

**The organisation of mortgage fraud and its relationship to
the governance, control and regulation of financial
services**

Jonathan Gilbert

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Cardiff School of Social Sciences
Cardiff University

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This thesis is being submitted in partial fulfilment of the requirements for the degree of PhD.

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Abstract

This study adopts a critical realist approach to examine how mortgage fraud is organised in England and Wales, what the crime-commissioning processes are for its occurrence and what exogenous conditions and influences support its existence and its capacity to reproduce. The study aims to extend understanding beyond the micro-individual-level, such as causal agency (i.e. those factors that influence the decision to offend), the biographies of actors and their social relations with one another; to a level of understanding that encompasses macro-structural and facilitative factors and conditions that exist in the financial services sector.

The strategy chosen to guide data collection utilises Layder's adaptive theory (1998), where theoretical propositions concerning the commission and reproduction of mortgage fraud are subject to adaptation and refinement as a consequence of incoming evidence. This strategy is supported by a multiple case study design, which involves the cross-case analysis of three multi-million-pound mortgage fraud conspiracies.

The study combines criminology with convict criminology, and allies itself to an approach to sociological inquiry that employs Clegg's circuits of power theory. This theory is used as a conceptual framework to examine how the roles and activities of fraudsters and key professional agents are otherwise supported by the convergence of dispositional and facilitative conditions and influences in the financial services sector. It is this *circuit* that supports the existence of mortgage fraud and its capacity to reproduce, or to be disrupted before it can reproduce.

Crime scripting is used as a means of transposing the circuits of power framework into criminological research, as the schema is representative of the interrelationship of the causal, dispositional and facilitative powers through which the organisation of mortgage fraud is possible.

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List of Acronyms and Abbreviations

ACCA	Association of Certified Chartered Accountants
AML	Anti-money laundering
CeMAP	Certificate in Mortgage Advice and Practice
CIFAS	Credit Industry Fraud Avoidance System
CiLEX	Chartered Institute of Legal Executives
CML	Council of Mortgage Lenders
CPPA	Certified Public Accountants Association
CPS	Crown Prosecution Service
DC	Detective Constable
DVLA	The Driver and Vehicle Licensing Agency
FBI	Federal Bureau of Investigation
FCA	Financial Conduct Authority
FCIC	Financial Crisis Inquiry Commission
FinCEN	Financial Crimes Enforcement Network
FSA	Financial Standards Authority
GMAC	General Motors Acceptance Corporation
HHJ	His Honour Judge
HBOS	Halifax Bank of Scotland Group PLC
HMP	Her Majesty's Prison
HMPPS	Her Majesty's Prison and Probation Service
HMRC	Her Majesty's Revenue & Customs
HoL	House of Lords
HoC	House of Commons
ICAEW	Institute of Chartered Accountants in England and Wales
IFA	Institute of Financial Accountants
IFL	Information for Lenders Scheme
KPA	Key Professional Agent
KPMG	Klynveld Peat Marwick Goerdeler
KC	Kings Counsel
KYC	Know Your Client/Customer
MO	Motivated Offender
MoJ	Ministry for Justice
MP	Member of Parliament

MSc	Master of Science
NAEA	National Association of Estate Agents
NCA	National Crime Agency
NTA	National Trading Standards
NTSEAT	National Trading Standards Estate Agency Team
OCG	Organised Crime Group
OECD	The Organisation for Economic Co-operation and Development
OM	Offender Manager
P60	End of Year (Tax) Certificate
PLC	Public Limited Company
POCA	Proceeds of Crime Act
PSC	Parliamentary Select Committee
RBS	Royal Bank of Scotland Group PLC
RICS	Royal Institute of Chartered Surveyors
ROCU	Regional Organised Crime Unit
SA302	Self-Assessment 302 form
SAR	Suspicious Activity Report
SCP	Situational Crime Prevention
SDLT	Stamp Duty Land Tax
SDT	Solicitors Disciplinary Tribunal
SFO	Serious Fraud Office
SIO	Senior Investigating Officer
SRA	Solicitors Regulation Authority
TVECU	Thames Valley Economic Crime Unit

Dedication

To Team Gilbert, namely my wife, Natalie and our three sons Zach, Arthur and Reilly.

Thank you all for your love, support and encouragement on this incredible journey. I am truly blessed to have you.

Chapter 1: Introduction

This study is an examination of the organisational characteristics of mortgage fraud, a crime succinctly defined by the Law Commission as “*the obtaining of mortgage advances on properties by making fraudulent statements*”;¹ and its relationship to the governance, control and regulation of financial services in England and Wales. However, whilst this definition is unambiguous, it is also too simplistic as a means of signposting understanding, particularly as its inference focuses on the will and the actions of the individual as opposed to less proximal and distal conditions and factors that could support the commission of mortgage fraud.

Similarly, the Federal Bureau of Investigation (FBI) classifies mortgage fraud as either fraud-for-property or fraud-for-profit cases,² focusing law enforcement methodology on individualistic and proximal conditions and factors, notwithstanding that the US legislature attributed mortgage fraud as a contributory factor to the sub-prime crisis of 2007/08, which escalated into an international financial crisis.

The study establishes that current published qualitative research is methodologically individualistic where the focus is on offenders, including professional agents recruited from the professions that service the property and mortgage lending market. It is also predominantly transatlantic, though practices and protocols for conveying property and mortgage finance in the US are significantly dissimilar to those of England and Wales (Chapter 2).

However, whilst US studies are of good quality they are predominantly quantitative, generalising mortgage fraud in the abstract in order to address research questions, for example, based upon the negative impact of financialisation, marketisation and deregulation in the financial markets (Haro and Sullivan 2009; Jaffee 2009; Lander et al. 2009; Mayer et al. 2014; Dow 2016); and the social harm impact that predatory lending and mortgage fraud has on households, neighbourhoods and disadvantaged

¹ Law Commission, 1996, para 1.1.

² <https://www.fbi.gov/investigate/white-collar-crime>

communities (Carr 2007; Carswell and Bachtel 2009; Crossney 2010; Martin 2011; Hur et al. 2015; Aalbers 2016; Fulmer et al. 2017).

Accordingly, there exists a research gap and a need to understand how mortgage fraud in England and Wales is organised concretely in its heterogenous forms and not in a reductive form where it is regarded as a by-product of neo-liberal financial markets. The study therefore asks; *“How is mortgage fraud organised and what are the crime-commissioning processes for its occurrence?”*

In order to provide a non-reductive explanation of the organisation of mortgage fraud there is a need to widen the range of enquiry to include the interrelationship that exists between mortgage fraud and causal agency, and those dispositional and facilitative factors and conditions that exist within the financial services market and the regulatory frameworks tasked with prevention and control (Clegg 2014). For that reason, the study further asks, *“are the proximal causes of mortgage fraud related to causal, dispositional and facilitative circuits of power and if so in what ways?”*

This approach aims to understand the under-researched dimension of how cultures of competition within the mortgage lending market legitimise and support reproduction whilst failing to disrupt mortgage fraud. This requires a methodology that enquires beyond an individualistic interpretation of offending to one that is true to a critical realist approach that seeks to define what substantive relations of connections within the script are *necessary* to support the commission of mortgage fraud and which are otherwise *contingent* (Chapter 3).

The study will consider whether the biographies and shared dispositions amongst the actors and key professional agents (KPA or enablers) are supported by dispositions amongst mortgage lenders that render them suitable victims. It will consider also whether these dispositional factors are allied to exogenous and facilitative conditions existing in highly competitive and light touch regulated financial markets that support reproduction at the expense of disruption. Apropos this final point the study asks; *“how effective is the governance, regulation and control of financial services in England and Wales in disrupting mortgage fraud?”*

The study adopts crime scripting, an innovative way to improve the understanding of complex crime (Levi and Maguire 2004), as a means of examining its organisation, particularly to identify the event schema that makes up its crime-commissioning process and how adaptive facets and improvisations give the script its flexibility. Also, by considering the *arms race* between organisers and preventers within the context of the effectiveness of governance, control and regulation, improvisations to the script necessary to support reproduction can be identified to provide cues for intervention (Edwards 2016). To assist the reader Chapter 4 will provide an overview of a property purchase subject to a mortgage.

There are an increasing number of studies that have used scripting as an effective means of understanding the organisation of financial crime (see Jordanoska and Lord 2019), however there remain no studies, to the author's knowledge, that have crime scripted mortgage fraud. Scripting will also allow the researcher to transpose the circuits of power framework into criminological research, as the schema is representative of the interrelationship of the causal, dispositional and facilitative powers through which the organisation of mortgage fraud is possible.

To answer the three research questions set above, we begin with a broad proposition that mortgage fraud is facilitated by the exploitation of dispositional factors in the mortgage market by motivated offenders, including KPA; in circumstances where governance, regulation and control face challenges in disruption, as a consequence of the convergence of causal, dispositional, and facilitative circuits of power, which ultimately support reproduction.

Three multi-million-pound mortgage fraud cases were chosen for the study as a means of *adapting* and refining this proposition (Layder 1998, Yin 2003). The first case study, Operation Opal, operated between 2009 and 2013 involving multiple actors, including sub-agreements with others, comprising in excess of eighty fraudulent applications valued at £10,500,000 (Chapter 5). The second case, Operation Aztec, operated between 2003 and 2011 involving multiple actors, including straw persons, comprising thirty-seven fraudulent applications valued in excess of £5million (Chapter 6).

The third case study, Operation Cassandra, operated between 2005 and 2009, involving a wider range of KPA comprising twenty-nine fraudulent applications valued in excess of £36million (Chapter 7). Notably, the researcher acted as solicitor to the lead actor in Operation Cassandra and as a consequence is able to lend *de Profundis* experience of offending to the study. He was sentenced to a twelve-year prison sentence in July 2014 and was released from prison on licence in June 2020.

Extensive data collected includes prosecution case files, extensive witness and documentary evidence; interviews with leading actors, police, lenders, regulators and fraud prevention agencies; regulatory enforcement files and media reports.

The structure of each case study utilises Clegg's Circuits of Power (1989) conceptual framework to identify firstly, the agency, biographies, social relations and role and responsibility of the motivated offenders, KPA and supporting actors, including straw persons in each case; secondly, those shared dispositions amongst these actors, including knowledge and opportunity and the ability to target suitable victim lenders who themselves shared dispositions that rendered them susceptible to fraud and repeated victimisation; and thirdly, those facilitative conditions within the financial services market and the regulatory frameworks that together with agency and dispositional factors supported the commission and reproduction in each case.

The cross-case study analysis (Chapter 8) is divided into four parts: The Conventional Mortgage Fraud Script, Dispositions, Governance and Reproduction. At the outset the chapter will present a conventional mortgage fraud script representative of the findings of each of the case studies. Each subsequent part will discuss and adapt its respective theoretical proposition by direct reference to the case studies, including data collected from other sources.

In the exposition of Dispositions, the original proposition that mortgage fraud is facilitated by the exploitation of dispositional factors in the mortgage market by motivated offenders, including KPA held firm. However, there are distinctions, particularly to the extent that KPA were either *necessary* or *contingent* to commission and subsequently, reproduction. Furthermore, shared dispositions on the part of lenders included a disinclination to report victimisation to law

enforcement. This it will be argued erodes the deterrent effect of criminal justice outcomes and contributes to the depenalisation and potentially the ultimate decriminalisation of mortgage fraud.

In the exposition of Governance, broadening data collection that included UK government parliamentary proceedings and regulatory enforcement files identified deficiencies in state governance and regulation, the consequence of which was incapable guardianship, a necessary relation for the organisation of mortgage fraud. Accordingly, this adapted the proposition to one that a lack of capable guardianship on the part of the state, law enforcement and regulators, provide the facilitative conditions that complete the circuit of power and support the reproduction of mortgage fraud. It will also be argued systemic and reproductive mortgage fraud within the financial services sector was a contributory factor in the UK financial crisis of 2007/08, as it was in the sub-prime crisis in the US.

In the final part, Reproduction, several improvised mortgage fraud scripts will be presented to identify how mortgage fraud is capable of reproduction as a consequence of the evolving interrelationship between causal agents, dispositional and facilitative circuits of power. Accordingly, it will be argued that mortgage fraud exists due to substantive relations of connection which are necessary to the conventional mortgage fraud script, but otherwise contingent to the reproductive script. It is these relations that render its crime commissioning processes both dynamic and evolving and presents challenges to preventers in the arms race with organisers.

The conclusion will consider the adaptation of those theoretical propositions that have guided data collections and answer the three research questions posed above. It will then discuss the broader themes that have emerged from the study, particularly the extant *arms race* between the organisers and preventers of mortgage fraud and how preventers, with improved understanding, can better position themselves in the contest for ascendancy. However, to this end they need to *short-circuit* those dispositional and facilitative powers identified in the study, in order that they are supportive of disruption.

It will also be argued that the study advances knowledge about fraud as a distinct field of contemporary (even convict) criminology, and supports the furtherance of the understanding of the organisation of financial crime, particularly by the broadening the scope of inquiry beyond the offenders to encompass other agents and facilitating conditions and their implication for prevention. The study will conclude by offering conjectures and future scenarios for mortgage fraud which it will broadly divide into three categories, namely the role of technology, the effectiveness of post-crisis philosophies of regulation across the sector, and the extent to which there is currently a deviant supply driven by a deviant demand, the latter providing a key causal mechanism for the continuing presence of mortgage fraud in England and Wales.

Chapter 2: A review of the literature

2.1. Introduction

The seminal study of mortgage fraud in England and Wales was undertaken by Clarke (1991) in the aftermath of the property boom and bust of the late 1980s that exposed a high level of fraud.³ As well as identifying two broad classifications of mortgage fraud, namely *status* and *property* fraud,⁴ Clarke also identified the facilitating role of KPA as well as dispositions amongst lenders that paradoxically contributed to complacency on their part that rendered them vulnerable to fraud. Furthermore, he identified regulatory shortcomings and facilitative conditions within financial services, a consequence he argues of ‘diversification’, that made “mortgage lenders particularly vulnerable”.⁵

Clarke’s recommendations included improvement in dissemination amongst lenders, more effective engagement with law enforcement, improvement in the control of mortgage fraud by professional regulators and, notably, detailed research into typology of offending and incidence of fraud across the sector. Notwithstanding this last recommendation, there has been limited further research into mortgage fraud in England and Wales since Clarke’s study which provides for a notable lacuna in both knowledge and understanding.

Furthermore, what research is available principally falls within two distinct methodological categories. Firstly, there is a modest body of work that is methodologically individualistic where focus is primarily on the offender and his/her KPA. This research is predominantly qualitative, considering mortgage fraud within the context of causal agency.

³ A former Detective Inspector of the Economic Crime Department at the City of London Police interviewed recalled his time investigating a high volume of mortgage fraud cases in the late 1980s and said, “we went from having virtually zero mortgage frauds to suddenly floor to ceiling stacked with cases”.

⁴ *Status* fraud involves misleading the lender as to the financial position of the applicant, and *property* fraud involves misrepresenting the property’s value or its characteristics.

⁵ P.57.

Secondly, there is a more sizeable body of work from anthropogeographical and economic scholars in the US that has concentrated on the social harm caused by predatory lending and mortgage fraud as well as the negative impact of financialisation, marketisation and deregulation in the financial markets. This research is predominantly quantitative, considering mortgage fraud in the abstract as a means of addressing societal as opposed to criminological research objectives.

Accordingly, this study aims to bridge the gap and provide a non-reductive explanation of the organisation of mortgage fraud that identifies the interrelationship between causal agency and dispositional and facilitative conditions that support commission and reproduction. To this end, the chapter will commence by discussing how the concept of Clegg's circuits of power framework (1989) can be used to understand the organisation and reproduction of mortgage fraud.

The remaining chapter is divided according to the three circuits of power. Firstly, it will discuss causal agency, particularly those individual and opportunity theories for crime which have been applied as the theoretical basis for a number of crime script studies. It will consider how these theories may partially assist in understanding for example, the roles and responsibilities of the organisers of mortgage fraud, but how they are otherwise reductive in nature. It will be argued that there is a need to shift focus from an actor-orientated approach to research to one that considers broader organisational, facilitative and exogenous factors.

It will then consider literature relevant to shared dispositions amongst organisers in order to identify how for example, KPA are socially integrated into cultures of mortgage and property practice and regulation and then how facilitative powers within the financial services market can impact effective governance and regulatory guardianship; thereby completing the circuit in which mortgage fraud can be commissioned, reproduced or to a lesser extent, as will be evident through cross-case analysis, disrupted.

Finally, it will consider literature relevant to crime scripting as a means of understanding the organisation of crime whilst also supporting the justification of the research questions posed and the provenance of the study.

2.2. Clegg's circuits of power and mortgage fraud

The study draws upon Clegg's circuits of power theory (1989) as an organising device to answer those research questions set out in Chapter 1. The rationale for this approach is to ensure that the full range of dispositional and facilitative factors and conditions that are relevant to the organisation of mortgage fraud, beyond that of causal agency, are examined. This approach will be used to assist cross-case analysis between Opal, Cassandra and Aztec to ensure that a non-reductive and heterogenous explanation of the organisation of mortgage fraud is provided within the script.

By transposing causal agency, dispositional and facilitative powers to the schema of the script, it will provide an improved understanding of how mortgage fraud evolves from its original commission and how these powers converge to support reproduction and/or disruption. It will also assist in establishing how systemic mortgage fraud, as evident in all three case studies, is an emergent by-product of the *arms race* between organisers and preventers, a relationship that provides the *standing condition* for mortgage fraud to exist (Layder 1998). It is this dynamic that supports an adaptable and transformative script.

Adoption of this theory will also assist in identifying shared dispositions amongst lenders that render them susceptible to victimisation as well as those deficiencies in state governance and regulatory control that facilitate reproduction. Clegg has similarly applied the circuit of power framework to what he refers to as a *short-circuit* in the financial services *systems* in the US that led to the subprime crisis (2014).

Clegg argues that the introduction of innovative and complex financial products “exceeded the capacity of key managers to judge, interpret and make sense” whilst creating criminogenic environments where “*internal organization order was deliberately designed as a loosely coupled system in which social ties were weak, with traders having many degrees of freedom and little oversight*”. He adds that its “complexity, under a regime of light regulation, made its circuits of power/knowledge virtually ungovernable” (p.387). This study will also establish that a similar *short-*

circuit existed in the financial services *systems* in England and Wales that contributed to the financial crisis of 2007/08.

Furthermore, dispositional powers can be explained in terms of the rules of meaning and membership amongst lenders through their relations with one another and their trade representatives.⁶ As a coalition, lenders should collectively exercise similar prudential risk and due diligence practices and customs when considering a mortgage application. This would include checks on the identity of the applicant, the validity of their employment status and capability to repay etc. When fixed, these rules of meaning oblige lenders to adhere to, or adapt, or to discredit and replace defective fraud prevention practices (Edwards 2016a). Accordingly, in order to support disruption, lenders need to *buy-in* and *continue* to mobilise the coalition to protect the sector from fraud. The alternative is that members become either partially or at worst wholly disinterested and disconnected, as they follow distinct business models and objectives loosely coupled to prioritising growth and marketisation over due diligence and fraud prevention.

Edwards argues that there exists the potential to disempower and discredit dominant dispositions that can support disruption. An example of this was the UK government's intervention following the financial crisis which alongside state bail-out packages included the disempowering of dispositions that had supported high-risk lending practices and securitisation that collectively contributed to the impairment of the financial markets. Edwards argues that such influences can also facilitate transformation of rules of practice by "*empowering extant but marginalised dispositions or the innovation of new dispositions*" (2016b, p.252).

Notwithstanding UK government intervention, there has only been a temporary disempowerment as a consequence of governance and regulatory drift, where dispositions (albeit not as dominant) returned to the sector as competition amongst lenders resumed, triggering reproduction (but arguably not *yet* to the scale seen

⁶ Most notably UK Finance <https://www.ukfinance.org.uk>

before the crisis).⁷ This example is evident in all three case studies as the offending periods traversed the crisis, which demonstrates how organisers innovated new shared dispositions to circumvent disruptive elements, demonstrating within the script just how evolving, dynamic, adaptable and transformative mortgage fraud can be.

2.3. Causal agency and mortgage fraud

2.3.1. Rational choice and routine activity theory

It has been established that rational choice theory generally provides a viable conceptual framework for crime script analysis and situational crime prevention (Cornish and Clarke 2002), an approach where the offender's decision-making is considered within goal-orientated commissioning processes focusing on criminal action and its interaction with its immediate environment (Chiu et al. 2011). Accordingly, at the situational level, this approach could identify those proximal crime-commissioning processes relevant to an otherwise legitimate mortgage transaction in order to disrupt organisers of mortgage fraud who are acting parasitically.

The theoretical frameworks of SCP and the application of the *Five Key Pillars* considers the effectiveness of disruption alongside varying offending scenarios (Clarke 2005). It has been successfully applied to cases of money laundering by solicitor enablers (Middleton and Levi 2015). However, there have been no studies that have applied SCP to mortgage fraud, save for a qualified application by van Gestel (2010),⁸ in the Netherlands. Notwithstanding, comparative study is subject to jurisdictional variances in property ownership, bank funding and legal practices that render the broad application of SCP in this instance, challenging.

Rational choice theory allies itself to an individualistic interpretation of offending and an actor-orientation to identify cues for crime reduction (Gottschalk 2012). Whilst this

⁷ <https://www.CIFAS.org.uk/insight/fraud-risk-focus-blog/mortgage-fraud-on-rise>
<https://www.ftadviser.com/mortgages/2022/01/19/broker-union-floated-as-advisers-fear-rising-mortgage-fraud/>

⁸ This study initially considered the relationship between crime and urban degeneration and then subsequently adapted its methodology to consider SCP and mortgage fraud.

may explain how shared dispositions amongst organisers are supported by agency, notably the biographies and experiences of the motivated offenders, it otherwise fails to identify organisational and structural factors that are relevant and interconnected to causal agency in the organisation of crime that should be included within the script. Accordingly, this theoretical approach would render the study reductive in nature and uninformed of wider dispositional and facilitative conditions that support reproduction and disruption.

Similarly, from a regulatory or facilitative power perspective it supports and promotes disruptive strategies based upon reactive outcomes, where mortgage fraud is simplistically commissioned by the activities of corrupted KPA, who are viewed by disruptors as rogue professionals or rotten apples, a perspective that is flawed as it excludes macro and structural factors in play.⁹ As Boon and Whyte (2012) argue, regulators should focus not just on the *“likelihood of deviance but also of the consequences in the event of deviance”* (p.312). To this end there is a need for regulators to understand the organisation of deviance, particularly those influencing conditions and factors that facilitate criminal action on the part of the professional.

Routine activity theory (Cohen and Felson 1979a) has some relevance to understanding the organisation of mortgage fraud and addressing the research questions posed and in part forms one of three theoretical propositions that have guided data collection (Layder 1998). By example, in a hypothetical case of prototypical mortgage fraud, as evident in Cassandra and Aztec, there exists the motivated offender who wishes to expand his/her property portfolio with illicit expediency; the targeted lender offering innovative mortgage products without the appropriate level of due diligence and fraud prevention; and the absent guardian exists at both the micro level, including failures of supervision and governance in the workplace and at the macro level, including failures of state governance and regulation of the professions (Felson 2000a).

This example reflects Barak’s 2012 examination of the causes of the subprime crisis in the US, where the motivated offender and targeted victim oscillated according to

⁹ The FSA concluded in its 2011 report into mortgage fraud “solicitors, brokers and valuers as the main source of mortgage fraud risk” (FSA 2011, p.5).

whether criminality involved predatory lending and/or mortgage fraud. These conditions existed in a financial services system absent of effective guardianship where criminogenic corporate structures converged with failures within regulatory, institutional and political spheres of governance. Whilst Barak's findings have broad relevance to Clegg's circuits of power concept and similarly identify what Clegg refers to as a *short-circuit* in the US financial services system, it does otherwise examine financial crime, including mortgage fraud in the abstract as a means of evidencing wider structural and institutional failures.

Of perhaps greater significance to the objectives of this study is the research of Jordanoska and Lord (2019) into financial benchmark manipulation. This study offers a deconstruction of the procedural aspects of the crime-commissioning process of benchmark rigging, identifying how manipulative activities were generally routine and embedded in otherwise regular roles and responsibilities of the actor's employment. A similar arrangement is evident in each of the case studies, particularly with regard to the mortgage broker who, it will be argued was *essential* to commission and subsequent reproduction.

Jordanoska and Lord's examination of criminality at the micro-level was supported by a nuanced application of capable guardianship, from which they contended that regulators and the banks employing the motivated offenders, "*played a paradoxical role as facilitators of the misconduct*" (p.19). Additionally, at the macro-level they argued that benchmark rigging was facilitated by a misplaced trust in self-regulation and an ignorance of inherent conflicts within the financial services sector. Clegg would argue that these collective factors and conditions created the circuit in which the financial benchmark market became "*virtually ungovernable*" (2014, p.387).

2.3.2. A shift from an actor-orientated approach to financial crime

The research objectives of this study involve an epistemological approach that focuses on the *organisation* of mortgage fraud, a paradigmatic shift from an actor-orientated approach to understanding serious crime (Levi and Maguire 2004). Schrager and Short (1978) provided early warning against preoccupation with

individual etiological factors, particularly as this can lead to the underestimation of organisational and structural factors that support and facilitate offending.¹⁰

Accordingly, routine activity theory may assist with the empirical examination of causal factors and social structures that converge in time and space, including the structured daily activities of the organisers of mortgage fraud. However, there are limitations to this application. As argued by Jordanoska and Lord (2019), the theory forms a *“micro-, individual-level approach to understanding offending behaviour”*, which could, *“appear as a basic or an impoverished approach to explaining complex organizational offending, which is often embedded in multiple levels of causal factors at the individual, organizational and regulatory and socio-political level”* (p.4).

Notwithstanding, script analysis of the micro-, individual-level offers empirical understanding of the commissioning processes of mortgage fraud, which can then be set within the wider context of those macro-, dispositional and facilitative conditions that support reproduction or disruption. This overcomes the tendency of treating the proximal distinct from those distal causes of crime, and supports a critical realist approach to research.

Benson et al. (2009) argue that the control and prevention of financial crime is dependent on understanding the commissioning processes within opportunity structures, and believing that the most appropriate method to identify points of intervention is through the analysis of case studies; a research strategy adopted by this study. This is pertinent in mortgage fraud cases, particularly as illegitimate practices parallel the legitimate, and the identification of parasitical opportunities is essential to disruption (ibid).

The crime facilitative environment in which mortgage fraud operates is an important basis from which to consider agency factors, particularly the social setting from where personal networks and social opportunities foster human and social capital

¹⁰ Notwithstanding this paradigmatic shift away from an actor-orientated approach, there remains ongoing criminological interest in crime enablers without always a concomitant interest in how they *organise* their activities.

(Edwards and Levi 2008; von Lampe 2009; Levi 2015).¹¹ Actors, whether complicit or otherwise (negligent or ignorant), once identified are placed within an organisational setting to examine how their agency interacts with dispositional and facilitative conditions and influences that converge to reproduce or disrupt mortgage fraud.

Edwards (2016a) believes that characterisation techniques in crime analysis have little effect where there is an abject failure to address the facilitative environment within which criminal entrepreneurs deploy their craft (see also Van Duyne et al. 2006).¹² More tellingly from a crime disruption perspective, Edwards argues that an actor-orientated approach inhibits the transformation of strategic priorities into effective operational strategies. This inevitably impacts the ascendancy contest in the *arms race* between the organisers of mortgage fraud and the preventers or reducers (Eckblom 1999; Edwards and Levi 2008).

Mortgage fraud is *organised* in nature, and is incentivised and facilitated by the misuse of otherwise legitimate business structures (Lord et al. 2018). Middleton and Levi (2005) in their study of solicitor involvement in organised crime concluded that mortgage fraud is capable of being highly *organised*, particularly as it “*takes place over a period of time and involves a group of people*” (p.147).¹³ As will be evident in each of the case studies, offending periods lasted several years involving multiple actors. Additionally, in each case investigators and prosecutors considered that the offenders and their activities fell within the definition of an organised crime group (OCG), notwithstanding that ‘organised fraud’ is seldom classified as ‘OCGs’ by law enforcement.^{14 15}

¹¹ Kleemans and de Poot (2008) argue that this form of social opportunity structure and the social ties it requires provide access to crime.

¹² Van Duyne argues that the *organised* crime debate failed to address how criminals organise their activities for illicit gain, particularly how entrepreneurs blend seamlessly into the economic landscape, notwithstanding the complexity of their crime-commissioning role.

¹³ Their study’s methodology involved content analysis of official data from prosecution and regulatory files.

¹⁴ <https://www.cps.gov.uk/legal-guidance/organised-crime-group-participating-activities>

¹⁵ <https://www.justiceinspectors.gov.uk/hmicfrs/publication-html/a-review-of-fraud-time-to-choose/>

Moreover, the examination of the organisation of mortgage fraud will improve understanding as to how KPA essential to fraud-for-profit schemes are recruited. Button et al. (2018) draw on Reason's resident pathogen theory to explore those social interactions and settings that support the recruitment of previously *clean* actors to corrupt schemes (Nguyen and Pontell 2010; Middleton and Levi 2015; May and Bhardwa 2018). This is *necessary* to support reproduction, as will be evident in the cross-case analysis, as there is a need to sustain an enduring structure within the conspiracy through processes of *accomplice regeneration* (Levi 2008).¹⁶

However, whilst these studies have broadened research focus and resultant theory beyond the principal motivated offender in cases of organised fraud, their scope has not extended to the interaction between KPA and other supporting actors, such as straw persons, particularly the division of roles and responsibility within a particular event schema of the crime-commissioning process (other than rudimentary actions implied by professional status). Neither have they forensically examined the organisation of the financial crimes those KPA have facilitated and/or perpetrated and the effect of dispositional and facilitative factors on reproduction.

2.4. Dispositional powers and mortgage fraud

2.4.1. A brief history

Mortgage lending in England and Wales originated in the industrial age when diaspora led to the migration of workers from the countryside to the towns in search of work and housing. Initially unable to purchase housing, workers formed co-operatives and saved to accumulate capital, before taking turns to borrow to purchase. These co-operatives later became building societies who lent to the limit of the deposits they held. This meant that the borrower's creditworthiness and the property valuation were material factors in the lender's decision-making process,

¹⁶ An alternate explanation that will be offered within the cross-case study analysis (particularly seen in Operation Opal) is the scenario where sub-agreements exist outside of the main conspiracy, where additional actors cooperate on a *project basis* (Levi and Maguire 2004).

particularly as the lender retained ownership and control of the mortgage for the term of the loan (Barnes and Ward 1999; Vazire 2009).

The 1980s in the UK was the generation of new and rising homeownership, particularly as Conservative policies made ownership widely accessible, allowing tenants to enter the property market for the first time (Gibson 1986). The concomitant need for mortgage finance was supported by the demutualisation of the building societies and an invitation to the banks to enter the mortgage lending market (Stephens 2001).¹⁷ Notwithstanding, little consideration was being paid to the opportunities the financial services sector presented to mortgage applicants predisposed to defraud as lenders were increasing their exposure to fraud even prior to their “*wider involvement in the supply of financial services as part of the deregulation process*” (Levi 1992).

2.4.2. Mortgage fraud locally defined

The seminal study of mortgage fraud in England and Wales by Clarke (1991) identified two broad classifications of mortgage fraud, namely *status* and *property* fraud.¹⁸ These classifications have subsequently been adapted to include fraud-for-property and fraud-for-profit cases, the former relevant to one-off commission, the latter relevant to the reproduction of mortgage fraud where illicit profit and portfolio ownership is the key objective of organisers (FinCEN 2006; FinCEN 2009; FCIC 2011; FSA 2011).¹⁹

The self-certified mortgage, the equivalent of the ‘liar loan’ or ‘ninja loan’ in the US (the latter slang term for ‘no income, no job and no assets’), was originally aimed at

¹⁷ Malpass (1986) argues that whilst the UK’s homeownership dream was being efficiently delivered, there was no financial framework geared to its needs. Additionally, an early study by Barnes and Ward (1999) considered deregulation of the UK building societies following the Building Societies Act 1986 and argued that there was great social cost as the sector prioritised profitability and market share which contributed to high rates of repossessions and the mis-selling of financial products.

¹⁸ The Law Commission in 1996 defined mortgage fraud as “the obtaining of mortgage advances on properties by making fraudulent statements” (Para. 1.1.).

¹⁹ Although there is little or no appetite to prosecute fraud-for-property cases which can lead to depenalisation and ultimately decriminalisation (FinCEN 2006; CIFAS 2019).

self-employed borrowers (FSA 2010), however it became the mortgage of choice across the sector, notably to applicants predisposed to fraud. Shared dispositions amongst lenders, particularly in the highly competitive buy-to-let market, led to a departure from the rules of meaning and membership across the sector that governed responsible and prudential lending practices and norms, fracturing the coalition responsible for disrupting fraud. The introduction of increasingly innovative and high-risk mortgage products was supported by deficiencies in governance and lending culture that facilitated victimisation. This inevitably led to wide and systemic abuse, which contributed to the irretrievable impairment of a number of lenders. It also led to the government bail-outs of those lenders most exposed (Treasury Committee 2009).

Whilst concentrating on the classification of mortgage fraud and the individual offender, Clarke's study also identified that mortgage fraud was a significant and ongoing problem and one that was exacerbated by dispositional influences, including lender complacency, diversification of financial services and the tendency to view exposure to fraud as a matter of commercial risk, not victimisation. He also identified the role of entrusted KPA who shared dispositions to facilitate mortgage fraud on behalf of their client predicting that it would ultimately lead to "*contamination of the professions*" (p.58, see also Middleton and Levi 2015).

Mortgage fraud prospers in societies where homeownership is valued, where rising property markets restrict widespread availability, and where lenders transact in highly competitive financial markets (Bradshaw 2006). It also becomes *socially integrated* in fraud-for-property cases, as is evident in Opal, where applicants share dispositions with others to compete for the family home in the desired school catchment area and otherwise in circumstances where fraud is "*the last thing on the mind of purchasers who are getting a once in a lifetime chance*" (ibid p.289).

At the next level, fraud-for-profit becomes more *organised* in nature, as is evident in Cassandra and Aztec, where the focus is the cynical exploitation of fault lines within the mortgage lending process to illicitly expand property portfolios and increase value or to generate and launder cash to sustain a criminal lifestyle (CPS 2019; see Tusikov 2008).

2.4.3 Mortgage fraud internationally defined

Due to the absence of research since Clarke's study there is a need to extend the review further afield, particularly to the US. It was the subprime crisis there that proved to be the watershed for wider research into mortgage fraud, or more specifically those financial crimes and social harms that contributed to the crisis, which included mortgage fraud. By example, economic scholars studied the negative impact of financialisation, marketisation and deregulation in the financial markets (Haro and Sullivan 2009; Jaffee 2009; Lander et al. 2009; Mayer et al. 2014; Dow 2016); whilst anthropogeographic scholars researched the social harm of predatory and abusive lending allied to mortgage fraud on households, neighbourhoods and disadvantaged communities (Carr 2007; Carswell and Bachtel 2009; Crossney 2010; Martin 2011; Hur et al. 2015; Aalbers 2016; Fulmer et al. 2017).

Additionally, a perfunctory review of further research since the subprime crisis associates a plethora of distinct fraudulent and harmful acts, including prototypical mortgage fraud (Carswell and Bachtel 2007; Nguyen and Pontell 2010); abusive and predatory lending (Stein 2001; Renuart 2004; Patterson Forrester 2006; Delgadillo et al. 2008; Wolff 2015); investment and securities fraud (Lokanan 2014; Fligstein and Roehrkasse 2016); identity fraud (Copes et al. 2010); to control fraud where company executives subvert organisational commercial objectives for personal gain (Black 2005; Pontell et al. 2014). Accordingly, opinion as to what conduct constitutes mortgage fraud in the US post-crisis yields an *“eclectic portrait, with persons from all walks of life implicated as perpetrators and with significant complicity among industry professionals”* (Fulmer et al. 2017, p.554).

