-crime. An estimated 8,580 frauds recorded by the police were cybercrimes, increasing by 149% from the estimated 3,450 recorded in 2019-20 (Scottish Government, 2021a). Looking at the landscape of how fraud is now being committed in Scotland, Figure 2 clearly shows the rapid transition from offline to online methods. Offences were recorded differently at this time and it is estimated

that one-in-six of the increase in cyber-crime frauds was due to this change in counting rules.

The data received from Police Scotland to create the above statistics only includes one criminal code that covers all types of fraud together. As police recorded figures for fraud do not separate this broad category into individual offence types such as benefit fraud, romance fraud etc, it is difficult to assess fraud trends outside of the increase in online perpetration. Without this data, research that looks at the specific typologies of fraud and related sentencing in Scotland therefore is limited.

For the recorded figures in the financial year 2018-19, a study was conducted by the Scottish government into the specific characteristics of fraud cases (Scottish Government, 2019). The justification for this study was not only rising case numbers, but also to evidence decision making in recording sentencing processes. This study, led by Scottish Government statisticians, reviewed a random sample of 500 fraud cases, therefore the percentages given below are a proportional of *all* fraud offences in 2018-19 (ibid). The research examined the methods used to commit fraud offences and found the following:

- A. **Bank card fraud** (estimated 30%) was the most frequently recorded type of Scottish fraud in 2018-19. This offence relates to a victim's bank card being used to make a purchase without their knowledge or consent.
- B. **Failure to pay fraud** (estimated 20%) was the second most frequently recorded type of fraud in Scotland. This offence relates to the refusal to pay for a product or service by the perpetrator; most of these cases relate to the evasion of taxi fares.
- C. **Fraudulent selling** accounted for approximately 12% of fraud cases in Scotland in 2018-19. This generally relates to a purchase being made by the victim, where the perpetrator has no intention of providing the product or service. 55% of these offences were cyber-enabled, that is traditional crimes which can be increased in scale or reach through the use of Information and Communication Technology (ICT) (CPS, 2019).
- D. **Phishing** frauds accounted for approximately 10% of fraud cases in Scotland in 2018-19. In this type of fraud, the perpetrator has obtained sensitive information from the victim, through claiming to be a reputable organisation,

such as a bank. 90% of these cases were cyber-enabled, with the median loss to the victim of £900. This is the highest recorded media of the four types of fraud discussed here.

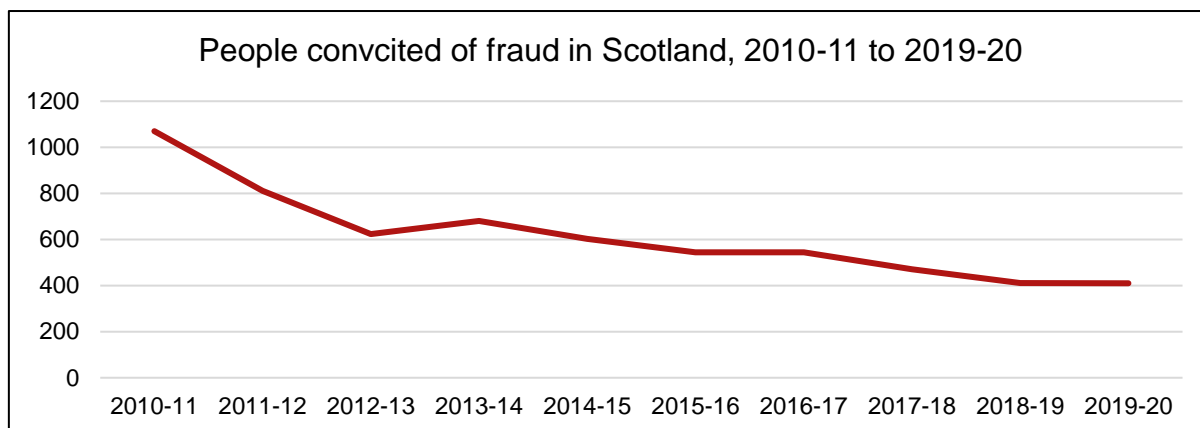


Figure 3– People convicted of fraud in Scotland, 2010-11 to 2019-20 (Scottish Government, 2021b)

5.1.2 Fraud convictions in Scotland

From 2010-11 to 2019-20, there has been an overall decrease in the number of fraud convictions year on year in Scotland, as shown in Figure 3 below (Scottish Government, 2021b). Between 2018-19 and 2019-20 alone, there was a 10% decrease in the number of convictions. Looking at the specific penalties attached to each of these convictions (Figure 4), a range of outcomes in the year 2019-20 were awarded for fraud. Approximately one quarter of those convicted for fraud offences were sentenced to a term in prison, with the second most frequently granted penalty being a community payback order (ibid). Community orders in general limit the liberty of an offender whilst providing punishment in the community, rehabilitation, and/or ensuring that the perpetrator is engaging in reparative activity (Sentencing Council, 2022). In Scotland, community payback orders are the most common form of community justice (Audit Scotland, 2021). They include nine possible requirements, such as undertaking unpaid work, supervision, and namely in the case of fraud, compensation (ibid).

Community sentences have been shown to be more cost effective and more likely to reduce reoffending than prison sentences (Audit Scotland, 2022). This is particularly

true of sentences that are less than a year in length, and therefore especially applicable to fraud sentencing in Scotland. For example, 50% of women and 80% of men convicted of fraud were granted a custodial sentence for less than twelve months in the year 2019-20 in Scotland (see Figures 7 and 8). The Criminal Justice and Licensing (Scotland) Act 2010 also introduced a presumption against sentences of less than three months, and that they are only to be used where no other appropriate disposal is available. Despite this guidance the use of short sentences remains relatively stable; 19.5% of custodial sentences given in 2019-20 for fraud were less than three months (See Figures 7 and 8). As such, there remains little evidence of a shift towards the use of community-based sentences as opposed to a reliance on prison; Scotland’s incarceration rate is amongst the highest in Western Europe (ibid). It should also be noted here that the choice of imprisonment for fraud has remained relatively constant over the last ten years, again reflecting a potential disregard for community-based sentencing.

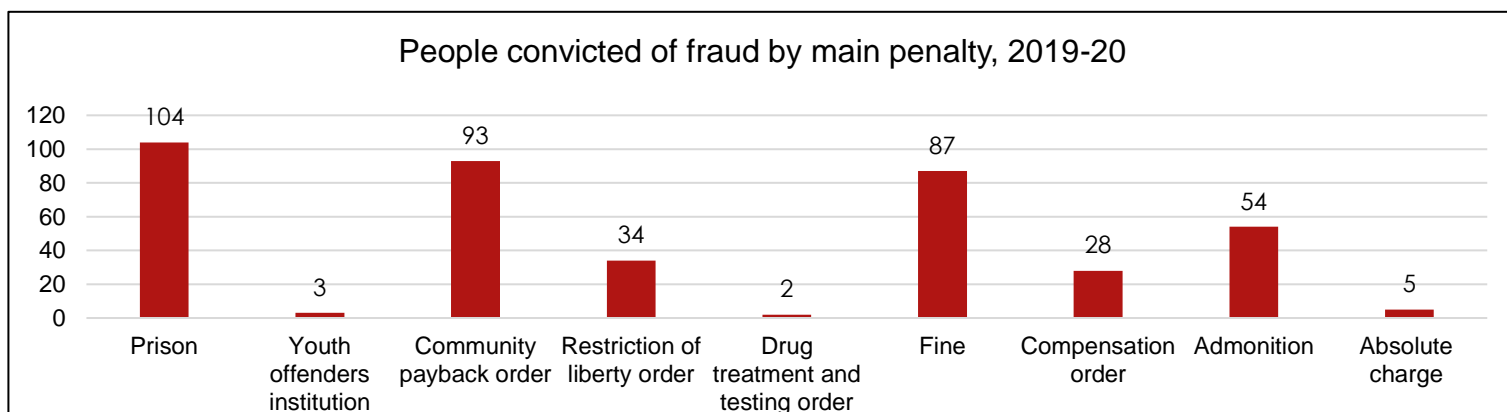


Figure 4– People convicted of fraud in Scotland by main penalty, 2019-20 (Scottish Government, 2021b)

5.1.3 Gender and fraud convictions

In 2019-20, although females accounted for 17% of all convictions in Scotland, they accounted for relatively high proportions of convictions for certain types of offences; fraud was one of these. Females accounted for 34% of fraud convictions in 2019-20 (Scottish Government, 2021b). In relative terms, females were convicted of 138 offences of fraud, compared to males being convicted of 272. Women were generally granted fewer custodial sentences, of which were generally of much shorter length.

They also had a higher likelihood of a community or other sentence being the penalty administered (ibid). A summary of the convictions received separated by sex can be seen in Figures 5-8, and a more detailed account of the role of gender in sentencing decisions is discussed later.

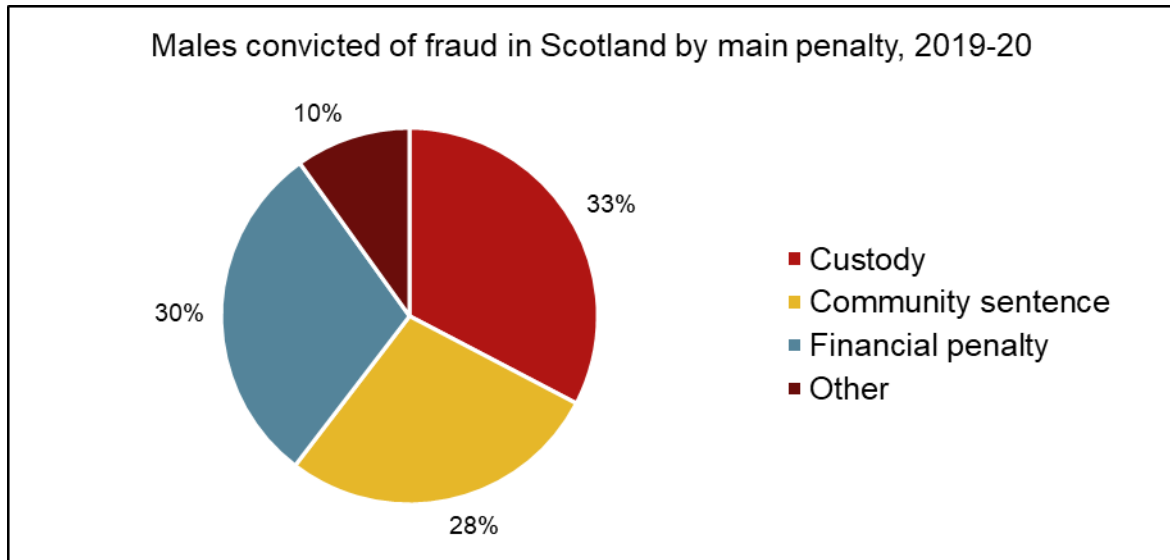


Figure 5– Males convicted of fraud in Scotland by main penalty, 2019-20 (Scottish Government, 2021b)

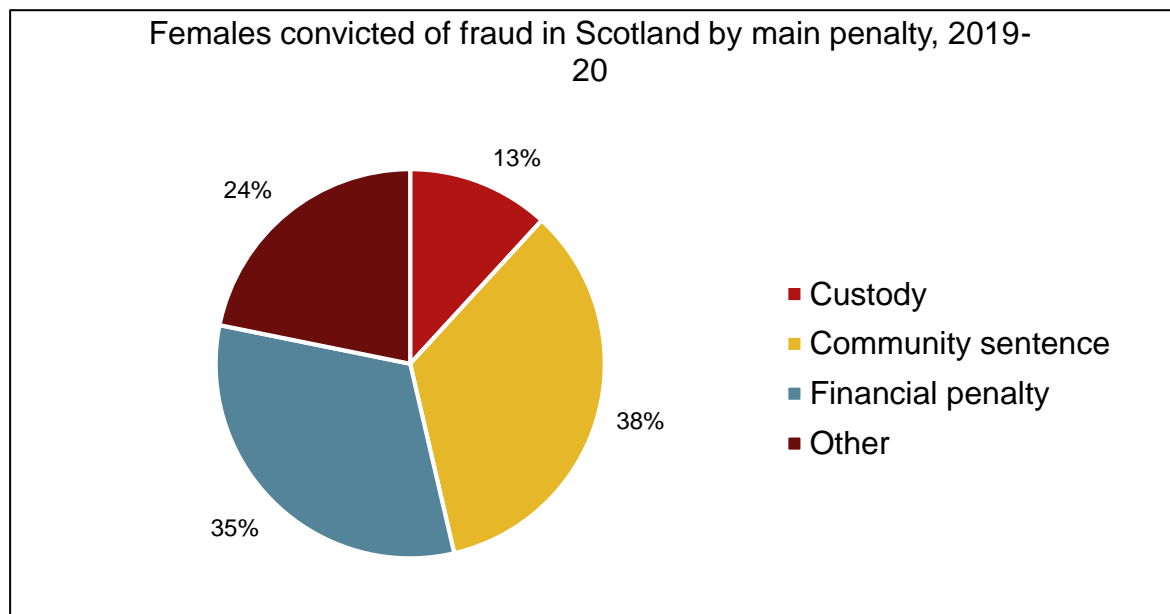


Figure 6–Females convicted of fraud in Scotland by main penalty, 2019-20 (Scottish Government, 2021b)

