

## Uncovering HBOS corruption, money laundering and fraudulent trading

10/02/2017

**Corporate Crime analysis: A former Halifax Bank of Scotland (HBOS) manager, along with a number of his associates, were recently given prison sentences for their part in a £245m loan scam. Jasvinder Nakhwal, partner at Peters & Peters, and legal researcher, Craig Hogg, explain the background to the case and consider the judgment.**

### Original news

Senior HBOS banker and associates convicted of corruption, [LNB News 31/01/2017 141](#)

*A former HBOS manager, financial consultant and their associates have been convicted of corruption, fraudulent trading and money laundering for running a scheme which eventually saw the bank incur losses in the region of £250m. Former banker David Mills and his associates conspired to enrich themselves, driving businesses into the ground in the process.*

### What is the background to the investigation in this case?

On 30 January 2017, Judge Beddoe sitting at Southwark Crown Court handed down sentences to five bank employees and private business advisors for offences committed in relation to a £245m scam on HBOS customers between 2003 and 2007. This followed a complex six-year investigation carried out by Thames Valley Police, codenamed Operation Hornet. This was the longest and most complex investigation in the history of the force, costing a reported £7m.

According to [press release](#) issued by Thames Valley Police, the case was referred by the Financial Services Authority (as it was then) to the Thames Valley Economic Crime Unit on the basis that the offences originated from the impaired assets team at HBOS, located in Reading.

The prosecuting authority was the Specialist Fraud Division (SFD) of the Crown Prosecution Authority (CPS), specifically the Central Fraud Group (CFG).

### Why was there a delay in bringing these proceedings to trial?

It is not possible to say precisely why proceedings took so long to be brought to trial. The investigation started in 2010 but it was not until January 2013 before the first charges were laid, with a trial initially due to commence in January 2013, which was ultimately pushed back to September 2016.

Allegations of financial crimes are very often complex factually, legally, and evidentially. The case was multifaceted, with large sums of money allegedly transferred between a number of businesses, and benefitting a web of connected parties.

The case involved allegations of bribery levelled against former banker David Mills, and HBOS employee Lynden Scourfield. In his position as head of the department at HBOS which dealt with businesses in financial difficulty, it was alleged that Mr Scourfield devised a scheme which required certain customers to engage the services of Mr Mills' company, Quayside Corporate Services Ltd, to obtain further lending from HBOS.

Under this arrangement, potentially crippling sums of money were then advanced to customers. When their businesses entered into financial difficulty, Mr Mills' wife, Alison Mills, and further associates, Michael Bancroft and Tony Cartwright, then demanded very high fees for 'consultancy services', taking control of some of the ailing companies for their own benefit. The police investigation uncovered rewards provided to Mr Scourfield by Mr Mills to facilitate this conduct, in both cash payments and money transfers, as well as hospitality arrangements, foreign holidays and payments to sex workers.

After a trial at Southwark Crown Court, Mr Mills was convicted of conspiracy to corrupt, four counts of fraudulent trading and conspiracy to conceal criminal property. His wife was convicted of conspiracy to conceal criminal property.

Mr Scourfield pleaded guilty to conspiracy to corrupt, four counts of fraudulent trading and conspiracy to launder the proceeds of crime. Mr Bancroft was convicted of conspiracy to corrupt, three counts of fraudulent trading and one of conspiracy to conceal criminal property. Mr Cartwright was convicted of fraudulent trading and conspiracy to conceal

criminal property, while further associate Mark Dobson was found guilty of conspiracy to corrupt and conspiracy to conceal criminal property.

### **What factors did the judge take into account in sentencing?**

At the time of writing, Judge Beddoe's sentencing comments are not a matter of public record. However excerpts are available widely in the press, and it appears that the impact the crimes had on victims was a particularly important aggravating factor.

According to the [CPS press release](#), the businesses affected by the defendants' actions suffered gravely, which in turn led to job losses, financial hardship, marital breakdowns and serious ill-health in some cases.

Judge Beddoe described Mr Scourfield as an 'utterly corrupt bank manager', whose scheme left hundreds of small business owners 'cheated, defeated and penniless'. The defendants' lavish lifestyles were also subject to close scrutiny, with Judge Beddoe adding in his sentencing remarks to Mr Scourfield, '... you sold your soul, for sex, for luxury trips with and without your wife—for bling and for swag'.

These factors were reflected in a combined figure for sentence of 47 and a-half-years—eleven years and three years for Mr Scourfield, 15 years for Mr Mills, ten years for Mr Bancroft, three-and-a-half years for Mr Cartright, four-and-half-years for Mr Dobson. Ms Mills was sentenced to three-and-a half years.

### **What strikes you as interesting about the sentences imposed?**

The sentences handed down by Judge Beddoe are certainly lengthy. This is perhaps unsurprising, given that the offences committed carry significant maximum terms of imprisonment.

The offence of conspiracy to corrupt (pursuant to section 1 of the Criminal Law Act 1977 and sections 1–2 of the Bribery Act 2010 (BA 2010), respectively) carries with it a maximum custodial sentence of ten years' imprisonment. The offence of fraudulent trading (contrary to section 458 of the Companies Act 1985 and section 993 of the Companies Act 2006 (CA 2006)) also carries with it a maximum custodial sentence of ten years' imprisonment. A conviction of conspiracy to launder money (contrary to sections 327, 328 and 329 of the Proceeds of Crime Act 2002 (POCA 2002)) carries a maximum term of imprisonment of 14 years. The offence of conspiracy to conceal property (contrary to POCA 2002, s 327), of which Mr and Ms Mills and Mr Bancroft were all separately convicted, carries a maximum custodial sentence of 14 years' imprisonment.

Financial crime often triggers a number of statutory and common law offences, and sentences are handed down for multiple indictments, as indeed occurred in the HBOS case. The length of the sentences imposed in this case appear to be consistent with the general clampdown on financial crime in the banking sector.

### **What learning points do you think corporate crime practitioners can take from this case, in particular in terms of advising clients on historic allegations of corruption?**

These convictions are a strong reminder that historic allegations of corruption, some of which may pre-date the entry into force of BA 2010 (which was 1 July 2011) and the present CA 2006 (which was introduced in stages, with its final provisions commencing on 1 October 2009) are not beyond the reach of investigative and prosecutorial bodies in England and Wales. It is therefore important that corporate crime practitioners remain familiar not only with current statute and common law in the field of financial crime but with those provisions which are either of direct or interpretative retrospective effect. Given the current climate of uncertainty for banks and businesses, and the continually emerging consequences of the 2008 financial crash, this is likely to hold true for the foreseeable future.

*Interviewed by Alex Heshmaty.*

*The views expressed by our Legal Analysis interviewees are not necessarily those of the proprietor*



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