Whilst the review includes a significant body of research, caution is required to avoid methodological hazards. By example, whilst a *“rich, even indispensable resource”* (Young 2005) official data varies considerably between the US and the UK, with the former having a voracious appetite for data collection that supports law enforcement operational priorities and provides academics with the resource to undertake largescale quantitative studies, albeit by generalising mortgage fraud in an abstractive form.

Furthermore, in the US access to extensive data sources allowed the Financial Crimes Enforcement Network (FinCEN) to carry out industry-wide risk assessments based upon suspicious activity report (SAR) analysis which detected an increase in instances of mortgage fraud, whilst correlating a decrease in fraud-for-profit cases proportionally to a reduction in housing affordability (FinCEN 2006). These findings assist in demonstrating that mortgage fraud is cyclical in nature, and whilst this may improve some understanding that can inform counter-fraud measures on the part of lenders, it provides limited insight into how mortgage fraud is organised in the US and how those dispositional and facilitative influences and conditions evident in the mortgage market support reproduction.

And whilst comparison is beneficial where parity exists between countries (Søreide 2014), mortgage fraud in the US has different fundamental characteristics from England and Wales. By example, its role in the subprime crisis was markedly greater than it had been in the UK's financial crisis, particularly as lenders shared dispositions towards predatory and abusive lending practices.²⁰ Hence the need to understand the organisation of mortgage fraud concretely, in particular contexts rather than generalising the phenomenon in the abstracted empiricism of much quantitative criminology.

However, *"classifications can be controversial, descriptions deceptive, explanations erroneous, interpretations interminable, translations twisted, and evaluations ethnocentric"* (Nelken 2010). Notwithstanding these caveats and subject to fortitude and pragmatism on the part of researchers, allied to a multi-disciplinary and catholic approach, there remains academic benefit in comparative study (Sheptycki and Wardak 2012). Most notably where research assists in understanding those dispositional and facilitative factors that influenced the exponential growth of securitisation that supported the systemic reproduction of mortgage fraud in the US that led to the subprime crisis.

²⁰ Yet they could feature at some later stage due to the intensification of globalisation in the financial markets and the negative consequence of processes of *Atlantic crossings* (Aas 2013).

Additionally, in order to avoid ethnocentric outcomes in comparative study, it is important to consider characteristics of the country or area of comparison, notably its political, societal and economic status, its history, social norms and controls, including its criminal justice system. By example, the *American Dream*, an aspirational concept embedded in American culture, is viewed as a driver in the pursuit of wealth that can create strain (Merton 1938; Messner and Rosenfield 2001; Trahan et al. 2005). It has also been used to describe the positive outcomes of homeownership, which support personal satisfaction, social mobility, good health, political engagement and lower crime rates (Fulmer et al. 2017);²¹ but where mortgage fraud threatens these core ideals (Patterson Forrester 2006).²² The American Dream is a distinct cultural phenomenon to the less meritocratic UK, although it would be false to assume, by example, that fraud-for-property cases in England and Wales are not driven by similar dispositions based upon comparative goal-orientated motivations and supported by dispositional and facilitative conditions within the financial services sector.

Moreover, research findings in the US are distinct as they demonstrate that mortgage fraud operates on a two-way street, where both the lender and borrower actively engage albeit where varying characteristics of offending render both parties vulnerable to victimisation and harm against the other. This dynamic supports the proposition that mortgage fraud operates beyond the proximal and agency setting and is driven by shared dispositions amongst borrowers to falsify their status to obtain a mortgage, in market conditions where there exist shared dispositions amongst lenders that underpin predatory and abusive lending practices. The latter, as widely established in academic and government spheres of enquiry in the aftermath of the subprime crisis, was the consequence of facilitative conditions in a highly competitive financial services system serving a defective securitisation model

²¹ Additionally, Fulmer et al. (2017) in their study of the *Dark Side of the American Dream*, connected widescale lender-mortgage fraud to anomie theory, particularly where housing markets are pre-selected and targeted with toxic loans (see also Gupta 2014).

²² Particularly as according to Renuart (2004) fraudulent and abusive lending practices caused the “mammoth transfer of wealth from middle- and lower-income families to the purveyors of debt” (p.497).

built on widescale investment fraud and inadequate regulatory supervision.²³ As this study will demonstrate, there are examples of mortgage mis-selling in the UK but not to the scale as evident in the US, and in any event not subject to specific investigation by the UK government as a contributing cause of the financial crisis.

Notwithstanding, there remains modest empirical qualitative research compared to the more plentiful quantitative studies that examine mortgage fraud in the abstract. Accordingly, there is limited understanding of how mortgage fraud is organised in the US and its interrelationship with causal, dispositional and facilitative powers. This may be due to the amalgamation of mortgage fraud and predatory lending for the purpose of broader analysis within the context of securitisation, the process by which lenders offloaded mortgage debt to investors, thereby distancing themselves from potential losses. As Mayer et al argue, the borrowers were not *“blameless in signing up for loans they could not repay, but on the whole, lenders had a much larger influence in creating loans that they knew would not be repaid”* (2014 p.521).

Research in the US has also spiked some interest from academics overseas. These have included studies connecting mortgage fraud to urban degeneration and crime in the Netherlands (van Gestel 2010); the assessment of serious organised crime group's involvement in mortgage fraud in Canada (Tusikov 2008);²⁴ and a quantitative study of the determinants of mortgage fraud in Germany (Dorfleitner and Jahnes 2014).²⁵ There are also studies that have considered shared dispositions amongst banks and *banking cartels* in New Zealand and Australia that have led to predatory lending and failures in regulatory sanctions (Bradshaw 2006, Brailey 2017).²⁶ Had their research objectives included script analysis, these studies would have provided their own distinctive crime-commissioning processes and schema

²³ Linn (2009) found that in 60% of loan applications originated ahead of the subprime crisis, applicants overstated their income by 50%+. Fulmer et al.'s (2017) findings were more conservative, but still revealed that 25% of mortgage loans originated between 2003 and 2005 contained one or more indicator of fraud.

²⁴ It is this interconnection between conventional organised crime and mortgage fraud that has been the focus of interest by the FBI in the US, see FinCEN (2009).

²⁵ See later study by Delis and Papadopoulos (2018).

²⁶ Which follows broadly the critical left steering of Barak (2012) and other commentators in the US.

according to their jurisdictional property and mortgage finance law and practice, which would also be influenced and determined by separate (albeit in certain circumstances similar) dispositional and facilitative circuits of power.

2.5. Facilitative powers and mortgage fraud

The third research question asks, “*how effective is the governance, control and regulation of financial services in England and Wales in disrupting mortgage fraud?*”

The basis of this question is to consider whether or not those tasked with disruption, including law enforcement, regulators and the lenders themselves are effective in disrupting or reducing the prevalence of mortgage fraud in the sector. It considers whether victimisation is an emergent by-product of the *arms race* between organisers and preventers, a relationship that could provide the *standing condition* for mortgage fraud to exist (Layder 1998). More particularly, it enquires whether deficiencies in governance, control and regulation provide the facilitative conditions that complete the circuit by providing the headroom necessary to support reproduction.

2.5.1. The *arms race* between organisers and preventers

The *arms race* reference is an analogy taken from the phenomenon that Gray defines as interstate and intrastate rivalry (Gray 1971), which has been adopted by Ekblom to define the contest for ascendancy between organisers and preventers of crime (Ekblom 1999). However, the analogy implies a race to be won, which may be ambitious given that Ekblom later concedes that the contest is an “*enduring conflict between adaptable agents*” (Ekblom and Gill 2016). It is this enduring conflict that inherently creates the circumstances that support reproduction or disruption.

The term *preventer* however implies that mortgage fraud is capable of being prevented. Notwithstanding a myriad of counter-measures from law enforcement (the National Crime Agency’s SARs platform (NCA 2022); proactive data-sharing initiative by regulators (FSA 2011); public sector enterprise such as the Land Registry’s ‘Property Alert’ scheme (HM Land Registry 2014); and the private sector’s efforts to

commercialise responsabilisation,²⁷ the reality is that mortgage fraud remains problematic and prevalent. The most recent research by CIFAS (2019) found that fraudulent mortgage applications increased by 5% in the first six months of 2019, compared to the last six months of 2018, with 13% of UK adults believing it is reasonable to exaggerate income.²⁸

Levi and Maguire (2004) suggest a more appropriate reference may be that of crime *reducer*, where primary responsibility remains in the control of law enforcement and regulators and where assessment of their effectiveness is measured by operational and innovative capacity particularly as “*reducers have to out-innovate criminals for crime sustainably to fall*” (p.406). For this reason, improved criminological understanding of the organisation of mortgage fraud would increase the supply of information, data and theory that could inform preventers, both public and private, tasked with disruption (Edwards 2016a). This would then support strategies that target how best to ensure that “*the balance is tilted as far as possible, for as much of the time as possible, in favour of preventers*” (Eckblom 1999, p.47).

Furthermore, Gray’s reference to *intrastate* rivalry within the arms race has relevance due to the struggles between preventers, particularly as there exists a secondary arms race intra-agency in the pursuit of financial knowledge (Headworth and Hagan 2016). This rivalry has also been identified in the multi-centred governance of transnational crime and urban security in Europe, where there exists disputes in policy between public and private sector preventers (Edwards 2016b). These factors indicate the potential for stresses within crime reduction policies although there are examples of successful partnerships and the sharing of responsibilities which Bruns argues is key to effective governance and vital in harm reduction (2015).

2.5.2. Ownership of mortgage fraud reduction

The financial services sector is fundamental and essential to the sustainment and development of the UK economy. Accordingly, with this comes the responsibility of

²⁷ <https://www.corelogic.com>

²⁸ This data refers to fraud-for-property cases not the more serious fraud-for-profit cases.

the UK government, regulators and law enforcement of reducing financial crime and harmful practices that threaten the integrity and effective workings of the financial system as a whole. To fulfil this responsibility there is in place a multifarious and stratified system of governance, control and regulation, including criminal justice and regulatory systems as primary preventative mechanisms, alongside fraud prevention agencies, networks and administrative bodies, all collectively charged with controlling the activities of those individuals, firms and organisations engaged in financial services (Gurinskaya and Nalla 2018).

Accordingly, the ownership of mortgage fraud reduction in England and Wales is widely and randomly diffused across the sector, where lenders are encouraged to protect themselves through the use of primary preventative measures (Rock 2010). This has led to the creation of a broad range of guardians, albeit with overlapping objectives and little direct coordination. The National Fraud Authority (2010) endeavoured to coordinate strategy amongst reducers through their '*working together to stop mortgage fraud*' initiative, but were dissolved in 2014 with limited success and no successor. To be effective it is important to mobilise guardians who are adaptive in their efforts to prevent crime, however this is dependent on resource and cultures of control (Edwards and Levi 2008).

The Financial Conduct Authority (FCA) has a data sharing platform entitled *Information for Lender* scheme (IFL),²⁹ although its predecessor the Financial Services Authority reported in its 2011 thematic review of mortgage fraud that firms were unclear about "*how and in what circumstances reports should be made*" (FSA 2011, p.5). Action Fraud signposts users to the Land Registry for preventative support, or where fraud has been committed, they will receive the report themselves.³⁰ And whilst HM Government current Serious and Organised Crime Strategy includes economic crime as a significant risk and targets "*professional enablers*" as key facilitators (2018 p.14), its delivery framework remains one of *Pursue, Prepare, Protect and Prevent*, that focuses, within the constraints of resource, on the pursuit of offenders as opposed to more practical factors that were

²⁹ <https://www.fca.org.uk/firms/fraud/report-mortgage-fraud-lenders>

³⁰ <https://www.actionfraud.police.uk>

identified post-banking crisis (HoC Treasury Committee 2009; Parliamentary Commission on Banking Standards (UK) 2013).

Levi (2014) argues that due the UK's greater dependency on the reputation of its financial and professional services industry, compared to other countries, it necessitates an efficient regulatory system supported by an effective criminal justice system, which provides the appropriate level of supervision, investigation, prosecution and punishment and in circumstances of regulatory failure, criminal justice measures should be the failsafe (Maglione 2017).

In the case of governance and control post-financial crisis, literature has generally focused on the state's ineffectiveness in dealing with the financial crime and harmful practices that contributed to the crisis.³¹ Duggan and Heap argue that economic imperatives have driven neo-liberal politicisation and marketisation of financial services by successive UK governments, the consequence of which has been the decriminalisation or legislative ignorance towards associated wrongdoing (Hall 2018; see also Tombs 2014a).

This position is shared by other commentators who argue that in reality, law enforcement agencies have little interest in investigating fraud, save for visibly harmful cases (Levi 2008). This is evident in the decline in fraud investigations generally, revealing a widening gap between enforcement goals and "*the primacy of other crime and security agendas*" (Doig and Levi 2009 p.151).³² Notably, this latter study predates the intensification of austerity measures which contracted public sector resource even further (see also Brooks and Button 2011; Button et al. 2013).

To counteract low level prosecutorial outcomes, there continues the diffusion of responsibility for social control and crime reduction from the state to local, private,

³¹ Fisher (2014) however argues that the criminal law in England and Wales has barely engaged with the banking crisis but it is otherwise a misconception that the criminal law is impotent.

³² Scott (2018) argues that to support problem-orientated policing strategies, the police are increasingly reengaging in regulatory functions, roles they were previously avoiding.

individual and voluntary organisations (Garland 2000).³³ Perhaps an unforeseen consequence of responsibilisation is the potential for victim-blaming, particularly as victims should protect themselves from fraud, albeit, whilst acting as gatekeepers for law enforcement agencies (Rock 2010; Williams 2012).³⁴ Additionally, the lender is well placed to seek civil redress, even in circumstances where they choose not to report to the police. Victimisation also informs fraud-proofing strategies, fraud awareness training programmes for staff and increases intelligence held by fraud prevention agencies such as CIFAS and National Hunter (Zimmerman and Jaros 2011; Dietrich Hill 2013; Scott 2014).

2.5.3. Regulation of financial services in England and Wales

Traditionally there existed a cynical assessment by some academics of the regulation of financial services in England and Wales who argued that the regulatory system was not established to protect the public, but instead existed symbolically to protect the very professions they were meant to restrain (Hawkins 2002). It created a regulatory system calibrated to predict failures, particularly where they are *“enacted to rein in activities that are in some way beneficial to society, but hold the potential for disorder, excess, or abuse”* (Korsell 2018 p.160).

Others argue that the regulatory system as well as protecting its member-professions exists to protect the interests of state. Barak (2012) argues that it was the stripping away of regulatory control and the conciliatory collusion between the US government and Wall Street that led to the subprime crisis. This position reflects that of Calavita et al. following their earlier examination of the US Savings and Loans industry meltdown in the 1980/90s in which they concluded that the state was *conflicted* with the business interests of the sector as a consequence of *“monied*

³³ It has become a contentious area in academic debate particularly as critics argue that responsibilisation is the ‘new penology’ and is the consequence of failures of criminal justice policy, rising crime and the inevitable search for a more cost-effective means of reducing crime (Croall 2007; Newburn 2017).

³⁴ An illustration of this latter point is seen in the 694,707 SARs filed by high streets banks and building societies in the year to March 2022, equating to 77.09% of the total number filed. See <https://nationalcrimeagency.gov.uk/who-we-are/publications/632-2022-sars-annual-report-1/file>

interests in the political process” (1997 p.36). Whereas in the UK, Sinha blames failures of responsabilisation and public–private sector collaboration, the result of divergent interests and a focus on the appearance of compliance, rather than actual compliance (Sinha 2017).

In the blame-game that followed the subprime and financial crisis, failures of light touch regulation bore close scrutiny and remains one of the most cited causes of the crisis.³⁵ It was this environment that facilitated the widening of lending channels, systemic mortgage fraud and predatory lending that supported the highly lucrative securitisation market (Cullen 2018).³⁶ Fligstein and Roehrkasse (2016) analysis of fraud and the subprime crisis in the US concluded that financial deregulation helped to establish a crime-facilitative environment in the mortgage lending and securitisation sector (Nguyen and Pontell 2010; Moore 2017).³⁷ This study supports the proposition that the convergence of dispositional and facilitative powers supports the commission of financial crime, including mortgage fraud. Clegg believes that the financial innovation that contributed to the subprime crisis in the US required a concomitant response from the state, including enhanced surveillance and oversight. Without such a response, financial markets become ungovernable.

Consequently, there has been renewed academic discussion as to the most appropriate regulatory enforcement model and compliance strategy that would mitigate potential systemic risk within the financial services market, by way of a *credible deterrence*, without constraining legitimate business activity (Rawlings et al. 2014). Dorn (2011) warns however that this could lead to scenario of *old wine in new bottles* where organisational reconfiguration of the regulators is being

³⁵ McVea (2005) argues that the inspiration for regulation can be traced to various reactions to financial crises.

³⁶ However critical some commentators may be about securitisation post-crisis, few argue for its abolition, instead believing that the secondary mortgage market should emerge intact from the crisis, albeit governed by the implementation of a new set of rules (see Schmudde 2009).

³⁷ Tombs (2014) argues that the area of regulation provides the most significant body of academic research relevant to corporate wrongdoing, which is unsurprising when interest is spiked by corporate scandals, catastrophic health and safety failings, and financial meltdowns.

“presentationally refreshed and then carried over into new regulatory and enforcement structures” (p.171).

Braithwaite (2009) argues for a combination of *walking the beat and kicking the tyres* mode of regulation alongside the sanction of negative licensing, a form of restorative justice, which would improve ethics and culture within financial organisations.

Whereas Barak has identified facilitative conditions in the US financial services market that contributed to the subprime crisis, he otherwise has no particular interest in makeshift *reformist* efforts, even where they include harsher sanctions. He instead favours an anti-neoliberalism approach to regulation in an attempt to transmogrify the *“prevailing power relations of free-market capitalism”* (2015b p.526). Additionally, Gunningham believes that a more deterrence-oriented regulatory approach in the UK financial sector, such as the incorporation of a *command and control* regulatory design, is required, although it is not currently on the political agenda. This is indicative of a policy of regressive regulatory oversight (2015, also Mayer et al. 2014).³⁸

Notwithstanding which regulatory enforcement model is adopted by regulators, there remains a need for expedient and proactive regulatory policies and strategies. In the aftermath of the crisis all key professional regulators in the UK promoted revamped policies based upon proactive *outcome focused regulation* with the aim to *“proactively look to influence outcomes, not merely react to events”* (Pain, 2010 cited by Boon 2010).³⁹ By example the Solicitors Regulation Authority’s (SRA) increased their use of *warning notices* to advise solicitor members of emerging risk within the profession (SRA 2018). However, some commentators argue these policies remain cumbersome and reactive in nature and provide limited exposure to indicators of sanction risk which ultimately translates to low deterrence (Tucker 2010). Furthermore, there remains little harmonisation amongst regulators, notwithstanding

³⁸ Cullen warns against regulatory responses that ring-fence the market by deconstructing firms to reduce risk, which inevitably leads to the inability to diversify and the creation of large *monoline mortgage lenders* without a capacity to securitise lending.

³⁹ The SRA adopted a outcomes-focused regulatory model in 2011: <https://www.sra.org.uk/globalassets/documents/consumer-reports/consumer-research-of-january-2011-overview.pdf?version=4a1ada>

memorandums of understanding as identified in chapter 7, that propose cooperative and collaborative practices when dealing with financial crime (Dorn 2010).⁴⁰

Such industrywide regulatory transformation following the crisis is indicative of a consensus amongst regulators that previous enforcement strategies were ineffective in disrupting misconduct. By example, the FCA, who inherited the Enforcement and Financial Crime Division from the FSA, promised more enforcement cases and tougher penalties as a means to *reset conduct standards*. Consequently, there were a number of regulatory prosecutions of mortgage brokers facilitating fraud following the crisis.⁴¹ Furthermore, they also adopted an increasingly interventionist strategy, focusing on inherent risk factors within a firm's business model, such as failure to obtain professional indemnity insurance and within the approved persons regime (Rawlings et al. 2014).

2.5.4. The Criminal Justice System and mortgage fraud

Some commentators believe that the criminal justice response to financial crime is ineffective due to *fraud minimalist* positions held by US and UK governments particularly when compared to other crime (Pontell 2004; Pontell et al. 2014). This argument is supported by the UK government's *maximalist* response to the London riots in August 2011 which caused an estimated £500million of property damage and which led to approximately 4,000 suspects arrested within weeks of the riots, leading to 1,984 prosecutions (Ministry of Justice 2011).

The response is in contrast to the government's prosecutorial response to the 2007/08 crisis, where £137billion of public loans were injected to stabilise the financial system and where the bailout cost to taxpayers was £23billion, primarily from the rescue of RBS (Mor 2018). Fred Goodwin, the former chief of RBS avoided criminal prosecution, albeit relinquishing his knighthood, a proportion of his pension

⁴⁰ La Vigne (2018) believes that for regulatory responses to be effective there must be collaboration between the state and non-state actors to share the burden and diffuse responsibility and resource.

⁴¹ <https://www.mortgagesolutions.co.uk/news/2014/06/02/exclusive-112-mortgage-professionals-banned-since-2006/>

pot, and facing a public degradation ceremony (as too did other bank executives) (Benson 1985).

This scenario according to Button and Tunley (2015) is representative of a societal condition they call *immoral phlegmatism*, where the state's response to significant social harm is disproportionately low, which contributes to a state of immorality. This is particularly the case in circumstances where embedded institutional practices can lead to potentially harmful social consequences being *pulverised* out of social awareness and context where the state then fails in its responsibility to punish to protect, which leads to a system of *discretionary justice* (Mathiesen 2004).

The social cost of prosecutorial neglect includes the weakening of the deterrent function of punishment, whether this is regulatory, civil, or criminal. Shichor (2018) argues that an appropriate level of punishment following the crisis is necessary if society is to deliver a “*societal reaction to behavior that is considered harmful*” (p.186), whilst at the same time rebuilding public trust and fulfilling an expressive and stabilising function in society.⁴²

However, there are also notable structural and resource dependent factors in play. These include the impact austerity had on criminal justice budgets, meaning that prosecutorial decision-making was resource dependent and not driven by public interest. Furthermore, the length and expense of fraud trials according to Podgor (2007) has removed the metrics of innocence and guilt from the judicial framework, leading to circumstances where there is insufficient evidence to secure marquee prosecutions, which then just leaves the *low hanging fruit* such as the mortgage brokers and organisers (Levi and Reuter 2006).

Law enforcement agencies and regulators in England and Wales are becoming increasingly aware of a rise in reports of mortgage fraud (CIFAS 2019), but less so of the harm it causes. As will be established later in this study, the Treasury Select Committee's extensive investigation into the causes of the crisis failed to identify

⁴² Edwards (2016) argues that establishing the relative harm of serious crime, is a challenge as it entails both normative and empirical analysis.

systemic mortgage fraud as a contributory factor. Accordingly, this diminishes the authority of government and reduces the significance of mortgage fraud not just as a crime threat but also as a social harm.

This all echoes the traditionalist view that criminal justice is a reactive control agency (Garland 2000); which is paradoxical as mortgage fraud is interconnected and interdependent with other agenda-setting crimes, which do have primacy for law enforcement agendas. These include cybercrime (Nelson 2006; Copes et al. 2010); organised serious crime including drug dealing and racketeering (Tusikov 2008; van Gestel 2010); money laundering (Bianco 2008; Kruisbergen et al. 2015); and terrorism, arguably the highest priority for law enforcement globally (Stowell et al. 2014; OECD 2019). Additionally, mortgage fraud involves enablers who remain the focus of supranational law enforcement strategies (World Economic Forum 2012).

An isolated example of an effective prosecutorial intervention has been identified by Gunnarsson and Stefansson (2019) following the Icelandic financial crisis and the collapse of Iceland's three main banks- Glitnir, Kaupthing and Landsbanki (the distinction here to other international markets was that the Icelandic banks were not bailed out by the state; Aviram 2011). Emergency legislation seized control of the banks and their assets, whilst a Special Investigative Commission was established to investigate misconduct. Subsequent criminal proceedings included cases of insider fraud, market manipulation, and criminal breach of trust, demonstrating a proactive state response to financial crime. However, it is noteworthy that prison sentences did not match the fervour surrounding the emergency measures, particularly as no sentence exceeded five years and were commonly less than two.

Notwithstanding, law enforcement and prosecutors were highly effective in securing prosecutions against organisers, KPA and straw persons in Opal, Cassandra and Aztec, as will be evident from case study analysis.

2.6. Crime scripting mortgage fraud

Script analysis based upon empirical data sources originated from the cognitive sciences but has endured a lethargic introduction to criminological research,

notwithstanding its initial theoretical attachment to problem-orientated policing, particularly street crime (Cornish 1994). Scripts are an innovative way to improve the understanding of complex crime (Levi and Maguire 2004), with Cornish arguing that a script-theoretic approach to the analysis of crime offers a way of “*generating, organizing and systematizing knowledge about the procedural aspects and procedural requirements of crime commission*” (1994, p.156).

As a consequence, there are growing calls for wider application of script analysis, particularly to support adjusting the focus of crime reduction policy towards the understanding of the *organisation* of crime (Edwards 2016a, Ekblom and Gill 2016, Haelterman 2016). And whilst studies have involved a diverse range of criminal activities, they have produced findings that identify organisational and entrepreneurial factors that will assist in examining complex financial crime such as mortgage fraud. By example, a study of pharmaceutical counterfeiting identified the interconnection between illegitimate business ventures undertaken by individuals engaged in otherwise legitimate healthcare enterprises (Kennedy et al. 2018). Further, a study of twenty-five drug manufacturing prosecutions identified organisational factors that included meta-regulation, multi-stage facilitators, illicit activities embedded in licit operations, and social networking practices (Chiu et al. 2011).

The rationale for adopting a crime script approach to the analysis of mortgage fraud is to utilise its inherent ability to capture a process rather than an isolated event, such as victim targeting. An initial schema for mortgage fraud would include pre-application planning; property and victim targeting; falsification of documentation; recruitment or re-engagement of enablers, and so forth. Furthermore, the empirical examination of each event schema would then identify numerous *facets*, which gives the crime-commissioning process its flexibility.⁴³ It also identifies cues for strategic intervention for the purpose of harm reduction (Edwards 2016a).

⁴³ These examples demonstrate what Felson (2018) refers to as processes of disaggregation where “crime types, settings, times, and methods used by offenders” (p.199), are extracted and capable of analysis.

It follows that the greater the number of facets, the greater the flexibility in the crime-commissioning process. After all, scripting mortgage fraud should not be viewed as a linear process of construction (Jordanoska and Lord 2019). By example, the targeted victim-lender may raise an inquiry as to the veracity of an income statement. The recruitment of a corrupt accountant to verify the applicant's income would lend (excuse the pun) credence to the forgery. In the event that the victim-lender remains suspicious, an alternate lender can be targeted, which inevitably leads to crime displacement and/or disruption. This latter point is relevant as crime script analysis has been criticised for failing to examine post-crime activities, particularly failing to identify re-offending patterns (Chiu et al. 2011).

Furthermore, the accumulation of multiple facets supports a dormant state of *permutation*, which necessitates improvisations in circumstances where the actor(s) responsible for a particular event schema utilises resource and knowhow to adapt the process to protect the ongoing criminal objective. In Copes et al.'s (2012) script analysis of carjacking in the US, researchers identified how repeatedly successful offenders became increasingly confident in their roles, which consequently improved their ability to react to sequential contingencies when the need arose. This is an important finding when examining the reproduction of mortgage fraud through the case studies, particularly how organisers were efficient and adaptable in overcoming obstacles that supported disruption.

However, such processes do not exist within a vacuum, particularly as they remain subject to structural and institutional dynamics (see von Lampe 2016). Edwards (2016a) believes that the application of *thought experiments* or *abstraction* is implicit in the analysis of crime scripts and explicit for crime scenes and scenarios where the objective is to identify causal mechanisms (although he accepts that some commentators view it as a distraction from situational crime prevention). He argues that abstraction counteracts self-referential thinking by encouraging researchers to employ other frames of reference and encouraging the identification and connection

to those structural factors that generate the mechanisms and pathways that support the crime-commissioning processes.⁴⁴

It is this broader structural analysis that extends Cornish's micro-sociological framework for understanding conventional acquisitive crimes, such as burglary, to more complex financial crime, such as mortgage fraud, where macro-sociological factors and influences support reproduction. In fact, Cornish accepts that a failure to draw on a broader methodology for research strategy and data collection can contribute to script fragmentation, which ultimately erodes the explanatory purpose behind script analysis. Accordingly, it is proposed that by adopting Clegg's theory and transposing his circuits of power framework into criminological research, where the schema forms the interrelationship of the causal, dispositional and facilitative powers, an improved understanding of the organisation of mortgage fraud is made possible.

2.7. Concluding remarks

This review has identified literature that supports both the theoretical and conceptual foundations on which this study relies and whilst there has been no substantive study of mortgage fraud in England and Wales since Clarke's seminal study (1991), there remains an increasing body of criminological research that focuses on the examination of the organisation of complex financial crime, which includes consideration of macro- structural and exogenous factors, beyond the activities of individual actors.

To this end, it has been proposed that Clegg's circuits of power theory provide a useful conceptual framework from which to examine the organisation of mortgage fraud. Crime scripting will transpose the circuits of power framework into criminological research because the schema exists as the interrelationship between causal, dispositional and facilitative powers, through which the organisation of mortgage fraud is possible.

⁴⁴ By example, abstraction techniques can identify processes of financialisation and securitisation that acted as a driver to systemic mortgage fraud in the US leading to the subprime crisis.

The review justifies the research questions posed by this study. *Firstly, how is mortgage fraud organised and what are the crime-commissioning processes for its occurrence? Secondly, are the proximal causes of mortgage fraud related to causal, dispositional and facilitative circuits of power and if so in what ways? Thirdly, how effective is the governance, control and regulation of financial services in England and Wales?* The next chapter will discuss methodology and the research strategy, design, methods and ethics of the investigation of these questions.

Chapter 3: Methodology

3.1. Introduction

This chapter will discuss the methodological choices selected to address the research questions that form the basis of this study, restated at the conclusion of chapter 2. As suggested in the review of the literature, there is an increasing body of criminological research available that focuses on the examination of the organisation of complex financial crime, which includes the consideration of macro- structural and exogenous factors, beyond the activities of individual actors, that support either the reproduction or the disruption of financial crimes, such as mortgage fraud.

Clegg's circuits of power framework has been chosen as useful means from which to examine the organisation of mortgage fraud. Crime scripting has been chosen as a conceptual framework for this examination, particularly to identify its crime-commissioning processes and their interrelationship with causal, dispositional and facilitative powers that influence reproduction or disruption.

The chapter will commence with a discussion of the research strategy adopted and the philosophical underpinning of the study. It proposes an adaptive approach to the relationship between theory and empirical observation, which supports critical realism and the belief that there exists a concept-independent reality to mortgage fraud which can only be interpreted through theoretical propositions, or rival, fallible theories, which are capable of being erroneous and therefore open to adaptation.

A multiple-case study design has been chosen as the most suitable framework for the collection and analysis of data. This design involves intensive examination of the crime-commissioning processes through the causal agency and the biographies of motivated offenders, KPA and supporting actors who share dispositions to defraud. Additionally, it will examine whether lenders share dispositions that together with facilitative conditions within the financial services sector, notably deficient governance, regulation and control, completes *the circuit* through which the organisation of mortgage fraud is possible and from where it is capable of being reproduced or disrupted.

Qualitative methods of data collection include semi-structured interviews and documentary evidence, including prosecution and regulatory enforcement files. An obvious and underlying method includes the researcher's own biographic and auto-ethnographic empirical observations, which will be addressed when considering the ethical implications of the research in relation to positionality, issues of victim-blaming and whether there exists a new role for convict criminology, notwithstanding controversial qualities and the potential for harm inflicted by the past criminal activities of researchers.

3.2. Philosophical foundations

Decision-making as to the study's research design and methods of data collection required consideration of those meta-theoretical foundations that underpin the examination of the phenomena being investigated, principally, how is mortgage fraud *organised*? Without a clear concept of the nature of the phenomena in question Searle argues that you are *"unlikely to develop the right methodology and the right theoretical apparatus for conducting the investigation"* (2008, p.443).

This study follows a critical realist approach to society and financial crime, as opposed to interpretivist and naïve realist approaches. An interpretivist approach was discounted as theory would then be generated from the viewpoint of the actors involved in the crime and their experiences, distinct from those social structures and distal factors that can otherwise influence their behaviour and the reproduction of their crimes.

Understanding provides a radical alternative to *explanation* according to Hollis (2000) where the social world needs to be *"understood from within, rather than explained from without"* (p.16). He also recommends that instead of seeking the cause of behaviour, we should seek the meaning of *action*, as actions derive meaning from the *"shared ideas and rules of social life and are performed by actors who mean something by them"* (p.17). Action within this context constitutes the commissioning processes of the mortgage fraud script. However, there is a need to look beyond causal agency and interactions amongst organisers to the shared dispositions amongst targeted lenders that offer risky mortgage products as a consequence of competitive market forces, allied to facilitative conditions within the

financial system that regulate (or fail to regulate) these inter-relationships. It is only with this broader focus are we better positioned to understand the organisation of mortgage fraud.

Bottoms argues that criminological approaches with a presupposition towards rationality often dispense with the need for empirical investigation. This he believes creates paradoxically an *“unfortunate tendency to inhibit empirical research on the ways in which subjects’ more prudential reasoning processes may interact with other features of their lives, such as structural and cultural contexts which they inhabit”* (2008, p.91). Accordingly, there is a need for empiricism to focus beyond the furtive activities of the organisers and the KPA that they recruit to broader influencing and facilitating factors.

By example, others have called for the broadening of criminology to construct critical analysis of neo-liberal capitalist economies *“from its deep ethics and system dynamics to its cultural forms, subjectivities and everyday practices”* to understand financial crime (Hall and Winlow 2018, p.113). However, there remains the need to ensure that the broadening of focus is representative to all influencing and facilitating factors otherwise findings can be reductive and fail to fully explain how mortgage fraud is effectively organised.

Edwards (2016a) identifies methods of articulation found in the *epistemology of critical realism* where social problems are conceptualised as *concrete*, and where understanding is achieved through processes of abstraction, which isolates *“in-thought what these diverse aspects might be, as a precursor to investigating how these aspects come together in particular, ‘real-concrete’, instances”* (p.248). Here, crime scripting uses an epistemology of critical realism to understand the organisation of mortgage fraud and to identify those essential crime-commissioning processes that are sequentially relevant and necessary to ensure that the fraudulent objective is reproduced over time. This allows for the context-dependency of

mortgage fraud to be understood, particularly *“how necessary and contingent relations are configured in particular places and moments”* (ibid).⁴⁵

Critical realists aim to capture an ontological realism that lies beneath an interpretation of agency and situational factors. This then produces an understanding of what some call the ‘deep system’ of structural and dynamic processes that generate real, even unforeseen, consequences for the reproduction of economic crime (Hall and Winlow 2018). As discussed in the previous chapter, there is a body of research available in the US that associates mortgage fraud with shared dispositions amongst mortgage lenders towards predatory lending practices, which when allied with deregulation and securitisation, provide the facilitative conditions that support systemic mortgage fraud (Collins and Nigro 2010b; FCIC 2011; Barak 2012; Pontell et al. 2014).

Clegg’s circuits of power concept (1989) has been chosen to assist in examining the organisation of mortgage fraud by establishing those causal, dispositional and facilitative conditions and factors that define those substantive relations of connection, whether necessary or contingent, that support the reproduction or disruption of mortgage fraud. This approach conceptualises mortgage fraud as ‘concrete’, existing in the financial services sector in England and Wales, and assists by processes of abstraction to understand how convergence of these powers create ‘real-concrete’ instances that support reproduction.