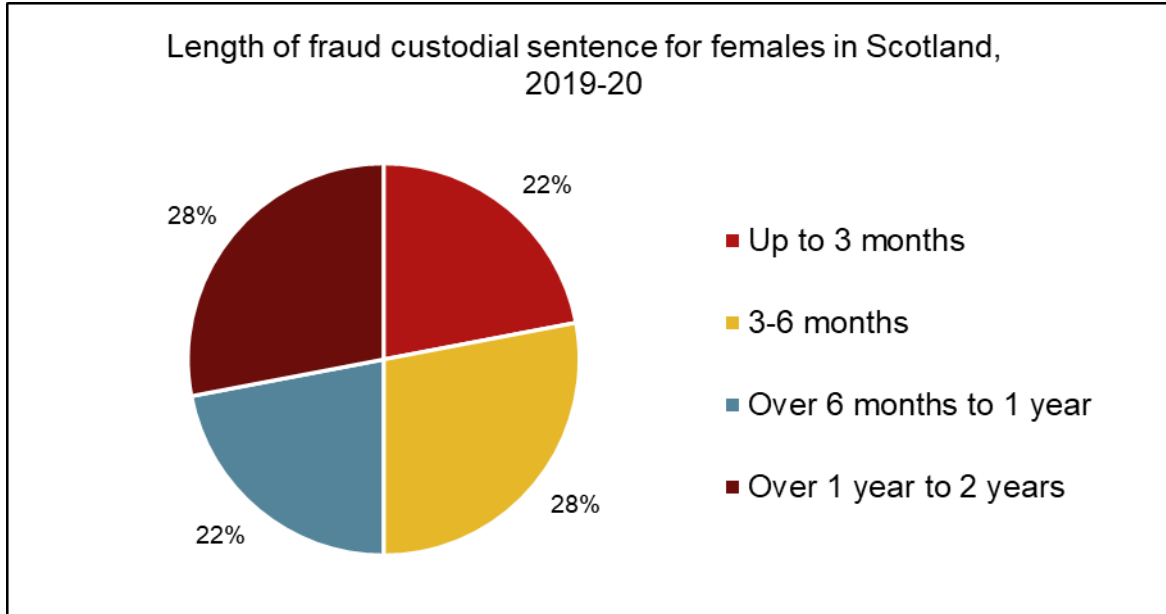


Figure 7—Length of fraud custodial sentences for males in Scotland, 2019-20 (Scottish Government, 2021b)

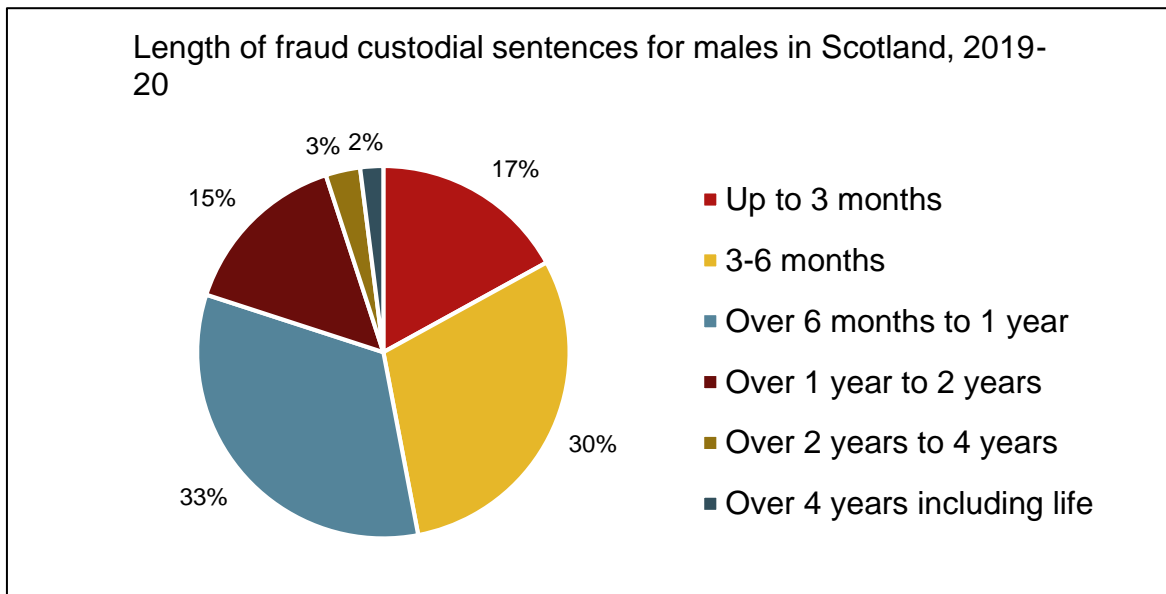


Figure 8—Length of fraud custodial sentences for females in Scotland, 2019-20 (Scottish Government, 2021b)

5.2 Measurement of fraud

Frequently mentioned in the literature is the lack of accurate measurement of fraudulent behaviour, that may be related to it being frequently labelled as an error, a

civil dispute, or a consumer issue (Button and Tunley, 2015). Added to this is limited or inaccurate reporting, this then leads to statistics that underestimate fraud (Correia, 2019). This leads to fewer police resources being dedicated to investigation. The knock-on effects of this mean that reporting, detections, and sanctions are lower, reinforcing the views of policymakers that fraud is less of a concern. According to Button and Cross (2017), the only exception to this is benefits/social security fraud - where there are clear definitions, accurate measurement, visible commitment to tackle it, and widespread media interest.

Despite these issues with awareness and measurement, very recent research does show that reports of cybercrime increased by 40% during the COVID-19 outbreak in 2020 (Buil-Gil et al., 2021; Kemp et al., 2021b). The increase was most evident in the number of frauds associated with online shopping and auctions, as well as the hacking of social media and email accounts (Kemp et al., 2021a), which are the two most common cybercrime categories in the UK. This work by Buil-Gil and colleagues also reflects the increase in police recorded cyber-crime and cyber fraud offences in Scotland, during the same time period.

5.3 Sentencing fraud in the UK

5.3.1 Sentencing Guidelines

When undergoing prosecution of fraud, the *purpose* of said prosecution needs to remain at the forefront of judicial decision-making. Outlined in the SCC Guideline (2018) on the 'Principles and purposes of sentencing', these multi-faceted purposes of sentencing are made evident. They include justifications such as the rehabilitation of offenders, or to give offenders an opportunity to make amends (ibid). Alongside the purposes of offending, a judge or magistrate will use guidelines which set out a step-by-step guide they should follow and factors that are to be considered (Button et al., 2013). Guidelines for use in Scottish courts have not yet been developed by the Scottish Sentencing Council, however the Sentencing Council have done so for fraud in England and Wales (The Sentencing Guidelines, 2014).

The Sentencing Guidelines (SG) for Fraud, Bribery, and Money Laundering Offences (2014) includes six broad areas in relation to fraud. These are as follows:

- Fraud
- Possessing, making, or supplying articles for use in fraud
- Revenue fraud
- Fraudulent evasion of income tax
- Benefit fraud
- Corporate offenders

It is not appropriate nor within the scope of this report to provide a detailed account of each of these individual guidelines. For reference however, judges and magistrates in England and Wales have a wide range of options available for use – custodial sentences (including suspended sentences), non-custodial (community) sentences, and fines (Button et al., 2013). Ancillary orders may also be imposed. These serve the purpose of harm minimisation, reparation, or punishment, as outlined both within the ‘Purposes of Sentencing’ guidelines for Scotland, and England and Wales. Orders that may be considered, as taken from Button and colleagues (2013; 12 and 13), are as follows;

- **compensation orders:** compensation must be considered in a case where an offence has resulted in loss or damage;
- **confiscation orders:** if the perpetrator has benefitted financially from their offence courts should consider if a confiscation order would draw back this gain;
- **deprivation orders:** which deprive the perpetrator of property used to facilitate an offence; and
- **restitution orders:** whereby stolen goods or a sum to the value of these goods, taken by the perpetrator, is restored to the victim.
- **financial reporting order:** whereby the perpetrator’s financial affairs must be reported (for up to five years via the magistrates’ court and 15 years via the Crown Court);

- **serious crime prevention order:** which contains the restrictions, requirements or terms the court considers necessary to prevent reoffending; and
- **anti-social behaviour order:** which restricts behaviour in some way and has been used in a handful of cases by Trading Standards officers against those engaged in persistent fraudulent trading.

The latter of these three orders are specifically in reference to preventing recidivism and refer to future conduct. In exceptional cases, a fine may be imposed alongside a custodial sentence (Sentencing Council, 2014). The above orders may be imposed alone, or alongside a custodial sentence. It is the purpose of the courts to ensure that the totality of a granted sentence is proportionate to the offending behaviour when decisions are being considered.

As is the case in Scotland, the key determinant in sentencing any offence, is the demonstrated seriousness of the offending behaviour. For all offences, this assessment of seriousness involves the consideration of two key factors – culpability and harm (ibid). Tables within the Appendix below provide detailed information on how the court determines the offence category for fraud, namely the culpability and harm. The level of harm is firstly simply determined by the financial amount obtained or was intended to be obtained from the victim. This is an interesting observation, as research documents harm to victims of fraud extends well beyond that of monetary loss. Further reference to victim harm will be considered in more depth within the second section, specifically related to victim impact. This evaluation of harm considers factors such as the vulnerability of the victim, and to what extent the offence has affected them (ibid).

Research by the Sentencing Council (n.d.) has assessed the impact of the introduction of this guideline. Analysis of CCSS data compared ‘pre’ and ‘post’ sentencing guideline periods and looked at sentencing factors. The factors most significantly influencing sentencing decisions pre guideline were whether an offender committed the offence whilst on bail, whether there was a high level of gain, whether the offender had ten or more previous convictions, and whether a vulnerable victim was targeted. Post guidelines, all statistically significant guideline factors remained

relatively stable, especially cases where there were multiple victims, or the offence was out of character.

The vulnerability of the victim is a difficult factor to define when sentencing cases of fraud; as what constitutes vulnerability is debateable (Levi, 2010) Without a specific measurement criterion, this is complex. It can be argued for example, that corporate victims are generally less harmed than are other categories of victim, such as the elderly. Using this specific example, it could also be argued that as they have less working time to recover their losses, the severity of harm here may be greater (ibid). Sherman et al (2016) argue that crimes are not equal and nor is the harm caused. Their research uses sentencing tariffs as the basis of their Crime Harm Index (CHI).

5.4 Sentencing benefit/ welfare fraud

Sentencing benefit or welfare fraud differs between jurisdictions. For example, in Australia, social security fraud offences are found in Section 135 of the Commonwealth *Criminal Code*. This section prohibits 'general dishonesty' including obtaining a gain; this applies where a person does anything with the intention of dishonestly obtaining a gain from a Commonwealth entity. The maximum penalty for this offence is a five-year term of imprisonment, with a lesser term for 'obtaining financial advantage' of a twelve-month imprisonment period.

Although the court in Australia is not obliged to impose a sentence of imprisonment for this branch of fraud, various case law reviewed by Marston and Walsh (2008) shows that imprisonment is generally regarded as the starting point. Emphasised consistently by the courts was the importance of deterrence and upholding of the social security system. Epstein (2013) studied sentencing remarks made by magistrates, Crown Court judges, and the Court of Appeal in 50 cases of the imprisonment of mothers with a dependent child in the U.K. In a particular case of benefit fraud where the mother had three children, the judge made no mention of the children during sentencing. Epstein continues to say that after looking at several sentencing remarks in cases of benefit fraud, courts often stress that the imposition of custody is used as a deterrent to other potential defrauders of the benefits system. This is despite research demonstrating the negative impact of maternal

imprisonment on children (Minson, 2019). Although deterrence as a purpose of punishment is acknowledged, it has to be considered alongside the weight of mitigating factors when sentencing decisions are ultimately made. More effective punishment, for example the use of community justice as mentioned earlier in this section, would have less of a devastating effect not only on mothers who have committed fraud, but their dependents.