A multiple-case study research design has been chosen as a means of identifying those substantive relations of connections between actors that supported the commission and reproduction of mortgage fraud. These relations will be identified within the mortgage fraud script as either necessary, without which the fraud would not exist, or contingent which in specific cases, notably fraud-for-profit schemes, do exist and are supportive of reproduction. By example, the study will consider the proposition that there exists (or existed) incapable guardianship across the sector,

⁴⁵ This argument corresponds with established theories of crime existing in time and space, and the ability to predict increases in mortgage fraud during financial and property booms, as was evident in the subprime crisis (Tomlinson and Pozzuto 2016).

that constitutes a necessary key causal mechanism in the successful organisation of mortgage fraud. Within this context, it will consider the extent and prevalence of inadequately regulated relationships across the sector and how these support the commission and reproduction of mortgage fraud.

Accordingly, this study combines a realist ontology with a fallibilist epistemology. In relation to the *organisation* of mortgage fraud the approach implies that the fraudulent abuse of mortgage lending within the property sector for illicit gain exists independently of our own conceptualisation of fraud, but where knowledge of the phenomena through case study and documentary analysis is constructed and capable of being challenged by other rival, fallible theories. This rejects the idea that its crime-commissioning processes and those social relations amongst actors are simply capable of being *sensed*, or that it is capable of being interpreted, albeit in its varying constructs.

3.3. Theoretical propositions and an adaptive research strategy

I first formulated theoretical propositions for the organisation of mortgage fraud when undertaking a MSc in Counter Fraud and Counter Corruption by distance learning from HMP Parc in Bridgend. For my dissertation I undertook an auto-ethnographic or biographic study of sorts, of the role of the solicitor-enabler in mortgage fraud.⁴⁶ The rationale behind the rudimentary research objective was as much due to resource availability at the time as it was to undertake a cathartic and rehabilitative enterprise.

The criminological theories adopted to guide the research strategy of my dissertation concentrated predominantly on individual theories for white collar crime such as rational choice, albeit mixed with strain theory, routine activity and techniques of neutralisation (Cornish and Clarke 1986; Merton 1938; Messner and Rosenfield 2001; Cohen and Felson 1979; Sykes and Matza 1957). This focus was pre-determined by the guilt I felt at this time and my inability to blame other factors and conditions for my actions.

⁴⁶ Unpublished MSc thesis entitled *Trusted to the ends of the earth? The solicitor's role in mortgage fraud: a multifarious approach to theoretical understanding*, Gilbert, 2018, (MSc thesis) Available at https://library.port.ac.uk/dissert/results_recent.php

The dissertation considered various theoretical propositions for mortgage fraud alongside auto-ethnographic and biographic accounts of legal ethical slippage and mortgage fraud. A secondary research objective considered the regulation of the legal profession and the rotten apple trap where regulators focus on the errant professional without due regard to wider organisational and structural factors that influence misconduct.

These theoretical propositions, or initially in-cell de Profundis reflections, have evolved considerably since my earlier postgraduate studies. By example, my co-defendants and I (and other actors not prosecuted) would not have been able to reproduce mortgage fraud to the level that we did were it not for dispositional and facilitative conditions and influences existing at the time. Accordingly, mortgage fraud is not simply reducible to our individual actions and understanding requires the placement of these actions within a framework that considers the impact dispositional and facilitative powers have on our actions, particularly in circumstances where these powers support reproduction or disruption.

The research design I have chosen for this study is based upon Layder's adaptive theory. He argues that these initial propositions are not "*perfected end-products in their own right*" (1998, p.39), but instead act as an organising device which draws upon a diverse range of approaches to theorising and methodology in tackling research questions.

Furthermore, whilst Bottoms (2008) argues that theory selection can lead to a theory and data paradox (see also Haelterman 2016), there does exist a greater obstacle to theory generation in cases of financial and organised crime. This involves the unilateral fixation that law enforcement and some researchers have with an actor-orientated approach to offending (Levi and Maguire 2004, Edwards 2016a). This myopic focus ultimately ignores criminogenic organisational, structural and environmental factors that support individual offending patterns (Schrager and Short 1978; Tombs and Whyte 2007; Lord et al. 2018).

This is problematic in cases of complex financial crime such as mortgage fraud, particularly where macro-sociological factors support micro-criminological actions. It

also raises an important question; namely, how can true explanation be delivered where research design focuses solely on the motivated offender and his professional enablers, with the absence of broader influencing factors and conditions?

Accordingly, a critical realist approach and a theoretical design is required that supports the amalgamation of “*active-subject individually orientated*” and “*active-subject socially oriented*” theories (Bottoms 2008, p.88).

Furthermore, to understand how mortgage fraud is organised, the effectiveness of disruptors in preventing it and whether proximal causes are underpinned by distal influences and conditions all requires imaginative examination beyond a focus on the actions of causal agents. This, however, requires thoughtful methodological consideration to construct a theoretical framework from which to strategise the data gathering process and to ensure that each component part of the theory/data relationship is effective and correspondingly supports and strengthens the other “*in the service of true explanation*” (Ibid, p.104).

The adaptive approach also attempts to deal with the misconception that general theory is disconnected from reality, when in practice it is directly connected to the social world and the empirical data research produces. The *adaptive* reference signifies how the theoretical element adapts to the incoming evidence and how simultaneously the data is “*filtered through (and adapted to) the extant theoretical materials that are relevant and at hand*” (Layder 1998, p.38).⁴⁷

It is also an approach that functions at both the normative and substantive level, for example identifying the normal day-to-day activities of organisers alongside macro-sociological influences, such as deregulation and competition in the financial markets, factors that supported reproduction and contributed to the financial crisis (and subsequently disruption as a consequence of state intervention and credit shrinkage, (Ryder et al. 2017). Moreover, the pluralistic and flexible approach that crime script analysis of mortgage fraud offers is designed to satisfy Layder’s

⁴⁷ An adaptive theoretical approach also supports a design that is “exploratory, fluid and flexible, data-driven and context-sensitive” (Mason 2018, p.31).

prerequisite that there exists a *“plurality of forms in which the theory-research relation is to be understood”* (1998 p.37).

Accordingly, and pursuant to the adaptive approach the theoretical propositions that underpin the research strategy and guide data collection are firstly, that the commission of mortgage fraud in England and Wales is facilitated by the exploitation of those dispositional factors prevalent in the financial services market, by motivated offenders, including key professional agents. Secondly, that the governance, regulation, and control of mortgage fraud in England and Wales faces challenges in disruption of mortgage fraud as a consequence of those dispositional factors. And thirdly, that the reproduction of mortgage fraud is possible within the financial services market in England and Wales as a result of the convergence of these causal, dispositional, and facilitative powers.

These propositions will also be applied to the cross-case study examination of Operations Opal, Cassandra and Aztec, particularly whether the data supports adaptation of these dispositions or whether they hold firm in light of the findings. These theoretical propositions also connect with the theories and the literature presented in the preceding chapter. The first proposition is loosely based upon routine activity theory, where the motivated offender is supported in their role by KPA in circumstances where guardianship is deficient and, where dispositions on the part of targeted victim lenders make them susceptible to fraud (Felson, 2000). It has, however, been argued that this theory could provide a *“basic or an impoverished approach to explaining complex organizational offending”* (Jordanoska and Lord 2019, p.4).

Consequently, the second theoretical proposition considers wider exogenous conditions in the sector, particularly those control agencies responsible for disrupting mortgage fraud. Clarke (1991) identified the impact of diversification of financial services and the tendency amongst lenders to view mortgage fraud as a matter of commercial risk, not victimisation. Whilst there have been no subsequent studies in England and Wales there are a number of US studies that have identified dispositional factors, by example lenders predisposed to predatory lending prevalent in financial markets that provided the conditions that supported systemic

reproduction (Nguyen and Pontell 2010; Fligstein and Roehrkasse 2016). Accordingly, this proposition predicts that there are similar, albeit proportional in scale, conditions within the governance, regulation, and control of mortgage fraud in England and Wales that support reproduction as a consequence of an inability to disempower these dominant dispositions (Edwards 2016b).

Finally, the third proposition is based upon Clegg's circuits of power theory (1989, 2014). The preceding chapter categorised the review according to causal, dispositional and facilitative powers in order to identify theories and literature supportive of the research strategy and design presented here. Clegg refers to a *short-circuit* in the financial services systems in the US preceding the subprime crisis where these powers converged making the system "*virtually ungovernable*" (p.387). This proposition adopts Clegg's theory and suggests that the convergence of causal, dispositional and facilitative powers allows mortgage fraud to *exist* in the financial services market in England and Wales, whilst also supporting reproduction at the expense of disruption.

3.4. Case study research design

The study adopts a multiple-case study research design, albeit supported by an auto-ethnographic approach in the case of Operation Cassandra, which draws upon a longitudinal dimension of offending over a period of five years. This is relevant within the context of how the organisation of mortgage fraud adapts over time, particularly with regard to victim targeting and those exogenous conditions such as property and lending booms and busts.

The case study design complements Layder's adaptive theory approach to the theory-data relationship, especially as it supports a broader structural analysis of the relationship between the *thing itself*, mortgage fraud and its relationship to the governance, control and regulation of the financial services market in England and Wales (see Cohen 1988).⁴⁸ Accordingly, the epistemological positioning should not thwart the capture of the "*plurality of other influences*" on the phenomenon investigated, and the research design should allow for reconfiguration as new

⁴⁸ Refers to Cohen's three orders of reality in criminology.

information is gathered, and knowledge is gleaned from its analysis (Layder 1998, p.38).

Yin (2003) argues that whilst case studies are viewed less favourably by some, as they lack rigour, they are however, generalisable to theoretical propositions and provide a comprehensive strategy “*covering the logic of design, data collection techniques, and specific approaches to data analysis*” (p.14).

The *logic of design* here involves the empirical investigation of mortgage fraud within its real-life context and where distinct situations and variables are recorded through multiple and triangulating sources of data. In accordance with an adaptive approach this process, Yin argues, supports the development of theoretical propositions that guide data collection and subsequent analysis. A case study design best serves those objectives set by the research questions as described in table 1 below.

Research question	Case study design
How is mortgage fraud organised in England and Wales and what are the crime-commissioning processes for its occurrence?	This question implies a comprehensive strategy to identify the organisational characteristics of mortgage fraud, beyond causal agency and the biographies of organisers, to includes dispositional and facilitative conditions and influences that inform the script. Empirical examination of case study data will identify improvisations to the script that give it the flexibility to support reproduction.
How effective is the governance, control, and regulation of financial services in England and Wales in disrupting mortgage fraud?	The case studies and subsequent cross-case study analysis will consider efficacy of the preventers responsible for disruption, particularly regulators of KPA and law enforcement. The descriptive element of the case study design will triangulate with other primary sources, including regulatory and parliamentary data.
Are the proximal causes of mortgage fraud underpinned by distal influences that are themselves related to causal, dispositional, and facilitative circuits of power and if so in what ways?	The case study protocol will be structured to capture data to inform the script but also to identify causal agency and evidence of dispositional, and facilitative conditions and influences (powers) that support reproduction or disruption.

Table 1: Case Study Design and Research Objectives

3.4.1. Types of case

Types of case vary from critical and unique to representative, longitudinal and revelatory (Yin 2003). As already commented, there is a longitudinal dynamic in each of the cases as the offending periods extended over multiple years and where prosecution files and evidence provide an effective chronology of events.

Notwithstanding, this design is based upon the representative or the exemplifying case, where cases are chosen as they represent the object of interest (a mortgage fraud conspiracy), and where an idiographic approach reveals the unique features and organisational dynamics of each case and the circumstances and conditions of their existence (Yin 2003; Bryman 2016).

The cases of Opal, Cassandra and Aztec were selected as they consisted of mortgage fraud conspiracies that operated in England and Wales, involving motivated offenders supported by regulated and non-regulated KPA. Each case involved the systematic targeting of a wide range of lenders and a high volume of fraudulent applications where criminal indictments were valued at between £5 and £36million. They also involved instances of fraud-for-property and fraud-for-profit. Accordingly, they each provide an exemplification of a mortgage fraud conspiracy and as a consequence are representative of the phenomenon the focus of this study. They also collectively provide a heterogenous and non-reductive explanation of the organisation of mortgage fraud and the script.

3.4.2. Multiple-case study design

The multiple-case study incorporates a comparative design and supports the overall qualitative research strategy. By comparing and contrasting three representative cases rather than examining just one it will better test and retest those theoretical propositions that guide data collection in accordance with Layder's adaptive approach. It also conforms to a critical realist meta-theory which forms the foundation of the study's methodology.

A multiple-case study design is better positioned to identify processes within the mortgage fraud script that are *necessary* to support commission (and reproduction)

and what processes are otherwise *contingent*. Hence it considers “*whether there are any generic lessons to be drawn from comparative case studies of how particular crimes are organised*” (Edwards 2016a, p.992).

The multiple-case study design can also improve the understanding of causation as it presents events chronologically, which assists the creation and adaptation of the script whilst also identifying dispositional and facilitative influences on causal agency. Furthermore, the intensive nature of the three case studies increases the ability of the researcher to observe factors and influences that impact the crime-commissioning processes of the script and assists in identifying cues for intervention (Ackroyd 2009). Figure 1 provides an overview of a multiple-case study design.

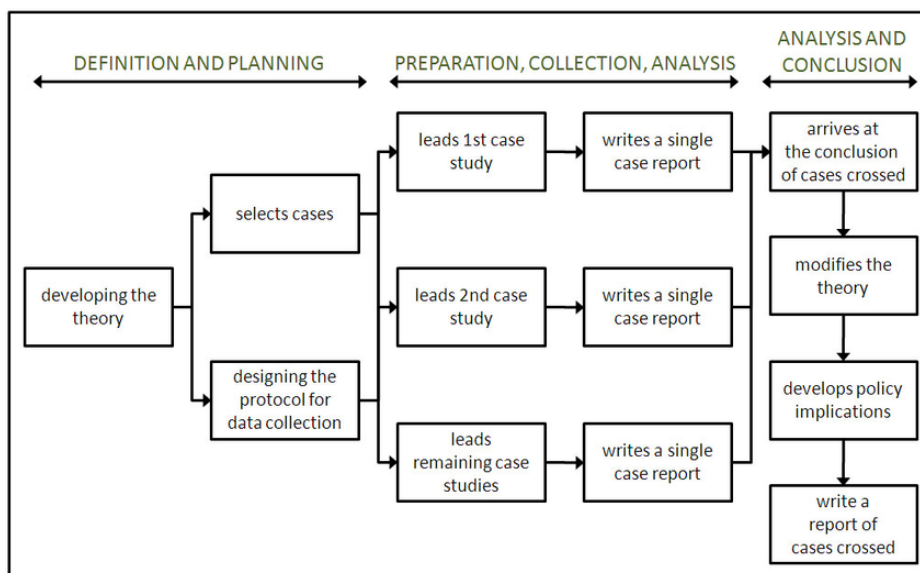


Figure 1: Case Study Method Source: COSMOS Corporation (adapted from Yin, 2003, p.50)

A final reason for multiple-case studies is to mitigate the potential for bias within the study particularly due to the auto-ethnographic and biographic elements of the design in Operation Cassandra (albeit accompanied with prosecution case files, witness statements and interviews with investigators). The ability to undertake cross-case study analysis protects against skewed findings. This will be discussed further in the context of positionality below.

3.4.3. Case selection

Yin argues that case selection or sampling within multiple-case studies should be based upon the replication logic where each case is selected so that it predicts similar conclusions (*“literal replication”*) or contrasting but predictable conclusions (*“theoretical replication”*) (2003, p.47). Here, the cases were selected as a consequence of alternate methods of data collection, notably study participants, and otherwise bore similarity to snowball sampling techniques. However, following selection it was considered that the two additional case-studies to Cassandra would provide predictable conclusions for the script, but with some notable contrasts.

Semi-structured interviews with three offenders in Opal and two offenders (and a victim-lender) in Aztec led to the procurement of prosecution case files and supporting documentation that provided supplemental data to the interview transcripts. Additionally, senior investigating officers in each case were identified and contacted through other law enforcement participants, all of whom agreed to participate. Media accounts and regulatory enforcement files were used, the former with caution, to add further detail to the case studies.

3.5. Qualitative research design

Bottoms (2008) believes that (whether self-consciously or not) the theory/data relationship is inextricably involved in the data-gathering process and the empirical world as a whole. Accordingly, in the same way that careful methodological consideration is necessary to explain research design, a prudent approach is also required when selecting methods of data collection, so that theory and data combine *“in the service of true explanation”* (p.104).

The research questions imply a qualitative research strategy that relies on the collection of primary and secondary empirical data. A quantitative strategy was not considered here as there is limited quantitative data available in England and Wales,⁴⁹ compared to say the US where there is an abundant source of quantitative sources available to academics. These sources include the Department of Housing

⁴⁹ CIFAS issues research data on fraud trends which includes mortgage fraud: <https://www.CIFAS.org.uk/newsroom/category/8/fraud%20education>

and Urban Development;⁵⁰ the FBI's analysis of SARs;⁵¹ and a number of non-government housing and lending organisations and charities^{52 53} (Quantitative US studies have included Crossney 2010; Hur et al. 2015; Fulmer et al. 2017; Delis and Papadopoulos 2018).

Additionally, whilst quantitative data sets provide statistical findings of reported cases of various frauds, which assists in identifying trends and patterns linked to property and lending booms and busts, they do not assist in understanding the organisation of the crimes they record. Furthermore, they would not assist in refining and adapting those theoretical propositions that guide data collection. Research by Copes et al. (2016) identified that qualitative research accounts for no more than one in ten articles written in criminological and criminal justice journals, which itself restricts the diversity of theoretical and methodological approaches and potentially hinders criminological insight (Bottoms 2008).⁵⁴

Though quantitative research has access to surveys and statistics for analysis, its design has limitations particularly due to questions of availability, methodological adaptability, technical expertise in collection and political and law enforcement appetite (Pakes 2015). As Hobbs observed, until criminals *"indicate their enthusiasm for questionnaires or large-scale social surveys, ethnographic research, life histories, oral histories, biographies, autobiographies and journalistic accounts will be at a premium"* (1994, p.442).

Notwithstanding Copes et al.'s findings, qualitative research strategies have been used in a number of recently published studies into complex crime (Chiu et al. 2011; Lord et al. 2019). This is due to its ability, beyond the reach of quantitative research,

⁵⁰ By example HUD.GOV 2019 available at: www.HUD.GOV

⁵¹ <https://www.fincen.gov/reports/sar-stats>

⁵² <https://www.responsiblelending.org/>

⁵³ The researcher made exploratory inquiry to several charities and organisations to establish whether there was a correlation with mortgage fraud and repossession rates in England and Wales. Unqualified responses indicated that they were not aware of a connection.

⁵⁴ Punch 1994 argues that qualitative neglect is reinforced by publishers, who can find "personal accounts anecdotal, trivial, and scarcely worthy of space" (p.85).

to investigate predominantly unrecorded crime and those normally undetected offenders that commit it; otherwise known as the '*dark figure*' of crime (Levi 2014). Mortgage fraud itself falls within this criminal hinterland, and it therefore requires of this study, penetrative qualitative and ethnographic methods to get to the root of the research questions posed.

The data identified and collected for recent qualitative studies into the organisation of financial crime have included police, regulatory and prosecution case files and interviews. Interviewees participating however, were predominantly crime preventers. By example, key informants in the UK financial markets were interviewed to untangle the procedural dynamics of benchmark-rigging (Jordanoska and Lord 2019); law enforcement and regulators were interviewed to understand the misuse of corporate vehicles to conceal, convert and control the proceeds of crime (Lord et al. 2019); and professionals, employed or previously employed in the subprime lending industry were interviewed to understand mortgage fraud in the US (Nguyen and Pontell 2010).

However, there remains a need for caution when analysing data that has been sourced from agencies tasked with investigating and prosecuting fraud, particularly as evidence and documentation would have been collected, collated and processed according to investigative protocols, resource parameters and substantially an institutionally established actor-orientated focus (Edwards and Levi 2008).

Accordingly, it is proposed that collecting data from both organisers and preventers, coupled to an ethnographic and biographic perspective, will support the triangulation of data, whilst enhancing the validity and reliability of the findings in order to refine and adapt those theoretical propositions that guided data collection.

3.6. Data collection

Data collected needed to serve multiple purposes: firstly, to inform the script for mortgage fraud; secondly, to identify those public, private and regulatory bodies that are responsible for disrupting mortgage fraud and to analyse effectiveness; thirdly, to identify broader factors and influences that support the reproduction of mortgage fraud; and fourthly, to refine and adapt those theoretical propositions that guided

data collection. Accordingly, research strategy involved identifying and collecting documentary data from regulatory enforcement proceedings; prosecution files, witness statements and evidence; media reports; Parliamentary Committee proceedings, evidence and reports; and interviewing the organisers and preventers of mortgage fraud.

3.6.1. Regulatory enforcement files

The initial aim was to access the enforcement files of the regulatory bodies of those professions that are involved with property and mortgages. These professions and their regulators include mortgage brokers and the Financial Services Authority (FSA), superseded by the Financial Conduct Authority (FCA); valuers and the Royal Institute of Chartered Surveyors (RICS); solicitors and conveyancers and the SRA and the Chartered Institute of Legal Executives (CILEx); accountants and principally the Institute of Chartered Accountants in England and Wales (ICAEW) and the Association of Chartered Certified Accountants (ACCA); and estate agents regulated under the Consumer Protection from Unfair Trading Regulations 2008.

Data obtained from regulatory enforcement files has been used in a number of studies, albeit specific to lawyer regulation and misconduct (Abel 2008, 2010; Boon and Whyte 2012b; Boon et al. 2013; Middleton and Levi 2015).⁵⁵

3.6.1.a. Mortgage brokers

The Regulatory Decisions Committee (RDC) is responsible for enforcement and supervision at the FCA. The FCA disciplinary webpage publishes all warning, decision and final notices available, within its publication guidelines.⁵⁶ There is a separation of responsibility from the Enforcement Team to ensure procedural autonomy.

In cases where action is deemed necessary, a warning notice is issued that advises the individual and/or firm of the intention to enforce. The warning notice provides the

⁵⁵ The term lawyer here is to include legal practitioners in the US and the UK as considered in the research studies referenced.

⁵⁶ <https://www.fca.org.uk/publications/search->

recipient with the right to respond in writing which will then be considered before a decision is made. It is the decision notice which confirms the RDC's judgment that enforcement action is necessary, and what it recommends by way of sanction, which includes fines, prohibitions and removal of regulated activity. The decision notice is then superseded by a final notice which confirms what action has been taken and notifies the respondent of their right to refer the matter to the Upper Tribunal.

It is the decision notice that contains the detailed facts and evidence of each regulatory enforcement case and that provides empirical insight into the role of corrupt brokers in mortgage fraud together with a measure of the effectiveness of regulatory oversight by way of assessment of regulatory strategy and the frequency of regulatory intervention.

3.6.1.b. Valuers

The Head of Regulation at RICS is responsible for taking disciplinary action against its regulated members. In less serious cases and where the member admits the allegations, the Head of Regulation can impose a fine, caution or practicing conditions. In more serious cases of misconduct, the Head of Regulation refers the member to a Disciplinary Panel which conducts a tribunal to hear the evidence supporting the allegations. The Disciplinary Panel may impose sanctions ranging from fines to expulsions.

The RICS disciplinary hearings webpage publishes all Disciplinary Panel hearings, subject to its publication guidelines.⁵⁷ The published hearings are available for download and contain the facts and evidence of the case. This provides empirical insight into the role of corrupt valuers in mortgage fraud together with a measure of the effectiveness of regulatory oversight by way of assessment of regulatory strategy and the frequency of regulatory intervention.

⁵⁷ <https://www.rics.org/uk/upholding-professional-standards/regulation/how-we-regulate/disciplinary-process/panel-hearings/disciplinary-hearings/>

3.6.1.c. Solicitors and conveyancers

The SRA is responsible for investigation and enforcement against regulated solicitors and firms.⁵⁸ In less serious cases the SRA has the authority to impose fines, reprimands and practising conditions on regulated members. In more serious cases the SRA can refer the case to the Solicitors Disciplinary Tribunal (SDT). It has the same authority to impose fines and reprimands, but also has the power to strike a solicitor off the roll. CILEx is responsible for enforcement against legal executives.⁵⁹

The SDT website publishes judgements, subject to its publication guidelines.⁶⁰ The judgements are available for download and contain the facts and evidence of each case. The CILEx Regulation website publishes disciplinary decisions against its members which are available for download and contain details of each case.⁶¹ This data provided empirical insight into the role of corrupt solicitors and conveyancers in mortgage fraud together with a measure of the effectiveness of regulatory oversight by way of assessment of regulatory strategy and the frequency of regulatory intervention.

3.6.1.d. Accountants, chartered and otherwise

The ICAEW is responsible for investigation and disciplinary action against regulated chartered accountants and firms. The Investigation Committee refers cases through to the Disciplinary Committee which has the authority to fine, reprimand and exclude. The ACCA is responsible for investigation and disciplinary proceedings against its chartered certified accountant members. Following investigation of serious complaints by the ACCA, an independent assessor refers cases to a Disciplinary Committee which has authority to reprimand, exclude and remove.

⁵⁸ Those regulated also include registered foreign lawyers, non-lawyers who manage/own an authorised body.

⁵⁹ The Chartered Institute of Legal Executives is the third core regulator of the legal profession after the SRA and Bar Council for solicitors and barristers respectively.

⁶⁰ <https://www.solicitorstribunal.org.uk/judgment-search-results#search>

⁶¹ <https://cilexregulation.org.uk/disciplinary-records/>

The ICAEW publishes on its webpage Disciplinary Database Orders and Regulatory Decisions, subject to its publication guidelines.⁶² The ACCA publishes the decisions of the Disciplinary Committee on its webpage subject to its publication guidelines.⁶³ This data provides empirical insight into the role of corrupt accountants in mortgage fraud together with a measure of the effectiveness of regulatory oversight by way of assessment of regulatory strategy and the frequency of regulatory intervention.

3.6.1.e. Estate agents

Estate agents in the UK are unregulated by a professional body but instead fall under the remit of the Estate Agents Act 1979 and the Consumer Protection from Unfair Trading Regulations 2008. Accordingly, regulation for the whole of the UK is undertaken by the National Trading Standards Estate Agency Team (NTSEST), which is delivered by Powys County Council in Wales, the lead enforcement authority on behalf of the National Trading Standards Board.

NTSEST is responsible for ensuring that estate agents comply with practice standards and protects consumers from unfair, misleading or aggressive trading practices. It undertakes these responsibilities by issuing offending estate agents (and agency firms) with warning and prohibition orders.

Regulatory outcomes are available on the NTSEST webpage,⁶⁴ however there is an absence of case summaries, evidence and judgements. When the Principal Solicitor of Regulatory Enforcement was contacted for further detail, he responded advising that, *“specific details of the matters are sensitive and cannot be disclosed unless within a judicial arena”*.⁶⁵

⁶² <https://www.icaew.com/about-icaew/regulation-and-the-public-interest/icaew-disciplinary-database>

⁶³ <https://www.accaglobal.com/pk/en/about-us/regulation/disciplinary-and-regulatory-hearings/decisions-disciplinary.html>

⁶⁴ <https://en.powys.gov.uk/article/3986/National-Trading-Standards-Estate-Agency-Team#cookie-consents-updated>

⁶⁵ The failure to publish case summaries (as opposed to abridged and anonymised versions within the annual report) is not a policy shared by other branches of the National Trading Agency (NTA). By example, the National Trading Standards Regional Investigation Teams publish case summaries for prosecutions including rogue traders, shoddy builders, car salesmen, counterfeiters, commodity fraudsters and money lenders. Furthermore, in its

3.6.2. The researcher as an insider or outsider

Before discussing participants and interview techniques I want to consider positionality and how I viewed myself in relation to the research and data collected (Berger 2015). Here, my own de Profundis experience of mortgage fraud influences both the collection and analysis of data. Accordingly, positionality interconnects with questions of personal epistemology, where experience gained and knowledge developed collaborate to provide dilemmas of positioning. It is important that issues of positionality, are considered and the appropriate safeguards incorporated within the research design, so as not to militate research objectives and skew findings.

My position was unique in many ways, as I considered myself both an insider and an outsider-insider hybrid. At the commencement of my PhD, I was a serving prisoner and was positioned to speak to other prisoners who were serving sentences for fraud. I could relate in most cases to their criminal pathways and the rationalisations they had made when offending. On the other hand, I needed to consider what data could be made available to me from the preventers of fraud, including law enforcement, regulators and victim lenders. How would they respond to my approach? Whilst my wife, family, friends and supervisors knew me well enough to know that recidivism was not on my restorative agenda, others involved in fraud prevention may have had reasonable doubts.

Accordingly, and probably understandably, I was initially viewed as an outsider to some preventers. I noticed this first hand in one interview with two fraud detectives from one of the Regional Economic Crime Units (ROCU). Following introductions and pleasantries with one detective, we were joined by his colleague, at which point the first detective spoke directly to him by mobile phone and, believing that it would not be audible to me, warned the detective, *"I'm on a conference with someone and he's previous bad character so you just might want to be guarded what you say"*. Notwithstanding this initial caution, the interview proved productive and since then I

2018-2019 annual report specific details were provided of a number of completed cases including property, lettings and timeshare scams.

have met the two detectives at a law enforcement conference, where I presented and where we discussed the possibility of working together in the future.

3.6.3. Interviews

3.6.3.a. Organisers

Between March 2018 and June 2020, I was resident at HMP Prescoed, an all-male open prison near Usk, Monmouthshire. During that time, I became aware that a small cohort of residents had convictions for mortgage fraud or had knowledge of and a history of engagement in mortgage fraud. Following the commencement of my PhD in January 2019 I spoke with these individuals and asked whether they would be willing to participate in my research at some future point when I had the requisite HM Prison and Probation Service (HMPPS) approval, a requirement of the University's ethics board (see appendix D).⁶⁶ A number confirmed that they would be willing to assist me and would be prepared to be interviewed, with those who were subject to an earlier release from prison than myself providing me with their address, mobile number and email so that I could remain in contact.

I also enquired as to whether the participants had access to any prosecution files and evidence presented at their trial so that I could triangulate their accounts at interview with the documentary data (Noaks and Wincup 2012). I was fortunate to be able to collect documentary data from participants involved in both Opal and Aztec. In addition, I had retained all of the evidence in Cassandra, including witness statements.

3.6.3.b. Preventers

Initially, I contacted the senior investigating officer (SIO) in Cassandra, formerly Detective Sergeant and currently, Detective Chief Inspector Nick Bell through the webpage of the Thames Valley Economic Crime Unit (TVECU). In my email I informed Nick of my experiences in prison, my attainment of a Masters in Counter Fraud and Counter Corruption, by distance learning, and my decision to undertake PhD research into mortgage fraud. Nick in his early response complimented my

⁶⁶ Having applied to the National Research Committee in March 2020 it subsequently rejected the application on the basis that consent was not required.

rehabilitative efforts and offered to assist. In an email from him dated 11th July 2019 he advised me, *“I have the process to support you in your studies whenever you are ready”*.

Nick subsequently reached out to his colleagues at ROCU in England and Wales to seek further assistance with my research. His enquiry read:

Jonathan Gilbert is a PhD Researcher/Graduate Tutor at Cardiff University. I have known Jonathan for over 10 years as he was a former solicitor and joint main defendant in a £30m mortgage fraud case I investigated. He has served his time and turned his life around with teaching and giving back presenting to industry partners and importantly with his wife Natalie and children. Jonathan reached out to me in the later years of his sentence when he was on day release studying and someone, I have retained contact with. I have been really impressed with his changed outlook on life. I was going to use him as a speaker at an event I ran last year before other complications got in the way. He has spoken at HM Gov and SFO events.

This led to several police officers experienced in investigating and prosecuting fraud being introduced to me. It transpired that his recommendation to ROCU (Tarian, South Wales) included the Senior Investigating Officer (SIO) in Opal who separately introduced me to investigators at the Economic and Cyber Crime Unit at South Wales Police, which included the SIO in Aztec.

Nick also put me in contact with former Detective Sergeants Steve Lawrence and Stephanie Burleigh, who had arrested me at my home in March 2010 and were the lead investigators in Cassandra. They agreed to be interviewed about their experiences of investigating and prosecuting the case. Stephanie had also previously secured convictions in a multi-million-pound case in Buckinghamshire, which she was willing to discuss.⁶⁷

⁶⁷ <https://www.mortgagestrategy.co.uk/news/two-mortgage-brokers-jailed-for-28m-b2l-fraud/>

These introductions crucially added to the data I had collected from organisers and supplemented the documentary data and media reports which collectively provided a multi-faceted empirical insight into the organisation of mortgage fraud, and which proved beneficial to my multiple-case study research design.

Further participants were identified through the social networking site, LinkedIn, referrals from other participants, and through my speaking engagements at various online and in-person financial crime conferences and forums.⁶⁸ Participants included financial crime personnel within banks and building societies, fraud prevention agencies and regulators. LinkedIn was a particularly useful tool to identify the experience of potential participants. It also offered a messaging service which I used to approach users to request their assistance whilst also referencing my biography so that they were fully informed of my prior conviction before consenting. In one instance, Vincent Coughlin KC, Chief Criminal Counsel at the FCA was approached by this means however declined as the regulator has “very tight rules around who is permitted to speak externally on operational/policy matters”.

3.6.3.c. Interview technique and protocol

Participation information and consent forms were circulated to all participants in the form shown in appendix B. My approach to interviewing was to conduct an in-depth semi-structured style of interview using open-ended questions. The list of discussion points for each category of study participant as included in appendix A

The objective when interviewing organisers was to obtain empirical insight into the organisational dynamic of mortgage fraud, particularly the offender’s social relationship with other actors, their role and responsibilities within the conspiracy, the recruitment and/or the corruption of KPA, and ultimately what led them to desist. In the case of KPA, I would enquire as what sanctions were brought, if any, by their regulators.

⁶⁸ The final slide of PowerPoint presentations would request assistance from attendees with professional knowledge of mortgage fraud with my email and LinkedIn profile.

The objective when interviewing preventers was to obtain their perception of the organisation of mortgage fraud, by example victim targeting, fraud prevention strategies and the complicity of KPA. I would question police on the reporting and recording of mortgage fraud, availability of resource compared to operational priorities and whether investigations were collaborative with other preventers, particularly regulators.

Interviews took place both in person, where Covid rules allowed, but predominantly by Microsoft Teams and Zoom. Some offenders preferred that the interview be recorded by manuscript notetaking as opposed to audio and video recording. Otherwise, all interviews were recorded and transcribed. Data was collected in accordance with Cardiff University's Data Protection Policy⁶⁹ and offender-participants were anonymised in accordance with rules of confidentiality. A generic list of the participants and their categories of experience is set out in table 2 whereas a full list of participants is set out in table 3.

Offender/mortgage fraud actor/lived experience	15
Law enforcement	12
Regulators	7
Mortgage lenders	13
Mortgage prevention agencies/other	2
Total participants:	49

Table 2: Overview of Participants and Categories of Experience

Offender/mortgage fraud/lived experience	Role/overview:
Operation Opal actor(convicted)	Mortgage broker
Operation Opal actor (convicted)	Mortgage broker
Operation Opal actor (convicted)	Accountant
Operation Aztec actor (convicted)	Leading role

⁶⁹ <https://www.cardiff.ac.uk/public-information/policies-and-procedures/data-protection>

Operation Aztec actor (convicted)	Leading role
Theft and mortgage fraud (convicted)	Mortgage broker
Mortgage fraud (subsequently quashed)	Solicitor
Mortgage fraud (ML-drugs) (convicted)	Mortgage introducer
Mortgage fraud (non-convicted)	Accountant
Mortgage fraud (non-convicted)	Drug dealer
Mortgage fraud (non-convicted)	Drug dealer
Mortgage fraud (non-convicted)	MTIC (VAT) fraudster
Lived experience	Accountant
Lived experience	Mortgage applicant
Drugs conspiracy and mortgage fraud (convicted)	Drug dealer, money launderer, mortgage fraudster
Law enforcement participants	Role/overview:
Detective Superintendent National Policing Director	Investigating mortgage fraud (Cassandra)
Formerly of Thames Valley Economic Crime Unit	Investigating mortgage fraud (Cassandra)
Formerly of Thames Valley Economic Crime Unit	Investigating mortgage fraud (Cassandra)
South West Regional Organised Crime Unit	Investigating fraud
South West Regional Organised Crime Unit	Investigating fraud
Regional Fraud Development Officer Regional Economic Crime Unit (Wales)	Investigating mortgage fraud
Regional Economic Crime Unit (Wales)	Investigating mortgage fraud (Aztec)
National Lead, Force Engagement and Performance Fraud and Economic Crime	Regional resource fraud
Ex Economic Crime NSY, SFO, now Global Head of Chapter Development ACFE	Investigating mortgage fraud
Ex Economic Crime NSY, FCA, now private consultant	Investigating mortgage fraud
Former Det Insp West Yorkshire Police	Investigating hijack/mortgage fraud
Detective Sergeant Economic & Cyber Crime Unit, South Wales Police	Investigating mortgage fraud (Opal)
Regulatory participants	Role/overview:
Former FSA investigator	Enforcement against brokers

SRA Head of Enforcement and Intelligence	Enforcement against solicitors
Former Bank of England, Financial Risk	Former adviser to Mark Carney
RICS, Head of Regulatory Enforcement	Enforcement against valuers
RICS, Regulatory Tribunal Manager	Enforcement against valuers
ICAEW, Intelligence Team Leader	Enforcement against accountants
ICAEW, Intelligence Team Leader	Enforcement against accountants
Mortgage lenders	Role/overview:
Fraud Investigator, Santander	Mortgage fraud and prevention
Former Yorkshire Building Society- Head of fraud	Mortgage fraud and prevention
Senior Fraud Investigator, Special Investigations Unit, TSB	Mortgage fraud and prevention
Former Fraud Investigator at TSB	Mortgage fraud and prevention
Head of Fraud, Danske Bank	Mortgage fraud and prevention
Head of Fraud, First National Bank (Northern Ireland)	Mortgage fraud and prevention
Counter fraud, Danske Bank	Mortgage fraud and prevention
Chief Risk Officer, Monmouthshire Building Society	Mortgage fraud and prevention
Deputy Money Laundering Officer, Monmouthshire Building Society	Mortgage fraud, prevention and money laundering
Financial Crime Officer, West Bromwich Building Society	Mortgage fraud and prevention
Head of Financial Crime, Skipton and Building Societies Association chair4fraud	Mortgage fraud and prevention
Application Fraud Manager, Santander	Mortgage fraud and prevention
Former Head of Fraud, Citigroup and General Electric	Subprime lending, mortgage fraud
Fraud prevention agencies/others	Role/overview:
Director of Research and Development, CIFAS	Mortgage fraud prevention
Former mortgage broker, industry expert	Mortgage fraud prevention

Table 3: Interview Participant List

3.6.4. Media and the legislature

Data was collected from multiple media outlets that have reported on mortgage fraud. In addition to the higher profile cases covered by the national press, there is a

wide source of reporting within the financial services media. Analysis identified thirty-four online and print publications, including Mortgage Strategy, Mortgage Solutions, Estates and Law Society Gazettes, Accountancy Daily and Estate Agent Today. Multiple Google searches were undertaken to identify reported cases, particularly reports involving the three case studies and those cases identified in the regulatory enforcement data. This provided additional detail and information on all cases whilst also analysing the regulatory response to professional misconduct and mortgage fraud.

A search of Hansard, the edited verbatim record of Parliament, between 2007 and 2020 was undertaken to identify parliamentary debate and discussion of mortgage fraud in both the House of Commons and the House of Lords. The search terms entered were limited to 'mortgage fraud'. The result of the search is shown within figure 2 below. The period of the search was intended to capture political debate on mortgage fraud during and following the financial crisis of 2007/08 and to gauge present political interest. The debates were subsequently identified, downloaded as PDFs, and referenced for subsequent content analysis.

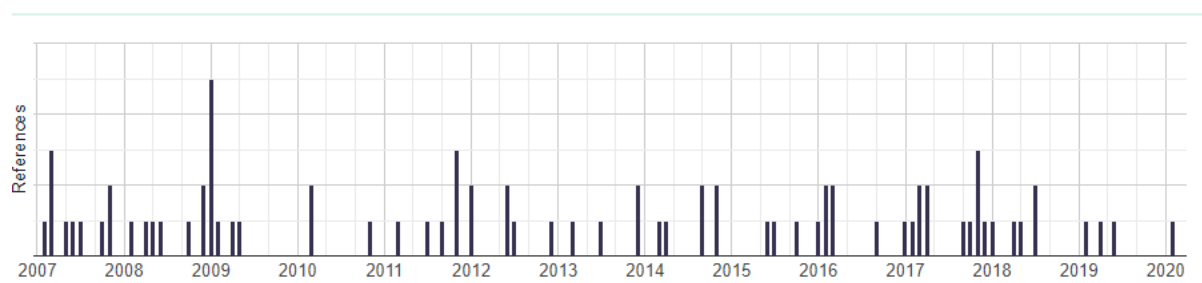


Figure 2: Hansard search Parliamentary debate mortgage fraud 2007-2020

In addition to Hansard, a search at www.parliament.uk identified those Treasury Committee proceedings that published a series of reports as part of the inquiry into the financial crisis. These included the First Report - Banking Crisis: The impact of the failure of the Icelandic banks, published on 4th April 2009 (the First Report – Banking Crisis);⁷⁰ the Second Report - Banking Crisis: dealing with the failure of the

⁷⁰ <https://publications.parliament.uk/pa/cm200809/cmselect/cmtreasy/402/402.pdf>

UK banks, published on 1st May 2009 (the Second Report - Banking Crisis);⁷¹ the Third Report - Banking Crisis: reforming corporate governance and pay in the City, published on 15th May 2009 (the Third Report - Banking Crisis);⁷² and the Fourth Report – Banking Crisis: regulation and supervision, published on 31st July 2009 (the Fourth Report – Banking Crisis).^{73 74}

3.7. Data analysis

3.7.1. Thematic analysis

The search for themes from interviewed participants was considered an effective method to identify the role and responsibilities of causal agents in mortgage fraud and how dispositional and facilitative conditions and influences support reproduction or disruption (Copes et al. 2012). The strategy for identifying relevant themes was based upon the *Framework approach* developed by the UK's National Centre for Social Research,⁷⁵ where an index of central themes is established for each cohort of participants and represented as a matrix. This strategy is based upon a management of themes and data, as opposed to the identification of themes; a process which supports the researcher's "*awareness of recurring ideas and topics in the data*" (Bryman 2016, p.585).

By example, those themes chosen for organisers are set out in figure 3 below and originated from a mortgage fraud crime script visualisation exercise undertaken earlier in the research programme.

⁷¹ <https://publications.parliament.uk/pa/cm200809/cmselect/cmtreasy/416/416.pdf>

⁷² <https://publications.parliament.uk/pa/cm200809/cmselect/cmtreasy/519/519.pdf>

⁷³ <https://publications.parliament.uk/pa/cm200809/cmselect/cmtreasy/767/767.pdf>

⁷⁴ Each report is accompanied by the Government, UK Financial Investments Limited (UKFI), FSA (where applicable) responses to the report, together with press notices. The reports are supported by a large volume of evidence, both documentary and oral. Oral evidence was collected over seventeen committee sessions.

⁷⁵ <https://www.natcen.ac.uk/our-expertise/methods-expertise/qualitative/framework/>

Theme: Crime-commissioning processes of mortgage fraud

	Recruitment	Role and responsibilities	Interaction with actors	Opportunity/ Guardians	Criminogenic culture	Victim targeting	Crime displacement	Desistance/ disruption
Interviewee 1								
Interviewee 2								
Interviewee 3								
Interviewee 4								

Figure 3: Framework approach to thematic analysis-organisers Adapted from Bryman, 2016 p.586

Interviews were predominantly online and by Microsoft Teams, which provides a recording and transcription facility.⁷⁶ The participation information sheet and consent form (see appendix B) informed the participant that the interview would be recorded. The transcription for each interview was saved and converted to Microsoft Word. The video recording of the interview was saved on Teams before being transferred to a designated interview file. Additionally, during the interview manuscript notes were taken to identify a theme and then record the running time of the interview in which the theme was discussed. In cases where a useful reference was provided, the interview notes would be marked ‘GQ’ indicating the potential of a ‘*good quote*’ relevant to a particular theme which would then be separately recorded for the purpose of further analysis.

Themes chosen for preventers included their understanding of the social relations amongst organisers, resource availability and investigative priorities, and collaborative strategies with other preventers. Additionally, themes chosen for lender participants included responses to victimisation, reporting protocols, mortgage fraud prevention strategies, including dissemination, and the role of KPA in mortgage fraud. These themes were intrinsic to the discussion points circulated to the participants ahead of interview.

⁷⁶ A small cohort of offenders requested notetaking by the researcher as opposed to audio and video recording.

Themes were also subject to adaptation as sub-themes or permutations emerged from the data. By example, case study analysis demonstrated that certain corrupt practices used by brokers against lenders were similar in nature and repetitive in the corresponding case studies. These adapted sub-themes were then included within the corresponding Framework and questions were then added to the discussion list for subsequent interviews.

Analysis involved thorough and repeated reading and listening to the interview transcripts and audio files collected and was based upon the identification of repetition in participant's account of their experiences, similarities and differences in these accounts and otherwise theory-related data (Ryan and Bernard 2003). Interview notes were useful to identify statements of interest that required further analysis. However, occasionally the transcription facility would discombobulate words and their meaning, in several instances on account of the participant's dialect. In these cases, reference to the original audio recordings was necessary to identify precise wording and meaning, particularly in circumstances where a quotation was drawn.

3.7.2. Content analysis

Ethnographic content analysis provided a systematic and analytic approach to data collected from the regulatory enforcement bodies. Its purpose was to capture patterns and typologies of misconduct that emerged from the data. In addition to informing the script it also emphasises the context within which the data is generated, which is a useful measure of the effectiveness of regulatory outcomes (Bryman 2016).

The iterative processes involved in ethnographic content analysis require familiarity with an initial sample of enforcement files to understand the context in which the data is generated; the creation of *a categories protocol* or *coding* to organise data collection from each data file; the ability then to test and revise collection protocols; the incorporation of case summaries to identify mortgage fraud; which collectively then supports the analysis of emerging theory that identifies patterns, themes and typologies of misconduct (Altheide and Schneider 2013, cited in Bryman, 2016). Coding techniques assisted in organising the data according to thematic interest, it

also allowed for further reflection and adaptation as theoretical insights emerged from the data (Noaks and Wincup 2012).

Microsoft PowerPoint spreadsheets were used to collate data. The categories fielded within the spreadsheet included the respondent's name, case reference, tribunal hearing date, order date, allegations of misconduct, case overview and sanctions. The objective was to measure regulatory enforcement proceedings by volume, efficacy and outcome whilst also determining in the cases of mortgage fraud, what was theoretically significant about the case. These cases were subsequently extracted and coded according to the category of misconduct in order to identify similarities and contrasts within the respondent's activities for further consideration.

By example, data for proceedings before the SDT and brought by the SRA produced multiple spreadsheets where processes of filtration and then analysis measured regulatory outcomes between 2009 and 2015. Categories of allegations were then coded to include rule breaches involving dishonesty, criminal convictions and mortgage fraud (or conduct that bore the hallmarks). This exercise identified one hundred and twenty-two cases involving mortgage fraud. This data was then subject to further analysis to identify the respondent's activities and to construct typologies and classifications of misconduct.

3.8. Case study protocols

The methods of design, collection and analysis discussed above were subsequently used to create a case study protocol desirable in some instances, but essential in the case of a multiple-case study design (Yin 2003). Its purpose is to increase reliability and to guide the researcher in data collection from one case study to the next (see figure 1 above).

The case study protocol included, firstly, an overview of the case study design, the theoretical propositions and framework set and relevant signposts for investigation. Secondly, the procedures used in data collection, including identifying the availability of participants and accessibility of documentary data and media reports. Thirdly, the case study questions that formed the focus of collection and what sources of

information could best answer these questions. Fourthly, an outline of the case study report and how it is structured to present findings and how this outline can be adapted to assist comparative analysis across the three cases (ibid).

Initially, the case study report was based upon causal agency, proximal conditions within situational settings and distal conditions within remote settings. However, this was subsequently adapted to conform more with Clegg's circuits of power framework where the report, as represented within the case study chapters, was principally divided into a case overview, causal agency, biographies and social relations amongst the organisers, dispositional factors amongst organisers and preventers and facilitative influences in the financial services sector.

3.9. Reliability, replicability, and validity

The purpose of adopting a range of research methods that capture diverse sources of evidence was to ensure that where there is weakness in one it is offset by the strength of another, particularly as all evidence to varying extents can be viewed as unreliable (Maguire 2000). By example, there was a concern that media interpretation of the organisers and their activities in the three cases would be an example of what Levi refers to as '*infotainment*' where reports focus on salacious and sensational aspects of a case (2008). However, this empirical weakness can be offset against the real, substantive evidence presented by prosecutors. Contrariwise, an actor-orientation of investigative and prosecutorial decision-making processes can be balanced alongside the accounts of the organisers themselves, alongside their victims. As Maguire argues, it is this careful balancing of diverse data gathering methods that supports plausible and credible outcomes (ibid).

In offender-based studies, the veracity and validity of the accounts given by offenders has sometimes been challenged on peer review, particularly in determining whether participating offenders are "*speaking 'the' truth or 'their' truth*" (Bernasco 2010, p.5).⁷⁷ Bernasco argues an offender's first-hand account provides valuable empirical data, and is instrumental in answering; "*How did a person learn to commit*

⁷⁷ Copes and Miller (2015) believe that face-to-face settings are essential to providing valid data in the case of interviews.

an offence? How precisely was a specific crime enacted? [...] What made the offender decide in favour of a particular target?" (ibid). Additionally, these subjective accounts can be tested alongside other data to inform the case studies that are generalisable to theoretical propositions (Yin 2003).

There was an initial concern relative to replicability of the study's findings, particularly whether a non-convict criminologist inexperienced in facilitating fraud could replicate similar findings. However, this concern was partly overcome by the decision to undertake a critical realist multiple-case study design, which aims to improve the ability of establishing whether theory presented in the first case study holds true in the second and third, or not (Bryman 2016). There was additionally a need to ensure that category protocols and coding were robust, albeit they adaptive to emerging data.

3.10. Convict criminology and ethics

This research presented a number of ethical issues to consider and overcome, particularly as to the sub-discipline of convict criminology and the participation by interview of previous organisers of mortgage fraud (Aresti and Darke 2016). Newbold et al. (2014) argue that research by convict criminologists who have first-hand experience of crime and criminals has criminological value as it produces experience led research that *"provides color to critical analysis"* (p.446; see also Jewkes 2012).⁷⁸ Notwithstanding, there follows a need for added caution when considering research design and strategies. By example, the research questions posed in this study have an overarching objective to examine whether mortgage fraud is capable of being reproduced by dispositional and facilitative factors that extend beyond just the causal agency amongst organisers predisposed to commit fraud.

This objective is not intended to lend (pun intended) any excuse or mitigation to the prior criminal behaviour of the convict-criminologist, neither is it intended to victim blame lenders who advanced my collaborator Entwistle and his companies tens of millions, whilst missing numerous red flags and opportunities to disrupt the fraud. The objective, however, is to provide a critical realist approach to the understanding

⁷⁸ Although both Newbold et al. (2014) and Jewkes (2012) recognise that 'excessive subjectivity' could become a problem in studies that consider unjust incarceration, mistreatment etc.

of the organisation of mortgage fraud, namely how it exists in the financial services market and what factors are either necessary or contingent to support reproduction. Additionally, a *de Profundis* experience of crime can assist a convict-criminologist in the examination of the data from an elevated position of knowledge and experience, whilst also providing a valuable means of triangulating empirical data collected from third party sources.

Safeguards were designed to mitigate victim harm. Measures were taken when interviewing financial crime personnel at banks and building societies to ensure that my biography was made clear to them at the outset, to be certain that informed consent was given, unequivocally (Holt 2010).⁷⁹ In fact, my biography in a number of interviews was of as much interest to the participant as their experience of mortgage fraud was to me. Interviews then ebbed and flowed with both the researcher and the participant sharing experiences. I also benefited from snowball sampling where lender participants recommended counterparts in other banks who I would then approach and request their participation. In one interview I was asked whether I would assist with a bank's fraud-proofing strategies for a new mortgage product being launched in the UK. Others invited me to present at counter fraud forums and seminars they were hosting. Those of whom I was connected to on LinkedIn would '*like*' my comments and posts on financial crime and criminal justice. These factors all continued to support my ongoing conviction (pun intended) that the benefit here outweighed the potential for harm and reinforced my commitment to disseminate research findings throughout the sector.

However, there were two instances where following consideration of my biography, participants withdrew their involvement. The first was a senior fraud manager at Lloyds Banking Group and the second was the head of fraud at the Land Registry. The first advised me that she was unwilling to proceed with the interview having reviewed my LinkedIn profile; the second advised me through an intermediary that

⁷⁹ Holt suggests certain strategies to avoid ethical concerns when contacting potential participants online. These includes the researcher properly identifying themselves and using clear research headings in correspondence.

she considered that her government agency was itself a victim in Operation Cassandra.

A further incident followed an interview I gave to the Radio 4 programme *You and Yours* in January 2022, that required me to consider the potential for harm as a consequence of my research. I was invited to be interviewed by the programme's researcher who had chaired a regional fraud forum that I presented to in November 2021.⁸⁰ I agreed and participated in a pre-recorded interview lasting an hour which was then edited to a twenty-minute segment. I was interviewed on a number of matters including my ethical slippage, my subsequent offending and the impact my actions had on others. Following the airing of the programme a former partner of mine at Willmetts, Melvin Berryman, who is referenced in the case study for Cassandra, and his wife contacted the programme to complain that the interview was biased as it took no specific account of the victims in the case, beyond the lenders and the firm's professional indemnity insurers, including former partners and employees who lost their jobs following the closure of firm.

In response to this complaint the producers of *You and Yours* in June 2022 re-aired my January interview before then airing a pre-recorded interview with the Berrymans in which they spoke of the impact my offending had on their lives. I was invited to listen to their interview on air, before then being interviewed again, this time live on air by the presenter Winnifred Robinson, to address the impact of my offending on the Berrymans, my other former partners and employees at Willmetts. I answered questions put to me whilst also offering the Berrymans, my former partners and employees a full and unreserved apology.

Informed consent was an important factor when it came to interviewing offenders. Following approval from the School of Social Science Research Ethics Committee of Cardiff University on the 5th March 2020 (see appendix D), I applied to HMPPS for

⁸⁰ The presentation to the Yorkshire and Humber Fraud Forum on the 17th November 2021 was entitled 'Professional Enablers and the Facilitation of Mortgage Fraud' and included content on the definition of professional enablers; what constitutes mortgage fraud; followed by details of the presenter's ethical slippage and pathway into criminality. It concluded with an overview of the presenter's PhD research objectives and some early findings.

consent to interview former offenders, some of whom were still serving community sentences. The application took thirteen months to be determined, due primarily to the Coronavirus pandemic and a suspension of prison related research and concluded in a HMPPS Single Site Application Feedback Sheet dated 15th April 2020 (appendix C). The process concluded however that HMPPS approval to my application was not necessary based upon the following: “a) you do not wish to request any data or specific access from within HMPPS; and b) you have self-selected your participants from a community sample via an independent method &/or a 3rd party agency.”

Notwithstanding this outcome the reviewer offered feedback on data protection, security and ethical issues arising from the content of my application. Firstly, he believed that it was important that I had no prior relationship with offender participants as it could impact on ethics, particularly coercion and voluntary consent. To overcome this, he suggested that an alternate researcher be appointed to conduct interviews on my behalf, to ensure independence, the accuracy of the data collected and to prevent potential for bias. Secondly, he added that my lived experience of mortgage fraud should be seen as a limitation to the study as it could impact objectivity when analysing data. Thirdly, he observed that as I was intending to interview participants who had committed a similar offence to me, I *should “clearly talk this through with your OM [offender manager] given the potential associations that would occur during your research to ensure you are compliant with any specified licence conditions”*. And finally, that I encourage participants to notify their OM, given that they may have specific licence conditions regarding *“associations with others that could adversely impact on their progression and compliance etc”*.⁸¹

In response to the feedback, I discussed matters with my supervisor Professor Levi who agreed with me that delegating the interview process would reduce my ownership of the research and would also excessively burden colleagues and/or my supervisors. In addition, it would negate the relationship I had with the participants, particularly as I was better positioned to display empathy for and understanding of their lived experience of mortgage fraud. This we believed would extract the

⁸¹ Extracted from HMPPS Single Site Application Feedback Sheet 15th April 2020.

empirical insight that would best inform the script. Furthermore, alternate interviewers would not have my lived experience of the subject crime and, whilst they would be experienced and recognised criminologists, they would require an alternate interview protocol which would not be as adaptable to the participant's responses as my own.

Furthermore, whilst I had prior relationships with some participants, we would chat in the dinner queue, and I would travel with another on the Clink prison bus as he was studying elsewhere- I did not consider that this association would lead to the potential for bias. In approaching those prisoners that I had identified as being involved in mortgage fraud or those who had experience of it (generally prisoners talk to others about their crimes), I would not apply pressure or coercion to them to participate. In fact, as with the lender participants, they seemed as much interested in my account, which I would volunteer, as I was with theirs. Additionally, they also seemed respectful (in a prisoner's way) of the fact that I was serving a twelve-year prison sentence, a term that far exceeded their own.

There was merit in the reviewer's third and final feedback points, the first of which was already in hand. The OM department at Barry Probation have been aware of my research into mortgage fraud since January 2019 and has supported my rehabilitative efforts to date. As the reviewer had made subsequent direct contact with Barry Probation, I discussed the matter with my current OM in May 2021. There were no licence conditions that prevented me from speaking with other offenders and my OM remained supportive and interested in my ongoing work. I informed the offender participants that they should check their own licence conditions (however some were no longer on licence) before participating and I amended the participation information sheet to reference the same and to reiterate their absolute right to withdraw from participating at any stage of proceedings.

All participants referenced within the study consented to being identified. However, there was a requirement that offender participants be provided anonymity. This reassured some and probably influenced their decision to participate. Accordingly, all offenders referenced within the case studies or elsewhere in this study have been provided with a pseudonym in order to conceal their identity when published. The

case studies' operational names (with the exception of Cassandra) have also been changed to protect against the identification of the participants, particularly as these operational names have been referenced in media reports. Personal data collected has been held in accordance with the General Data Protection Regulations and Cardiff University's Data Protection Policy.⁸²

3.11. Concluding remarks

In conclusion, the research and methodological choices that have been chosen for this study are set out in table 4 below. I consider that by applying this methodology to the research questions set I can effectively examine the organisation of mortgage fraud beyond the causal agency amongst organisers, particularly in identifying whether reproduction or disruption is the consequence of dispositional and facilitative circuits of power and the resultant dynamic and evolving relations between organisers and preventers in the arms race for ascendancy (Clegg 2014; Levi and Maguire 2004; Edwards 2016b). It will add to an emerging body of research that has used this crime scripting to understand the organisation of complex financial crime (Jordanoska and Lord 2019; Lord et al. 2019).

Philosophical foundations	Critical realism
Theory/Data relationship	Layder's adaptive theory (Layder 1998)
Research design	Multiple-case study
Data collection	Qualitative data including interviews and documents
Data analysis	Thematic and ethnographic content analysis

Table 4: Study Methodology

There now follows in chapters 4, 5 and 6 case study findings in relation to Opal, Cassandra and Aztec before a cross-case study analysis presented in chapter 7.

⁸² <https://www.cardiff.ac.uk/public-information/policies-and-procedures/data-protection>

Chapter 4: Conveyancing in a nutshell

4.1. Introduction

Prior to commencing the analysis of the Opal, Aztec and Cassandra cases it would be helpful for the reader to have some knowledge of the conveyancing processes that will be presented and discussed in the forthcoming chapters. This will assist in conveying how (pun intended), mortgage fraud attaches itself to an otherwise legitimate legal transaction which follows its own script. It will also help identify the schema within the conveyancing process targeted by fraudsters from which point, adaptations and permutations form, that pervert the legitimate, and which then support the commission of mortgage fraud, and its ability and capability to reproduce. Improved understanding of the cues for intervention within the *crime* script supports disruption.

4.2. Conveyancing, legitimate and otherwise

The term conveyancing refers to the legal and administrative procedures and practices that are associated with transferring the ownership of property from one party to another. It also includes the process by which legal mortgages are completed and registered against the property title. Those transactions most relevant to mortgage fraud are a property purchase and a property remortgage, although the prevalence of mortgage redemption fraud will also be examined in this study, particularly as it forms an adaptation to the script.

4.3. Property purchase

A property purchase is an everyday occurrence and originates from an agreement between a buyer and seller, at 'arms-length', on a price to be paid for a property, including any chattels, and negotiated by an estate agent. This agreement does not form a contract, but instead initiates the conveyancing process, which can be divided into five principal stages, based upon each stage of this transactional process. They are known as pre-exchange, exchange, post-exchange-pre-completion, completion and post-completion.

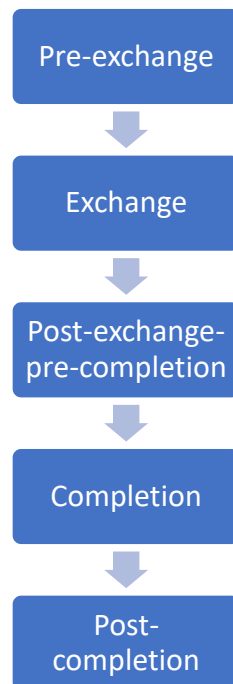


Figure 4: the Conveyancing Transactional Process

Pre-exchange involves the estate agents issuing a Memorandum of Sale, which sets out the property address and its particulars and the price that has been agreed between the buyer and seller. It will also include the name and address of their respective *solicitor* (or conveyancer), to whom the Memorandum is also sent. Both parties then instruct their solicitor to act, providing them with identification documentation to comply with anti-money laundering (AML) regulations and a payment on account to cover standard property search costs.

The respective solicitors will correspond with one another. The solicitor acting for the seller is responsible for preparing and submitting a legal package which contains a draft contract, copy title including a plan, property information form and a fixtures and fittings inventory. The package will also include historic planning consents, building regulation approval for any extensions carried out and other relevant documentation. The buyer's solicitor will review the documents, approve the contract in readiness of

signing and submit appropriate searches with the local authority and other relevant organisations.

In the meanwhile, the buyer may also be selling a property in order to part fund the purchase. Accordingly, the sale and purchase transactions will run simultaneously with one another. The buyer is also responsible for applying for a mortgage on the property where required. This role is most commonly undertaken by an independent and regulated mortgage adviser or *broker* (the buyer can otherwise apply directly to a mortgage lender, such as in cases where they wish to remain with their current lender). The broker will review what mortgage products are currently available on the market, undertake their own Know Your Client/Customer (KYC) protocols and assess the buyer's employment status and mortgage needs; specifically, how much do they need to borrow and what value this is proportionally to the purchase price.

When a suitable mortgage product has been selected, and where the broker is satisfied both that the loan amount to value fits with the lender's requirement, and that the monthly instalments are affordable to the buyer, then a mortgage application is made to the chosen lender. The application will contain all relevant personal details of the buyer, now applicant, together with full details of employment status, income and their assets and liabilities, such as credit card debt and personal loans.

The lender's underwriting team will review the content of the application and apply due diligence protocols and practices in considering the mortgage application and determining whether its contents are correct and if, then it is willing to lend the amount required to the applicant. It is at liberty to request further documentation if needed by underwriters, such as bank statements and payslips. In the event that the applicant is self-employed, an income certificate may be required from an *accountant*, certifying that the income stated within the application is correct.

Following consideration, the lender will either approve an offer of mortgage to the applicant or reject the application. Where the mortgage is approved, a *valuer* is instructed to act on the lender's behalf to attend the property and value it for mortgage purposes. The cost of the valuer is borne by the applicant. Subject to a satisfactory valuation, a mortgage offer is made and delivered to the applicant, their

solicitor and the broker, to whom a procuration fee is payable on completion of the drawdown of the mortgage.

At the point at which the buyer and seller's solicitors are satisfied with all legal and title matters, and where they have clear property searches and the mortgage offer, including the legal pack and mortgage deed, they will proceed to exchange.

Exchange of contracts is undertaken between solicitors over the telephone in accordance with a Law Society prescribed formula and undertakings. An agreement is also reached between the solicitors as to payment of a purchase deposit, of no more than ten percent of the purchase price, which may be used for the seller's own purchase if they are buying another house.

The post-exchange-pre-completion stage involves many essential processes. These include, agreeing the form of title transfer deed amongst the solicitors; undertaking pre-completion searches, including obtaining a priority registration period at the Land Registry; raising standard requisitions on title which include obtaining the seller's solicitor's undertaking to discharge any existing mortgage on the property; reporting to the client with the transfer and to the buyer also with the mortgage deed for execution; and calculating what balance is required for completion from the buyer, taking into account the net proceeds of a sale, the amount of the mortgage advance, as well as costs and disbursements owing, notably solicitor's fees, Stamp Duty Land Tax (SDLT) and Land Registry disbursements.

In addition to the above the solicitor, who at the point of receiving the mortgage offer is now acting for both the buyer and the lender, submits the report or *certificate on title* to the lender. The certificate includes the buyer's details, property address, the title number of the property at the Land Registry, the purchase price and the completion date, on which the mortgage advance is required to complete the purchase. It is otherwise in standardised version according to the lender, in a form agreed between the Law Society and the Council of Mortgage Lenders (now UK Finance), and confirms to the lender that there are no legal problems with the property and that it has 'good and marketable title'.⁸³

⁸³ <https://lendershandbook.ukfinance.org.uk/lenders-handbook/>

Completion is the date on which the parties have agreed to complete the transaction. It may also be a date on which multiple parties in a conveyancing chain have also agreed to complete. Once the mortgage advance is received it will be added to the balance of the purchase price received from the buyers or from a related sale transaction, or both. The purchase price, less any deposit paid, will then be sent by bank transfer to the seller's solicitor. The seller's solicitor will firstly apply the proceeds of sale to the discharge of the seller's mortgage registered against the property if they have one. On receipt of the redemption payment, the existing lender will discharge the mortgage registered against the property.⁸⁴ The net balance will then be made available to the seller for a related purchase transaction, where applicable, or otherwise will be paid to them in full.

The seller's solicitor will inform the estate agents that completion has been effected and authorise them to release the keys to the property. They will also deliver by post, or by favoured courier, the executed transfer deed and any supporting title deeds and documents that may be relevant. Following this, and the mortgage redemption, the seller's solicitor is discharged from their completion undertakings.

The post-completion stage includes the submission of a SDLT return and settlement of the requisite payment and an application to change the register at the Land Registry which requires an executed transfer and mortgage deed. Changes to the register will then include the name and address of the new registered proprietors, the purchase price paid and the name and address of the mortgage lender which now holds a first legal mortgage over the property. The registration is undertaken within a twenty-eight-day priority period secured by way of a post-exchange-pre-completion application to the Land Registry.

In the event that the application is delayed then a further application can be made, in the name of the mortgage lender. Following completion of registration, a certificate of title showing the changes is delivered to the buyer's solicitor before reporting back

⁸⁴ <https://www.gov.uk/government/publications/discharge-of-charges/practice-guide-31-discharges-of-charges>

to the lender with an official copy for its records. At this point, the solicitor is discharged from their undertakings to the lender.

4.4. Mortgage or remortgage

A mortgage or remortgage transaction applies where a registered owner of a property requires a new mortgage to be secured against it. The property will either be unencumbered i.e., without an existing mortgage, or encumbered with one. The common reason for this transaction is where an applicant wishes to raise money from their property or to change lender to one offering improved terms including interest rate or the ability to top-up and drawdown on the equity they hold in the value of the home.

The processes of a remortgage transaction are similar to a property purchase, save that the subject property is already registered in the name of the applicant. It involves the mortgage broker and the solicitor, although some lenders offer free legal costs if the applicant uses their nominated panel solicitor.

The lender is again at liberty to raise any specific enquiries of the applicant or their broker, by example requesting further documentary evidence to support representations made within the mortgage application. It also involves the same pre-completion searches and the requirement of a certificate of title, confirming all relevant details as with a purchase, including a completion date, with the additional stipulation that the transaction constitutes a remortgage, not a purchase.

On completion, the mortgage advance is applied to discharge any existing mortgage on the property, before otherwise being made available to the borrower, in whole or in part, depending on the circumstances. On receipt of the redemption payment the existing registered lender will issue evidence of discharge of the mortgage, which will accompany an executed mortgage deed within the application submitted to the Land Registry.

Following completion of registration, a certificate of title showing the change in registered mortgage lender is delivered to the borrower's solicitors before reporting

back to the lender with an official copy for their records. At this point, the solicitor is discharged from their undertakings to the lender.

4.5. Development finance

Two of the case studies involve mortgage fraud relating to development finance. Developers, like residential property purchasers require mortgage finance to assist them with the purchase and the subsequent redevelopment of land. Due to property value, the scale of the land being acquired and legal requirements surrounding the satisfaction of planning conditions, the process is more complex. Development finance involves raising a mortgage on the value of the land with a planning permission and then secondary funding to cover development costs.

Those conveyancing stages identified above apply to a purchase or remortgage of development land, although there are distinctions. Firstly, commercial or non-residential mortgages are most commonly offered to companies, not individuals. As a consequence, there is a need for increased due diligence on behalf of the lender and additional pre- and post-completion requirements on the part of the solicitor. Secondly, mortgages are offered for a more limited term of years and months that are calculated to allow the developer time to acquire and then to develop the land, whilst paying off a proportion of the aggregated debt when individual properties are completed and sold off.

Thirdly, it is common practice that the mortgage lender receives independence legal representation due to a greater likelihood of a conflict of interest between the lender and the borrower. This final distinction means that fraud is more likely to be disrupted by the lender's solicitor unless they are directly complicit in its commission. However, in cases of smaller levels of borrowing and developments, lenders do allow the developer's solicitor to act on behalf of both parties.

4.6. Concluding remarks

Having presented a brief overview of a typical property purchase and mortgage transaction, this insight will now be applied to the facts, evidence and data collected

in each of the three case studies. This will establish how the commissioning processes of mortgage fraud attach themselves to an otherwise legitimate transactional process. It is this attachment that firstly, makes commission and reproduction possible, and secondly, makes it challenging to disrupt.

Furthermore, the mortgage broker, the solicitor (or conveyancer), the valuer, and in the case of self-employed applicants, an accountant, hereinafter referred to as KPA, have a role to play, whether complicit or not. This is because these actors *enable* the conveyancing process in which a mortgage is obtained against property.

Considering KPA in isolation, however, does not assist in understanding how mortgage fraud is organised and how it is capable of being reproduced or disrupted. Accordingly, whilst the placement of the conveyancing process and the role of KPA within the script is important, in addition there needs to be a broader examination of the influences and conditions that facilitate commission. For this reason, Clegg's circuit of power has been identified as an effective way of analysing the three case studies, where causal agency is considered alongside dispositional and facilitative powers. The first case study considered is Opal.

Part 1: Case study analysis

Chapter 5: OPERATION OPAL

“Systematic dishonest abuse by professional men (or at least men who held themselves out as professional men)”⁸⁵

5.1. Introduction

Operation Opal is the first of the three case studies subject to analysis. The structure of the chapter utilises Clegg’s Circuits of Power conceptual framework to identify those causal agents, dispositional and facilitative powers in Opal that was central to its organisation and its ability to reproduce to the level that it did. This framework informed those theoretical propositions that have guided the collection and analysis of data, including prosecution case files, case evidence, interviews with three key actors (Miller, Brown and Baldwin) and the senior investigating officer, regulatory enforcement files and media reports.

It will commence with an overview of the Opal case before then examining the causal agency amongst the motivated offenders and the KPA and supporting actors recruited to the conspiracy, particularly their biographies and their social relations with one another. It will then consider those shared dispositions amongst these individuals that supported the commission and reproduction of mortgage fraud and those of the lenders that rendered them susceptible to victimisation. Finally, it will examine those exogenous influences within the financial services sector, within the context of the Opal case, notably systemic failings in the mortgage lending market, that together with causal agency and shared dispositions complete *the circuit* which in this case provided the facilitative conditions that supported the reproduction of mortgage fraud.