An example of community forms of punishment is electronic monitoring (EM). Holdsworth and Hucklesbury (2014) interviewed 31 women, the vast majority of whom were first-time offenders charged with benefit fraud and sentenced to EM. EM-curfews allow women to continue their caregiving duties as well as continue working. EM was a favourable option amongst the women as it disrupted their lives the least. All of the women participants stated that the EM curfew made little difference to their family routines. This choice of sentence therefore effectively imposes a punishment, whilst simultaneously considering factors which may disproportionately affect particular groups of offenders.

Research from Marston and Walsh (2008;285) in Australia suggests that most cases of welfare fraud involve relatively small debts, with explanations that are far more complex than the stereotyped media representation of the 'welfare cheat' suggests. Their small-scale empirical study of sentencing outcomes for social security fraudsters in Brisbane, Queensland found just this. They also discovered that, in most cases, the defendant had repaid some or all of the debt *before* the court appearance took place (ibid).

For offences of similar monetary value, Austin found that welfare offenders generally received harsher punishments than those convicted of tax offending. On average welfare offending was 'punished more harshly dollar-for-dollar than tax offending' (Austin, 2016:2). This finding, gained from cases of welfare and tax fraud between 1989-2016, concludes that the length of prison term relative to the money obtained was much greater for welfare offending (Austin, 2016). She argues then, that this difference relative to the monetary magnitude may reflect criminal justice and judicial attitudes to welfare offenders. Moreover, the average term of imprisonment was twice as long after the passing of the *Sentencing Act 2002*. This Act provides a legal framework for judges, for the sentencing of offenders in New Zealand, where the

sentence imposed must be the least restrictive outcome that is appropriate within the given circumstances. The average term of imprisonment from 2002 onwards for welfare fraud was 14.6 months, compared to 6.7 months prior to 2002 (ibid). Austin comments that this may not be a direct result of the Act itself, but instead that the average monetary value of offending had increased since 2002. This increase in money de-frauded can then be associated with increase culpability, increase offence seriousness, and therefore increased term of imprisonment. It needs to be considered however, that the sample size of Austin's (2016) study is relatively small, and sentencing decisions are not granted based solely of the amount of money defrauded/ was intended to be defrauded.

Results from the case analysis of Villum (2018) found a correlation between *gender* and the type of punishment granted for benefit fraud. In a sample of 141 cases, females had a proportionately higher frequency of probation and community sentences than that of males. Although unable to compare precisely with conviction figures in Scotland, this finding maps onto conviction data for female offenders of fraud (See Figure 6). Strong correlations were also identified in terms of aggravating and mitigating circumstances. For example, being a caregiver correlated with receiving a community sentence, and having a difficult personal history negatively correlated with receiving a custodial sentence (ibid). Where gender was then considered, a significant relationship existed between being female, receiving a community sentence, and either being a caregiver or having a difficult family history. For males however, the only slightly significant relationship between community sentencing and aggravating/mitigating factors was 'excessive time-use' in cases.

In a Scottish context, Crowe (2021) comments on the outcome of the appeal in *RA v HM Advocate*, within which a mother of six children had the sentence of 12-month imprisonment affirmed in respect of a £55,000 benefit fraud that spanned six years. For added clarity, this sentence was discounted from 18 months for an early plea. This type of case arises when a single woman claims benefits and then does not change her claim when her partner returns. Prior to the appeal, the accused was making repayments of £100 a month to the Department of Work & Pensions. Crowe then asks a key question in this debate; with *RA* being granted imprisonment, is this not surely her payment for her offence? Has she not already paid her debt to

society? Will she have to continue these payments of £100 a month to the DWP after her release? With the victim in benefit fraud being the public purse, perhaps then it is counterproductive for more public resources to be driven into incarceration and court processes, in a way further harming the 'public purse' that is trying to be punished.

5.5 Sentencing white-collar fraud

Those who have more power and status, i.e., white-collar offenders, are often perceived and sentenced differently to blue-collar offenders, such as those who commit welfare fraud (Gustafson, 2009; Marriott and Sim, 2017). So called blue-collar offenders may be expected to receive harsher treatment during various stages of the criminal justice process than white-collar offenders (Gustafson, 2009). In Australia, Marston and Walsh (2008) comment that, when looking at case law, a sentence of imprisonment is generally considered as the starting point for cases of social security fraud by the courts. Although the court is not obliged to impose a sentence of imprisonment, courts in Australia emphasise the importance of deterrence for this offence, and the imperative of protection for the integrity of the social security system (ibid). Therefore, the firm approach of imprisonment is deemed as justified for these reasons. When looking at cases of tax evasion however, this is not the case with tax evasion, aside from the most serious cases. This disparity is also reflected in numbers of investigations. Whereas the tax authority in New Zealand investigated around 0.01% of taxpayers per annum, the welfare agency investigates 5% of welfare recipients (Marriott, 2013).

Levi (2019) suggests that academic literature focusing on the sentencing decisions for white-collar fraudsters may be due to the common lenient treatment of the powerful. He also suggests that judges may under-value the seriousness of some or all types of fraud (ibid). For example, the stigma of conviction namely 'the perceptions of the emotional and social trauma likely to be experienced by white-collar offenders may play an important role in the ultimate sentencing decision (Levi, 2010; 128). This stigma may feed into the views of the judges on sentencing appropriateness and thus result in kinder sentencing decisions. The potential emotional and social trauma felt by those convicted of fraud, may feed into the views

judges have on sentencing appropriateness and thus result in kinder sentencing decisions. This stigma however, although initially perpetrated by media attention, loses traction after a few weeks and the stigmatising effects of sentencing diminish. As such, when compared specifically to the case of RA vs HM Advocate (see above) and benefit fraud more generally, the lasting effect of sentencing for white-collar fraudsters is minimised.

Levi (2019) echoes the work of Eisenburg (2017) in how best white-collar fraud can be effectively reduced. He comments that both criminal and administrative mechanisms are tactical tools of controlling white-collar fraud offenders that can be used. As discussed earlier, there are difficulties in prosecuting fraud within criminal courts; investigation times are longer, and less redress of harm to victims is achieved. Therefore, the global inclination for white-collar crimes is to use administrative and regulatory measures as opposed to using criminal sanctions (Levi, 2019). This is particularly true when sentencing cases of serious/complex fraud.

5.6 Sentencing serious/ complex fraud

Research from KPMG (2022) shows that major fraud cases heard in Scottish courts has risen dramatically between 2020 and 2021, from one case in 2020 to sixteen cases in 2021 totalling £5.9 million. Cases of complex or major fraud are those that include at least two of the following factors:

- the amount obtained or intended to be obtained is alleged to exceed £500,000,
- there is a significant international dimension,
- the case requires specialised knowledge of financial, commercial, fiscal, or regulatory matters such as the operation of markets, banking systems, trusts, or tax regimes,
- the case involves allegations of fraudulent activity against numerous victims,
- the case involves an allegation of substantial and significant fraud on a public body,
- the case is likely to be of widespread public concern,

- the alleged misconduct endangered the economic well-being of the UK, for example by undermining confidence in financial markets,

Although a proportion of these cases are as a result of COVID-19 restrictions causing court delays, the increase in 2021 is believed to be a combination of not only this, but how offenders themselves adapted during the pandemic, for example through the use of novel online methods and COVID specific fraudulent schemes. A notable case here is a shop owner charged with £1.1m in tax evasion. It is encouraging to see that more cases of major fraud are being recognised and brought to court, however ongoing difficulties remain when considering the sentencing of major fraud cases (KPMG, 2022).

Complex fraud trials are too often costly and have been shown to collapse because of their often-lengthy nature raising further questions about the most appropriate and effective use of public monies. Calls for serious fraud cases to be tried without a jury have been documented in the past two decades to save costs, though there is very little empirical on the dynamics within the courtroom in serious fraud cases, how trials are managed in practice, nor the effectiveness of procedural rules in this area (Jordanoska, 2017). The research of Hough and colleagues (2009) found that the public generally believe courts should consider the costs of sanctions to the taxpayer particularly for less serious cases. When survey respondents were sampled, 40% believed that in a case of security fraud amounting to £20,000, these taxpayer costs should be considered in all or most cases of this offence (ibid). It appears then, that as the seriousness of an offence increases, the public become less sensitive to the costs associated with sentencing. When asked if the costs of a sentence to the taxpayer should be considered when sentencing, the dominant view of the focus groups was that cost is *not* a valid consideration in sentencing. Several focus groups participants however did agree that cost should be considered in the sentencing of minor offences, mirroring previous comments.

5.7 Sentencing online fraud

Evidenced in recent fraud statistics for Scotland, the use of online vs offline methods for fraudulent behaviour is rapidly growing. Covid-19 itself has seen the generation of

novel fraud techniques across all areas of life (Audit Scotland, 2020). For example, cold callers have posed themselves as the NHS contract tracing service, and fraudulent emails have told people they can claim a tax refund to help with Covid-19 financial challenges (ibid). The process of sentencing online fraud can therefore be fraught with difficulty, due both to the ever-adapting methods used by fraudsters, and the transnational nature of the offence. Speaking of the latter, the global aspect of cyber fraud has been acknowledged by the recent change in the counting rules for cyber-crime more generally in Scotland (see Section 5.1.1).

When considering the most appropriate sanctions, the use of restorative justice could be considered. For a crime that is seen to be victimless and faceless, a restorative approach may aid perpetrators in realising their impact on a victim (Button et al., 2013). Research in relation to offender perspectives of perceived offence seriousness, demonstrates that they diminish seriousness if the offence is committed online as opposed to face to face (Copes and Vieraitis, 2009a/b). The concept of harm defined within mitigating factors, is relevant here. Harm, as discussed by Levi (2010) is often associated with and prioritised for offences involving actual, threatened, or perceived threatened violence. For this reason, it becomes difficult to compare sentencing of fraud to other acquisitive crimes that include these elements, such as burglary and robbery. Actions in the same body of work were minimised also by blaming the victim or highlighting that they had not tangibly 'physically' harmed the victim (ibid). Work by Button and colleagues (2015) found that victims of fraud believed restorative justice to be a particularly appropriate sentencing choice. They too deemed custody to be important if sufficient aggravating factors were present (ibid).

5.8 Gaps in the literature relating to Scottish fraud sentencing

Existing research on the impact of fraud sentencing processes in Scotland is extremely limited; a specific focus on sentencing processes and purposes has been overlooked in academic literature. Commentary can only be found from legal perspectives on specific court cases, as opposed to a socio-legal or even

criminological literature and academic opinion. Blakeborough and Correia (2018) identify this themselves; empirical evidence to support theories around changing patterns and trends of fraud is limited. To further this, there is a considerable lack of *empirical* research that considers sentencing decisions relating to fraud in Scotland, or even the U.K. This is an interesting and unexpected finding, given research has been conducted in other jurisdictions, namely Australia, New Zealand, and the United States.

Defining the offence of fraud is a difficult task due to how quickly the offence is expanding methodologically. Similarly, Levi (2010) comments on the difficulty for consumers, businesses, and government organisations to develop a ‘rational’ response to cyber-fraud, not least due to the little research and reliable data within the area.

There is currently no indication that the SSC are looking to focus on the creation of fraud sentencing guidelines for Scottish courts. It is recommended then, that the SSC incorporate a specific focus on fraud into their ‘Business Plan 2025-29’ or indicate that research on fraud sentencing will become prioritised in some sense. In doing so, the Council would be able to promote greater awareness of fraud sentencing practice and policy within a Scottish context. Stage 3 of the guideline creation process for example, ‘Seeking the view of judges’, would be an appropriate body of external research funded by the SSC to not only provide knowledge for the Council, but wider parties within the criminal justice sector.

6 Sentencing Fraud – Research on Perpetrators

Scholars are beginning to question the Criminal Justice System's response to fraud perpetrators. Loveday (2017:101) argues that the police service needs to 'step up' in responding to what is now a serious threat to public wellbeing. Indeed, Correia's (2019) review of 17,049 reports from victims, found that only 19% had been 'actioned' - in terms of being referred to a police force or partner agency.

Furthermore, literature comments on the lack of empirical research into crime prevention techniques (Prenzler, 2020a) as well as into alternatives to sentencing, such as restorative justice practices (Brewer et al., 2019).

This section covers research on characteristics of perpetrators, including benefit fraud perpetrators. It also explores effectiveness of sentencing options, including risk assessment, deterrence, and recidivism. We pick out gaps in the literature within these areas and highlight these at the end of the section.

6.1 What do we know about perpetrators?

Research on the demographics of fraud perpetrators is limited. In England and Wales, men are more likely to be convicted of general fraud than women, and most commonly between the ages of 20-29 (Farrington, 2019). For benefit/welfare fraud, women are more likely to be convicted (58%), but still less likely to be given a custodial sentence than men (Hopkins et al., 2016a).