5.2. Overview

The prosecution case describes a wide agreement between three of the conspirators, Paul Gray, Robert Miller, and Keith Brown, to assist one another in

⁸⁵ Jonathan Rees (now) KC, Prosecuting Counsel

commission of the fraud. It also describes “sub-agreements”, where Gray, Brown, and Miller assisted other actors who introduced applicants to them.⁸⁶ These sub-agreements involved co-defendants Michael Price, Mark Baldwin, Sadik Mistry and Osman Miah.

The fraud involved the misrepresentation of applicants’ income in mortgage applications and the production and the submission of *false income information* and *documentation* to the targeted lender. Gray and Miller were the common thread between the conspirators and were described by the prosecution as running a “dishonest enterprise”. Gray sourced false online payslips and phone and utility bills. Miller processed the fraudulent mortgage applications and also produced compliance checks on files to demonstrate that they were compliant, if ever inspected.

Miller had worked in the financial sector since 2000. He completed the Certificate in Mortgage Advice and Practice (CeMap) qualification in 2004 and was FSA⁸⁷ registered at Mortgage UK, Gold Tops between October 2004 and March 2011. Thereafter, until September 2012 he was self-employed, working for a business named Aspect under their FSA registration. This gave him access to a number of specialist computer systems whereby he could log in and submit mortgage applications online. Following the termination of his contract with Aspect he worked for a business named Fincentric, who were not approved to provide mortgage advice. Gray had previously worked as a Business Development Manager at Santander PLC.

Brown worked as a sole practitioner accountant through his company Rowan Accountancy Limited. His role in the conspiracy was in the provision of false accountant’s documents and false accountant’s certificates using (without his knowledge) the identity of Michael Lloyd, a colleague of Brown’s at Pembrokeshire College where they both taught. Brown was a member of the Institute of Financial Accountants (IFA)⁸⁸ but used Lloyd’s identity, as the latter was a retired chartered

⁸⁶ There were incidents of applicants being introduced by other actors to Miller.

⁸⁷ The FSA regulated the financial services sector in England and Wales until 1st April 2013 prior to the Financial Conduct Agency (FCA) [Financial Conduct Authority | FCA](#)

⁸⁸ [Institute of Financial Accountants \(ifa.org.uk\)](#)

accountant and an ICAEW⁸⁹ regulated member which Brown said at police interview “added weight” to the documentation, particularly in cases where the lender required accountants to be ICAEW regulated and the greater reassurance this supposedly brought.

Baldwin and Price both, by way of sub-agreements, used the services of Miller and Gray to process their respective clients’ applications using false documentation generated from either Gray or Brown. Baldwin also processed applications using false documentation they provided. Baldwin described himself to police as an independent mortgage adviser and had his own company, Severnside Financial. He had been CeMap qualified since 2005 and was FSA and subsequently FCA regulated as a financial adviser.⁹⁰ His business operated as part of a network which authorised him to give mortgage advice. Once he left Aspect, Miller used Baldwin to process fraudulent mortgage applications.

Price worked at JFS Homeloans. He had no CeMap qualification having failed a CeMap module.⁹¹ He is described by Miller as an ‘introducer’.

As a separate sub-agreement Mistry used Miller to process fraudulent online applications and Miller also provided Mistry with his log in details in order to process such applications himself. Mistry operated from premises known as the Mortgage Centre, though he used several company names. He was CeMap qualified since 2005 but never FSA or FCA approved.⁹² Mistry sourced false payslips, and Miah took on a similar role to Brown’s, through his bookkeeping business providing false accountant’s documents and certificates. Miah operated as TWM accountants and was an associate member of the Certified Public Accountants Association (CPAA).⁹³ TWM was used as a false employer for a number of applicants.

⁸⁹ [ICAEW.com | ICAEW](https://www.icaew.com)

⁹⁰ A (CeMAP) qualification meets the FCA examination standard for advising on mortgage products.

⁹¹ There is no record of any FCA authorisation or any application to be an “approved person” relating to Pow.

⁹² It is not known why he was not approved, whether or not he failed on competence or propriety, or by choice.

⁹³ [CPAA - Certified Public Accountants Association](https://www.cpaa.org.uk)

The offending period lasted between 2009 and 2013. The prosecution asserted that the fraud over that period comprised of at least 80 fraudulent mortgage applications, of which in excess of £5,500,000 completed and where in excess of £5,000,000 did not.⁹⁴ A victimisation chronology and a victim targeting overview according to each count within the indictment are set out at appendices E and F.⁹⁵ The fraud was identified in 2012 following concerns raised by Santander in connection with applications originating from Mistry. These concerns were reported to Aspect's compliance officer.

Baldwin, Brown, and Gray were charged with additional counts relating to the false representation of Baldwin's net business profits to secure an agency with Yorkshire Building Society. False documentation was produced by Brown for these purposes and supplied to Baldwin by Gray. Brown faced further counts independent of his co-defendants relating to the production of false accounting documents and certificates for third parties. The distribution of counts is set out in table 1 below.

Defendant	Count 1	Count 2	Count 3	Count 4	Count 5	Count 6	Count 7	Counts 16-22
Gray	X	X	X			X	X	
Miller	X	X	X				X	
Brown	X	X	X		X			X
Price		X						
Baldwin			X	X				
Mistry							X	
Miah							X	

Table 5: Distribution of Counts- Operation Opal

The police investigation into the fraud lasted six years. Of the seven conspirators Gray, Price, Mistry, and Miah pleaded guilty. The remaining three conspirators Miller, Brown and Baldwin ran an eight-week trial culminating in their conviction on

⁹⁴ The consensus amongst press coverage is £4,000,000 completed, whereas £5,000,000 did not. [REDACTED]

⁹⁵ These references are illustrations of victim targeting within the cohort of examples presented by the prosecution to the jury. The prosecution case overall was concerned with in excess of 80 mortgage applications.

4th January 2018. They were all subject to proceedings under the Proceeds of Crime Act 2002 (POCA)⁹⁶ and orders under the Serious Crime Prevention Act 2015.⁹⁷ The sentencing ranges handed down following trial are set out in table 2 below.

Defendant	Sentence length
Gray	3 years 9 months
Miller	5 years 6 months
Brown	5 years
Price	2 years 2 months
Baldwin	4 years
Mistry	2 years 9 months
Miah	2 years 5 months

Table 6: Sentencing Range- Operation Opal

5.3. Agency, biographies and social relations

5.3.1. Paul Gray

Gray was a motivated offender who took on a lead role in the fraud alongside Miller, although Miller says Gray was the only one known by all of the defendants. Gray used the knowledge and experience he had gathered from his former employer, Santander, to inform his approach to his forgeries and also to advise others within the conspiracy as to victim targeting. Gray acted as a ‘go between’ for Brown and the other defendants. For example, he refers in emails to Brown on a couple of occasions to ‘my guy’, meaning Baldwin:

Email me a copy of the original so that I can get it to my guy.⁹⁸

He refers on another occasion to Brown sending documents directly to Baldwin suggesting that was not the norm. To communicate he operated two alternate but almost identical email addresses. This demonstrates a requirement on his part to control the conspiracy, perhaps understandably as, in substantive terms, he was the

⁹⁶ [Proceeds of Crime Act 2002 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2002/29/contents/enacted)

⁹⁷ [Serious Crime Act 2015 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2015/9/contents/enacted)

⁹⁸ In evidence.

group's document falsifier for applications citing employed rather than self-employed status, a job that others could have undertaken.⁹⁹

Gray had knowledge of the targeted lenders' application systems and awareness of their underwriting weaknesses. By example, Santander's fast-track application process, which did not require evidence of payslips, received eighteen fraudulent applications, eight of which completed. Lenders who accepted payslips or accountant's certificates without further proof of income were targeted. However, on occasion there were errors in the forged payslips with the wrong name or spelling of employer.¹⁰⁰ Additionally, Gray had knowledge that Nationwide (the most targeted lender) averaged out the stated self-employed income of an applicant over a three-year period. This insight ensured that the figures provided by Brown fitted the required average.

Miller says he found out Gray was earning £2,000 to £3,000 from each client. He says Gray never "cut him in" on this. Brown states that he became aware of Gray getting £2,000 to £3,000 from each client at trial. By comparison, Gray paid Brown £100 for each accountant's certificate. Baldwin says Gray dealt a lot in cash and estimates he would have made around £200,000 but "probably more". One client said at the trial that Gray had charged him £3,000 cash. Miller believes Gray got off lightly both in terms of sentence length and with proceeds of crime confiscation as he pleaded guilty and assisted the police investigation.¹⁰¹ Baldwin claims that Gray was fortunate because he traded in cash.¹⁰²

⁹⁹ There are websites where you can, at a modest cost create false payslips. See [Replacement Payslips | Free Samples | 30 Minute Service \(os-payroll.co.uk\)](https://os-payroll.co.uk) Gray's services were not required in relation to Count 7 as Sadik Mistry took on this role. Gray was however included in count 7 as Gray's role was far more pivotal than just providing forgeries on the prosecution evidence.

¹⁰⁰ For applicant Ye the payslip stated Le; for false employer Digital, the payslip stated Digitel.

¹⁰¹ It was also said that when Gray was arrested, he was in bed with his mistress and the police used the sensitivity of the situation to encourage his cooperation.

¹⁰² Gray received £9,020 in eighteen cash deposits and one electronic payment of £2,490 specific to one transaction across three bank accounts. The period is unspecified.

5.3.2. Robert Miller

Miller ran the “dishonest enterprise” alongside Gray and is a common thread through counts 1,2 3 and 7. He was considered as having a joint lead role with Gray. He was the one with access to specialist computer systems enabling him to log in and make mortgage applications online. This is not something the others could have achieved without him. He also gave Mistry his log in details so that he could fill out applications himself¹⁰³. He does not agree that he had a lead role, though he does accept that the fraud would have failed altogether without him, unless they found another “mug” to act.¹⁰⁴

Miller was CeMap qualified and had been FSA and subsequently FCA registered in his own right for six years when he was recruited by Aspect, gaining him access to their online systems and the authority to submit mortgage applications and complete the requisite compliance files.¹⁰⁵ He then operated under Aspect’s FCA authority. Some of the applications pre-date Miller joining Aspect. Some of the applications and completions, however, also post-date his departure from Aspect.¹⁰⁶

Miller asserts that he was recruited by Gray, Mistry and Price and did not know they or the other actors were known to each other. He says he was introduced to Brown by Gray via email. Miller says he must have been recommended to Gray in 2011 by a mutual acquaintance because he saw him as flexible or gullible. He says he guesses he was a conduit to the mortgage market but there was nothing unusual in recommending business to other professionals. He describes Price as an ‘introducer’. Miller says he was introduced to Baldwin by his business partner after he left Aspect.

¹⁰³ There is evidence to suggest that Miller was more involved with Mistry’s applications than this. For example, on one Halifax application (count 7 item 3) the case notes refer to phone contact with Miller.

¹⁰⁴ The email traffic in evidence, however, seems to suggest he was very involved with the other defendants.

¹⁰⁵ On the 1st April 2013 the FCA was launched to replace the FSA, following regulatory failings that contributed to the 2007/08 financial crisis. It revealed major flaws in the organisation and its governance that had led to regulatory neglect, which also included the mis-selling of Protection Payment Insurance.

¹⁰⁶ Three Nationwide applications, two of which completed and one Halifax application, which also completed.

Miller says that Aspect was not authorised to carry out mortgage business. He said at police interview that he therefore did not get any work from Severnside. He says Fincentric suggested Baldwin could process mortgage applications. For example, for one Nationwide application¹⁰⁷ the underwriting notes state Baldwin as the broker and Miller had copies of passports, bank statements, payslips and P60s¹⁰⁸ on his computer. Miller says he faced no sanction from the FCA as he had let his membership with them lapse. He is not aware of any repercussions for Aspect. Miller is noted on the FCA website simply as no longer in a role requiring regulation.

Miller says he only ever received procurement fees from the lender on completion of the mortgage with no kickbacks.¹⁰⁹ He says he only later found out that Gray was charging for his services.¹¹⁰ The fraud came to light when Santander raised concerns with Aspect over a number of mortgage applications. Miller was terminated from Aspect, but it appears they took no further action. Miller says that his boss at Aspect had received a tip off from someone he knew at Santander. Miller says he was sympathetic when he sacked him, saying “You were fucked!”.

5.3.3. Keith Brown

Brown was an accountant, though not chartered. He operated as a sole practitioner under the name Rowan Accountancy Limited and was a member of the IFA. He provided false accountant’s documents and certificates in the fraud using the name of Michael Lloyd, a retired chartered accountant with ICAEW membership. Lloyd was unaware of this. Brown featured in counts 1, 2 and 3 with Gray and Miller and also faced counts 16-22, relating to other similar instances not involving the other defendants in this conspiracy. Miah was used to provide false accounting information and documents in relation to count 7.

¹⁰⁷ Count 3, item 10.

¹⁰⁸ A P60 is an End of Year (Tax) Certificate.A

¹⁰⁹ Miller says he earned £4,400 only through the fraud. The prosecution however claimed that Miller made cash deposits totalling £77,000 over three years across ten bank accounts.

¹¹⁰ Miller also claims he paid Mistry 75% of the procurement fees on his applications, not knowing that Mistry was charging £2,000 to £3,000 per application. Brown says Mistry and Michael Price had a share in procurement fees with Miller.

Brown says he only dealt directly with Gray. He says he did not know what everyone else did until his solicitor explained it to him following his arrest. Gray, he says, coordinated it all. He was introduced to Gray by another financial adviser. He says the judge at trial acknowledged he did not have anything to do with the others.

There was no social interaction with the others...My only contact was Paul Gray. Even when I did the Yorkshire accounts for Mark Baldwin, I didn't meet him or speak with him...There were no emails with any others.

He accepts that he was an essential part of the fraud, but only for the self-employed applications, otherwise the mortgages would have been rejected. He does not think the fraud would have failed without him, as the "Indian accountant" or someone else would have taken over his role. This is correct to some extent as he was not required for any of Mistry's applications. Price and Baldwin could have been introduced to Miah if his services were subsequently needed, although he would not have had access to Lloyd's ICAEW membership certificate.

Brown believes that Lloyd's chartered status was critical to the fraud. This is supported by the fact that there is only one example within the prosecution case of a mortgage actually completing when Miah provided false *accounting* information as opposed to false *employment* information. Brown admitted in police interview that he had used Lloyd's name as it "added weight". He said he forged Lloyd's signature on the certificates because lenders required a declaration from a chartered accountant. He says that ACCA¹¹¹ is a better qualification than Institute of Financial Accountants (IFA) and is more accepted by lenders, however, ICAEW is the main one. His access to Lloyd's details made him essential to the fraud.

Brown copied and supplied Lloyd's ICAEW membership certificate on one occasion when a lender queried Lloyd's qualification.¹¹² They had asked for a practice certificate, but this was not available as Lloyd was retired. Brown admitted in police

¹¹¹ Association of Chartered Certified Accountants [Home | ACCA Global](#)

¹¹² To Accord Mortgages.

interview to having faxed a false accountant's certificate to Nationwide from Pembrokeshire College where he taught. Brown says his IFA membership had lapsed so he faced no professional sanction.¹¹³ He says:

They don't strike you off, you just don't get a certificate for the next year if your subs aren't paid.

Brown appears to have only received small financial benefit for his involvement. He stated at police interview that he received £100 each time, only payable when the application was approved. He would not receive the fee where the application was rejected. Brown's accounts show payments ranging from £100 to £440 a time totalling £7,250 across three bank accounts over approximately 2½ years. It was always Gray who paid him as Gray did not trust anyone else. Brown estimates he earned around £10,000 over four years. He says it was always a part time income for him.¹¹⁴ When Brown was arrested at his home, he handed the police a flash drive containing all of the fraudulent transactions he had been involved with. It was this evidence that widened the investigation.

5.3.4. Michael Price

Price worked at JFS Homeloans in 2011. He was not CeMap qualified having failed a CeMap module. There is therefore no record of FCA authorisation or any application to be an approved person relating to Price. Both Miller and Baldwin referred to him as an "introducer" of business. JFS Homeloans' website claims twenty-five years in operation. It does refer to being "introducers" and to being FCA regulated. It is not clear in what capacity Price worked there in specifically.

Price used Gray and Miller to process applications for clients he introduced, using false documents from Gray or from Brown. It is not specified who produced the compliance files, but it would have undoubtedly been Miller as he was FCA

¹¹³ His accountancy firm was still current until 16/04/19 and has a filing history up to 23/06/18.

¹¹⁴ Counts 16-22 of the indictment however related to other instances of Brown forging accounting documents independently of this conspiracy. There is no separate detail setting out what gains he made from those offences.

approved. Price appears to have liaised directly with Miller on applications and demonstrates some knowledge as to lenders' anticipated criteria. There is an example of him emailing Miller and suggesting not to try Abbey but otherwise try "mainstream".¹¹⁵ In another Price asks Miller to advise whether employed or self-employed status would be better.

Price received cash payments of £40,000 over 2½ years into three bank accounts. He also received a share in procurement fees.

5.3.5. Mark Baldwin

Baldwin is described as a mortgage consultant and had his own business, Severnside Financial. He was FSA and subsequently FCA regulated having gained his CeMap qualification in 2005. His business operated as part of a network, initially Home of Choice and then Personal Touch Financial Services. These networks authorised Baldwin to give mortgage advice and provided compliance support. It appears he became valuable to Miller and his co-conspirators when Miller was terminated by Aspect. Fincentric, where Miller then worked was not regulated for mortgage business and it was then Baldwin who had the access needed to online software. At this point Miller's role became that of an introducer.

Baldwin had been introduced to Gray by Ryan Jones and Shane Williams, former Welsh rugby internationals, for whom Baldwin acted. He says Gray was retiring and had thought his contacts could help Baldwin's business and they could work on some business together.¹¹⁶ Gray introduced Baldwin to Miller and Baldwin then used Gray and Miller to help process his clients' applications, using false documents from Gray or from Brown.¹¹⁷ Baldwin describes Gray as the common link and having the lead role. He says Gray did all the running around to make things happen and Brown and Miller would make "the finances work".

¹¹⁵ There is also an example of Price emailing Miller in relation to a lecturer applicant saying, "use Ken as a self-employed electrician...you decide income required please".

¹¹⁶ In the same way as he considered Brown 'warm' professionally he was also aware of Gray's former employer Santander conducting their own investigation into Gray's files.

¹¹⁷ Miller elsewhere says that Fincentric referred him to Baldwin.

He says Gray told him at an early meeting that he was working with Brown who could turn things around quickly and was creative with it. Baldwin says he assumed from this that Brown was “a little warm”. Gray offered Baldwin Brown’s services. Baldwin says he spoke to a business development contact high up at Northern Rock and asked him directly what he thought about using an out-of-town accountant for multiple applicants. He agreed that as the accountant was chartered and had indemnity it should not be a problem, and that Baldwin should be “ring-fenced from risk”. Baldwin on the face of it was not aware that Brown did not have chartered status but was using a third party’s identity.

Baldwin says he consciously distanced himself from the mortgage business. He was more interested in the lucrative pensions and investments market. There were no calls or emails between him and Gray, no incriminating evidence. In addition to using the services of Brown and Gray to help process his clients’ applications, Baldwin also used them to produce and supply false accounting information for his own business in order to secure an agency with Yorkshire Building Society. Notwithstanding his role, he was unfamiliar with some of the other actors and at interview incorrectly refers to Brown as “Ken Bruce”. Similarly, Miller refers to Miah as “Usman Miah”, demonstrating some actors’ lack of familiarity with others, beyond that of Gray.

Baldwin asserts that he was the only defendant with an otherwise authentic practice on the high street, trading as a Yorkshire Building Society agency¹¹⁸ (albeit fraudulently obtained), and a good reputation. The other defendants were one-man-bands working from home, but he had an impressive client base including sportsmen and high-profile local businesspeople. Baldwin says he was dragged into the investigation by Brown giving a statement to the police. He says his role stepped up to lower lead when he was charged with the Yorkshire fraud.

¹¹⁸ Baldwin made £32,544.58 in commission payments as a result of acquiring this Yorkshire Building Society agency.

Baldwin charged his clients fees of around £2,000. He says what he charged was a “lifetime fee”.¹¹⁹ Baldwin says he paid Paul Gray £50 to £100 on the mortgages he did for him. Gray charged the applicants directly too. Baldwin did not hear from the FCA. He was not formally suspended but his business was suspended from mortgage business until the police investigation concluded. To his knowledge the FCA did not get involved in the investigation. He is noted on the FCA website simply as no longer being in a role requiring regulation.

5.3.6. Sadik Mistry

Mistry worked from the Mortgage Centre. He used several business names including Mortgage and Protection Solutions, MT Polo and Pinnacle IT. He became CeMap qualified in 2005 but was never FSA or FCA authorised or approved. Mistry processed online mortgage applications using Miller’s login details. Mistry used Miller to produce compliance files (Mistry not being FCA approved).

Miller says Mistry contacted him out of the blue and said he had applied for regulatory approval but needed someone to act for him in the meantime. Mistry used Miller’s FSA authorised status and access to online software in order to process applications on false financial information. Mistry had an assistant, Shireen Emami. She says Mistry told her what to write in emails. Mistry got her to do most of the work but always told her what to do. There are email examples of Miller emailing her and advising her on completion of some of the application and compliance paperwork.¹²⁰

Pinnacle IT was used as a false employer in several mortgage applications from Mistry, he also used Miah’s TWM accountants as a false employer and accountant for applicants. TWM was used on fourteen applications, eight of which completed. Other addresses on the same estate as TWM- Enterprise Way were used multiple

¹¹⁹ The CPS put a figure of £60,000 on his gain, which he accepted. It is not clear whether this includes the commission payments from Yorkshire Building Society.

¹²⁰ This is reflective of Baldwin using his assistant to complete a lot of the processing paperwork.

times also.¹²¹ Mistry also used false payslips, false employer references and accounting documents produced and supplied by Miah. There are examples of the use of false phone bills by Mistry. One was found in a conveyancer's file addressed to Miah's wife but beginning "Dear Mr Mistry...". In another instance the identical phone bill was found but addressed "Dear Mr Ahmed...".¹²²

Mistry received cash deposits of in excess of £200,000 over a 2½ -year period across eighteen bank accounts. He charged his clients significant fees. It appears Miller also paid him 75% of the relevant procurement fees.

5.3.7. Osman Miah

Miah had his own accountancy business, TWM, which he used as both a false accountant and a false employer for applicants. Miah was associate member of the Certified Public Accountants Association (CPPA) and still is. There is no record of any disciplinary proceedings against him, notwithstanding his criminal conviction. TWM is still active and was incorporated on 15th February 2019. Miah and his wife were appointed directors, but he resigned immediately. His wife is now the sole director.¹²³ He produced false employer or accountant's references where required. TWM was stated as a false employer or accountant for fourteen applications, eight of which completed in the examples provided.

Miah's wife was the applicant in two instances using TWM as a false employer. On one occasion the mortgage with Santander did not complete, though no reason is given. The second application to Halifax, did complete utilising a falsified telephone bill.¹²⁴ As indicated elsewhere this demonstrates a lack of sophistication in some elements of the fraud.

¹²¹ Halifax received eleven applications between October 2011 and August 2012 using Enterprise Way as false employers/accountants, eight of these completed.

¹²² Miller refers to Mistry tip-exing and amending his own phone bill when proof of residence was required, but the third page still had Mistry's name on it. The lender did not pick up on it.

¹²³ Osman Miah's wife was also director of a company called Miah Osman Ltd which only existed from 29/06/18 – 03/12/19. It was dissolved seemingly for lack of trading.

¹²⁴ It was this false telephone bill addressed to Miah's wife which was found in a conveyancer's file addressed "Dear Mr Mistry...". Her first name was mis-spelt in this application too (Uzua rather than Uzma).

5.4. Shared dispositions

5.4.1. Knowledge and opportunity

The defendants were professional people who used their status and knowledge for criminal activities.¹²⁵

The conspiracy relied on legitimate online mortgage application software which allowed access to mortgage products and application processes often requiring only payslips or accounting documents as proof of income and on several occasions no proof of income at all. Accordingly, lenders who accepted payslips or accountant's certificates without further proof of income were targeted. This allowed for a high success rate.

Gray took on a lead role in the fraud alongside Miller using the knowledge and experience he had gathered from his former employer, Santander, to inform his approach to his forgeries and also to advise others within the conspiracy as to victim targeting. Gray also had knowledge of the targeted lenders' application systems and awareness of their underwriting weaknesses.

Gray had significant input on the approach to the falsified income details and proof. He suggested to Brown by email manipulating figures for Nationwide to show higher self-employed income over three years as Nationwide assessed by way of an average. He also emailed Miller regarding a Nationwide application, commenting that if it were Abbey, they would take a dim view of income from outside the UK and suggested obtaining "better quality" payslips for an applicant in view of the amount misrepresented in the application.¹²⁶

¹²⁵ Gemma Vincent, Crown Prosecution Service, [REDACTED]

¹²⁶ The false payslips here purported a salary of £72,500pa from Savills PLC.

It was Miller's status and access to online software that enabled Gray and the other actors to do what they did.¹²⁷ Without him they would not have had access to the software to carry out the fraud. Miller had a good working knowledge of lenders' application criteria and exploited this to target lenders- predominantly Nationwide, Santander, and Halifax- who would complete either with no proof of income or in reliance solely on payslips or accountant's certificates. There are two examples of P60s being requested by Nationwide whereby Miller claimed they had been mislaid and offered additional false payslips as an alternative. In the second example he emailed Gray suggesting he state a lower income on the earlier of the false payslips to make it look as though the applicant had received a pay rise.¹²⁸

Both transactions completed. In another transaction Price emailed Miller saying "only you" know whether it's better to state the relevant applicant as employed or self-employed. He then says:

Use Keith...you decide income please.¹²⁹

Miller had the knowledge and the means to complete compliance files to cover their tracks with the lenders and coached Mistry's assistant in doing so the correct way so as to avoid detection. There are examples of him emailing her advising her on how to use his Trigold form rather than the one she had completed and advising on how to draft a suitability letter.¹³⁰ The compliance files were standardised also. Judge Martin Fitton said in sentencing:

I consider you had a leading role. Your position was one not just of trust, but of a considerable degree of knowledge in the financial industry...Your inside knowledge put you in a position to act as

¹²⁷ Perhaps if Gray had not left Santander under a cloud, he would not have needed other enablers.

¹²⁸ There are other examples of Gray emailing Miller asking for input on an applicant and on another occasion querying which payslips to use.

¹²⁹ In evidence.

¹³⁰ Trigold is a software package that combines mortgage product sourcing with compliance tools.

middleman and facilitator in the conspiracies in which you were involved.

Brown utilised his knowledge of bookkeeping and accountancy for the preparation of financial accounts and income references. He could not easily have been substituted in this role as it was deemed that only a chartered accountant's declaration would be acceptable to the lenders, albeit that this was done in someone else's name. Miah did not have the status to take over his role, but he still had the knowhow as to what employment documentation was needed to support an application. This is perhaps illustrated by the fact that only one application was cited as completed with Miah named as the accountant for the applicant rather than the employer.¹³¹

Brown also considered the boundaries of the fraud; when Gray suggested by email the use of false SA302s,¹³² Brown replied that it was "too risky". Brown acknowledges his role, whilst also accepting that he was not indispensable.

I was an essential part of the fraud, but only for those who were self-employed and needed an accountant's certificate, otherwise they wouldn't get a mortgage.

Baldwin had access to essential online mortgage application software and was trusted by the relevant lenders as he was CeMap qualified and FCA authorised. He also had a Yorkshire Building Society agency which further legitimised his business.

I had a good reputation in financial services. It earnt me the Yorkshire Building Society franchise after all. The others were working from home.

¹³¹ Count 3, item 5 – Nationwide. This was an application commenced by Baldwin with Yorkshire Building Society supported by a false accountant's certificate from Brown but then transferred to Mistry to complete supported by a false accountant's certificate from Miah. This was possibly a consequence of Baldwin losing his Yorkshire Building Society agency.

¹³² HMRC Self-Assessment 302 form.

Baldwin became the conduit to the mortgage market for the conspirators, including then Miller, when Miller was terminated from Aspect.

Mistry was CeMap qualified and had knowledge of the mortgage market. His opportunity lay in using Miller's log in details to process online mortgage applications. Whilst Price had no CeMap qualification and was unregulated, he acted as an introducer of mortgage business. This required knowledge of the mortgage markets and of lenders' due diligence protocols. Price in one instance suggests applying "mainstream" but not Abbey.

There are numerous examples of Mistry exploiting Santander's 'fast track' application process, as supported by Gray. False payslips were produced as required. In one example Santander made further enquiries and discovered that the applicant did not work at the stated employer, Glamorgan Telecom and that the payslip was false. The application was declined in August 2012.¹³³ Miller was terminated from Aspect in September 2012. This was one of two of Mistry's applications flagged up by Santander leading to Miller's termination from Aspect.

Knowledge and opportunity exercised in the fraud was not just limited to the experience of the individual actors as there also existed collaborative strategies. There are examples of Miller and Gray seeking advice and input from one another. Miller says in one email:

How we put this over to Halifax I don't know. Help please.

On other occasions Gray emailed Miller asking for input on an applicant and for advice on which payslips to use. There are also examples of Price looking to Miller for guidance, such as emailing him to ask whether employed or self-employed status would be better for a specific application. Presumably to ensure its approval.

¹³³ Count 7, item 6.

5.4.2. Victim targeting

A number of lenders were subjected to repeated victim targeting. Table 3 below shows the frequency of victimisation presented as illustrations within the prosecution's case files.¹³⁴ Appendices E and F shows the chronology of victimisation and its correlation with each count within the indictment.

Targeted Lender	Frequency	Completed	Not Completed
Nationwide	26	18	8
Santander	18	8	10
Halifax	15	11	4
Unspecified	3	Unspecified	At least 1
Accord	1	1	0
Northern Rock	1	Unspecified	Unspecified
Family Finance	1	Unspecified	Unspecified

Table 7: Frequency of Victimisation – Operation Opal

Santander were targeted as their 'fast track' application process allowed for quick and successful applications. Miller comments:

Here they put them through on a nod. They did online valuations and credit check. Didn't check pay etc...Nationwide did the same and would accept within an hour online.

Halifax were targeted also as no proof of income was required on some applications. Six applications in Count 7 completed with no proof of income provided, most stating Enterprise Way employment addresses.¹³⁵ Nationwide, Santander, and Halifax were targeted as they otherwise only generally required standardised accountant's certificates or payslips without further proof of income.¹³⁶

¹³⁴ These references are illustrations of victim targeting within the cohort of examples presented by the prosecution to the jury. The prosecution case overall concerned in excess of 80 mortgage applications.

¹³⁵ TWM business address was Enterprise Way.

¹³⁶ 18 times Nationwide, 5 times Santander, and 5 times Halifax.

5.4.3. Organisational dynamics

This fraud was run by an organised crime group consisting of a number of professionals including accountants, ex bank managers and mortgage and financial advisers.¹³⁷

Primary organisation of the fraud was taken on by Gray who was the main point of contact for the other actors in the fraud. He refers in emails to Brown to “my guy” (referring to Baldwin) suggesting that he recruited actors as well as controlling their activities. He refers on one occasion, in an email to Brown, to sending documents directly to Baldwin indicating that this was not the norm. There is an example of Miller emailing Price and saying “we will need to use Pete’s accountant...” again demonstrating Gray as leading actor. Baldwin describes Gray as the lead role and the common link:

He would do all the running around...Gray was busy running around making things happen. Brown and Miller would do what they needed to do.

I never instructed him [Brown] to do anything; it was Gray who did that. The first time I met him it was in the dock.

The referral and tasks that were delegated by Gray were then subject to his control and supervision. Brown states that he only dealt with Gray and spoke to Miller only once during the currency of the fraud. Brown says that Gray co-ordinated the fraud in his view. He was the middleman. Baldwin states that Gray was the common link between all the defendants and did all the running around to make things happen and Brown and Miller would “grease the tracks”.

Miller says Gray would feed him a crib sheet detailing the salary and financial details of the applicant. Miller said that he could not query the business that Gray recommended to him as it could jeopardise further recommendations. Miller says he

¹³⁷ DC Ed Middleton, [REDACTED]

did not consider it unusual to act for clients that he had not met, that was how business worked then.

I spoke to Paul Gray for the first time who told me he was an ex-bank manager, retired from Santander, but still with clients that he was advising. Abbey National [Santander] were pretty strict on lending criteria so Paul Gray would recommend customers who were turned down to me to see what was available. I would give them options and request proof of ID, residence, and payslips.

Miller also completed compliance files as further reassurance to Aspect's compliance officer. In this regard Miller concluded that provided the compliance files contained certain information and were presented in a standardised format then they would not be questioned. He was also aware that audits were carried out randomly on only a few files.¹³⁸ Miller says Nigel Smith (who originally recommended Miller to Gray) slipped the net. He says Smith referred business and got false payslips from Gray, but the police were not interested. This suggests that there were further sub-agreements in operation and that prosecutorial parameters were imposed by the police.

Brown says that he dealt with Gray remotely and by email. Gray would give him information on the applicant's income through their business. The lender would then write to him in his position as their accountant and provide their proforma statement. He would then complete it with the details Gray had provided, make a declaration in Lloyd's name, as his own qualifications were deemed inadequate, and then return it to the lender. He said that they had only met twice.

I was never involved in forging payslips; Paul Gray was responsible for that. Supposedly you can get them from the internet at twenty quid a go.

¹³⁸ Miller was terminated from Aspect as a result of discrepancies in payslips provided but this appears only to have been detected by chance when some of his compliance files were randomly selected for audit.

The mortgage companies just wanted a signature from someone credible. They never checked in any event.

Baldwin became crucial to the fraud when Miller was terminated from Aspect as he was then the conduit to the mortgage market for the conspirators. Miller's new venture was not regulated for mortgage business. Baldwin had access to essential online mortgage application software and was trusted by the relevant lenders as he too was CeMap qualified and FCA authorised. He also had a Yorkshire Building Society (YBS) agency which further legitimised his business. A former head of financial crime at YBS, identified how they were able to identify patterns in social relations amongst the actors that alerted their suspicions.

Mark Baldwin was our link there and we had, Keith Brown and Miah the other guy turning up, providing accounts... and the only way that we identified that it was more serious was because we were able to pull the links together. We looked at cases that were coming through this source [broker/introducer] in tandem and we had fraud prevention systems which helped us to pick up on the commonalities.

Baldwin says no valuers were involved as far as he was concerned, as the applications were all "status fraudulent". He says no solicitors were corrupted as far as he was aware, however, there was the involvement of solicitors, either complicit or otherwise negligent as, for example, Mistry's badly forged phone bill was found on a conveyancing file.¹³⁹

Price had failed his CeMap qualification but was able to 'introduce' work to Miller as an unqualified person to process mortgage applications in his own name on Price's behalf. Miller shared his log in details with Mistry who was then able to submit mortgage applications under the guise of his qualifications and his FCA approval. It

¹³⁹ Furthermore, there is one instance cited where Gray recommended a solicitor to act for the applicant (Hussain, count 3).

is unclear why Mistry himself never obtained FCA approval as he was CeMap qualified.

Miah took on the accountant's role in count 7 for Mistry's applications but he is only an associate member of the CPPA. A closer examination of count 7 demonstrates that he actually fulfilled his role largely as a false employer for applicants rather than as their accountant. There is only one example of a mortgage completing where he was stated as the applicant's accountant (not count 7).

Notwithstanding the actors' specific roles and responsibilities within the fraud, they also occasionally worked collaboratively to identify weaknesses in underwriting. In one case, Gray suggested to Miller by email sourcing "better quality" payslips for an applicant where the stated annual income from Savills PLC was £72,500, in view of the salary level. Miller emailed Gray on another occasion where the applicant was working abroad, saying:

How we put this over to Halifax I don't know. Please help.

On one occasion, HMRC self-assessment forms (SA302) were requested by Nationwide after discrepancies were detected in the figures provided by Brown.¹⁴⁰ However, there were boundaries to the deceit, particularly with what Brown was willing to falsify.¹⁴¹ He resisted Gray's suggestion of forging SA302s saying it was "too risky". The transaction later completed with Halifax using a Malik & Co false accountant's certificate. Applications failed on a couple of other occasions where SA302s were requested but not provided.¹⁴² Reference to Malik & Co suggests that there were further sub-agreements in place that fell outside the parameters of the investigation.

These organisational dynamics kept the fraud fluid and adaptable to any obstacles that arose, most notably where additional information and documentation was

¹⁴⁰ Count 3, item 7.

¹⁴¹ They were reticent to falsify bank statements although this did not preclude the use of falsified telephone and utility bills.

¹⁴² By example count 3, item 11.

required by the targeted lender. Additionally, adaptation was necessary in cases where certain actors were prevented from undertaking mortgage business, the first catalyst of which was Gray's departure from Santander.¹⁴³ Consequently, this established or entrenched a coordinated arrangement with Miller. Miller's later departure from Aspect was the subsequent catalyst.

Notwithstanding the dynamics involved it has been disputed just how organised the mortgage fraud was. Detective Constable (DC) Middleton says:

Opal was considered a serious organised crime group: the total value of the identified mortgages...the threat to the financial institutions was in excess of £80m although that wasn't what was actually realised by them...They were working a very organised system.

Baldwin disagrees and says:

I don't think it involved much organisation. It was all a little haphazard. It was all random.

Following the convictions, the Crown Prosecution Service (CPS) were however able to argue that the criminality involved in the case and the threat of further criminality was at a level that warranted Serious Crime Prevention Orders against each of the actors. DC Middleton says:

Opal is quite unique in that as far as people within the economic policing world, certainly at City of London are aware it's the only fraud case where a Serious Crime Prevention Order has been made and has subsequently been reinforced resulting in further custody for one of the defendants. That's out of the whole of the UK.

¹⁴³ It is unclear whether Gray left Santander as a result of an internal investigation or voluntarily, and when this occurred.

5.4.4. Local bad character referrals

Miller claims that Gray contacted him in 2011 after he was recommended by Nigel Smith with whom Gray co-owned property. He says Gray would then refer clients turned down by Santander to him and he would process applications for them. Miller says that he was firstly recruited by Gray, then introduced to Brown and Baldwin, and then subsequently recommended to Mistry and Price by Gray:

I now started getting calls off Sadik Mistry out of the blue. He told me he had my name from Paul Gray. He said he was applying for FCA registration but in the meantime needed someone to act for him.

Another guy Michael Price was the same as Sadik Mistry.

Gray offered Brown's services to others in the conspiracy who would then use Brown to provide the necessary documentation to support the mortgage applications. An email from Miller to Price states:

We will need to use Gray's accountant [Brown] to sort out the accountant's certificate.

Baldwin said in police interview that he knew Gray and it was he who suggested Miller could introduce work for him.¹⁴⁴ Baldwin was himself introduced to Gray by two clients of Baldwin's:

I was introduced to Gray by two Welsh rugby international players that I had been acting for...I understand that Gray was retiring, and Shane and Ryan thought perhaps his contacts could help my business and we could work on some business together. I later found out that Gray's employers Santander were conducting their own investigation into his files.

¹⁴⁴Miller, however, says Fincentric suggested using Baldwin.

It was also Gray who offered Brown's services to Baldwin at an early meeting where he mentioned that he was working with Brown's accountancy firm in West Wales and said that he could turn around accounts and income references quickly and was also "creative" with it. Baldwin suspected that Brown was therefore "warm" but believed that he had insulated himself as it was always Gray who instructed Brown to do things, not Baldwin.

Miller argues that all applicants used the referral system to access professionals who would assist them in obtaining a mortgage. He said that all applicants were interviewed under police caution before receiving 'no further action' notifications, some of these applicants were subsequently witnesses for the Crown. DC Middleton states that the applications were fraudulent without the knowledge of the applicants themselves.¹⁴⁵ Both Miller and Baldwin disagree with this. DC Middleton however also states that:

We have to set parameters and work within investigative parameters because otherwise the length of investigation outweighs the sentence and that is commonplace.

5.4.5. Criminogenic culture in the workplace

Miller was self-employed at Aspect but operated under their FSA regulation. Operating in that capacity he would have to have been deemed competent by his supervisor to give mortgage advice. It is not clear how, if at all, he was supervised. He appears to have used the online software autonomously and was responsible for his own compliance files. Miller asserted that the compliance department at Aspect and the lender themselves should have checked the integrity of the documents provided to them, not him. Judge Fitton in sentencing Miller said:

In a previous role for a financial company, as director you had a responsibility for training and oversight of staff.

¹⁴⁵ In the examples given by the prosecution the applicants' income was significantly low by comparison to the mortgage sum applied for. Some had little or no recent formal income history.

Miller's contract was terminated by Aspect, but it appears they took no further action. Miller says that his boss at Aspect was sympathetic when he sacked him, saying "You were fucked!".

Baldwin used his clerical assistant, Leanne Hancock to enter information on the network system and gave her his login details to do so. She says she only ever followed his instructions. Her handwriting also appears on the files, she says always according to Baldwin's instructions. He also claimed that another employee of his in late 2012 processed applications in his name without his "knowledge or approval". He refers to his colleague Kath Nolan being complicit but still being a practising financial adviser. He says she facilitated false payslips and that there were incriminating emails between her, Gray, and clients transacting mortgages.

Baldwin says his role was limited as his staff dealt with the day-to-day administrative matters and assisted Gray on a regular basis. His colleagues he says, "to varying levels were complicit", notwithstanding they assisted investigators and were not subject to sanction by the police or the FCA. He says his former business partner who now runs Severnside Financial cooperated with the police and was not then investigated or prosecuted by the police or the FCA.¹⁴⁶

Mistry worked with an assistant, Shireen Emami. She says Mistry told her what to write in emails. Mistry got her to do most of the work but always told her what to do. Miller also coached Emami on the application and compliance paperwork telling her to use his Trigold form, not another version she had already completed. He also advised on how to draft a suitability letter and on the completion of the compliance paperwork required to avoid query in the event of audit.

¹⁴⁶ He also refers to a friend (one of the applicants) who he says his legal team were baffled was not prosecuted. Baldwin believes this friend was pressurised into testifying to avoid prosecution.

5.4.6. Mortgage fraud displacement

There are examples of fraud displacement within the case study which are indicative of shared dispositions amongst lenders that supported reproduction. A Nationwide application was declined when SA302s were requested but not provided. The application subsequently completed with Halifax using a falsified accountant's certificate from Malik & Co.¹⁴⁷ Another Nationwide application was declined for lack of SA302s. A subsequent application for the same applicant to Yorkshire Building Society was unsuccessful for the same reason. Another application commenced by Baldwin with the support of Brown was subsequently completed by Mistry, supported by Miah, with an alternate lender.

A Santander application failed when further evidence of income was requested. The application then completed with Halifax. Another Santander application failed when further enquiries by Santander confirmed that the applicant did not work for Glamorgan Telecom and the payslips submitted were false. The application subsequently completed with Nationwide for a different property address on the same road. This appears to be one of the matters that was subject to the Santander audit that led to Miller's termination from Aspect.

The most notable example of displacement relates to a property at 8 Courthouse Street. There were five applications in total for this address, all in different names. The first two were with Halifax. The first stalled when Halifax queried having two applications in the name of Ahmed for the same address but with different first names. The file notes stated the broker was to confirm which was proceeding. The first application did not proceed. The second stalled when a mortgage fraud prevention team alert prompted a request for further evidence of income. The second two applications were to Santander. The first was declined when further evidence of income was requested but not provided. The second was Osman Miah's wife and did not complete. No reason is given for this. The fifth and final application to Nationwide was successful.

¹⁴⁷ No further details on Malik & Co and they do not appear elsewhere.

5.5. Facilitative influences in the financial services sector

5.5.1. Competition and shared dispositions amongst lenders

Baldwin says self-certified mortgages were widely abused and refers to a widespread lack of due diligence on the part of lenders whereby applicants routinely misrepresented their income and creditworthiness and where they supported mortgage applications with false documents. He believes that the major problem was with intermediaries within the sector, although he adds that the lenders themselves would turn a blind eye to suspicious applications where the overriding objective was to increase market share.

These practices were rife in the sector, industry wide, particularly from the intermediaries, but the branches were involved too although they would deny it. I remember watching an investigation led by Panorama at the time on BBC;¹⁴⁸ what they reported was incredibly accurate of what was going on.

The abuse in his view was driven by competition in the financial services market where lenders would compete with each other to introduce new and innovative mortgage products, most notably subprime, to support both growth and securitisation.

I remember the GMAC Star mortgage product, which was a winner for sure...All it asked for was name, address, contact numbers, how much you wanted to borrow, the property address and your solicitor's details. There was then a 'I hereby certify that I can afford the mortgage' and that was it. Simple! We used to call them trailer park mortgages'...Products like the Star mortgage were the catalyst. It lit the fuse for the market to go bang!

Competition extended at both the macro and micro level amongst the mortgage lenders and the high street brokers, where procurement fees were low and the need

¹⁴⁸ [BBC - Press Office - Money Programme Mortgage Madness](#)

for repeat business high. Miller says he only ever earned procurement fees of between 0.3 or 0.35% from lenders.¹⁴⁹

In fact, I didn't do any less work had it been bona fide! When I went through the figures it came to about £4400 in fees that came from the dodgy deals. The CPS said it was so much more, but it wasn't.¹⁵⁰

Miller also refers to industry wide bad practice and recalls that a commercial manager at Santander (not Gray) would say to him if he needed some stretch on income to give him a call. It was pretty much established that, if they needed the business, they would be flexible on the applicant's earnings. Whilst victim lenders would occasionally ask for additional information anomalies went largely undetected.¹⁵¹ Miller submitted one application stating Gold Tops as the employer, which was where he was working at the time. The lender queried it, and Miller changed the employer to a restaurant using false payslips. The applicant was 'Ye', the payslips said 'Le'. In another application the false employer was Digital, but the false payslips stated Digitel. Miller denies victimisation of either the lender or the applicant saying:

The majority were just Mr. and Mrs. who wanted to buy their home or remortgage it.

Brown says lenders never normally checked the information sent to them. He would sign and if it looked the part then they would not query it. They all had their preferences and wanted to receive the information in the way that suited them and just wanted someone to blame if it all went wrong.

¹⁴⁹ Procurement fees are only payable on completion of the mortgage.

¹⁵⁰ The prosecution claimed he received cash deposits totalling £77,000 across ten bank accounts between January 2010 and January 2013. Miller said that he was happy to serve an additional eight months on his sentence in lieu of paying back any money under the POCA 2002, to avoid cashing in his pension and struggling in retirement.

¹⁵¹ Telephone bills were used as proof of residence, but the doctored bills were wrongly addressed as "Dear Mr Mistry" for Osman Miah's wife's application and "Dear Mr Ahmed" for an applicant called Wilks.

The forms used to say if it's a limited company, treat this as sole trader. Crazy, they want to receive the information in a way that suits them. I suppose at the end of the day they just wanted someone to blame if it all went wrong!

Brown argues that exaggerating or embellishing the truth was the norm and lenders chose to accept it as a manageable risk. He says it was wrong but, in his mind, it was morally acceptable.

What we did was wrong, but morally right...or should I say morally acceptable. Because it's the norm really where everyone exaggerates or embellishes the truth, and the lenders chose to accept that, in the course of their business, just like a manageable risk I suppose.

Brown accepts that the lenders were victims but qualifies the impact of that victimisation.

The mortgage companies are getting repaid, there were no arrears on the accounts, and we tried to introduce this at trial, although the judge ruled against it. They are all still paying their mortgages presumably.

Baldwin says he had believed, in the grand scheme of things, that he was not doing anything other advisers were not also doing and that in his mind, the benefits outweighed the risk. Such practices were rife in the mortgage sector especially from intermediaries, but branches were involved too. He told himself that a Yorkshire branded business made him "untouchable". He said that the friends he acted for, and other clients did not think they were doing anything wrong, comparing it to telling a white lie.

Baldwin also comments on a close friend being pressurised to give evidence against him and the police threatened to prosecute the friend if he did not. Baldwin claims his legal team were baffled as to why his friend and his friend's wife were not

alongside him in the dock. Miller asserts that the applicants were complicit in the fraud and were interviewed by the police before being granted 'no further action' on the basis that they give evidence at trial.

DC Middleton disagrees that the applicants themselves were complicit in the fraud and views them as victims alongside the lenders, although he accepts that he had to set investigative parameters. He argues that the victims of fraud are as traumatised as the victims of serious violence and sexual offences:

It was unique in that most of the mortgage applicants were not aware of the frauds that were being perpetrated on their behalf, to the point that ten of them were arrested by me in the first instance...¹⁵²

The implications are financial but accompanied to that with vulnerable victims if people start losing their houses, then you end up with death. You end up with suicide.

Miller does not acknowledge the lenders as victims as he says they did not incur any losses. He does not consider there was any wider harm either.

Baldwin does accept that the lenders were victims but qualifies this. At a meeting with his offender manager at the start of his prison sentence he agreed that the lenders were victims because they were put at a risk of loss. Whilst neutralising the impact of his offending he does accept the wider social harm mortgage fraud causes.

In fact, they [the lenders] gained business as the applicants, even though they signed off the mortgages, were never asked to repay them.

Our actions, I suppose led to the lenders revising their lending criteria and risk assessment. On a larger scale our actions contributed to instability in the markets. It may even have impacted on property

¹⁵² A large number of the example applicants in the prosecution opening were on very low and, in some instances, no income.

values as we were effectively allowing applicants to buy properties, they would otherwise not have been able to purchase.

However, a former head of financial crime at a medium-sized mortgage lender and a victim in this case identified how organisational culture within the sector and the pursuit of profit can also distort business practices in cases where borrowers have obtained their homes fraudulently. This can lead to mortgage prisoners and an increased risk of repossession.

We [the sector generally] want people to go into arrears because we're making money off the back of it. It was almost like that's not a problem, but we from a fraud perspective [the fraud prevention team] we were like, yeah, but if those customers are fraudsters and obtained it fraudulently, they're not going to be able to pay those arrears off. And therefore, you're not making anything because if they just stop paying that mortgage... then you're going to make a loss when it gets repossessed. But this was the mentality at this time, across probably all the lenders senior [management] teams.

Generally, the actors appeared unconcerned with lenders paying proper attention to supporting documents submitted. Mistry was asked to provide proof of residence for an applicant so he tipexed his own phone bill and put the applicant's name on it, leaving his own name on the third page and this not being detected. Judge Fitton said when sentencing Miah that the applications he was involved with were "somewhat crude" and "very obviously false".¹⁵³

Furthermore, the victim lenders were ignorant to the repeated use of the same false employers and of multiple trading addresses at Enterprise Way. Halifax received eleven applications between October 2011 and August 2012 with eight completing. In six of these the applicants were falsely represented as TWM employees, of which four completed. Overall, fourteen applications cited TWM as the applicant's

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employer, eight of which completed. Nationwide received eighteen applications from Miller citing the accountant as Rowan Accountancy, a practice that was not local to any of the applicants.

The fraud was finally detected when Santander undertook a *random* file audit. Miller says:

They picked one of my mortgages and noticed that the company on the payslip didn't exist...it was a sham. They then started picking a few more, and I suppose they spotted a pattern develop.

5.5.2. Regulation, guardianship, and quasi-professionals

The prosecution refers to the actors as having “held themselves out as professional men”. They were of varying to no qualification but by using the accreditations of others both in the conspiracy and outside of it they were treated as professionals but without the checks and balances those professionals would ordinarily be subjected to. DC Middleton says:

There has to be some collusion with a professional enabler at some stage in the process otherwise the mortgage would be extremely unlikely to proceed whether it be on inflated incomes, whether it be on false valuations...¹⁵⁴

Brown says there was an internal investigation at Santander into Gray, but he left before he was sacked. It does not appear that proceedings were taken by Santander in the civil courts, and it is not clear whether it was Santander that reported its audit findings and the activities of Gray to the police for investigation. It is unclear what independent regulation he would have been subject to. Baldwin also refers to Santander conducting their own investigation into Gray's files.

¹⁵⁴ This statement is at odds with his conclusion that the applicants were not complicit and were unaware of what the professional enablers were facilitating on their behalf.

Miller was self-employed at Aspect but operated under their FSA regulation. Operating in that capacity he would have to have been deemed competent by his supervisor to give mortgage advice. It is not clear how, if at all, he was supervised. He appears to have used the online software autonomously and was responsible for his own compliance files.¹⁵⁵ Miller continued working at Fincentric following his termination, which was not regulated for mortgages but instead undertook insurance business. Miller was not subject to any enforcement proceedings brought by the FCA and allowed his membership to lapse.

Brown ran his own accounting business as a sole practitioner. Lloyd worked with him at Pembrokeshire College so would not have known that his identity was being used through Rowan Accounting where he had never worked. Lloyd was retired as an accountant so had no practising certificate. There was clearly a lack of external regulation of Brown's practices. Brown says he had allowed his IFA membership to lapse so he did not face professional sanction:

I wasn't sanctioned. I was with the Institute of Financial Accountants, didn't pay my subscriptions so my membership just lapsed. IFA wouldn't strike you off, they just wouldn't give you a certificate for the next year if you didn't pay your subs.

DC Middleton acknowledges that Brown was not regulated by one of the main accountancy bodies but still believes that he held professional status.

He was a lecturer at Haverfordwest, and he was using his bookkeeping skills to facilitate the production of documentation so I would argue that he probably did still fall as a professional enabler.

Baldwin says that the mortgage sector was predominantly unregulated until 2004-2005. He refers to 'M-day' which was a watershed moment for the regulation of

¹⁵⁵ It is noteworthy that Mistry remotely used Miller's login details and there were no fraud prevention tools built into the software to prevent this abuse.

financial services. Mortgage brokers would now require a formal qualification to be an approved adviser with the FSA.

CeMap was the Professional Mortgages Institute of Financial Services' pre-regulation benchmark qualification, so everyone ran around to get qualified. It certainly tightened things up.¹⁵⁶

Baldwin was FCA regulated and did not hear from them during the lengthy police investigation and subsequent prosecution. He was not suspended by the FCA, but he lost his Yorkshire Building Society agency and his business, Severnside, was suspended from undertaking mortgage business until the police investigation was concluded. Furthermore, he believes that the FCA did not undertake their own investigation into his, Miller and Mistry's conduct, neither was there any evidence disclosed at his trial that originated from the FCA.¹⁵⁷

They didn't undertake their own investigation. There seemed little interest. I guess they were going to let the police do their investigation.

Severnside is now run by his former business partner, who is approved by the FCA to carry on regulated activities.¹⁵⁸ The FCA website merely says Baldwin is no longer carrying out work requiring regulation and notes no disciplinary record. It says the same for Miller.

Price worked at JFS Financial. It is FCA regulated but he never passed his CeMap qualification so appears to have circumvented that, and regulation, by using Miller. Mistry was CeMap qualified but never FCA regulated so would have fallen outside of its regulatory remit. He also circumvented this by using Miller. Mistry also operated under several business names. Miah remains a member of the ACPA and there is no

¹⁵⁶ It may have tightened things up in the financial services sector but there remain significant regulatory gaps, as demonstrated by this case study.

¹⁵⁷ Mistry did after all claim to Miller that he had applied to the FCA for approval to undertake regulated activities.

¹⁵⁸ Baldwin claims that his business partner was aware of what was going on and was fortunate not to be prosecuted: [REDACTED]

note of any disciplinary. TWM remains current. Miah resigned as a Director in February 2019. His wife is now the sole Director.

5.6. Concluding remarks

The Opal case study provides an empirical investigation of a mortgage fraud conspiracy within its real-life context. It presents the causal agency and biographies of Gray, Miller et al. within a conceptual framework, based upon Clegg's Circuits of Power theory, that examines the impact dispositional and facilitative influences and conditions had on their day-to-day activities. The case study identifies, through interviews, primary documentary data and media reports, how dispositional and facilitative powers converge with the criminal action of the actors, to support the commission of mortgage fraud and its reproduction and disruption.

In accordance with a multiple-case study design, the key themes identified in this chapter will be compared to the cases of Cassandra and Aztec in chapter 8, in order to test and adapt those theoretical propositions that have guided data collection. It is believed that this will then provide a concrete understanding of how mortgage fraud in England and Wales is organised.

Chapter 6: OPERATION AZTEC

“These four defendants were involved in an audacious, systematic and very large-scale financial fraud, committed over a prolonged period.”¹⁵⁹

“I am quite satisfied that the fraud was fuelled not by economic necessity but by greed.”¹⁶⁰

6.1. Introduction

Operation Aztec is the second of the three case studies subject to analysis. The structure of the chapter will continue to utilise Clegg’s Circuits of Power conceptual framework to identify those causal agents, dispositional and facilitative powers in Aztec that were central to its organisation and its ability to reproduce to the level that it did. This framework informed those theoretical propositions that have guided the collection and analysis of data, including prosecution case files and evidence; interviews with two key actors (Powell and Carter), the senior investigating officer and a counter-fraud expert at CIFAS;¹⁶¹ Powell’s unpublished prison diary, regulatory enforcement files and media reports.

It will commence with an overview of the Aztec case before then examining the causal agency amongst the motivated offenders, KPA and supporting actors recruited to the conspiracy (including straw persons), particularly their biographies and their social relations with one another. It will then consider those shared dispositions amongst these individuals that supported the commission and reproduction of mortgage fraud and those of the lenders that rendered them susceptible to victimisation. Finally, it will examine those exogenous influences within the financial services sector, within the context of the Aztec case, notably systemic failings in the mortgage lending market, that, together with causal agency and

¹⁵⁹ Catrin Evans, CPS. See: [REDACTED]

¹⁶⁰ HHJ Keith Thomas Sentencing Remarks.

¹⁶¹ CIFAS (earlier otherwise known as the Credit Industry Fraud Avoidance System) can place markers on an individual’s file for first party fraud and application fraud where they act as adverse judgements made by a financial or insurance institution that warn other institutions about the risk associated with a potential customer.

shared dispositions, complete *the circuit* which in this case provided the facilitative conditions that supported the reproduction of mortgage fraud.

6.2. Overview

The fraud operated by stealing and inventing identities, setting up dummy companies and falsifying documents to obtain fraudulent mortgages. The actors in the fraud submitted a “dizzying number” of mortgage applications for properties across South Wales.¹⁶² At the outset of the fraud the actors made money through the rise in the property market by obtaining mortgages using false documentation and fictitious employers. After the financial crash they sought to make money by defaulting on mortgages and buying back properties cheaply from the victim lender at auction after undermining the value with false land disputes.

They conspired to make cash out of the housing market by defaulting on the loans they had secured – and then looking to buy back the properties on the cheap.¹⁶³

By example, DC Tyrone Peach, senior investigating officer in the case, refers to Matthew Carter and Brian Powell creating a ransom strip in relation to one property Powell bought back at auction, in order to reduce its value. Powell and Carter claimed the ransom strip was created in error but still profited from it. This may have been 8 Golwg yr Ynys, which Powell bought at auction for £75,000, resulting in a loss to the lender of over £215,000 (MSC App 3). The ransom strip was in the ownership of the actors at the time.

Powell purported to be a property developer and was also a film producer of some success and a former prospective Conservative party candidate for Swansea West.¹⁶⁴ He also went by the name of Ben Williams, changing his name by deed poll to Williams and subsequently back to Powell during the currency of the fraud,

¹⁶²

¹⁶³

¹⁶⁴ Ibid.

¹⁶⁴

applying for and obtaining a new passport as photo identification on each occasion.¹⁶⁵

Carter purported to be a property developer and did build some properties in conjunction with a local builder, John Thomas. Thomas's company was named as the vendor in some of the fraudulent mortgage applications (BDP Apps 3, 5 and 6, CR App 3).

Carter had various aliases, again generated by deed poll. He changed his name to Marcus Caine, Matthew John Ward, back to Matthew Carter, to Jaime Jones and again back to Matthew Carter during the course of the fraud. On each occasion he applied for and obtained a new driving licence from the DVLA in Swansea. Carter also used unrelated third parties' national insurance numbers in some of the applications (MSC Apps 4, 5, 6, 7 and 10).

Carter was involved in a number of limited companies with Powell which never formally traded. Those company details were used to produce false payslips and P60s to verify earning capacity and achieve mortgage loans for properties for himself (under a variety of aliases) and his girlfriend Eve Dawson (e.g., MSC Apps 1, 2, 4, 5, 6, 9 and 10). They were also used to fraudulently procure mortgages in the name of Powell (or his alias), Kathryn Wilson, Christine Roberts and Emily Webb (e.g., BDP Apps 1 – 6, 8 and 13, KCW Apps 1-3, CR Apps 1 – 5, EW Apps 1 - 3).

A company Powell set up with Webb, but which never traded, was also used (BDP App 8, KCW Apps 2 and 3), as too were companies which did not exist in the first place (eg., BDP App 7, BDP App 12, MSC App 7).

Powell and Carter used computer software to create the false payslips and P60s. They also had access to mortgage underwriting software used by lenders to determine how much would be lent to an applicant based upon their stated income. Powell also set up a company to operate as a mortgage brokerage with Webb, but

¹⁶⁵ <https://www.gov.uk/change-name-deed-poll>

the company never traded because Webb failed to obtain the necessary qualification required by the FSA/FCA to carry out regulated activities.

Carter and Powell produced false landlord agreements and other false documents and information to support fraudulent applications (e.g.: BDP Apps 1, 2 and 8, MSC App 7, KCW App 2, CR App 3, EW App 4). They moved cash between bank accounts in false names to feign a regular income for the relevant applicant. Carter held more than twenty bank accounts in different names. Powell says that these “shadow salary payments” were funded by Tierney.

Properties were bought and sold between the actors in various guises throughout the fraud. Property sales between the actors were also used to artificially inflate property prices in a given location.

Phil James, an experienced financial consultant, facilitated mortgages for each of his co-defendants. He worked for JD Life and Pensions (JD Ltd) as an independent financial consultant from 2003. He was FSA registered. He and JD Ltd were approved to advise on and arrange mortgages between October 2004 and October 2008.

Powell would pay James in cash to facilitate the fraudulent mortgage applications. Typically, James would receive 0.5% of the overall mortgage advance as his inducement to facilitate the fraudulent applications.

Eve Dawson, Carter’s partner, was “prevailed upon” by him to assist in the fraud.¹⁶⁶ She was an estate agent with her own business in Llandeilo, and, during the course of their business dealings, a relationship formed between her and Carter. She would also identify properties for Carter to purchase and had an influence over the valuers when it came to valuing properties. A number of fraudulent mortgage applications were made in Dawson’s name.

¹⁶⁶ HHJ Thomas Sentencing Remarks.

Kathryn Wilson is Powell's mother. A number of fraudulent mortgage applications were submitted in her name. She claimed she was not aware of false employment details and payslips being submitted to victim lenders on her behalf and that she did not receive any financial remuneration for her involvement.

Christine Roberts is the long-term partner of Tony Powell, Powell's father. A number of fraudulent mortgage applications were submitted in her name also. Roberts claimed she was trying to help Powell as his 'stepmother'. Roberts claimed she was not aware of the use of false documentation in those applications and that she did not receive any financial remuneration for her involvement.

Emily Webb was an acquaintance of Powell and initially became involved in Powell's fraudulent activities to repay a debt of several thousand pounds which she had previously borrowed from him. Webb confirmed this at police interview. Several fraudulent mortgage applications were made in her name.

Webb also formed a mortgage brokerage company with Powell which never traded as she was unqualified and unauthorised. It was, however, used as a false employer in some applications (BDP App 8, KCW Apps 2 and 3). A further company she was company secretary for was also used (EW Apps 1 and 2).

The offending period lasted between 2003 and 2011, and the fraudulent conspiracy was valued at £5million. The fraud was uncovered in October 2008 when Sally Morris, an office assistant at JD Ltd, became suspicious after James asked her to certify a payslip. She searched James's desk and found a mortgage application in his wife's name bearing income details she knew to be false.

Morris reported her findings to the directors of JD Ltd. Carol Jones, a director then investigated further having already been suspicious as to James's lifestyle by comparison to the level of business he undertook, and due to the number of customers enquiring about the progress of mortgage applications that could not be found on the company's electronic system. Jones found a significant number of off-system fraudulent applications and James was dismissed.

The subsequent police investigation spanned over eight years culminating, in twenty-one people being arrested and/or interviewed under caution between July 2011 and October 2013. Of the conspirators Powell and James pleaded guilty, each to five counts of conspiracy to defraud. James also pleaded guilty to one count of fraud. Dawson pleaded guilty to one count of conspiracy. The remaining conspirators, Carter, Wilson, Roberts and Webb all ran a trial. Carter was convicted of two counts of conspiracy, two counts of fraud and one count of obtaining money by deception. Wilson was acquitted. Roberts and Webb had a hung jury and were not subsequently retried. Powell was also reportedly subject to a confiscation order under POCA 2002 in the sum of £400,000 and Carter in the sum of £1,000,000.

The sentencing ranges handed down following trial on the 18th December 2014 are set out in table 1 below. A detailed overview of properties, counts and offending characteristics is included at appendix G.

Defendant	Sentence length
Carter	8 years
Powell	6 years
James	3 years 4 months
Dawson	1 year suspended for 2 years +200 hrs unpaid work

Table 8: Sentencing Range- Operation Aztec

6.3. Agency, biographies and social relations

6.3.1. Brian Powell

Powell took on a lead role in the fraud alongside Carter and was described as the “ringleader”.¹⁶⁷ Carter said of Powell that he was his business partner. However, according to Powell:

¹⁶⁷ [REDACTED]

[REDACTED]

Matthew and I didn't actually work together...we just had shared interests...so we collaborated but...there was no kind of joint operation.

In or around 2000 Powell started building up a buy-to-let property portfolio. He used this business to then sell properties on at a profit to fund subsequent land purchases. Powell says that the property portfolio started “not quite white” and as time progressed “grew greyer” and then ultimately “becoming black” by the time of the financial crisis in 2007/08. Powell stated that he also borrowed against his grandparents' home to shore up properties involved in the fraud.

According to James it was Powell who initially approached him to facilitate fraudulent mortgages. James described at police interview meeting Powell in around 2000 and providing him with some financial advice and a legitimate mortgage. James said they then met again around 2003, with Powell seeking further mortgage advice. James described at interview how, on this occasion, Powell offered him a “brown envelope” to ensure that he achieved a mortgage and to induce James to certify the payslips/P60s that he was given as authentic.

It was Powell who introduced James to Carter for the purposes of facilitating mortgages for him in the same way. It was also Powell who paid James for his involvement on each occasion, usually in cash in a brown envelope. James admitted that he facilitated mortgages for friends and relatives of Powell in this manner. DC Peach described Powell as:

A very smooth operator. Well spoken, somebody you would trust.

Powell and Carter acted as buyers, sellers and points of contact in the conspiracy and were “at the heart” of it.¹⁶⁸ They were effectively adopting the identities of other people and companies, using the identities of people of a similar age to get mortgages approved. They bought and sold properties extensively among themselves during the fraud.

¹⁶⁸ Ibid.

Powell exploited his relationships with his mother and stepmother to gain their assistance in applying for fraudulent mortgages in their names for his benefit. A solicitor, Michael Price of DJM solicitors, said in his witness statement that he acted for Wilson in the purchase of a property and its subsequent sale to Dawson (ED App 1). He recounted that Wilson told him her son would be dealing with the transactions on her behalf and in:

All matters relating to the property...he was to deal with Powell direct.

Powell received a number of financial deposits from various solicitors at or around the dates mortgage advances were released to his fellow actors and there were numerous financial transactions between him and other actors.

Powell also recruited his friend, Webb, to whom he had lent money, to apply for fraudulent mortgages in her name but for his benefit. They also co-formed a mortgage brokerage, a company which never traded but which was the source of false employment references and payslips (BDP App 8, KCW App 2, KCW App 3).

Powell described the social relations between the actors as multifarious:

I think ours was a multi-circled Venn diagram, you know there were people who were kind of present at the centre but there were these people kind of on the periphery who would've had no idea what somebody else was doing...even someone like Phil James didn't know everything that everyone else was doing.

6.3.2. Matthew Carter

Carter took on a lead role in the fraud alongside Powell, although Carter claims that Powell was not in a lead role. Carter had more experience of property development than Powell, having constructed new build properties in conjunction with Thomas. In the event that a sale involved a property part exchange, Powell would acquire the buyer's property, securing a mortgage over it. Carter said of Powell that he was his business partner although accuses him in an email of being:

Too lazy to even be a good crook, as the last few years can testify.¹⁶⁹

Powell appears to have been pivotal to the inclusion of Carter in the fraud, particularly as James was introduced to Carter by Powell. However, the prosecution asserted at trial that there was evidence Carter was directing Powell, telling him what he should do and the order in which he should do it. One email from Carter to Powell tells him to “get your smoke and mirrors out”. Contrariwise there is an email from Powell telling Carter that the “paperwork has to look plausible”.¹⁷⁰

Powell and Carter collectively used SAGE software to produce falsified P60s and payslips.¹⁷¹ Blank payslips were found at Powell’s home when the police arrested him. DC Peach refers to both Carter and Powell as being “phenomenal” fraudsters in achieving what they did:

They had a builder, they would buy a piece of land at a cheap rate...he would build a house very, very cheap. He [Carter] would buy the house; he would sell it then to say Brian Powell. Brian Powell would buy the house off himself as Ben Williams; he’d change his name. They were very, very good at what they did...they were just caning it for the money.

Carter said he had met James once before the trial but years prior to, although James informed police that Carter had provided him with the false payslips, P60 and bank statements in order to obtain a fraudulent mortgage over a Swansea property James held in his wife’s name.¹⁷²

There are numerous property transactions between Carter and the other actors. In one instance Carter sold a property to Powell. Powell then later sold it on to Roberts and it was then sold back to Powell, all with the aid of fraudulent mortgage funds

¹⁶⁹ In evidence.

¹⁷⁰ Ibid.

¹⁷¹ As an illustration see <https://eol.sage.co.uk>

¹⁷² James’s wife at interview denied any knowledge of this application. The application was frustrated by the discovery of the fraud.

(BDP App 4, CR App 4, BDP App 11). In other transactions Carter purchased from Powell (MSC App 5) who also acted as vendor to the other actors (e.g., KCW App 2, KCW App 3, CR App 1, CR App 4, CR App 5, EW App 1).

In another instance, a victim lender attempted repossession from Carter of a property known as 3 Golwg yr Ynys (MSC App 3), but the property was also mortgaged by Powell in the name Ben Williams (BDP App 9). The property in question was part of a larger development site owned by Carter courtesy of another fraudulent mortgage with the same lender (MSC App 2). Despite non-payment of mortgage instalments, the victim lender had difficulty repossessing the property from Carter due to the fraudulent transaction to Powell's alias Williams.

Another property at the site, 8 Golwg yr Ynys, was repossessed from Carter in place of 3 Golwg yr Ynys by the victim lender and subsequently repurchased by Powell at auction for £75,000, resulting in a loss of over £215,000 to that lender (MSC App 3).¹⁷³

3 Golwg yr Ynys was later repossessed by Powell's victim lender and purchased by Wilson at auction, before being sold immediately on to Dawson (ED App 1). Wilson claimed in police interview that she was not aware that the property had previously been owned by Powell and repossessed.

Dawson was "prevailed upon" by Carter to become involved in the fraud and allowed a number of fraudulent mortgage applications to be made in her name. Powell said Carter recruited his partners to the conspiracy. Powell refers to another girlfriend of Carter, named Candy, allegedly being involved in the fraud also. Of his other co-defendants (Dawson and James excluded), Carter said the first time he met them was in the dock at the trial.

¹⁷³ Powell and Carter created a ransom strip at this development (likely affecting number 8) in order to affect re-sale value after repossession. The ransom strip remained in the ownership of the actors at the time.