This gender differentiation becomes more complicated when we include research exploring workplace fraud. Hilliard and Neidermeyer's international study (2018) found that women are more likely to commit asset misappropriation in several geographical regions, and a survey of 14 Australasian firms by Bonny et al. (2015) found similar numbers between men and women, with more women committing fraud in banking firms, albeit for lower overall gain. They concluded that firms should keep an eye out for employees living beyond their means.

Aside from gender, limited analyses cover offender characteristics of note.

Researchers from the USA refer to White Collar (WC) offenders when discussing

fraud, including bank embezzlement, tax fraud, postal fraud, credit fraud, false claims and statements, bribery, securities fraud, antitrust violations, and health care fraud. In terms of psychological profiling, a literature review by Ragatz et al. (2012) compared groups of WC and non-white collar (NWC) professionals and offenders, matched on the variables of ethnicity and age. Comparing matched samples, several metrics showed that the WC offenders were significantly higher in anxiety and social extraversion than non-criminal white-collar professionals. They found that a greater number of fraud offenders were described as extroverted (e.g., outgoing, controlling, calculating), less empathetic, and even 'narcissistic' by colleagues. The review found that white collar offenders were significantly less likely to meet diagnostic criteria for substance abuse or dependence and less likely to exhibit a depressive disorder than were general offenders. Finally, white collar offenders were significantly more likely to be married than the general offenders and had a higher level of educational attainment and fewer past arrests than general offenders. In agreement, Goulette (2020) found that white collar offenders are less likely than people who commit other types of offenses to accept responsibility for their actions, and are arrogant and manipulative, feeling a sense of superiority over victims.

Researchers therefore describe the 'typical' white collar offender as employed, married white male who is a sensation seeking risk taker with high levels of impulsivity and grandiosity, low integrity, and high conscientiousness, even personality disordered (Ali, 2021; Blickle et al., 2006; Kapardis & Krambia-Kapardis, 2016; Klenowski & Dodson, 2016; Nee et al., 2019; Ragatz et al., 2012; Wang et al., 2021). However, this does not provide the full story, which has prompted some authors to categorise these offenders into typologies. For example, Levi (2016) defined three categories:

- 'Slippery slope' fraudsters - who generally have no prior convictions and fall into frauds through financial pressures combined with identification of opportunities.
- Intermediate fraudsters - who have prior convictions and started off with legitimate intentions, but eventually turn to fraud.
- Pre-planned fraudsters – who start with the purpose of fraud and generally have past criminal convictions (although may use 'front' people without

convictions). Some may be involved in other crime or may focus solely on certain types of frauds.

Levi comments on the variety of scams pursued by fraudsters, which have markers of innovation in type and techniques that show a form of 'entrepreneurial' skill. Some of the characteristics that define traditional entrepreneurs include: risk taking, the need to achieve, the need to take control, over-optimism and the desire for autonomy. Levi (2016) therefore equates these characteristics with fraud perpetrators, claiming that they feature in the notion of the 'scampreneur'.

In Levi's categorisation, sentences varied according to the type of fraudster. For example, 'slippery-slope' offenders were generally seen as naughty rather than 'bad', whereas those involved in highly organised frauds were seen as 'bad' but redeemable. In the analysis of sentencing, sentences rarely exceeded 5 years, with slippery-slope and intermediate offenders tending to receive terms of less than 2 months. Despite the vast sums of money involved, Levi claims that sentences reflected a view that these were 'white collar law violators' rather than villains, and that the absence of violence and the perceived carelessness of victims are significant factors. Levi claims that judges find it easier to empathise with fraud perpetrators who generally share similar social and educational backgrounds, and whose offences may be perceived as benign when compared to violent offenders (see also Diamantis, 2017).

Other theorists similarly classify fraud offenders into groups, for example van der Geest et al. (2017) reviewed the criminal careers of 1160 fraud offenders in the Netherlands. They found the following typology in their sample:

- Crisis responders and opportunity takers (more than two fifths of the sample) – these perpetrators commit very few offences and may do so in response to specific life-course circumstances of crisis, or when provided with specific opportunities for committing fraud (or white-collar crime).
- Opportunity seekers (another two fifths of their sample), display an intermittent but nevertheless persistent pattern of criminal behaviour. This category consists of many younger offenders, who desist from serious non-fraud offending in their late thirties while still committing (small numbers of)

fraud offences. The shift in behaviour may reflect changes in the opportunity structure of offending, in other words, what is most easily accessible to them at the time.

- Stereotypical criminals (one sixth of the sample), showing large numbers of street crimes – for example, theft and fencing – both prior to and concurrent with fraud offending. These offenders committed common crimes to much the same degree as non-fraud offenders.

Van Onna et al. (2014) studied 644 fraud offenders, also in the Netherlands. Their analysis also emerged into three groups:

- Low-frequency offenders who have higher incomes, assets, and liabilities; have relatively few benefits; and are overrepresented in white-collar positions - such as business owners, directors, or managers. They are relatively often prosecuted for traditional white-collar crimes such as market abuse fraud (e.g., insider trading) and securities fraud.
- A second group of low-frequency offenders, where the mean age of first offence is considerably lower, their rate of offending is substantially higher, and they are more crime versatile. In terms of socioeconomic characteristics, they appear to be middle class and more often involved in bankruptcy fraud, customs fraud, credit and mortgage fraud, and money laundering fraud.
- A third group – high frequency offenders, are criminally active from adolescence onward and persist in offending at a much higher rate, with low specialization of offending. Their sociodemographic characteristics indicate below-average incomes, high social benefit rates, and a relatively low percentage of homeownership. However, a substantial portion holds a white-collar position. The offences fall somewhat between fraud types (i.e., tax fraud and customs fraud and credit card fraud and swindles). These offenders start their criminal careers during early adolescence, their overall rate of offending is high, and they are very crime versatile. They have low income, little assets, and are rarely homeowners. They are typically involved in swindles against individuals and companies, money laundering fraud, and credit card fraud.

In addition to the categorisations here, there is further debate on the socioeconomic needs of fraud perpetrators (Gill, 2011). While adverse economic conditions result in less money being available to individuals through traditional/non-crime means (which would be considered a push towards crime), it can also mean that people spend more time at home where there is more guardianship (a pull away from crime). Theorists generally identify socioeconomic motivations to commit crime and opportunity in these terms (i.e., there are fewer opportunities when people have less disposable income so stay at home, plus they help protect their residences from crime). However, these explanations are less valid when discussing the incentives behind online fraud perpetration due to the techniques being accessible from home. A key issue here is that much of the literature explores and portrays fraud as being perpetrated by an individual who has some type of character flaw or incentive, or as perpetrated by individuals influenced by their social group. Anand et al. (2015) point out the problems with this portrayal arguing that group-level fraud such as organised crime continues to be an important but under-researched phenomenon. They call for more research that delves into situational factors and contexts where fraud arises.

6.2 Benefit fraud

In England and Wales, as previously mentioned, more women than men are convicted of benefit fraud. Women are less likely to receive a community sentence (the most common sentence), received by 45% of females and 58% of males (Ministry of Justice, 2020). Some literature argues that benefit fraud is motivated by 'need or greed' (see Tunley, 2011:302) with opportunity frequently acting as a stimulus. Media coverage generally supports this assertion, characterising the poor as 'indolent, irresponsible, and feckless scroungers' and reinforcing the distinction between the deserving and the undeserving poor (Gavin, 2021:708). However, Marston and Walsh (2008:298) found the characteristics of those prosecuted for benefit fraud challenge the media driven stereotype, of the person willingly defrauding the government for as much money as possible:

The dominant media image of the 'welfare cheat' is an obstacle to addressing the real causes of social security fraud which, on the basis of the available

evidence, are more likely to be related to structural and welfare administration issues than the deviant behaviour of individuals motivated by greed.

In terms of sentencing outcomes, Marston and Walsh (2008) argue that people prosecuted for benefit fraud have a high conviction rate and often lack independent legal representation. They conclude that this type of fraud should be examined in the context of the labour market and policy changes as well as levels of poverty, as these crimes are more likely to be related to structural and welfare administration issues than the deviant behaviour of individuals motivated by greed.

The causal influence of these structural factors on benefit fraud offending have been identified by senior officials in Scotland. For example, Frank Crowe (2021), Appeal Court Sheriff at Edinburgh critiques the custodial sentences that women receive for over claiming benefits. Crowe describes a particular case which 'like many seen in court, arises when a single woman claims benefits and does not change her claim when her partner returns to the household, or more often flits in and out of her life.' Crowe argues that these women are never well off yet are sentenced and still have to repay the money: 'Such accused women have no money to pay a fine and the amounts involved take far longer to pay than the two years or so afforded by imposing a compensation order' (2021:1). Research on non-fraud offences and the imposition of fines, has shown how they can create a 'revolving door' - whereby those convicted need to return to offending to be able to pay off the fine (Carline and Scoular, 2014).

Wilcock (2014) takes this debate further, challenging the gendered nature of 'welfare cheats', as demonstrating the 'deep-seated sexist characterisations of 'bad women' as deceitful, calculated and sexually deviant' (Wilcock, 2014:177). They conclude that the mesh of old and new discourses embodied in the 'welfare cheat' identity effectively qualifies women for this crime in the public imagination, reinforcing the prosecution and imprisonment of these women as a just and appropriate response:

Ultimately, the official discourse of the 'welfare cheat' has rendered the punishment of women for welfare fraud as legitimate, even routine, and necessary for justice. Indeed . . .it would be considered unjust not to imprison her. (Wilcock, 2014:190)

Lundström (2013) critiques media coverage of benefit frauds in the UK and Sweden, claiming that this exposure challenges the deservingness of welfare recipients in general, not just the ones that cheat - thereby reducing public trust in the welfare state. News discourse on fraud in both countries establishes a neoliberal, financialized and individualized notion of welfare dependency, thereby discounting the social and structural circumstances, and obscuring the issues of poverty, exclusion, and inequality. These are described as discourses which serve to represent and perpetuate the interests of the dominant political and economic establishment that wishes to dismantle the welfare state (Devereux & Power, 2019).

The dominant media image of the 'welfare cheat' is an obstacle to addressing the real causes of social security fraud. McKeever (2012) explores this discourse around 'undeserving claimants' (those who present themselves as eligible for benefits when they are not) arguing that the media reinforces the division between perceived 'need' and 'greed' based frauds. Claimants thereby become excluded from social citizenship and social security fraud legislation reinforces this exclusion. Research on other minor non-fraud offences has shown how criminalisation can lead to a spiralling of offending behaviour and a 'self-fulfilling prophecy' - particularly with young people (Creaney, 2013). Consequently, there are calls for a much broader framework to assess the causes and to address the consequences of benefit fraud, and as McKeever suggests, a new policy framework within which minor social security fraud should be decriminalized (Marston and Walsh, 2008; McKeever, 2012).

6.3 Sentencing Perpetrators

The Ministry of Justice (2020) report sentencing statistics from 2019 identifies the fraud types women are convicted of - overall fraud (33%), fraud by 'failing to disclose information' (50%) and in particular benefit fraud (55%) in England and Wales. Fraud by 'false representation' has a relatively high custody rate at 14% for women. For failing to disclose information, the custody rate was 19% for females, compared with 26% for males.

Again, in England and Wales, around three quarters of fraud offences are committed by males and there are over twice the odds of being imprisoned for fraud if you are male, including benefit fraud (Hopkins et al., 2016a). Just over 60% of fraud perpetrators are categorised as 'white' (Hopkins et al., 2016b). However, being identified as belonging to a minority group (described as 'BAME' here) is associated with increased odds of imprisonment, and this intersectional effect is greater for men than for women (Hopkins et al., 2016b). The relative odds of imprisonment in 2015 were higher for BAME male offenders than for BAME female offenders (1.402 compared with 1.291, respectively). This means the odds of BAME male offenders being sentenced to prison were around 40% higher than for white male offenders, and for BAME female offenders the odds were around 30% higher than for white female offenders. Belonging to a BAME ethnic group was therefore more strongly associated with an outcome of imprisonment for males compared to females. In the case of fraud, the chance of being convicted for fraud for a BAME woman is three times that of white women, and over twice for BAME males (Hopkins et al., 2016b).

An examination of the decision making by judges when sentencing and the influences behind this process, has been undertaken in academic literature. For example, Levi's (2010) analysis of the sentencing of different crimes acknowledges the tensions between:

- backwards-looking reflections of the gravity of offences (assuring that punishment fits the crime),
- forwards-looking, focussing on the risks and consequences of future harm, and
- social fairness in the treatment of offenders of different social statuses.