6.3.3. Phil James

James was an experienced mortgage broker who facilitated fraudulent mortgage applications for each of his fellow actors, and on one occasion for himself in his wife's name. He worked for JD Ltd as an independent financial consultant from 2003. He was FSA registered and, along with JD Ltd, was approved to advise on and arrange mortgages.

Prior to the fraud, Powell was already known to James, James having advised and assisted Powell with an earlier legitimate mortgage application. James was recruited by Powell who offered him cash payments of 0.5% of the mortgage advance to facilitate fraudulent applications.¹⁷⁴ He also certified false payslips and P60s as authentic. James admitted to police that he also facilitated mortgages for friends and relatives of Brian Powell in this manner.

James was known to Carter, for whom he acted, and Carter assisted him by providing false payslips, a P60 and bank statements when James was unable to sell a house he and his wife owned in Swansea and, as a consequence, attempted to obtain a fraudulent mortgage over the property in his wife's name. James's wife claimed to have had no knowledge of this application and said that:

Although the application form appears to have been signed by her, at the time her husband was completing a lot of documents on her behalf, and as such she was signing a lot of documents given to her by him.¹⁷⁵

This application was subsequently frustrated by the discovery of the fraud.

James was on his third marriage at the time of his offending, supporting multiple dependants according to DC Peach. He says James's financial gain from the fraud was extremely modest, compared to that of Powell and Carter, and estimates it to be at around £19,000. DC Peach describes James as not a bad person, but one who

¹⁷⁴ This payment was in addition to the procuration fees that JD Ltd received on completion of a mortgage of which James received a share of.

¹⁷⁵ In prosecution evidence.

became corrupted by Powell and Carter and who came out the worst overall due to his personal circumstances and professional status:

He just became so entrenched in it...there was no way out for him really, so I had a degree of sympathy for him. Obviously, he's a gatekeeper and he's got responsibilities...but I did have an element of sympathy.

6.3.4. Eve Dawson

Dawson, Carter's partner, was prevailed upon by him to assist in the fraud. She was an estate agent with her own business in Llandeilo. Dawson was recruited by Carter to buy a property from Wilson and then re-mortgage it, all with fraudulent applications (ED Apps 1 and 2). Dawson admitted at interview that she was fully aware that the mortgages she was applying for were fraudulent and that the employment details and payslips being provided were false. She completed these acts as she was in a relationship with Carter, and he had asked her to do so.

In one application, she attended her local Leeds Building Society branch to complain that she was unhappy with James's services and wanted to cancel her existing application and re-apply directly to the victim lender (ED App 2). James had been dismissed by JD Ltd three days earlier. Dawson described at police interview being 'coached' by Carter as to what to say to the victim lender on that occasion.

DC Peach observed:

She was besotted with Matthew Carter. She would identify properties for them...she had influence over the valuation, the survey...she'd got a role to play, it's very minor but it's very important.

Powell claimed she did not have a significant role and questioned the fact that she was prosecuted as she didn't "enable anything". He believes her prosecution, ahead of actors who were not, demonstrated serious inequity on the part of prosecutors. The prosecution accepted that Dawson played a peripheral role.

6.3.5. Kathryn Wilson

Kathryn Wilson is Powell's mother. Wilson agreed, at Powell's request, to allow mortgage applications to be made in her name. Companies in which Powell had an interest were falsely stated as Wilson's employer in fraudulent applications in her name with supporting false payslips (KCW Apps 1, 2 and 3). Webb had an interest in one of those companies also.

In one application, a false employment reference was also submitted signed in the name of Webb as a director of the false employer and the vendor was stated as 'Mr Williams' (KCW App 2). This was a company set up by Powell and Webb to provide independent financial advice, but it never traded as Webb was not authorised to undertake regulated activities.

Wilson claimed she was not aware of false employment details and payslips being used in the mortgage applications made in her name. Powell said at interview that Wilson was unaware of the false payslips he had supplied.

A solicitor, Michael Price of DJM solicitors said in his witness statement that he acted for Wilson in the purchase of a property known as 3 Golwg yr Ynys and its subsequent sale to Dawson (ED App 2). He recounted that Wilson told him her son would be dealing with the transactions on her behalf. The property in question was originally owned by Carter (MSC App 3) as part of a larger development site but, despite non-payment of his mortgage instalments, the victim lender had difficulty repossessing the property as it was also mortgaged to Ben Williams and later, Eve Dawson.

Wilson claimed in police interview that she was not aware that the property had previously been owned by Powell and repossessed. She said Powell acted for her at the property auction. She said the agreement was that she would buy and mortgage two building plots cheaply as a short-term measure as he had told her he could not get a mortgage on them, and in any event, Powell had a buyer lined up

that he would sell straight on to. She also claimed that she did not receive any financial benefit from any transaction.

However, DC Peach said, in relation to the ransom strip scam the actors created, Wilson wrote threatening letters to the lenders who were seeking to repossess:

She was aware of them and would sign them...she actively took part in it.

He said she crossed a line from just doing something for her son to being consciously complicit in the fraudulent scheme.

6.3.6. Christine Roberts

Christine Roberts is the long-term partner of Tony Powell, Brian Powell's father. A number of fraudulent mortgage applications were submitted in her name also, at the request of Powell. Roberts claimed she was trying to help Powell as his stepmother.

She said her understanding was that Powell was changing his name from Ben Williams back to Powell and she bought properties at his request to assist him in re-registering them in the name Powell. The properties she bought were purchased from Powell or a company he was connected to.

The fraudulent mortgage applications submitted in the name of Roberts stated companies in which Powell held an interest as Roberts's false employer, supported by false payslips (e.g., CR App 1 – this company never filed any accounts and was later dissolved and struck off). In one application, Powell was named as "the contact for confirmation of income" (CR App 3). Roberts claimed she was not aware of the use of false income documentation in those applications.

In one instance, however, false tenancy agreements were also submitted stating Roberts as landlord, which were signed by her (CR App 3). Roberts admitted signing the tenancy agreements but said that:

She did not read what she was being asked to sign by Powell as she trusted him.¹⁷⁶

A false tenancy reference and covering letter signed in Webb's name, and a false rent book containing Webb and Powell's initials, were also submitted with this application. Roberts claimed that she did not receive any financial benefit from any transaction.

6.3.7. Emily Webb

Webb was an acquaintance of Powell. She initially became involved in Powell's fraudulent activities to repay a previous debt. A number of fraudulent mortgage applications were submitted in her name at Powell's request. She attended at Powell's London home to sign the fraudulent applications.

Webb said at interview that she allowed Powell to manage the purchases made in her name. One of the properties Webb purchased was her residential address. It was in this application that Powell provided a false employment reference (EW App 4).

Powell formed a mortgage brokerage company with Webb, which never traded but was used as a false employer for some applications (BDP App 8, KCW Apps 2 and 3). In one application, this company was cited as Wilson's employer and the false employment reference was signed in the name of Webb as a director of that company (KCW App 2). The same company was fraudulently used in a second application in Wilson's name, again with false payslips (KCW App 3). In this instance Powell was the vendor and the transfer and mortgage deed were witnessed by Carter.

A second company Webb was company secretary for was given as Webb's false employer in two instances. HMRC had no record of her earning any income from it (EW Apps 1 and 2).

¹⁷⁶ In prosecution case summary.

Webb was also referred to in other fraudulent applications (CR App 3). On one occasion, a tenancy reference submitted with an application was signed in the name of Webb and a rent book contained Webb and Powell's initials. The prosecution however, stated:

The signatures on these documents are different from others submitted by Webb.¹⁷⁷

In another application Webb was named as Matthew John Ward's landlady (MSC Ap 7).

6.4. Shared dispositions

6.4.1. Knowledge and opportunity

James was an experienced financial consultant and facilitated fraudulent mortgage applications for each of the actors. He had the ideal platform to process the fraudulent applications through his professional qualifications and access to mortgage application software. He retained paper, rather than electronic files, in relation to numerous fraudulent mortgages to avoid the otherwise necessary compliance checks.

Powell and Carter were able to adapt the fraud to meet the changes in the property market. At the outset of the fraud, they made money through the rise in the property market, by obtaining mortgages using false documentation and employers. After the financial crash, they sought to make money by defaulting on mortgages and buying back properties cheaply from the victim lender at auction.

Carter and Powell were both able to access software themselves, used by banks to determine how much to lend an applicant based on income. They specifically targeted lenders known to ask fewer questions. According to Powell:

¹⁷⁷ Ibid.

I would say there were half a dozen companies that were repositories of naughty mortgage transactions. GMAC were ridiculous. GMAC would give you an agreement in principle in two minutes based on a credit check, no provision of any paperwork whatsoever, they'd give you a 95% mortgage.

Property sales between the actors were also used to artificially inflate property prices in a given location, assisted on occasion by Dawson's estate agency. Carter targeted GMAC's accommodating valuation protocols to manipulate the value of the properties he sought to mortgage.

GMAC were absolutely brilliant...back in those days with GMAC you could apply for a mortgage if a property in the street had sold for that price, they didn't even bother doing a survey, they would give you the mortgage offer within half an hour.¹⁷⁸

Carter also describes the way in which he manipulated valuations:

I'd build a house and the house was really worth £250,000...but I'd sell it to Brian for £300,000, he would take a mortgage out for £250,000 less the 5% deposit...I would give him £80,000 so on the Land Registry it said £300,000...mortgage lenders would say how much has the house next door gone for, oh £300,000. I'd put it on with an estate agent for £300,000 then bump the prices up...so it created the market.

Carter also downloaded a software package for financial advisers called *Mortgage Brain*:

You could download it and you'd have to put in your adviser number...but I found out you could put in any old number you could make up and it activated it...and literally in there it would say this lender is looking for three months of bank statements and a passport

¹⁷⁸ Following the financial crisis GMAC-RFC were rebranded to Paratus AMC. See table 9 for details of victimisation and the relevance to the indictments.

as your identification, so you'd just then apply to that lender...just with three months of bank statements...it was as easy as that.

These tools would also help to identify what the lender's tolerance to fraud was, and the likelihood of being flagged up as a suspicious application.

Carter also used a virtual business address situated in a large building where, for £20 per month, all of his calls would be answered. If then a victim lender called to verify information, the operation would appear legitimate. If they decided to use Google Earth to check the business address, that too would look genuine.

Powell also downloaded mortgage application software:

I downloaded my own copy of Trigold, which is a mortgage broker's software, just to double check that he [James] was telling me what was in my best interests and not necessarily his.

Furthermore, both Powell and Carter used computer software to create false payslips and P60s that would marry up with the figures extracted from the banking software. DC Peach identified through the police investigation that:

They had the SAGE software...they would make the P60s, the payslips...they would go on to submit these with the mortgage application.

They were able to generate false payslips for phantom businesses by using the company details of companies they held an interest in; however no checks were made by the lenders at Companies House.¹⁷⁹

Powell and Carter created the appearance of income for the fraudulent applications by depositing shadow salary payments into bank accounts partly funded by another actor, Tierney, who was not prosecuted. By example, Carter described putting extra

¹⁷⁹ <https://www.gov.uk/get-information-about-a-company>

money through HSBC bank accounts so they would be offered a Premier account based on income:

Suddenly you've got a black card account...and it's all down to the computers making the decisions, humans don't make the decisions...just tell the computer what it wants to hear.

Powell and Carter were able to disguise multiple transactions relating to the same property by employing aliases, each time changing their name legally by deed poll and obtaining replacement identification to produce to prospective victim lenders. Powell would obtain a new passport and Carter, a driving licence.

The plots at a development site changed name twice during the currency of the fraud and multiple applications, by various actors in the fraud, were submitted to victim lenders using the various guises of the development plots (Glyn Beudy Farm/Ynys Dawela/Golwg yr Ynys).

Tactics used by Carter included manipulating the plot numbers:

New plot numbers would normally go in a clockwise way. I do remember reversing the plot numbers around the other way because I was able to do that.

Third party actors were directly used in their fellow actors' applications to disguise duplication. Powell recruited his mother, stepmother and friend to obtain mortgages in their names for his benefit. Carter recruited his girlfriend for the same purposes. They would buy properties from or sell them to the other actors in the fraud, or companies owned by Powell and Carter, according to Powell and Carter's requirements. In one, Roberts was falsely stated as being Powell's landlady (BDP App 8, didn't complete) and in another, Matthew John Ward was falsely stated as Powell's landlord (BDP App 1). In one application Webb is named as Matthew John Ward's landlady (MSC App 7).

According to Powell, Wilson took on a fraudulent self-build mortgage (KCW App 3) to circumvent the CIFAS marker against Powell's name. Carter says:

If you got a marker from CIFAS, it would just stay on your file for a year and then be gone.

Carter circumvented this by using his aliases:

Just leave that for a year because the others are still operating, the other names.

It was the combined knowledge and experience on the part of Powell and Carter that supported reproduction.

6.4.2. Victim targeting

Victim lenders were targeted who would process applications on the provision of payslips and P60's without further verification. The prosecution said that banks known to ask fewer questions were targeted. According to DC Peach:

The scrutiny of the mortgage applications was very, very poor... from the lenders. There should be more checks and balances I would say. A lot of it is just based on trust and that's the problem. Bottom line for me was the checks and balances were poor.

Carter and Powell were also able to access software themselves, used by banks to determine how much to lend, based on income. This was in addition to the advice given by James. They specifically targeted lenders known to ask fewer questions.¹⁸⁰ Additionally, Carter and Powell used Mortgage Brain and Trigold respectively, to assist in the targeting of victim lenders.

Some lenders were targeted in more than one way, both by their susceptibility to fraud, and also their repossession protocols. By example, following the financial crisis, some of their repossessed properties were reacquired by the actors using fraudulent applications. The repossessed properties were sold by the victim lender at auction and were re-purchased by the actors using fraudulent mortgage funds obtained elsewhere, and at vastly reduced value.

In one instance HBOS fell victim to a fraudulent application by Carter (MSC App 3). He defaulted on the mortgage, but the lender had difficulty repossessing the property as it was already fraudulently mortgaged by Powell to Paratus (formerly GMAC, BDP App 9) and later, fraudulently by Dawson to Lloyds and subsequently Leeds (ED Apps 1 and 2). HBOS had to settle for repossessing another property on the same development, albeit subject to the ransom strip. It was then purchased by Powell at auction for £75,000, leaving HBOS £215,000 out of pocket. Both properties were built on a site owned by Carter, also subject to a fraudulent mortgage with the same victim lender (MSC App 2).¹⁸¹

There are some examples of the fraud being frustrated. One application in the name of Ben Williams was cancelled by James as the targeted lender requested three months of bank statements from the applicant (BDP App 5).¹⁸² In another application in the name of Powell, a 'Mr Williams' was stated as the vendor at an address linked to Powell. The lender raised an enquiry with HMRC. The P60 submitted did not match HMRC records. The application was treated as fraudulent and terminated (BDP App 8). This resulted in Powell receiving a CIFAS marker but there is nothing to suggest the lender reported the matter to Action Fraud.¹⁸³

In one application the property in question rather than the victim lender was replaced. The property details were altered twice when the two initial properties

¹⁸¹ The circumstances described here arguably required the complicity of solicitors to fail in either securitising the property or, at the very least, obtaining priority at the Land Registry that would preserve the opportunity for registering the mortgage.

¹⁸² It is unclear from the prosecution files as to why this was problematic on this occasion compared to other applications, where three months' bank statements were requested and provided.

¹⁸³ <https://www.actionfraud.police.uk/reporting-fraud-and-cyber-crime>

were both down valued. Funds were then advanced, returned and re-advanced two months later due to an apparent delayed completion. No mortgage payments at all were made in this instance (BDP App 12). There are examples of other fraudulent applications being frustrated due to down valuations by the lender (e.g., MSC App 8 and 9). In these instances, the fraud was displaced, and an application was made either to another lender in another person's name (MSC App 8/ED App 1) or, in the same person's alias name to another lender (MSC App 9/ MSC App 10).

There are examples of multiple lenders being targeted where there were applications by different actors or aliases relating to the same property and where multiple transactions relating to that same property were relatively close together (e.g., BDP App 4/CR App 4/BDP App 11; MSC App 3/BDP App 9/MS App 8/ED Apps 1 and 2).

Powell, in the name Williams, bought a property with a fraudulent mortgage and then changed the property's name and title number (BDP App 3). It was then sold to Roberts, who obtained a fraudulent mortgage with the same victim lender (CR App 5). The property was subsequently sold back to Powell (in the name Williams) using a different victim lender, and was repossessed after no mortgage payments were made (BDP App 12).

There are also examples of the same lender being targeted in multiple applications relating to the same property, but in different applicant's names (e.g., BDP App 3/CR App 5; MSC App 1/BDP App 6; BDP App 8/ED App 2/MS App 7/KCW App 2 (plots on same development site)). Table 2 below shows the frequency of victimisation across all eleven victim lenders and the proportion of those applications that completed.

TARGETED LENDER	FREQUENCY	COMPLETED	NOT COMPLETED
Leeds Building Society	10	8	2
Paratus (formerly GMAC)	6	6	0
Lloyds Bank	5	5	0
Accord	3	1	2
Yorkshire Building Society	3	1	2
HBOS	2	2	0
Bradford & Bingley	2	2	0
Santander	2	2	0
Cheltenham and Gloucester	2	1	1
Birmingham Midshires	1	1	0
RBS	1	1**	0
TOTAL	37	30	7

Table 9: Frequency of Victimisation- Operation Aztec

6.4.3. Organisational dynamics

Primary organisation of the fraud was undertaken by Carter and Powell. Powell was largely responsible for the recruitment of other actors in the fraud. Powell recruited James, who was essential to the success of the fraud, and appears to have had control over his role within the fraud, paying him personally in cash in brown envelopes.

Powell also recruited his mother, stepmother and friend who were involved in multiple fraudulent mortgage applications at his behest.

I guess I recruited you know my mother and my stepmother to facilitate what I did but unwittingly...it wasn't the way I saw it, but it was certainly the way the law saw it...it wasn't the intention.

Carter recruited his girlfriend to the fraud who had a dual role in the conspiracy. Firstly, she applied for two fraudulent mortgages at the request and direction of Carter. Secondly, in her role as a local estate agent, she identified properties for purchase and/or redevelopment and attempted successfully, and otherwise, to influence the valuation of properties owned or being purchased and mortgaged by Carter and Powell.

Powell asserts that another girlfriend of Carter, Candy, and Carter's builder, Thomas, were also brought into the fraud by Carter. Neither however were prosecuted.

Mark had partners who he then brought into the mix.

Powell described the multifarious social relations between the actors as a multi-circled Venn diagram, where he and Carter represented the centre, but where others then operated on the periphery, unaware of the roles and activities of others.

Powell and Carter orchestrated the fraud, targeting victims and taking responsibility for the production of false documents, selecting which company to use for each application etc. They also controlled the movement of cash between Tierney and Carter's bank accounts to feign regular income for the intended applicant.

Notwithstanding, there was tension and mistrust within the relationship as the emails in evidence revealed. Carter accused Powell of being "too lazy to even be a good crook", and Powell challenged the credibility of Carter's intended deception, stating that the "paperwork has to look plausible".

There was also an element of mistrust on Powell's part over the role of James within the conspiracy. He says that the primary reason that he downloaded the Trigold software was to ensure that what James was advising him was what was in his best interests, and not James's.

Outside of the Powell, Carter and James triumvirate the other actors essentially acted as straw persons.¹⁸⁴ Their individual roles were essential to keep the fraud's momentum, particularly on occasions where for various reasons Powell or Carter, or their aliases, were unable to apply themselves, such as the existence of a CIFAS marker, or where the reality of the transaction itself needed to be disguised.

Accordingly, there was a need for Powell and Carter to organise Wilson, Roberts, Webb and Dawson, to ensure that mortgage applications were completed, the falsified income and documents provided, and lender enquiries answered. A number of false documents were submitted with fraudulent applications using the names of other actors recruited by Powell (e.g., KCW App 2, CR App 3, BDP App 2, EW App 4).

For example, there were fraudulent documents in Webb's name used in other actors' applications (e.g., KCW App 2, CR App 3). Roberts acted on Powell's direction. She signed false tenancy agreements (CR App 3), but told police that she did not read what she was being asked to sign by Powell, as she trusted him. Roberts and Webb were both named as a Landlady in fraudulent applications at the direction of Powell and Carter (BDP App 8, MSC App 7).

Carter and Powell also directed the other actors as to which properties to purchase or sell and when, and also as to which victim lender to target. Powell retained control of the transactions in some instances, such as when Kathryn Wilson instructed Michael Price, a solicitor at DJM Solicitors, to deal directly with Powell (ED App 2), and where he acted for her at auction.

Webb claimed at police interview that she allowed Powell to manage the purchases made in her name also, and that she had never met James although she said they spoke over the telephone. This is indicative of Powell directing James to accept what paperwork and identification he provided without James undertaking the usually

¹⁸⁴ A term used to describe the arrangement where the person to whom title or responsibility to borrow on property is transferred for the sole purpose of concealing the actual owner or applicant, being the principal fraudster(s). See <https://www.fbi.gov/scams-and-safety/common-scams-and-crimes>

required *know your customer* compliance checks.¹⁸⁵ It is also noteworthy that, whilst she did not meet with James personally, whose office was local to her home in Swansea, she instead attended Powell's London home to sign the fraudulent applications.

In the case of Dawson, Carter recruited her as both a straw person and for her role as a local estate agent. She refers in police interview to being “coached” by Carter as to what to say to a victim lender in one instance (ED App 2). She admitted that she was fully aware that the applications were fraudulent, but felt compelled to comply because of her personal relationship with Carter, and because he asked her to do so.

Carter and Powell used the details of companies they were involved with together to produce the false payslips and P60s.

To verify earning capacity and achieve mortgage loans for properties, for himself [Carter] (under a variety of alias names) and his girlfriend Eve Dawson.¹⁸⁶

They did the same in support of applications in the name of other actors also (e.g., MSC Apps 1,2 4, 5,6,9 and 10; BDP Apps 1-6, 8 and 13; KCW Apps 1-3, CR Apps 1-5, EW Apps 1-3).

Wilson and Roberts both say they did not gain financially for their involvement in the fraud. Powell said of the discovery of the fraud:

You're only as good as the weakest link in your team, the only successful criminal is the sole trader. He [James] could have got away with what he did had he bothered to use his shredder.

¹⁸⁵ <https://www.handbook.fca.org.uk/handbook/SIFA/9/8.html?date=2006-08-30>

¹⁸⁶ In prosecution case summary.

DC Peach was undecided as to whether the actors constituted an organised crime group.

I mean they were organised...committing criminality ...they'd probably get a high score with the value...and just the sheer volume...and there was a couple of professional people involved...possibly higher up to organised crime than not.

6.4.4. Local bad character referrals

James was recruited by Powell having dealt with him previously in respect of a legitimate mortgage application. Powell then extended James's services to Carter, and used him to submit applications on behalf of the actors recruited by both him and Carter.

Powell and Carter relied on actors primarily with whom they had close personal relations and, in the case of Webb, where there was a debt owed, and in the case of Dawson, where she also acted as an estate agent. The prosecution believed that in this professional role she attempted to influence the valuers instructed by the lenders.

Carter says that there were no "moody" solicitors or conveyancers involved within the conspiracy, although Powell says, "a few of them were perhaps suspicious".¹⁸⁷ He also claimed that he was contacted by one solicitor who advised him that a lender had requested one of Powell's mortgage files, but she told him "I'm obstructing it".

Carter described using online solicitors who could be fooled into undertaking what was necessary to the fraud:

¹⁸⁷ In one example, a company Powell held an interest in was both vendor and false employer for one of his fraudulent transactions. This went undetected by the instructed solicitors in that instance (BDP App 1).

You'd literally scan your driving licence and send it off to them...you'd never even meet them; they would do a check on the electoral roll...which is their due diligence...so they wouldn't have a clue where the deposits were coming from.

However, the complexity involved in property 'flipping' between the actors would have inevitably required an element of complicity on the part of a solicitor(s). This formed one line of enquiry by police. No prosecutions were made, although police did report the conduct of one solicitor to their regulator, the SRA. DC Peach said:

There was a solicitor on one of the transactions where Ben Williams is buying from Brian Powell. Well, it's one and the same person so, well how do you know your customer? What documents did you provide...you would have known for a fact that it's the same person, so she ceased being a solicitor for quite some time when we got involved.¹⁸⁸

He was not subsequently made aware of any professional sanction in that instance.¹⁸⁹

Powell refers to the builder, Thomas, who he said had a significant role in the fraud but who fell outside the parameters of the police investigation. He was, however, arrested and interviewed under caution during the course of the investigation. No further action was subsequently taken. Powell said he provided funding for the fraud to falsely reflect employment income ("shadow salary payments") and walked away with £4million in profit from the fraud. His company featured as vendor in some of the fraudulent transactions on the indictment (BDP App 3, 5 and 6, CR App 3).

¹⁸⁸ BDP App 8 – the transaction was actually the other way around; Powell was buying from Williams. It did not complete, but because the lender picked up on a discrepancy with the P60 submitted.

¹⁸⁹ Neither did this case, or the details of it, feature in data collected from the Solicitors Disciplinary Tribunal judgements analysed, or in media reports.

6.4.5. Criminogenic culture within the workplace

Aztec developed from an otherwise legitimate enterprise, although there is evidence that identifies criminogenic cultures emerging within these businesses that supported reproduction. Both Powell and Carter acted as property developers, although Carter had greater experience of having constructed new build properties in conjunction with Tierney.

They were both involved with a number of limited companies that were incorporated for criminogenic purposes, including being a party to sham property transactions or acting as a phantom employer in a mortgage application. They utilised SAGE software to create false documents from these companies and had access to mortgage software.

Carter used a virtual business address situated in a large office building, where his calls would be answered. This provided him with the façade of legitimacy, particularly when lenders would call to verify information. Powell formed a mortgage brokerage company with Webb with the intention of using it in furtherance of the fraud, but instead it was used as a false employer on a number of applications.

James worked for an authorised mortgage broker, although there is evidence of a criminogenic culture, particularly poor supervision, oversight and compliance. This allowed James the opportunity to facilitate a high volume of fraudulent applications, outside of the company's electronic system, and without detection, for a prolonged period. He accepted paperwork and identification without undertaking KYC (Know Your Customer) compliance checks. He also had the opportunity to apply for a fraudulent mortgage in his wife's name.

Dawson's estate agency business in Llandeilo was not directly linked to the fraud, although there is evidence to suggest that it was used criminogenically to influence property value and promote sham transactions. As a consequence, she was considered unfit to engage in estate agency and banned.¹⁹⁰

¹⁹⁰ [REDACTED]

6.4.6. Mortgage fraud displacement

There are examples within Operation Aztec of mortgage fraud displacement. In one instance, the victim lender checked the details of a false P60 provided to it in support of an application by Powell with HMRC and, on discovering its invalidity, cancelled the application as fraudulent. Powell received a CIFAS marker as a result. Here, the vendor was 'Mr Williams' (BDP App 8). He later sold the property to Kathryn Wilson with the aid of a fraudulent mortgage in her name (KCW App 3).

Another application by Powell, in the name of Ben Williams, stalled when the victim lender requested the applicant's last three bank statements in support of the application.¹⁹¹ James then cancelled the application (BDP App 5). Subsequent applications were made to other lenders in respect of the same property by Powell, as Ben Williams, and by Carter, as Matthew John Ward (BDP App 6 and MSC App 5). On Powell's second application, the property was valued at £150,000 (£200,000 less than the stated purchase price). James submitted independent valuations to the victim lender valuing the property at £275,000 and the mortgage proceeded based on a purchase price of £200,000 (BDP App 6).¹⁹²

In some applications, the property in question rather than the victim lender was replaced. In one instance the property details were altered twice when the initial two properties were both down valued. Funds were then advanced, returned and re-advanced two months later due to an apparent delayed completion. No mortgage payments at all were made in this instance (BDP App 12). In another, only a couple of mortgage payments were ever made, and the property was repossessed (MSC App 5).

There are examples of other fraudulent applications being frustrated due to down-valuations by the lender (e.g., MSC App 8 and 9). Again, the fraud was displaced, and an application was made either to another lender in another person's name

¹⁹¹ It is not clear why they proved problematic on this occasion bearing in mind the *modus operandi* of the conspiracy.

¹⁹² It is not known the source of the independent valuations, or whether Dawson assisted here.

(MSC App 8/ED App 1), or in the same person's alias name to another lender (MSC App 9/ MSC App 10).

Powell refers to his struggles to obtain development finance for one site and to deciding instead to obtain three self-build mortgages, as these were easier to secure. In the end it was actually Wilson who took on at least one of the fraudulent self-build mortgages (KCW App 3), apparently as a result of Powell receiving a second CIFAS marker (BDP App 13 – 2011).

However, whilst the CIFAS markers contributed to the change in strategy on the part of Powell et al. there may have been an early opportunity to issue a marker and disrupt the fraud. A former head of financial crime at a medium-sized mortgage lender and a victim in Opal believes that the standard of proof required by CIFAS leaves a lot of highly suspicious applications, unreported.

For lenders to load mortgage fraud to CIFAS you had to have evidence. Good evidence of fraud. So CIFAS will produce mortgage fraud stats based on what lenders have input into the system, but you've got to remember that it isn't everything because you can have stuff that you're pretty sure is fraud, but you just didn't have enough to load it to CIFAS because what CIFAS said is people can challenge it once people have got information held against them. So, it's got to be watertight.

6.5. Facilitative influences in the financial services sector

6.5.1. Competition and shared dispositions amongst lenders

Powell and Carter engage in victim blaming, laying responsibility with the targeted lenders. Powell describes two contrasting lenders, one being the belt and braces lender who has strict underwriting controls that guard against risk, and the other being the lender who is hungry for business, where applications go through on the nod. He argues the latter cohort of lenders knew that mortgage fraud was endemic in the sector and the only lesson he had learnt from the experience was “to do it smarter”. Powell clarifies by saying:

You can't tell me that these mortgage companies offering 125% mortgages on the basis of one bank statement and one proof of res [residence] didn't know what was going on.

The whole thing was turning a blind eye, make the money while we can then, when the tears start falling and the recriminations start flying around, they started to look for big examples of people who had put them in that position but actually what had put them in that position was their systems.

Through either conspiracy of silence and acquiescence or through deliberate contrived procedures the mortgage companies and banks went 'do you know what as long as we get our money, we don't care...let's fuel the self-betterment frenzy that's at the heart of the British psyche'.

Powell argues that the victims are "your loved ones" and the government, as fraud can also lead to tax avoidance, although there are plenty of people who avoid tax.

Carter concurs with Powell that the lenders were complicit in their own victimisation and believes that they hid evidence that would otherwise expose their complicity:

They [the complicit lenders] didn't feature in the trial because all of their paperwork had disappeared...so the mortgage companies were just as bad and managed to get rid of everything and say that there was no evidence.

I've not seen any of the lenders who I was involved with go bust...because there was no individual or person...I see it as victimless which isn't what the courts would obviously want to hear, or anyone would want to hear.

They're all up to their own skulduggery...let he who is without sin cast the first stone...that may be a very shitty and arrogant view, but I suppose it's just the truth. They were all just falling over themselves wanting to give you money.

DC Peach contrasts Aztec with another large-scale mortgage fraud he previously investigated in the name of Dale¹⁹³ where, despite the mortgages being fraudulent, they were fully serviced and there was no financial loss to the victim lenders. He believes Aztec was significantly more cynical in nature:

They would pay a number of instalments, then would default, then go to auction on some occasions and buy the house back.

The prosecution stated that lenders known to ask fewer questions were targeted by the actors. This indicates that the victim lenders shared dispositions whereby the rules of meaning and membership amongst them became distorted as a consequence of competition in the mortgage sector, which made them easy targets. This is evident in a number of examples where the lenders were unable to protect themselves from victimisation.

The actors were able to apply for a large number of mortgages, providing false payslips and P60s using the details of non-trading companies Carter and Powell had an interest in, or non-existent companies. Those companies were registered at Companies House, but never traded and were subsequently dissolved after 2-4 years.¹⁹⁴

In one application, the false employer given for Powell was a non-trading company both he and Carter had an interest in and was also the vendor in the transaction

¹⁹³ [REDACTED]

¹⁹⁴ It could have been established by the lender that these companies *employing* the applicants were not trading concerns as they were not filing company accounts that would have shown business profits and business expenses such as employee salaries.

(BDP App 1). In another, a false tenancy agreement was submitted between Powell and another company he had an interest in (BDP App 2).

Carter, in the name Marcus Caine, falsely named a company both he and Powell had an interest in as his employer (MSC App 1). Fourteen months later Powell, as Ben Williams, applied for a fraudulent mortgage from the same lender (Leeds) naming the same employer for himself (BDP App 6).¹⁹⁵

Powell stated in one application that he was earning £120,000pa from Groombridge (a company he owned with Carter). He had, however, applied to the same lender (Leeds) for a mortgage on another property just over a year earlier, again falsely naming the same company as his employer, but stating an income of £36,000pa plus £8,000 guaranteed overtime. The company in question was also the vendor in that earlier application (BDP App 1).

In two applications submitted by Powell to one victim lender, in the name of Williams, the address history and employment history given were inconsistent with one another (BDP App 5 and BDP App 10). The applications were less than two years apart. In the event neither application completed but not because of these inconsistencies.¹⁹⁶

There were instances where completed mortgages went unpaid for a considerable time and some properties were repossessed. There are examples of lenders still lending to those borrowers despite this. For example, Powell completed a fraudulent mortgage with one victim lender in September 2007, in the name of Ben Williams, and that mortgage immediately fell into arrears (BDP App 11). He completed a further fraudulent mortgage in July 2008 with another lender, in the same name. That lender's credit checks either failed to reveal the existing arrears on the earlier

¹⁹⁵ In addition, a letter from a lettings agency claiming to be sole letting agent for a number of properties owned by Powell accompanied the mortgage application. One of the property addresses it claimed to manage was Carter's residential address.

¹⁹⁶ The victim lender requested additional proof of income – bank statements and payslips respectively, but it is not clear from prosecution evidence how it was capable of being disrupted.

fraudulent mortgage, or the mortgage completed in spite of them. No payments at all were made for the later mortgage (BDP App 12) and both properties were subsequently repossessed.

Carter, under the name Matthew John Ward, defaulted on the payments for a fraudulent mortgage completed in April 2008 after only a couple of months (MSC App 5). A subsequent application to another victim lender completed in the same name in October 2008. Only six repayments were made for the latter (MSC App 7) and both properties were subsequently repossessed.

The changes of name undertaken by Powell and Carter by deed poll do not appear to have aroused suspicion, despite each having applied for a change in formal identification either from the Passport Office (Powell), or the DVLA (Carter), on each occasion and in quick succession, and both eventually returning to their original name. Carter actually returned to his original name twice.

Powell applied in April 2003 for a new passport in the name of Williams and then again for a new passport returning to the name of Powell in November 2004. Powell continued to apply for, and obtain fraudulent mortgages in the name of Ben Williams after November 2004. Carter applied for a new driving licence in August 2004 as Marcus Caine, July 2007 as Matthew John Ward, in June 2009 as Matthew Carter again, in October 2010 as Jaime Jones and in December 2011 as Matthew Carter again.¹⁹⁷

There are examples of changes in property name also. Powell, in the name Williams bought a property with a fraudulent mortgage and then changed the property's name and title number (BDP App 3). It was then sold to Roberts, who obtained a fraudulent mortgage with the same victim lender (CR App 5 - Paratus). The property was subsequently sold back to Powell (in the name Williams) using a different victim

¹⁹⁷ The Driver and Vehicle Licensing Agency (DVLA) is a member of CIFAS, although it is not known whether they were members at the relevant time. CIFAS now operate a facial matching system which aims to identify the same face appearing over multiple driving licences.

lender, and was repossessed after no mortgage payments were made (BDP App 12).¹⁹⁸

The plots at a development site changed name twice during the currency of the fraud, and multiple applications by various actors in the fraud were submitted to victim lenders using the various guises of the development plots (Glyn Beudy Farm/Ynys Dawela/Golwg yr Ynys). Powell applied for a mortgage on one plot in July 2008, but the application was classed as fraudulent by the lender, Leeds, and terminated when the lender discovered that the P60 submitted by Powell did not match records at HMRC (BDP App 8). Despite this, the same lender proceeded with two further applications by other actors relating to other plots at the same development site (ED App 2, MSC App 7). Leeds had also already, the previous month, completed a mortgage with Williams relating to one of the plots (KCW App 2). It appears this resulted in Powell's first CIFAS marker; however Leeds took no further action.