Levi (2010) further discusses dimensions of sentencing around which the various aggravating and mitigating factors are clustered – i.e., concepts of harm and culpability. Abuse of trust and targeting of vulnerable people are recognised as aggravating factors that influence higher sentences. Related to this, other influences on sentencing include assumptions about the amount of money involved, the defendant's role and influence, and the longevity of the dishonesty (Jilkin, 2021; Kirk, 2015; Marriott, 2020).

6.3.1 How effective is sentencing for fraud?

6.3.1.1 *Sentencing and Recidivism*

In terms of sentencing for all crimes, there is a great deal of work looking at recidivism and approaches to sentencing, including extensive criticism about the effectiveness of short-term custodial sentences (see Johnston and Godfrey, 2013). These critiques are often based on general reoffending rates that have shown, for example, that 71% of women reoffended following custodial sentences of less than 12 months in 2016, as well as 63% of men (Ministry of Justice, 2020). Some research found that community supervision combined with victim reparation is significantly more effective at reducing offending (Marsh et al., 2009). Victim reparation in this case was defined to be direct or indirect contact between the victim and offender; victim conference; victim liaison; unpaid work for victim as well as victim compensation. Sapouna et al. (2015) found that social ties formed through employment, marriage and education can promote desistance from offending, by adding structure to offenders' lives and acting as a source of informal monitoring and emotional support. The disruption of these social ties through imprisonment can thereby have the reverse effect. Further, Siwach (2017) looks at the implication of background checks on future careers of those convicted, finding that recidivism is more likely if job prospects are damaged (demonstrating in the analysis a 4.2-percentage-point decrease in re-offending over 3 years for those whose offences were taken off their records).

The role of recidivism with regard to fraud and financial crimes is largely unexplored, and Trompeter et al (2014) acknowledge that recidivism research related to other criminal offenses may not easily transfer. The UK Ministry of Justice document looking at recidivism, *Breaking the Cycle*, does not make any reference to fraud, but does mention the importance of including the victim voice and using restorative justice approaches. These are approaches that Brewer et al. (2019) claim have not yet been empirically explored in terms of fraud.

Looking at the research discussing effective sentencing of fraud specifically, the literature discusses desistance in terms of the implications and knock-on effects of sentencing. Shepherd et al. (2019) in a UK study, found that fraud offenders

experience media coverage of their sentencing as damaging to their reputation. Shepherd et al. argue that this leads to economic strains and social fractures that hinder their productive reintegration into society. There is commentary that refers to the overall lenient sentences given for fraud, with some blaming the ‘empathy’ felt by judges for white collar criminals who share similar socio-economic backgrounds (Diamantis, 2017), as mentioned earlier. However, Levi (2016) argues for a nuanced rather than a simplistic view: Larger firms tend to be the victims of this kind of offending, and the relative leniency in sentencing might, he argues, be due to the perception that status degradation is more damaging to executives than to others – i.e., the ‘process is the punishment’. Of course, this is assuming that others will become aware of their offending. This point about status degradation is also supported by Listwan et al. (2010) who show that fraud perpetrators are more likely to recidivate if they experience higher levels of anxiety.

Conversely, Marriott’s (2020) study using data from cases prosecuted by the New Zealand Serious Fraud Office, proposes that white-collar offenders should not receive more lenient treatment in the justice system due to the privileged position from where the offending commences. Marriott suggests that an *absence* of restitution should be considered an aggravating factor, rather than the *presence* of restitution viewed as a mitigating factor - as an offender’s good character is often an enabler of the offending. Reputational damage or loss of future employment opportunities are claimed to be ‘short-term’ and Marriott therefore argues that there is little justification for reduced sentences in light of these minimal damages.

Trompeter et al. (2014:780) call for more research in this area to enhance understanding of the impact of penalties on fraudsters, and to develop more effective punishments and remedial actions that could deter corporations and individuals from committing fraud in the future. They further claim:

The role of recidivism (repeat offenses by the perpetrator) with regard to fraud and financial crimes is also unexplored. We believe the area of punishment provides opportunity for further study, and the results might impact resource allocation for anti-fraud programs.

6.3.1.2 *Risk and Effectiveness*

Ndrecka (2020) shows that criminal risk for white collar crime can be predicted through structured assessment tools. They argue that three core principles, risk, need, and responsivity identify the needs of individuals, as well as informing which factors should be targeted, and which individual characteristics can influence the effectiveness of sentencing. According to their argument, extensive supervision should be reserved for higher-risk individuals, while low-risk individuals should receive few services, little supervisions, or none at all. Risk is measured by static factors such as prior criminal history, and dynamic needs/risk factors such as pro-criminal attitudes (values and beliefs), pro-criminal associates, antisocial personality characteristics, family/marital relationships, education/employment, substance abuse, and leisure/recreational activities. Ndrecka argues that reduction in subsequent offending occurs when correctional programs address dynamic criminogenic needs

Harbinson et al. (2019) support the use of risk assessment. In their study they used the Post Conviction Risk Assessment (PCRA) with a sample of 31,306 fraud offenders and reviewed the predictive validity of the risk levels and risk score. Their conclusions support the use of risk assessment and applying risk and needs principles to what they describe as a unique population. They argue that the notion of fraudsters as one-shot offenders who do not have criminal careers is misguided and recommend further research into risk assessments for this group.

Harbinson (2021) show support for gender-responsive risk factors in recidivism. They found that criminal history was the strongest predictor of recidivism for both genders, but education and employment status was not predictive for either gender. They also found that mental health was found to predict risk among women and not men.

However, some work suggests that risk factors may not be effective for all. For example Skeem et al. (2020) found in their study with 340 judges, that the use of risk assessment information only worked to reduce the likelihood of incarceration for relatively affluent defendants, while the same information increased the likelihood of incarceration for relatively poor defendants. They found that this finding held after

controlling for the sex, race, political orientation, and jurisdiction of the judge. Skeem et al. concluded that risk assessment caused judges to process poverty as a risk factor that increased the likelihood that the defendant would continue to offend and therefore to process relative affluence as a factor that reduced the likelihood that the defendant would recidivate. Skeem's analysis does not aggregate by offence type unfortunately.

Taken together, the evidence on risk assessment demonstrates the need to take into account contextual and individualised factors that are not assumed to be fixed over time.

6.3.1.3 Deterrence

There is critical work on the debate regarding deterrence. Bagaric et al. (2011) argue that the use of sentencing as a deterrent for tax fraud is inappropriate as there is no proof that harsh penalties for tax offences work as deterrents. Further, they claim that it is 'morally wrong' that a person should be sentenced to set an example for others. Higher sentences do not deter economic crime if there is a low chance of being caught (Dooley Sr & Radke, 2009). Therefore, Bagaric et al. suggest that penalties for fraud should not be increased in a bid to deter would-be offenders, but more tax audits need to be performed to increase the perception in people's mind that if they cheat on their tax they will be detected.

There is some academic literature that describes deterrence in ways other than traditional sentencing. For example, Levi et al. (2017) gathered perspectives of fraud perpetrators who were imprisoned. They found that had perpetrators known about the reputational damage that would be caused by the press, it would have helped deter them. One offender argued that being inside prison allowed them to meet other people with skills that can be used to re-offend, and further, there is 'plenty of time when you can plan and think.' Prison was described as a 'University of crime.' Another interviewee felt that he had skills that could be used to pay his debt to society back and this could have saved the cost of keeping him inside.

Dhami (2007) interviewed 14 white-collar crime offenders and found that while the offenders get punitive reactions from the judiciary and media, they tended to get

positive reinforcement from significant others, prison staffers, and other inmates. Dhimi claims that positive feedback from these groups may allow individuals to rationalize their behaviour. Therefore, deterrence efforts should emphasize the negatives associated with economic crime such as apprehension and punishment. Other ways to address fraud include more equitable distribution of power and wealth, regulations to deter structural causes of fraud, and education and reinforcement of ethical decision making to address individual causes of fraud (Dhimi, 2007).

In terms of prevention, recent prevention campaigns have been criticised for containing too much complex information, or 'white noise' to be helpful (Cross & Kelly, 2016). The majority of the literature related to prevention recommends knowledge sharing between agencies to increase awareness of what constitutes an offence, and suggested approaches to prevention. Prenzler's (2020b) review of fraud prevention initiatives support the techniques of deterring offending through formal surveillance, rule setting and awareness (e.g. in banking situations to reduce opportunity) and alerting conscience to raise awareness of laws and penalties against fraud. In terms of welfare fraud, Prenzler's review demonstrates the value of assisting compliance through personal communication about how to register changes in eligibility for payments. Prenzler concludes that there is an urgent need for scientific studies of effective interventions against fraud.

6.4 Gaps in the literature relating to perpetrators

Trompeter et al. (2014:778) comment on the lack of research exploring perpetrators' pathways to fraud, as well aggregating these by types of fraud:

The life course approach seems to offer promising research opportunities. Perhaps additional studies of the backgrounds of fraud perpetrators could help develop a better understanding of patterns and scenarios that represent a heightened risk of fraud. For example, backgrounds of fraud perpetrators might vary for those committing financial reporting fraud versus misappropriation of asset.

Trompeter et al call for research on the impact of penalties on fraudsters to help develop more effective penalties and remedial preventative actions.

From this analysis of the literature, the following gaps are identified in terms of perpetrators of fraud:

- Intersectional characteristics for the types of fraud perpetrators.
- Qualitative research with those convicted of fraud to explore their pathways into fraud and ideas about reducing recidivism.
- Recidivism and sentencing data.
- Effective interventions for fraud prevention.

7 Victims of Fraud

'The impacts of online fraud can be as severe as those who experience violent crime'

(Marsh, 2004:127)

Identifying and supporting victims of fraud is largely dependent on the type of fraud crime due to several factors including whether the fraud is aimed singularly at an individual or whether the fraud is widespread aiming at the 'public purse', multiple members of the public or transnational. This section will discuss the impact of fraud on individuals, victim typologies, perceptions, sentencing and recidivism. Additional research on current support for victims of fraud in Scotland and the UK has also been explored. Initially, a systematic review of the literature was sought, though it soon became apparent this was limited, therefore additional literature has been used to form a substantial review for this section, which not only identifies a significant gap in this research, but also invites opportunity for further study. Empirical research studies that have been identified (see appendices) will form the basis of the literature review.

7.1 Victim Typologies

Historical research (Titus, 1999; Titus and Glover, 2001), indicates that some victims are simply careless, for example, revealing too much personal information or failures to update security passwords and logins, ignorance to advice prior to making transactions and not discarding paper copies of bank statements. Similarly, the 'co-operating' victim, who seeks to invest in a scheme which later turns out to be fraudulent whereby they have voluntarily provided personal information in response to an advert or website for financial gain, unwittingly with a false perception of which they will be exploited by the perpetrator. Cross (2013), suggest the present debate over online fraud victims is primarily based on an individual sense of avarice. The intensity of this discourse pervades the minds of both individuals who have never

been victims of crime and those who have, thus, placing blame on victims for their active part in the offence.

Button et al (2009), suggests that victim typologies can be mapped according to repeat victimisation and losses. By using the analogy of an iceberg, where the smallest number of victims (tip of iceberg) are the chronic victims and the largest being small scale unknown victims, such as victims' loss equal to a few pounds – victims that are the result of mass marketing fraud are significantly underreported at an approximate rate of 1-3%. An estimate of 3.8 million people in the UK population has been targeted by fraud (year ending March 2020), yet Button et al (2009), suggests only a small percentage (8%), admit to being a victim so it could be fair to assume these figures are most likely higher. Cracknell (2021) reports a surge of 24% during the Covid19 pandemic of individuals likely to be harmed and affected by fraud (Victims' Commissioner).

Victims by category include:

- Unknowing victims
- Knowing victims – unreported
- Knowing victims – reported
- Unbelieving victims

Button et al (2009), reports several historical studies (across UK) relating to identity fraud conducted by the Credit Industry Fraud Avoidance Service ([CIFAS](#)), which revealed some key demographic findings of victims:

- 67% male
- Largest age bracket effected 31-40 years old
- Largest number of victims lived in London, though highest per capita was Manchester and Nottingham

Recent demographic statistics are spotty, with the majority concentrated to online fraud. Experian, a global information services company, which is designed to assist businesses, prevent fraud, manage credit applications, and target market offers also provides analytic data of fraud hotspots, gender, and age analysis of fraud cases

(Experian, 2022). Latest statistics indicate first party fraud shows female victims at 58%, though third-party fraud shows 62% are male victims in the UK. Fraud hotspots for the year ending 2021, suggest that Scotland and Wales are at lower risk regionally compared to the rest of the UK. However, this is limited to specific financial fraud categories: banking, identity theft, mortgages, asset finance and loans.

7.2 Cybercrimes Including Romance Fraud and Cryptocurrency

Despite evidence of increasing cases and further risks of fraud; 3% higher by Jan 2022 than Jan 2021 and an increase of 65% since Jan 2020, there is very little knowledge within the realms of scholarly studies for victims of fraud in Scotland. In line with findings from Cracknell (2021), the Scottish bulletin of recorded crime (Jan 2022), suggested that the Covid 19 pandemic has likely been a significant factor of increased fraud due to behavioural changes of the general population in terms of online habits. Cybercrimes are estimated at a substantial increase of 57% between 2020 and 2021, compared to 29% during 2019-20 (Gov.scot, 2022). Notably, since April 1st, 2020, statistics will now include crimes where the perpetrator is outside of the UK as recommended by Her Majesty's Chief Inspectorate for Constabulary in Scotland (HMICS). Demographically, main findings from the Scottish Crime and Justice Survey 2019/20 show that men are more likely to experience computer misuse, in terms of fraud than women, though no significant pattern by age. No differences were reported of those living in urban or rural areas overall, though those who experienced online romance fraud were more likely from deprived, urban areas of Scotland.

Common online fraud scams include, but are not limited to bogus lottery, bogus products sales, career opportunity scams, loans, cryptocurrency, clairvoyants, and romance fraud. These types of fraud are perpetrated by several techniques which include obtaining personal information through email, mobile phone messaging, social media platforms and keylogging (e.g., capturing user login passwords for personal banking) or obtaining the trust of the victim (romance fraud) with the key

focus of the perpetrator obtaining funding paid direct to them from their victim, by participation (Button et al, 2015). According to the study conducted by Button et al, (2009), victims are diverse and across all demographics (except for 47% of victims being over 60 years old), and the impact reflects the diversity of fraud victims. Comparatively, an Australian article suggests that although their findings differed with demographics, older victims remained the focus of consumer fraud than any other age group (Australian institutes of Criminology, 2009). Cross (2015), suggests this adds to the severity in effects, given the lack of ability faced by some senior victims to recover from financial losses. Additionally, the overwhelming sense of blame is associated with online fraud and is concentrated more within the context of romance fraud/scams. The global magnitude of online fraud poses a significant challenge to not only identify the offender, but to impose sanctions, as with any other transnational crime, each jurisdiction has their own crime and punishment laws.

Cryptocurrency has become a global phenomenon over the last decade with the rise in cryptocurrencies scams. Merryweather, (2022), reports an estimated 9 million people have been targeted by social media platforms, with many losing thousands in life savings in stark comparison to mass-marketing scams for an individual. Many victims lose their home, isolate themselves from family and friends, turn to substance misuse or even suicide. Similarly, Troazze et al, (2022), conducted a recent systematic review, identifying 47 different types of cryptocurrency fraud scams, with a large percentage not yet discussed in academic research and found that in 2019 the Financial Conduct Authority (FCA) issued a warning across the UK due to the significant rise in reporting of these crimes. Action Fraud (2022), report an estimated £145 million losses this year so far, an increase of 30% for 2020 (across UK) in total, with one tactic being celebrity endorsement, where imposters will pose as celebrities for online adverts in a bid to gain credibility for their product, which tends to entice the public to then buy the product. An example of this is cryptocurrency and other fake investment opportunities as well as weight loss products and clairvoyants.

7.3 Impact of Fraud, Lack of Reporting and Victim-Blaming

Fraud can lead to devastating consequences not limited to only financial losses. Additional impact can include mental and physical health implications: anger, stress, reduced self-esteem, relationship breakdown and in extreme cases, suicide (Button et al, 2014; Cross, 2013). The 'fear of crime' can also be a limitation, for example some internet users who are knowledgeable about the presence of online fraud adopt an avoidance technique, thus limiting their potential opportunities of positive online use (Brands and Van Wilsem, 2021). Despite greater awareness of fraud, particularly where online fraud is common, past research has shown that victims are only likely to report their crimes if they have suffered a significant financial loss, resulting in a self-blaming culture. Within the realms of romance fraud, scammers use techniques such as isolation, monopolisation, degradation, and psychological destabilisation to wear their victim down. Emotional or interpersonal withdrawal interaction pattern is a known destructive behaviour tactic used by fraudsters seeking access to vulnerable individuals online, under the guise of a romantic relationship with their victim by using 'contingent expressions of love' (Whittle et al, 2013; Carter, 2021). Victims who have the perception of a developing relationship, often refrain from reporting. Officers have been known to describe such victims as unwilling to help themselves (Millman et al, 2017). Shame and embarrassment from negative perceptions of cyberstalking may therefore act as a barrier to reporting these crimes (Woodlock, 2013; Carter, 2021). Notably, these types of crimes usually have a time span of at least six months as part of the grooming process, whereby the perpetrator gains the trust of the victim over that period, so there is sense of victim compliance and distortion that has been cultivated by the fraudster. Carter's study reports victim responses of romance fraud to be psychological, a key component of techniques used in domestic abuse of coercion and control (Stark, 2013; Cross et al, 2018). Viewing fraud from a domestic abuse lens may be beneficial in terms of raising awareness of decision-making of online romance. This would therefore increase the frequency of reporting these crimes, prevention, and protection of future victims.

Within the realms of the victim-blaming theory, early research suggests the interaction between the victim and offender can commission an aspect of shared

responsibility of the crime (Karmen, 2004; Shapland and Hall, 2007). A relatively small number of international studies suggest authorities view the victim as being partly to blame for their participation in fraud (Levi, 2008; Button et al 2009; Cross, 2019). This could lead to revictimisation of the victim like that of victims of other offences (Cross, 2015), yet also share similar devastation as those victims to serious violent crimes (Marsh, 2004; Deem, 2000; Cross, 2015) which can again in extreme cases result in grave consequences (Brooke, 2010; Button et al, 2014). Victim-blaming from family and friends, professionals, and themselves (victims) often results in the perception of stupidity and undeserving of justice (Nataraj-Hansen and Richards, 2022). A qualitative study of 31 professionals across the UK and Canada, found high levels of a victim-blaming culture is largely dependent upon types of fraud crimes and the participants perspective of liability. The crime is levied in proportion of blame towards a victim, often acting as a barrier to reporting. Additionally, although recognition of how skilful the offender appeared, the attributions and accountability of the victim is considered during sentencing by the court and judged resulting in a proportion of blame onto the victim (Cross, 2019). Accountability of the offender within the criminal justice system is not widely documented due to lack of successful convictions in this area of crime, which transpires to be the difficulties faced in the ability to police transnational offences (Ons.gov.uk, 2022) and offender anonymity (Button, 2012; Cross and Blackshaw, 2015). On the contrary, fraud initiatives seek to put the victim first within the process of the criminal justice system (Hall, 2018) so the concept of victim accountability largely supports the idea that victims remain relatively neglected throughout the criminal justice process (Correia, 2021).

7.4 Benefit Fraud and the Public Purse

Through fraud and corruption, the victim is not limited to individuals or businesses, but public money is also at risk, which impacts the economy. This can include the corruption of office councillors, delays in processing of individuals seeking to exploit the benefit services (Audit-scotland.gov.uk, 2019). This section will look specifically at benefit fraud and error and the impact upon the public purse. The Department for Work and Pensions (DWP), issues benefit to an approximate 23 million people

throughout the UK, albeit majority genuine applications however, benefit fraud and loss is determined by two important components:

- Fraud – the intentional claim of benefit where the claimant is not entitled
- Error – the overpayment or underpayment of benefit made by officials in processing delays or errors.

Certain benefits such as Universal Credit and the Bounce Back Scheme have been significantly increasing (estimated up to 24%) due to the covid19 pandemic (House of Commons, 2021; Gov.uk, 2021), and this figure is expected to rise. Credit Industry Fraud Avoidance Service (CIFAS), the UK's fraud prevention community, are urging people to report any known members of the public committing fraud against the public purse. They suggest 1 in 10 have an awareness of someone committing fraud, mainly false discounts on Council Tax bills, with the annual losses to local councils at approximately £2.1 billion at the time of the report (Cifas.org.uk, 2022). Although these figures are for the whole of the UK, Scotland's figures are not clear. However, Scotland's National Fraud Incentive (NFI), which is led by Audit Scotland with the aim to detect and prevent fraud, highlighted £5.1 million of overpayments are now being recovered (March 2020 audit) of the £19m identified during the 2018 audit. Nevertheless, the impact upon the public purse has been tremendous which also results in inevitable tax increases, therefore directly affecting the whole population, almost mimicking car insurance increases, reflective of the quantity of claims per annum. Watchdog officials issued a warning to the Scottish benefits agency, expecting more than £50m loss during the year 2020 to fraud and error, noting additional rise in claimants due to the pandemic. However, the Scottish Social Security have implemented their robust counter fraud strategy, detailing how they plan to mitigate the risk of fraud and monitor the progress through the maturity model and counter fraud action plan (Socialsecurity.gov.scot, 2018-22). No literature is available at the time of writing on the progress of this. Criminologists have largely neglected tax fraud, and research about sentencing and punishment is sparse. However, Levi's (2010) review on serious tax fraud and noncompliance considers the deterrence on individuals when they have been deemed to be seriously noncompliant by revenue authorities. Although no proportionality has been documented, Levi identifies that where prosecutions are made public, other

administrative penalties are usually confidential and with this in mind, offenders are more likely to opt to pay heavy penalties to avoid prison, criminal records, and publicity.

7.5 Victim and Public Perceptions of Sentencing and Sanctions, Ripple Effect and Restorative Justice

Over the last decade there have been campaigns to improve the plight of domestic abuse, sexual violence, gun, and knife crime victims. However, a limited focus on fraud victims has resulted in victims receiving very little in the way of restitution. Button et al (2009) study of 26 victims showed that although there were some levels of support available to victims, 85% said a sympathetic approach was an important factor from a restorative approach, and 90% wanted their money retrieved by order of fine. Tougher penalties such as the seizure of assets or the prevention of trading were also important responses to sentencing and sanctions, as was being informed about the progress of their case.

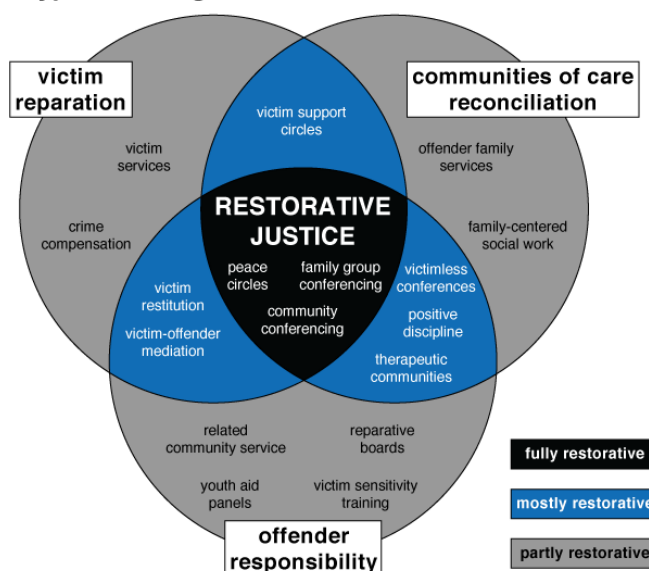
Previous qualitative research (Commissioner for Victims and Witnesses in England and Wales, 2011; Button et al, 2015), states victims were not concerned with prison sentencing, but wanted a punishment to fit the crime, including a restorative approach such as meeting their victims, assisting the victims they have caused hardship to by witnessing the effect their crime has had on their victim. There are several factors considered during the sentencing of fraud perpetrators, both aggravating and mitigating factors which a victim may not comprehend or perceive to be 'fair', given the impact of harm caused by the crime may have had upon them and their life. These factors link into the sentencing guidelines (Sentencingcouncil.org.uk, 2022).

| | | |
|------------------------------|---|----------------------------|
| Degree of Harm | intended and actual | Aggravating Factors |
| Financial Impact | on the victim or levels of financial gain | |
| Premeditated (intent) | extent of careful planning | |
| Abuse of Trust | authority | |
| Nature of Fraud | duration, techniques, frequency | |
| Motivation | previous history of the perpetrator | |
| Extent | the wider impact of the fraud - ripple effect | |
| Invasion | use of identity, invasion of privacy | |
| Vulnerability | victim position - e.g. disabled | |
| Quantity | number of victims | |
| Response | perpetrators response to crimes once uncovered: entering guilty plea, remorse, co-operation | Mitigating Factors |
| Circumstances | financial circumstances - ability to pay fines | |
| Health | perpetrator health impairments, mental illnesses | |
| Coercion | involvement with greater force - e.g. OGC | |

The court evidences the level of harm to the victim and considers the victim account through the Victim Personal Statement (VPS) or Victim Impact Statement (VIP). This can be read by the victim providing them an opportunity in line with a restorative approach (Gray, 2018; Wang, 2019) and context to the perpetrator of any ripple effect caused by the crime. Shi, (2021), conducted three studies in relation to financial misconduct and the ripple effect in the wider context, such as cause and effect on not only the victim but on society. Findings showed that non-fraudulent firms had an increase in the cost of capital and firms that operate using similar principles as the fraudulent firm may suffer adverse impact thus the fraudulent firm

creates a ripple effect to other businesses. Comparatively, within the boundaries of romance fraud, Cross et al, (2018) identifies similarities with domestic abuse in their Australian study and that non-violent demands for money through coercion and control are tactics used in both domestic abuse and romance fraud. Victim’s often turn to substance misuse, take out further loans or credit cards to meet the demands of their offender, or withdraw from normal relationships with family members they had prior, all which may lead to seeking the assistance of mental health support services, thus causing a ripple effect to their family members and the costs of the wider community within the realms of support services. Additionally, offenders who are sentenced for their crimes leave behind friends and family, therefore causing a ripple effect of their crimes upon others. Furthermore, benefit fraud crimes also have an effect on not only the public purse but also the shame and guilt it may pose on the offenders’ families. Restorative justice provides the victim with a sense of wellbeing and healing through three core elements: Encounter, Repair and Transform. This also provides the offender an opportunity to atone any wrongdoings and restore their character through inclusion and engagement of restorative practices, thus preventing recidivism (Derby, 2021).

Types and Degrees of Restorative Justice Practice



Restorative justice is a growing phenomenon used in recent years and impacts positively on recidivism (Shapland et al, 2008; Button et al, 2015). Although not directly related to fraud, evidence suggests the use of restorative justice to reduce

recidivism is largely dependent on the involvement of both parties. Strang et al (2013), suggests in their systematic review which included 10 studies over 3 continents including 7 UK experiments, that face-to-face restorative conferencing, significantly decreases reoffending rates (over a 2-year follow-up period), in comparison to those that did not participate in a restorative approach. Evidence of victims' satisfaction was limited to material and emotional restoration. Some victims did not receive their money back for the cost of the crimes committed but opted for other restitution by means of the offender working for them in lieu of money owed. Additionally, this also proved to be more cost-effective in terms of crime prevention within the London borough. A study by Button et al (2015), reports that from a victim's point of view, sentencing was dependent upon the severity of the fraud and should not solely rely on the recovery of finances or custodial sentencing "I think there is something big that needs to be done [to prevent online fraud] other than just a jail sentence". Feelings of shame through restorative principles could impact an offender's future decision-making. Focus group comments such as "people just don't realise the effect it has on people....so they need to be faced with this and actually shown the problems they are causing." The report concluded that there is an 'appetite' for this approach within the UK, but further experimental study is required to assess the effectiveness.

Public perceptions of fraud differ according to severity and type of fraud, and notably different to other types of reported crime such as robbery. Green and Kugler (2012), state citizens are accustomed to having the perception of crime as involving antisocial behaviours and violence. However, the complexity of fraud sentencing is reliant upon several factors of both mitigating and aggravating evidence. The perception being that fraudulent offenders receive lesser sanctions than other crimes within the realms of moral reasoning and the severity of perceived harm to the victim and the intention of the offender. Benefit fraud for example is blurred in the sense that there are two possible causes; the first being intentional dishonesty, such as failing to declare earnings and the second being an oversight, neglecting to report a change of circumstances that would affect a claim. A survey of the British public by Roberts and Hough (2011), reports that there is little sympathy for mitigating factors in sentencing, yet a substantial number found alternative sanctions to imprisonment acceptable.

7.6 Availability of Support for Victims

Sources of support options for victims of fraud across Scotland, with some interlinking across the UK, at the time of writing include, but not limited to:

| Name of Organisation/Service | Recognisable Logo | Contact Details |
|---------------------------------------|---|--|
| NATIONAL FRAUD INITIATIVE |  | Email: helpdesk@nfi.gov.uk Helpline: 0845 345 8019 |
| POLICE SCOTLAND |  | Tel: 101 App: askthepolicescotland |
| NATIONAL CYBER SECURITY CENTRE |  | Tel: +4403000200973 Email: incidents@ncsc.gov.uk |
| VICTIM SUPPORT SCOTLAND |  | Free support helpline: 0800 160 1985 |
| AGE UK |  | Free Helpline: 0800 12 44 222 |
| ACTION FRAUD |  | Free Helpline: 03001232040 |
| ACTION ON ELDER ABUSE |  | Helpline: 080 8808 8141 |
| THINK JESSICA |  | Email: advice@thinkjessica.com |
| CRIME STOPPERS |  | Free Helpline: 0800 555 111 |
| TAKE FIVE |  | Telephone: 101 |

Victims can access these services by email, phone, and several social media platforms including Twitter, Facebook, and Instagram. Elder support is available for victims to make self-referrals and family members. E.g., The Think Jessica Campaign (appendix 2), committed to protecting people from telephone, postal and doorstep fraud, was set up to shock government into acting against this type of fraud and educating professionals. The campaign is supported nationally by local council services, banks, constabularies, and community services and offers a service dedicated to raising awareness of these types of fraud and offering support to not only victims, but their family members who may also be affected. However, it is not known whether these services are an adequate remedy for victims and if in fact victims are fully aware of the existence of these services and support networks should they fall victim to fraud. Perhaps this is another area could be a focus to develop in the future.

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9 Appendix

Appendix 1 Table of Search Examples

| Record of Search - academic search | Deliverable | | | | | | | | |
|--|---------------------------------|------------|--|--------------------------------------|--|-----------------|------------|----------|--------------------------------------|
| | 12 - impact of fraud on victims | | | | | | | | |
| Key Terms and date refined 1990-2022 | Search Engine 1 | No of Hits | excluded | narrowed number of relevant searches | | Search Engine 2 | no of hits | excluded | narrowed number of relevant searches |
| fraud england OR and OR wales "impact of fraud on victims" | google scholar | 27 | not relevant after reading abstract, opted for empirical studies 1st | 1 | | EBSKO | 1 | 0 | 1 |
| impact of fraud victims England OR and OR Wales "Impact of fraud on victims" | google scholar | 23 | not relevant after reading abstract, opted for empirical studies 1st | 9 | | EBSKO | 2 | 0 | 2 |
| benefits fraud England OR and OR Wales "impact on victims" | Google Scholar | 732 | not relevant after reading abstract, opted for empirical studies 1st | 3 | | EBSKO | 0 | 0 | 0 |
| fraud impact scotland "Impact on individuals" | google scholar | 403 | not relevant after reading abstract, opted for empirical studies 1st | 3 | | esbo | 0 | 0 | 0 |
| Fraud lack of reporting scotland | google scholar | 156 | not relevant after reading abstract, opted for empirical studies 1st | 1 | | | | | |
| Fraud Scotland "sentencing and recidivism" | google scholar | 2 | not relevant after reading abstract, opted for empirical studies 1st | 0 | | esbo | 0 | 0 | 0 |

| Grey Literature | Link | Summary | Author | Date |
|-------------------------|---|---|-------------|------|
| Victim Support Scotland | https://victimsupport.scot/information-support/crime-information/crime-types/fraud/ | Support workers and volunteers available to assist and support victims of fraud in person, through the court system and over the telephone. Brief section on Impact of fraud crime | | |
| mygov.scot | https://www.mygov.scot/victim-witness-support/ | Section on supporting after crime, support in court including how to give evidence | | |
| Victim Surcharge | https://www.gov.scot/publications/victim-surcharge-fund-guidance/ | Fund paid by the offender - to enhance support services to victims and their families | | |
| Lawscot.org.uk | https://www.lawscot.org.uk/members/journal/issues/vol-66-issue-06/criminal-court-doing-justice-with-benefit-fraud/ | fraud on the public purse - benefit fraud impact - impacting victims of deceased family members - information on sentencing | Frank Crowe | 2021 |
| Sentencing Council | https://www.sentencingcouncil.org.uk/offences/magistrates-court/item/fraud/ | Info on harm caused and a breakdown of loss caused or intended, plus victim impact in levels - england and wales | | |
| Fraud Advisory Panel | Fraud-in-Scotland-4th-ed-July2020.pdf (fraudadvisorypanel.org) | AN INTRODUCTION TO UK LEGISLATION JULY 2020 FOURTH EDITION Fraud in Scotland The way in which criminal fraud is defined, investigated and prosecuted differs across the UK. This guide explains how fraud is usually dealt with under the criminal law in Scotland. | | 2020 |
| NFI | National Fraud Initiative 2018/19 (audit-scotland.gov.uk) | Audit on fraud - by the NFI | | 2020 |

| Other Info | summary | Source |
|---|---|-----------------------------|
| https://www.scottishsentencingcouncil.org.uk/about-sentencing/gill-v-thomson-opinion/ | Example case of benefit fraud sentencing | Scottish Sentencing Council |
| Unravelling Criminal Justice: Eleven British Studies - David Downes, 1992 | Whole chapter on the victims of fraud | Book |
| Cybercrime in context: The human factor in victimization, offending, and policing, 2021 | Whole section on victims - 9 chapters | Ebook |
| Intelligence Strategy, Peter Gottschalk, 2010 | Investigation and prevention of financial crime - with references to how fraud impacts victims | Book |
| Understanding white collar crime, Hazel Croall, 2001 | Conceptualising white collar crime, fraud in the NHS, white collar offenders, victims, regulating and the law of white collar crimes, punishment, | book |

| Title and keywords | Abstract | Authors and link to article | Search Engine |
|---|--|--|---------------------------------|
| <p>Not a victimless crime: The impact of fraud on individual victims and their families Keywords: Victim, Fraud, Impact</p> | <p>This article uses data from the largest study of fraud victims in England Wales to date to explore the impact of fraud on victims. Thirty face-to-face interviews and nearly 800 telephone interviews were conducted with fraud victims and family members. Basic demographic data on the profile of victims is provided and compared with victims of other crimes. More comprehensive data are also given relating to the impact of fraud, highlighting financial hardship, broken relationships, psychological effects, mental and physical health problems. The article also highlights secondary impacts, such as damage to reputation and celebrity as well as both positive and negative changes in behaviour. The wide variation in the impact of fraud on victims is highlighted: with some victims reporting little or no impact of fraud whereas others clearly suffer devastating impacts. This destroys the myth of fraud being almost entirely a victimless crime or a crime of lesser impact.</p> | <p>Mark Button, Chris Lewis and Jacki Tapley https://link.springer.com/article/10.1057/sj.2012.11#auth-Mark-Button</p> | <p>Google Scholar and EBSCO</p> |
| <p>Online Fraud Victims in England and Wales: Victims' Views on Sentencing and the Opportunity for Restorative Justice?</p> | <p>The advent of the Internet has expanded opportunities to commit fraud and millions regularly fall victim. Fraud victims in general have been largely neglected by researchers in comparison with other crimes. There has also been very little research on issues related to the sentencing of fraudsters. This article offers some of the first insights on what individual online fraud victims actually want regarding the sentencing of the scammers who target them. It explores their views on aggravating and mitigating factors as well as the different types of sanction which can be used. The article particularly highlights the opportunities and attraction of restorative justice-based approaches to victims. It uses data from in-depth interviews with 15 online fraud victims, six focus groups with a further 48 online fraud victims and interviews with nine professional stakeholders involved in combating this problem.</p> | <p>Mark Button, Carol McNaughton Nicholls, Jane Kerr and Rachel Owen https://onlinelibrary.wiley.com/doi/abs/10.1111/hojo.12123</p> | <p>Google Scholar</p> |
| <p>From feeling like rape to a minor inconvenience: Victims' accounts of the impact of computer misuse crime in the United Kingdom Keywords: Victims Impact Computer Misuse Act Cybercrime Hacking Malware</p> | <p>This paper provides a unique insight into the impact of computer misuse crime, such as hacking, denial of service attacks, ransomware and computer viruses/malware on individual and small and medium sized enterprises/organisation (SME/O) victims in the UK. Based upon in depth interviews with 52 (38 individual and 14 SME/O) victims it shows that these victims experience many of the impacts associated with other volume crimes. Building upon research on comparable offences the paper proposes eight categories of impact, which include: little or no impact, financial, disruption, psychological (which was broken down further), feelings of violation, loss of digital possessions, health and secondary impacts. The research highlights that although for some the impact is very minor, many experience much more extensive impacts, even when there is no financial loss and for some the impact was so severe it was compared to rape.</p> | <p>Mark Button, Dean Blackburn, Lisa Sugiura, David Shepherd, Richard Kapend, Victoria Wang https://www.sciencedirect.com/science/article/pii/S0736585321001143</p> | <p>Google Scholar</p> |
| <p>The Scams Among Us: Who Falls Prey and Why Keywords: demographic variables, fraud, individual differences, risk factors, scams, susceptibility</p> | <p>Not a week goes by without stories about scams appearing in popular media outlets. Given the ease with which scams can be circulated, they have become one of the most common crimes globally, inflicting high emotional, financial, and psychological tolls on millions of individuals. Despite their profound and pervasive impact, researchers know relatively little about why some individuals fall victim to scams but others remain immune to the techniques utilized by scammers to lure potential victims. For example, research thus far provides mixed results about the impact of demographic characteristics (e.g., age) as well as personality variables (e.g., risk taking) on individuals' susceptibility to scams. Even less is known about how the nature or type of scam affects an individual's susceptibility. Gaining a deeper understanding of these issues is the key to being able to develop preventive programs and reduce the prevalence of victimization. Here, we discuss some promising directions, existing gaps in current knowledge, and the need for decision scientists to address this important problem.</p> | <p>Yaniv Hanoch, Stacey Wood https://journals.sagepub.com/doi/full/10.1177/0963721421995489</p> | <p>Google Scholar</p> |
| <p>Social Reactions to White-Collar Crimes and their Relationship to Economic Crises</p> | <p>A number of approaches might be taken to the relationship between economic crises and white-collar crimes. One is to review the role that white-collar crimes played in causing economic crisis, but this is legally problematic. This chapter begins with a discussion of social reaction to different forms of white-collar crime, and then goes on to examine briefly the evidence for the impact of the economic crisis on levels of frauds. The core argument is that the economic crisis did affect social and official reaction to some frauds – though the impact of this may be temporary – but that unlike most “law and order” issues, politicians around the world have typically downplayed fears of elite criminality and serious misconduct. Most reactions to white-collar crime reflect longer-term populist sentiments that prioritize offenses such as identity theft and fraud. Furthermore, there is little evidence that the Global Financial Crisis did much to increase the risk of fraud, though it is easy to misattribute the revelation of longer-running frauds to the crisis instead of to the fact that the recession smoked them out of the woodwork.</p> | <p>Michael Levi https://www.emerald.com/insight/content/doi/10.1108/S156136(2011)000016008/full/html?utm_source=TrendMD&utm_medium=pc&utm_campaign=Sociology_of_Crime%252C_Law_and_Deviance_TrendMD_1</p> | <p>Google Scholar</p> |
| <p>Protecting personal information in the era of identity theft: just how safe is our personal information from identity thieves? Keywords: identity theft; fraud; theft; cybercrime; personal information; data; Internet; cyberspace; right to privacy; computer users; law enforcement agencies; businesses; legislation; South Africa; United States of America; United Kingdom; India.</p> | <p>Identity theft has become one of the fastest growing white collar crimes in the world. It occurs when an individual's personal information such as inter alia his or her name, date of birth or credit card details is used by another individual to commit identity fraud. Identity theft can be committed via physical means or online. The increased use of the Internet for business and financial transactions, social networking and the storage of personal information has facilitated the work of identity thieves. Identity theft has an impact on the personal finances and emotional well-being of victims, and on the financial institutions and economies of countries. It presents challenges for law enforcement agencies and governments worldwide. This article examines how identity thieves use the personal information of individuals to commit identity fraud and theft, and looks at legislative solutions introduced in South Africa, the United States of America, the United Kingdom and India to combat identity theft crimes. The article examines measures introduced by the respective governments in these countries to counteract such crimes. Finally, the article will propose a way forward to counteract such crimes in the future. The study reveals that identity theft is a growing and evolving problem that requires a multi-faceted and multi-disciplinary approach by law enforcement agencies, businesses, individuals and collaboration between countries. It is advocated that businesses and institutions should take measures to protect personal information better and that individuals should be educated about their rights, and be vigilant and protect their personal information offline and in cyberspace.</p> | <p>F Cassim https://www.ajol.info/index.php/peij/article/view/121286</p> | <p>Google Scholar</p> |

| | | | |
|---|--|--|-----------------------|
| <p>Hiding behind the Veil of Action Fraud: The Police Response to Economic Crime in England and Wales and Evaluating the Case for Regionalization or a National Economic Crime Agency</p> | <p>This article explores the policing structures that emerged in the noughties in England and Wales to tackle economic crime, such as Action Fraud and the National Fraud Intelligence Bureau. This article reviews some of the growing literature on these structures, in-particular, two reports by Her Majesty's Inspectorate of Constabulary, Fire and Rescue Services and a major investigation by the Police Foundation which provides a critical review of the police response to economic crime. This article argues the central problem is the lack of investigative capacity, among others. It also argues Action Fraud, which has become commonly derided, has become a useful veil from which the police to hide their inadequate response. This article argues radical change is required to address the investigative gap through either regionalization or a national solution, through a National Economic Crime Agency. This article considers some of the arguments for against such approaches and calls for a debate to commence on the future structures for policing economic crime.</p> | <p>Mark Button https://academic.oup.com/policing/article/15/3/1758/6273115?login=true</p> | |
| <p>The Traumatized Family: The Families of Victims</p> | <p>One common criticism of Criminology as a discipline is its perceived focus on crime and criminals, and the consequent marginalisation of victims (this is also a common critique of the criminal justice system). In response, scholars who research the area of victims and victimisation have developed the sub-field of <i>victimology</i> in recognition of the importance of this topic and the need to claim a space for it.</p> | <p>Amanda Holt https://link.springer.com/chapter/10.1007/978-3-030-71169-6_7</p> | |
| <p>Professionalising counter fraud specialists (fraud investigators) in the UK public sector: a focus upon department for work and pensions, national health service and the local authority</p> | <p>Generally, the study revealed developments enhancing the status of UK public sector counter fraud specialists as a result of the professionalisation initiatives/agenda. Nonetheless, the strength of the quality of developments remained arguable given identified weaknesses in the "pillars of institution" such as normative, regulative and cultural-cognitive symbols that, together with associated activities and resources provide the bedrock for institutional transformation and professionalising occupations. The study provides recommendations on areas of improvement and future research. Therefore, my contribution to knowledge in this study is that, I have attempted to show how to develop a profession for counter fraud specialists in the UK public sector, mainly, the DWP, NHS and LA. In addition, the study has failed to find evidence that counter fraud meets what the literature says is a hallmark of a profession. The literatures on fraud and professionalisation of counter fraud specialists have failed to address this and this is my contribution to knowledge.</p> | <p>Kwabena Opuni Frimpong https://www.proquest.com/docview/2388769088?pq-origsite=scholar&fromopenview=true</p> | <p>Google Scholar</p> |
| <p>The 'fraud justice network' and the infra-structure of support for individual fraud victims in England and Wales. Keywords: fraud, victims, support</p> | <p>This article explores the infra-structure of support for victims of fraud in England and Wales using a new model for examining support through what the authors call a 'fraud justice network', which acknowledges the multiple state and private systems of justice alongside the criminal justice system that fraud victims interact with. Using evidence from interviews with victims the article explores the different levels of support for fraud victims at the reporting, reported and criminal justice stage and how the different systems within the 'fraud justice network' impact upon this. Finally the article briefly assesses Action Fraud which has been launched by the National Fraud Authority as a means of addressing some of the gaps in support for victims</p> | <p>Mark Button, Jacki Tapley, Chris Lewis http://dx.doi.org/10.1177/1748895812448085</p> | <p>ERSCO</p> |
| <p>The Victims of White-Collar Crime white-collar crime corporate crime victimology community safety consumer crime health and safety gender and victimisation</p> | <p>This paper explores aspects of individual victimisation from white-collar crime, a subject relatively neglected in criminology and victimology. While it is often assumed that such victimisation is relatively invisible, indirect and impersonal the paper argues that it involves physical and economic harms along with threats to the quality of life and community safety. It details aspects of victimisation in the home, local neighbourhood, the workplace, the market place and in relation to transport, health and leisure. Structural aspects of victimisation such as gender, age and social class are also explored. It concludes by arguing that further research into the extent of such harms could have a considerable impact on policies relating to community safety</p> | <p>Hazel Croall https://bra.se/download/18.12305534131e173a7f180001915/1371914735809/2001_white-collar_crime_research.pdf#page=35</p> | <p>Google Sch</p> |
| <p>"If they don't listen to us, they deserve it": The effect of external efficacy and anger on the perceived legitimacy of hacking - keywords: anger, external efficacy, hackers, social banditry framework, vicarious dissent</p> | <p>We conducted two studies examining the factors underlying individuals' legitimization of hackers (digital actors operating on the internet). Drawing on the social banditry framework, and research on political action, we focused on the mediating role of anger in the association between external political efficacy and perceived legitimization of hackers' actions. Specifically, we manipulated whether the system was responsive to participants' demands following unfair treatment in a university (Study 1) and in an online work platform (Study 2) context. In Study 1 (N = 259) British undergraduate students read about unfair "grading" practices. They were then informed that the management was either willing (high external political efficacy) or unwilling (low external political efficacy) to investigate the matter. In Study 2 (N = 222), British participants were recruited via Proflific Academic and were presented with a scenario describing an unfair rejection of their work. They were then informed that the platform admin was either willing or not willing to investigate their case. Across studies, participants were informed that hackers had attacked the website. Supporting the social banditry framework, results indicated that individuals who perceive the system as unresponsive to their demands tended to legitimize hackers' actions via stronger perceived anger against the system. Implications of the results, and future directions are discussed.</p> | <p>Maria Heering, Giovanni Travaglino, Dominic Abrams and Emily Goldsack https://doi.org/10.1177/1368430220937777</p> | <p>Google Sch</p> |
| <p>Online frauds: Learning from victims why they fall for these scams keywords: fraudster techniques, online fraud, scams, victims</p> | <p>Online frauds have become a major problem in many countries with millions of victims from a wide diversity of scams committed in full or part online. This paper explores the extent and nature of this problem. Using data from depth interviews with 15 online fraud victims, 6 focus groups with a further 48 online fraud victims and interviews with 9 professional stakeholders involved in combating this problem. The paper explores why victims fall for online scams. It identifies a range of reasons including: the diversity of frauds, small amounts of money sought, authority and legitimacy displayed by scammers, visceral appeals, embarrassing frauds, pressure and coercion, grooming, fraud at a distance and multiple techniques.</p> | <p>Mark Button, Carol McNaughton Nicholls, Jane Kerr and Rachel Owen https://doi.org/10.1177/0004865814521224</p> | <p>Google sch</p> |

Appendix 2

<https://www.youtube.com/watch?v=ZwXMsG2xkcM&t=3s> – Think Jessica Film

Appendix – Tables from the Sentencing Guidelines (2014; 6 and 7) for Fraud, Bribery, and Money Laundering

Culpability demonstrated by one or more of the following:

A – High culpability

| |
|---|
| A leading role where offending is part of a group activity |
| Involvement of others through pressure, influence |
| Abuse of position of power or trust or responsibility |
| Sophisticated nature of offence/significant planning |
| Fraudulent activity conducted over sustained period of time |
| Large number of victims |
| Deliberately targeting victim on basis of vulnerability |

B – Medium culpability

| |
|---|
| Other cases where characteristics for categories A or C are not present |
| A significant role where offending is part of a group activity |

C – Lesser culpability

| |
|---|
| Involved through coercion, intimidation or exploitation |
| Not motivated by personal gain |
| Peripheral role in organised fraud |
| Opportunistic ‘one-off’ offence; very little or no planning |
| Limited awareness or understanding of the extent of fraudulent activity |

Harm A – Loss caused or intended

| | | |
|-------------------|---|------------------------------------|
| Category 1 | £500,000 or more | Starting point based on £1 million |
| Category 2 | £100,000 – £500,000 or Risk or category 1 harm | Starting point based on £300,000 |
| Category 3 | £20,000 – £100,000 or Risk of category 2 harm | Starting point based on £50,000 |
| Category 4 | £5,000 – £20,000 or Risk of category 3 harm | Starting point based on £12,500 |
| Category 5 | Less than £5,000 or Risk of category 4 harm | Starting point based on £2,500 |

Risk of category 5 harm, move down the range within the category

Harm B – Victim impact demonstrated by one or more of the following:

The court should then take into account the level of harm caused to the victim(s) or others to determine whether it warrants the sentence being moved up to the corresponding point in the next category or further up the range of the initial category.

High impact – move up a category; if in category 1 move up the range

| |
|--|
| Serious detrimental effect on the victim whether financial or otherwise, for example substantial damage to credit rating |
| Victim particularly vulnerable (due to factors including but not limited to their age, financial circumstances, mental capacity) |

Medium impact – move upwards within the category range

| |
|--|
| Considerable detrimental effect on the victim whether financial or otherwise |
|--|

Lesser impact – no adjustment

| |
|---|
| Some detrimental impact on victim, whether financial or otherwise |
|---|

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