In total there were seven further mortgage applications relating to the plots at this site after the fraudulent P60 was detected, in various names (MSC Apps 7 and 8, ED Apps 1 and 2, BDP Apps 12 and 13, KCW App 3). Two did not complete but for unrelated reasons (BDP App 12 and MSC App 8 – down valued).

A third application also did not complete but no reason is given. This application was in the name of Powell (albeit to a different lender, BDP App 13), as was the one detected as fraudulent by Leeds (BDP App 8). Leeds, however, was the vendor of the plot in question in this instance, having repossessed the property from Carter (using the name Matthew John Ward). This application was in February 2011. It appears that this application resulted in a second CIFAS marker for Powell, but seemingly no further action was taken.

¹⁹⁸ Powell had attempted to obtain fraudulent mortgages for two other properties with the victim lender (BDP App 12) but defaulted from one to the other, and then to this property, due to down valuations on the other two.

The standard of proof required of a lender issuing a CIFAS marker is one that would substantiate a report to law enforcement. CIFAS acknowledges that it would likely record twice the level of fraudulent activity if that threshold was lower.¹⁹⁹ However, even in cases where that threshold is met and a CIFAS marker is issued it remains at the discretion of the lender, and subject to policing resource at the local level, as to whether the matter is investigated further.

The Director of Research and Development (DRD) at CIFAS observes:

In an ideal world all the cases are reported into the NFIB.²⁰⁰ They are able to see the bigger picture and then issue packages to the appropriate forces and off they go with a more done and dusted package to go...kick a door in. But that's not the world we live in, you know it's a nice aspiration, but we aren't at that point yet.

DC Peach believes that scrutiny on the part of the victim lenders was “very, very poor” but counters this by acknowledging how competitive the mortgage market is:

If it's too tough [underwriting protocols], maybe people won't be choosing them. So, there's that balance to strike with that.

Both Powell and Carter identified those lenders that had either inefficient underwriting and risk procedures, or were complacent at identifying those red flags that should have rendered the application at the very least suspicious and requiring further investigation. Carter observes that:

They call themselves underwriters but they're just some 20-year-old kid who's wet behind the ears ticking a box.

¹⁹⁹ CIFAS also acknowledges that there are instances where an existing marker informs a subsequent lender not to lend for risk of fraud, but where this does not lead to a second marker as the subsequent lender cannot meet the standard of proof of ‘confirmed fraud’ required by CIFAS.

²⁰⁰ Otherwise known as the National Fraud Intelligence Bureau that sits alongside Action Fraud within City of London Police, which is the national policing lead for economic crime see <https://www.actionfraud.police.uk/what-is-national-fraud-intelligence-bureau>

Powell refers to a dozen lenders, naming specifically GMAC and Leeds, as repositories of naughty mortgage transactions, whilst Carter describes victim targeting as “shooting fish in the barrel”, including where some banks, such as HSBC and Barclays, offered pre-approved mortgage limits:

They’d automatically assign a mortgage to you just based on what was going through your accounts, without any checks.

The other ones who were up to their neck in skulduggery of course were Northern Rock.

Carter also argues that the banks used their mortgage business to sell other bank and insurance products and refers to HBOS and its gold protection standard insurance:

They were more interested in selling this insurance...the by-product was here’s £200,000, here’s £300,000 [in mortgage finance].

The bottom line for DC Peach in cases such as Operation Aztec is that where lenders fail to exercise the appropriate level of checks and balances, then all customers ultimately have to share the cost of mortgage fraud:

We all pay for it at the end of the day.

6.5.2. Regulation, guardianship, and controls

Carol Jones, a Director of JD Ltd said she was already suspicious of James before the fraud was detected as his lifestyle did not seem proportionate to the level of work he undertook.²⁰¹ These concerns do not appear to have been acted upon. Action was only taken when an office assistant queried a payslip James had asked her to certify.

²⁰¹

Jones also noted that when she searched James's office there were applications in the names of Ben Williams, Dawson and Matthew John Ward not on the firm's client database. The lack of electronic files and use of paper ones would have allowed James to circumvent internal compliance checks. Had it not been for James's colleagues' suspicions and calls received in his absence relating to files not on the company database, the fraud may have gone undetected for longer. DC Peach said that detection was "just by chance".

There is no public record of James facing professional disciplinary sanction as a result of his role in the fraud. He is listed on the FCA register simply as being an individual no longer in a role that requires regulatory approval.²⁰²

The only professional sanction appears to have been a ban by the National Trading Standards Estate Agency Team (NTSEAT) on Dawson, Carter, Powell and James from being estate agents.²⁰³ This ban was not, however, imposed until 24th May 2016 and Dawson was the only actor to have traded as an estate agent.²⁰⁴ Her practice, however, was not directly linked to the fraud, although there is evidence to suggest that she used it to influence property value and promote sham transactions. In a press statement James Munro, team leader at NTSEAT said:

Whilst Dawson was the only one who was involved in estate agency work when she was convicted it was decided that there could be a risk that they may wish to engage in estate agency work in the future and that they would not be considered fit to do so given their convictions.²⁰⁵

²⁰² <https://register.fca.org.uk/s/search?q=Paul%20Nicholas%20John&type=Individuals>

²⁰³ Regulatory outcomes are available on the NTSEAST webpage, however there is an absence of case summaries, evidence and judgements. When the Principal Solicitor of Regulatory Enforcement was contacted for further detail, he responded advising that, "specific details of the matters are sensitive and cannot be disclosed unless within a judicial arena".

²⁰⁴ Although Powell said he did work as an estate agent for his brother-in-law at one stage

²⁰⁵ [REDACTED]

Councillor John Powell, Powys County Council's cabinet member responsible for trading standards added:

This should serve as a warning to estate agents and potential estate agents...that if they commit an offence involving fraud, they could be...prohibited from carrying out estate agency work.²⁰⁶

All four remain on the public register of those banned.²⁰⁷

Leeds detected a fraudulent P60 in one of Powell's applications in July 2008 (BDP App 8) by checking it against HMRC records. The application in question was terminated by the lender and Powell received a CIFAS marker, but there is little to suggest that any further action was taken.

DC Peach questions why these checks are not routinely made by lenders:

I just think for a mortgage company it's not hard to go to HMRC. At the end of the day the customer can pay for it... I just think well if somebody says they're earning that amount of money a year well why can't you go to HMRC and just do that check?

He added that this would be one of the first checks the police would make when investigating cases of this kind.

Powell refers to being subject to the CIFAS marker (BDP App 8 - 2008).

It was a Hunter situation that got me CIFAS'd but it didn't lead to anything and then I got CIFAS'd again and three years later it did lead to something...I thought I had just about got away with it because nothing had happened for three years.²⁰⁸

²⁰⁶ Ibid.

²⁰⁷ <https://en.powys.gov.uk/article/3992/Public-Register-of-Orders>

²⁰⁸ A National Hunter alert <https://nhunter.co.uk>

A former head of financial crime at a medium-sized mortgage lender described how the National Hunter fraud prevention scheme works.

So just before they [the lender] offer, they'll send it off to Hunter, it will cross match against all the lenders applications and highlight any discrepancies. First of all, it will highlight any cases where another lender might have marked something as fraud with regards to the data within that application. So, it might be the applicant or the employer...but secondly, it will identify discrepancies, so it might be that you know John Smith's applied to one lender and said they worked for ABC on £50,000 a year, then you know it might match with another lender where John Smith said he works for XYZ and is on £100,000 a year.

Powell received a second CIFAS marker in 2011 (BDP App 13). Both markers were in the name Powell and not in an alias. According to Powell, Wilson then took on a fraudulent self-build mortgage (KCW App 3) to circumvent the second CIFAS marker against him. Carter, however, says that a marker would stay on your file for a year and then be gone. He circumvented this fraud prevention tool by using his aliases.

Whilst James was not the broker on the two applications subjected to CIFAS markers against Powell, CIFAS acknowledges that it would have been very unlikely for it to act on any reference to a regulated professional named in a marker, it would be purely ad hoc and on the basis of an ethical standpoint.

DRD of CIFAS observes that:

It would be one of the areas where if a mortgage lender believed that a regulated professional was involved in the fraud, we would expect them to take that case directly to that professional body.

There were instances where fraud was reported to the lender, but they still failed to act. By example, Webb said at police interview that, in respect of one property (EW

App 1), she contacted the lender and explained that she was not able to afford the repayments, and the property was subsequently repossessed. She then negotiated with the lender regarding the shortfall of £41,369. A settlement figure of £9,000 was agreed as a full and final settlement of the debt without further action.

Powell and Carter were involved with a number of companies registered at Companies House. The companies never traded and were dissolved after a short period of time (between two and four years). It appears that this was not subject to query or further investigation by Companies House. Additionally, the property flips and sub-sales that were the subject of various mortgage applications were not identified by the Land Registry as suspicious or requiring further investigation.²⁰⁹

Whilst no solicitors were prosecuted DC Peach alludes at interview to the possibility of collusion, and references one solicitor who took time out of the profession following commencement of the investigation:

She ceased being a solicitor for quite some time when we got involved.²¹⁰

He said the solicitor concerned was reported to the SRA by the police, but as far as he was aware, no disciplinary action was taken. He is not aware of any disciplinary action against any other solicitors either. Those solicitors under suspicion also fell outside of the parameters of the prosecution. DC Peach described having to make the decision to cut off the investigation or continue investigating forever, although that decision was not taken by him.

You've got to pick your battles now. A lot of police officers are scared of fraud.

²⁰⁹ In the case of Operation Cassandra, the head of fraud at the Land Registry advised the researcher that she considered that they also were the victim of fraud in that case. The Land Registry would have been aware of the CML requirements that transactions on the same property less than six month apart should be reported to lenders.

²¹⁰ It is not known whether this solicitor was the one contacted by a lender who had requested one of Powell's mortgage files and who told Powell 'I'm obstructing it'.

DC Peach observes of the victim lenders:

The mortgage companies could do a bit more...but just because a system is poor and porous it doesn't mean you have the right to take advantage of it and attack it.

The victims are the banks and the broader spectrum local people who can't buy the properties because they have been inflated so much.²¹¹

The CPS, following the case, stated in a press release that it was "the most complex of cases" and one that required specialist and experienced personnel:

The group's activities were undone by meticulous and professional work by expert financial investigators, working in tandem with specialist complex casework lawyers.²¹²

However, DC Peach reflects differently on resource and manpower:

Originally there were two other officers who had it...one actually went sick because of the case, because of the volume of it.

It was massive, we had rooms of conveyancing files.

In the end, I had two retired police officers come in and help me with the disclosure...it was bigger than a murder inquiry. They were let go, obviously the funding was gone...in the end it was just me on my own.

²¹¹ "People taking advantage of the system to fraudulently claim money only undoes the work that schemes like the Help to Buy scheme is working to do"

[Redacted]

²¹² [Redacted]

DC Peach believes that there is little resource available to investigate complex financial crime, as seen in Operation Aztec, and believes that his department would not investigate it if it had been reported now.

What is the end game now? What are the expectations of the victims?

What is the cost? We wouldn't do it...I think we would try and push it to regional and see if they would score it and take it.

6.6. Concluding remarks

The Aztec case study provides an empirical investigation of a mortgage fraud conspiracy within its real-life context. It presents the causal agency and biographies of Powell, Carter et al. within a conceptual framework, based upon Clegg's Circuits of Power theory, that examines the impact dispositional and facilitative influences and conditions had on their day-to-day activities. The case study identifies, through interviews, primary documentary data and media reports, how dispositional and facilitative powers converge with the criminal action of the actors, to support the commission of mortgage fraud and its reproduction and disruption.

In accordance with a multiple-case study design, the key themes identified in this chapter will be compared to the cases of Opal and Cassandra in chapter 8, in order to test and adapt those theoretical propositions that have guided data collection. It is believed that this will then provide a concrete understanding of how mortgage fraud in England and Wales is organised.

Chapter 7: OPERATION CASSANDRA

“This was very well orchestrated, professional offending over a long period of time, using and abusing the identities of others.”²¹³

7.1. Introduction

Operation Cassandra is the final of the three case studies subject to analysis. The structure of the chapter will again utilise Clegg’s Circuits of Power conceptual framework to identify those causal agents, dispositional and facilitative powers in Cassandra that were central to its organisation and its ability to reproduce to the level that it did. This framework informed those theoretical propositions that have guided the collection and analysis of data, including prosecution case files and extensive witness and documentary evidence; interviews with three investigating officers, insolvency and regulatory enforcement files and media reports. Most notably, data includes the lived experience of the researcher and reference to an unpublished MSc thesis undertaken between 2017 and 2018, whilst serving a prison sentence at HMP Parc, Bridgend, South Wales.²¹⁴

It will commence with an overview of the Cassandra case before then examining the causal agency amongst the motivated offenders, KPA and supporting actors recruited to the conspiracy (including straw persons), particularly their biographies and their social relations with one another. It will then consider those shared dispositions amongst these individuals that supported the commission and reproduction of mortgage fraud and those of the lenders that rendered them susceptible to victimisation. Finally, it will examine those exogenous influences within the financial services sector, within the context of the Cassandra case, notably systemic failings in the mortgage lending market, that together with causal agency

²¹³ His Honour Judge Beddoe sentencing remarks 21st July 2014.

²¹⁴ Unpublished MSc thesis entitled *Trusted to the ends of the earth? The solicitor’s role in mortgage fraud: a multifarious approach to theoretical understanding*, Gilbert, 2018, (MSc thesis) Available at https://library.port.ac.uk/dissert/results_recent.php

and shared dispositions complete *the circuit* which in this case provided the facilitative conditions that supported the reproduction of mortgage fraud.

7.2. Overview

The prosecution case describes Mark Entwistle, combined with others, in particular Jonathan Gilbert, conducting a “sophisticated, repeated fraud against lending institutions”.²¹⁵ The original indictment comprised twenty-six counts, although two, involving two further defendants - Demi Charalambous and George Tilemachou - were subsequently severed from it (Entwistle and Gilbert were not subsequently tried for these counts).

Entwistle faced all twenty-four of the remaining counts and was convicted on twenty-three counts. Gilbert faced twenty-two of the remaining counts and pleaded guilty to eighteen of those counts. All except two counts related to mortgage fraud against lending institutions in the name of Entwistle, companies within the Rigsby Group of companies controlled by Entwistle, or in the name of third parties connected to Entwistle. The two remaining counts included one of bribery under the Bribery Act, 2010, and one of money laundering.

The prosecution valued the fraud at £36,000,000 over an offending period of approximately 4½ years. The principal victim was the Royal Bank of Scotland plc (RBS), which lost £14,000,000. The distribution of counts according to each defendant is set out in table 1. A breakdown of the properties, counts and a succinct description of offending patterns is set out in appendix H.

Defendant	Count 1	Count 2	Count 3	Count 4	Count 5	Count 6	Count 7
Entwistle	X	X	X	X	X	X	X
Gilbert	X	X(G)	X(G)	X(G)	X(G)	X(G)	X(G)
Barker				X(NG)			X
Robinson							
Pomroy							

²¹⁵ Prosecution opening p.2.

Williams							
Defendant	Count 8	Count 9	Count 10	Count 11	Count 12	Count 13	Count 14
Entwistle	X	X	X	X(NG)	X	X	X
Gilbert	X(G)	X(G)	X(G)		X(G)	X(G)	X(G)
Barker			X(NG)		X(NG)		X(NG)
Robinson							
Pomroy			X				X
Williams				X(NG)			
Defendant	Count 15	Count 16	Count 17	Count 18	Count 19	Count 20	Count 21
Entwistle	X	X	X	X	X	X	X
Gilbert	X	X(G)	X	X(G)		X(G)	X(G)
Barker	X(NG)	X(NG)					
Robinson			X		X		X
Pomroy							
Williams							
Defendant	Count 22	Count 23	Count 24	Count 25	Count 26		
Entwistle	X	X	X	X	X		
Gilbert	X	X(G)	X(G)	X	X		
Barker							
Robinson		X	X				
Pomroy							
Williams							
Charalambo us				X (NG)	X (NG)		
Tilemachou				X (NG)	X (NG)		

Table 10: Distribution of Counts- Operation Cassandra²¹⁶

²¹⁶ G represents a Guilty verdict or plea; NG represents a Not Guilty verdict.

Initially, Entwistle raised mortgage funding to buy and develop property to sell at a profit. He did so successfully for a period of time. His legitimate portfolio prior to the fraud was valued at around £16,000,000, with equity of some £8,000,000. However, Entwistle turned to fraud to raise funds to artificially support the expansion of his property business. The prosecution stated he was:

...prepared to do whatever he felt was necessary to raise funding for his property portfolio.²¹⁷

Whereas Gilbert:

...acted to ensure that Mark Entwistle was able to extract as much money as he could from lending institutions by deceiving them both as to the security that the lenders had or would have for their loans and as to the use of those loans.²¹⁸

The fraud entailed borrowing against properties within Entwistle's portfolio or against properties that he was acquiring for redevelopment. This practice utilised the portfolio as a means of submitting repeated mortgage applications against individual properties and then failing to securitise the mortgage against the property as a consequence of the failure to redeem an existing mortgage on the property, or by splitting titles and providing security over significantly less property than the victim lender anticipated. The funds advanced by lenders were then widely used for purposes other than those specified in the mortgage applications or as represented by Gilbert prior to drawdown.

Gilbert, a solicitor and a friend of Entwistle, was essential to this aspect of the fraud. He acted for both Entwistle and the lender in the vast majority of instances. As a solicitor and partner at Willmetts solicitors he was someone the lenders would trust implicitly to represent their best interests and fulfil the undertakings he gave to them

²¹⁷ Ibid p.2.

²¹⁸ Ibid p.4.

as to the use to which the mortgage funds would be put and as to security for those funds. He was an indispensable part of Entwistle's dealings with the victim lenders:

It is clear that none of these offences could have been committed without Jonathan Gilbert.²¹⁹

Gilbert dispersed the funds received from the victim lenders as directed by Entwistle. In reality much of the money advanced to Entwistle or for his benefit was used to fund Entwistle's lavish lifestyle. Entwistle was a Virgin Airlines captain and according to the prosecution:

He displayed the trappings of wealth and affluence, convincing many that he was a highly successful and competent businessman.²²⁰

He was a prolific gambler in Las Vegas at the Bellagio casino where he held a platinum gambling membership and at Caesars' Palace. He also bet significant amounts through the Betfair gambling website. He spent approximately £5,000,000 gambling between 2003 and 2010.²²¹ Much of this was funded by the fraud.

Mortgage advances were also applied to unrelated property purchases or to the repayment of mortgages on other properties (in cases where repayment was demanded as a consequence of Gilbert's failure to register the mortgage). Gilbert manipulated his file ledgers to disguise the duplication of borrowings on the same property and to conceal the misuse of funds. The same property would be given a number of different spellings or a slight variation in address.

The prosecution accepted that:

The main beneficiary of this fraud was Mark Entwistle who used the money to prop up his business and fund his lifestyle.²²²

²¹⁹ Sentencing opening R v Gilbert p.2.

²²⁰ Prosecution opening p.2.

²²¹ It was not clear from the evidence whether this was gross or net.

²²² Sentencing opening R v Gilbert p.2.

But he ensured that Gilbert was well rewarded in a number of ways.

Matthew Robinson was also a friend of Entwistle. He was director and owner of David Elliot Property Finance Ltd (David Elliot) an appointed representative of Pink Home Loans,²²³ a principal firm responsible for David Elliot's FCA regulated activity. As such Robinson had access to Pink Home Loans' mortgage software system. He also used his professional status to contribute to the fraud. He submitted fraudulent mortgage applications for Entwistle in Entwistle's brother Peter's name for Mark Entwistle's benefit. Robinson and Entwistle also faced a count of conspiring to launder criminal property (Count 19), of which they were both convicted. HHJ Beddoe in his sentencing remarks described Robinson as "inherently dishonest".

Nicholas Pomroy was a chartered accountant and member of the ICAEW. He was partner at Griffins Accountants and was entrusted to provide false income and financial information on behalf of Entwistle. He had been the Rigsby Group's accountant and was also a friend of Entwistle. He provided false accounting information for Philip Barker on a number of applications made in Barker's name (Counts 10 and 14) for Entwistle's benefit. He was also named as accountant for Barker and for Peter Entwistle in a number of fraudulent applications.

Barker was Entwistle's closest friend and allowed mortgage applications to be made in his name for Entwistle's benefit, with the assistance of Pomroy. Barker was acquitted by a jury of all of the counts against him.

Shon Williams was an associate director of business development at RBS and faced one count on the indictment relating to alleged corrupt payments received from Entwistle. Williams was acquitted by a jury.

The fraud was discovered in February 2009 when Alex Mitchell of Stevens Drake solicitors, who was acting for RBS in relation to a mortgage advance (Count 20), queried the whereabouts of mortgage funds RBS had been led to believe had been

²²³ The trading name of Advance Mortgage Funding Limited.

used to purchase two properties for redevelopment. This was at the instigation of one of the vendors in that count who telephoned Mitchell to inform him that the sale to a Rigsby company had never completed. The funds had already been expended in breach of the professional undertakings Gilbert had given to Stevens Drake. This was one of the few instances where Gilbert did not act for the lender as well as for Entwistle.

The unravelling of the fraud resulted in the collapse of Willmetts solicitors and the loss of 75 jobs and “the ruin or near ruin” of its partners.²²⁴ The lenders involved were left with millions of pounds of debt, which was subsequently recovered through Willmetts’ indemnity insurers, Travellers PLC and mezzanine insurers.²²⁵ Gilbert was the only defendant to plead guilty at the commencement of the trial in January 2014. There was wide media interest in the case.²²⁶ The actors who were convicted, including Gilbert, were sentenced in July 2014. The sentencing ranges handed down are set out in table 11.

Defendant	Sentence length
Entwistle	14 years
Gilbert	12 years
Barker	Acquitted
Robinson	5 years
Pomroy	3 years
Williams	Acquitted
Charalambous	Acquitted
Tilemachou	Acquitted

Table 11: Sentencing Range- Operation Cassandra

²²⁴ Ibid, p.2.

²²⁵ Travellers PLC indemnified the first £2,000,000 of each claim, mezzanine insurers indemnified the remainder. Travellers attempted to aggregate of the overall claim which was contested in subsequent civil proceedings, intervened by the Law Society and the SRA. See: <https://www.lawgazette.co.uk/news/society-intervenues-in-landmark-pii-case/63820.article>

²²⁶ <https://www.dailymail.co.uk/news/article-2791254/virgin-atlantic-pilot-blew-prodigious-sums-las-vegas-casinos-masterminding-30m-mortgage-fraud-jailed-14-years.html>
<https://www.bbc.co.uk/news/uk-england-berkshire-29605167>
<https://www.ftadviser.com/2015/07/09/ifa-industry/companies-and-people/former-pilot-jailed-for-years-for-mortgage-fraud-iA0pA9Lkq73MQUU9KMs9KL/article.html>

7.3. Agency, biographies and social relations

7.3.1. Mark Entwistle

Entwistle was a Virgin Airlines captain and initially a successful property developer. He resorted to fraud to accelerate the growth of his property business and to fund his extravagant lifestyle. The subsequent failure of his business model and the advent of credit shrinkage following the 2007/08 financial crisis led to the fraud evolving into one where he borrowed money out of necessity to fund his lifestyle and to meet his liabilities.

In order to carry out the fraud, Entwistle enlisted the help of close friends who were also trusted professionals; notably Gilbert, Robinson, and Pomroy. Gilbert was an indispensable part of Entwistle's dealings with the victim lenders throughout the fraud. Robinson and Pomroy were brought into the fraud by Entwistle to assist in making mortgage applications in third party names at the point where he had begun to struggle to obtain mortgages in his own or his companies' names. Entwistle drew his brother, Peter, and his closest friend, Barker, into the fraud to apply for sham and bogus mortgages in their names.

The prosecution described Entwistle as the "principal beneficiary" and "controlling hand" in the fraud.²²⁷ All of the fraudulent loans were acquired for the benefit of Entwistle. He led a lavish lifestyle and treated the actors in the fraud to his hospitality and other inducements. Gilbert says:

Mark entertained lavishly with the aim of corrupting professional-enablers...Ascot race days in the Rigsby corporate box, Michelin star restaurants in Central London, helicopter trips to race-days, trips to watch boxing events in Las Vegas [all] to reward participants for their loyalty.²²⁸

As well as relying on the actors recruited by him, Entwistle himself went to great lengths to ensure the success of the fraud. There are numerous instances of him either creating or acquiring fraudulent documents to suit his purpose. For example,

²²⁷ Prosecution opening p.2.

²²⁸ MSc thesis, p.54.

false bank statements were relied upon by Entwistle in relation to Count 8. The prosecution notes there was “a degree of care” in those forgeries.²²⁹ The prosecution also notes the use of forged bank statements by Entwistle to obtain a Coutts bank account.

HHJ Beddoe described Entwistle at sentencing as:

Arrogant, greedy and brazen to the last.

7.3.2. Jonathan Gilbert

Gilbert, a solicitor and partner in the firm Willmetts, acted for Entwistle and his companies. He also acted for Barker and Peter Entwistle. In the majority of instances, he acted for the victim lender too. Gilbert also acted for Barker in relation to Barker’s own property portfolio. He was commended by his partners when he secured Entwistle as his client, as he was considered to be a prominent property investor in Windsor at the time.

I was the highest fee earner and youngest partner. Attracting Mark as a client was a coup for the firm.²³⁰

Entwistle is described by the prosecution as “in terms of volume of work, an excellent client”.²³¹ As an experienced solicitor, Gilbert benefited from a number of panel appointments for lending institutions, enabling him to act for both the borrower and the victim lender in the vast majority of the fraudulent transactions. As such, the targeted lender would rely unquestioningly on any undertakings provided to them by Gilbert in the course of acting for them. The prosecution described Gilbert as someone the lenders “would trust implicitly” and “whose professional integrity seemed unimpeachable”.²³²

²²⁹ Prosecution opening p.60.

²³⁰ MSc thesis, p.15.

²³¹ Prosecution opening, p.4.

²³² Ibid p.3.

Gilbert repeatedly, and deliberately, failed to register or delayed registration of charges for lenders. He also split the Land Registry title on a number of properties providing the victim lender with a charge over a part only of what the lender expected with a “grossly reduced value”.²³³ He used his professional knowledge to conceal this from the lenders and “fobbed off enquiries about security by lies”.²³⁴

Gilbert, in his status as partner, was able to divert funds as directed by Entwistle, often by manipulating ledgers and by changing the spelling of a property, or obscuring the address. He also misrepresented the true destination of funds on internal accounting records. Gilbert is described as having been “well rewarded” for this, living rent free in one of Entwistle’s properties and having extensive use of an American Express card at Entwistle’s expense.²³⁵

HHJ Beddow said in sentencing Gilbert that his was:

As bad a breach of trust as it could get.

Gilbert was struck off the Roll of Solicitors in November 2010.²³⁶

7.3.3. Philip Barker

Barker was himself a successful businessman with a property portfolio of his own and a chain of pubs, restaurants and a hotel in Yorkshire. Barker described at police interview meeting Entwistle in the 1990s and becoming good friends. He said Entwistle provided him with a lot of support after he was involved in a serious car accident.

²³³ Sentencing opening page 2.

²³⁴ Ibid.

²³⁵ Prosecution opening p.4.

²³⁶ The Solicitors Disciplinary Tribunal decision reference Gilbert is no longer available for download. Media reports include:

<https://www.barryanddistrictnews.co.uk/news/8987560.solicitor-struck-off-after-damaging-reputation-of-legal-profession/>

However, Barker says that it was Gilbert not Entwistle who approached him to help Entwistle out with mortgage applications, although this is disputed by Gilbert. He later told police Gilbert asked him to:

Keep properties safe for Mark in the future, that's how I understood it and there were good rents coming in, yes, I would get full title to the properties, and I wouldn't need to put a deposit in.

It was 100% trust, but not just in Mark, in Jonathan as well.²³⁷

Barker says he relied on Gilbert to register the titles to him and that he intended to later sell them back to Entwistle. His only worry was if the rent stopped coming in. Susie Winder, Barker's personal assistant, was the one who eventually took issue with Barker's involvement. She emailed Entwistle saying:

I have emailed Matt Robinson for an update on mortgages pending ...I have asked him not to proceed with any more until we get a better handle on the situation. In fairness I am extremely concerned about the situation.²³⁸

Matthew Robinson responded to this by email saying, "I understand you are not comfortable any longer..."²³⁹ Applications were then subsequently made in Peter Entwistle's name. Barker was acquitted of all counts against him.

7.3.4. Matthew Robinson

Robinson had worked in financial services since 1997. At the time of the fraud, Robinson was owner and director of David Elliot. Robinson had access to Pink Home Loans' mortgage software system, referred to as 'the key system'. His

²³⁷ Police interview with Philip Barker, in evidence.

²³⁸ In evidence.

²³⁹ Ibid.

employee Mark Tucker is referred to as an 'authorised adviser'.²⁴⁰ Robinson said at police interview that he was:

...responsible for business development, day to day running of the company alongside Laura Williamson who would ...do a lot of admin functions for me.²⁴¹

Robinson said he had known Entwistle since 2002. He comments that they got on very well and Entwistle became one of his best clients. He says he and Entwistle drifted apart in 2005 but that Entwistle then contacted him in 2007. Robinson claims Entwistle told him that his current mortgage broker, Zoe Monk, had little understanding of development finance and he needed someone who did. The prosecution stated that Entwistle trusted Robinson to do what was needed to obtain mortgage finance.

Robinson and Entwistle were also convicted of one count of conspiracy to launder criminal property. This involved £725,000 of the funds comprising Count 18 being sent by Entwistle to Robinson, who used a substantial part of those funds to pay for a yacht Entwistle was buying. They attempted to disguise this by putting the yacht in the name of a company connected to Robinson. The yacht was named 'Mr Rigsby'.²⁴²

7.3.5. Nicholas Pomroy

Pomroy was an ICAEW registered accountant at Griffins Accountants in Newbury, Berkshire. He had previously acted as an accountant for the Rigsby Group but had never been Barker's accountant. He said at police interview that he had acted for Entwistle until Entwistle's business got too big and he then sought representation from Baker Tilly in London. He says he saw Entwistle three to four times a year,

²⁴⁰ Witness statement of Kay Leslie dated 16th September 2011.

²⁴¹ Police interview with Matthew Robinson in evidence.

²⁴² Entwistle also had a race horse named Mr. Rigsby. The name Rigsby which was used in various forms for all companies within the Rigsby Group, came from Entwistle's nickname in Coventry where his property portfolio first started, and has connection to Leonard Rossiter's character Rigsby in the ITV television programme Rising Damp.

usually at horse races. He says he met Gilbert once or twice at Windsor races with Entwistle.

Pomroy provided false income details for Barker in two mortgage applications (Counts 10 and 14) and was named as Barker's accountant in others. He was also named as Peter Entwistle's accountant in fraudulent applications. He had never been his accountant either. He was "trusted to provide false information"²⁴³ if the victim lender requested it. Pomroy says it was Entwistle's employee, Zoe Monk, who asked him to assist Barker in catching up with his accounts and to provide income references.

Pomroy was excluded from ICAEW on the 20th September 2016.²⁴⁴

7.3.6. Shon Williams

Williams was an associate director of business development at RBS. He was largely responsible for processing Entwistle's funding applications to RBS. The prosecution, however, says he had more involvement than would be normal in his working role, more akin to a relationship manager, and became too close to Entwistle.

Entwistle was aware that Williams would do his bidding for him at RBS. Williams was willing to relax due diligence to ensure the success of Entwistle's funding applications so as not to lose his business. His remuneration at RBS/Natwest was a salary plus a bonus based on achieving targets set by the bank. In 2006 and 2007 he achieved a maximum bonus which equated to 100% of his annual salary.²⁴⁵

Williams enjoyed hospitality from Entwistle and received £85,000 from Entwistle via Williams' wife's bank account. Entwistle also had his employees and contractors carry out around £10,000 worth of home improvements at Williams' house at Entwistle's expense.²⁴⁶ The prosecution alleged these were corrupt payments and

²⁴³ Prosecution opening p.6.

²⁴⁴ <https://www.icaew.com/-/media/corporate/files/about-icaew/what-we-do/protecting-the-public/disciplinary-orders/december-2016.ashx?la=en>

²⁴⁵ Prosecution opening, p.168.

²⁴⁶ Witness statement of Colin Stacey dated 13th December 2010.

inducements. Williams was indicted on one count of receiving corrupt payments (Count 11).

He admitted in a statement to RBS that he had received some corporate entertainment from Entwistle but did not admit to anything inappropriate. Williams was acquitted.

7.4. Shared dispositions amongst offenders and lenders

7.4.1. Knowledge and opportunity

Entwistle, as a Virgin Airlines captain with an extravagant lifestyle, created the appearance of prosperity and success. He also had an existing and somewhat successful property portfolio which would have further legitimised his appearance to the victim lenders and targeted homeowners, as well as to his employees and contractors, and to the employees and colleagues of the other actors.

He had established close personal, familial and professional relationships with the other actors in the fraud, as well as other actors outside of the conspiracy including local estate agents, valuers and other professional persons. He therefore had pre-existing access to multiple KPA and willing participants essential to the efficiency and reproduction of the fraud.

Entwistle ran his business from high class offices opposite Windsor Castle²⁴⁷. He employed in excess of thirty staff, including land buyers, site managers, quantity surveyors, architects, marketers, financial and accounting, and support staff. The business provided the environment to conceal an ongoing fraud, whilst giving Entwistle the appearance of a successful property developer.

Entwistle used a series of complex company structures under the umbrella of the Rigsby Group to maximise lending and to conceal the extent of the fraud. This also provided him with ongoing opportunity to repeatedly reproduce the fraud.

²⁴⁷ <https://www.novaloca.com/office-space/to-let/windsor/windsor-park-house/189728?search=true>

Gilbert, as an experienced conveyancing solicitor, had extensive knowledge of lending protocols and how a legitimate mortgage transaction could be exploited. He was someone the victim lender would trust implicitly and whose professional integrity should have been beyond reproach. Knowledge and experience gave him the tools to dupe the victim lenders as to the existence or extent of security for their loans, and ready access to the Land Registry to manipulate titles. This was made easier by the fact that Gilbert was a partner in Willmetts and had overall supervisory control of the Maidenhead office where he worked from.

Gilbert acted for both the borrower and the lender in the vast majority of instances giving him full control over the transaction and all parties to it. He was able to provide falsified undertakings to the victim lenders that they would rely upon unquestionably and to conceal within his firm the misuse of the funds extracted from those lenders.

Gilbert had the means to, and control over, splitting titles where needed to give the appearance of adequate security to the victim lenders (see appendix I for a breakdown of Land Registry manipulation). Gilbert says:

I would divide title like pieces of pizza...This was never the plan. It became the necessity to avoid detection.²⁴⁸

As solicitor for the lender as well as the applicant he had control over all dealings with the Land Registry and all title matters.²⁴⁹ There were repeated references to title numbers as 'TBA' (to be advised) on Certificates of Title sent to the victim lenders. The aim was to obfuscate subsequent attempts by lenders to make direct enquiries of the Land Registry to check whether their charge had been registered. The property over which the victim lender anticipated security by way of a first legal

²⁴⁸ MSc thesis p.14.

²⁴⁹ The Land Registry's Head of Fraud, Julie Jenkins, was invited to participate in this study but declined on the basis that she considered the Land Registry was also a victim in this fraud. There are multiple witness statements from Katherine Brothers of the Land Registry, predominantly dated the 25th January 2013, which chronicle the sequence of registrations and tactics used by Gilbert.

charge would often then be split by Gilbert, resulting in the victim lender at best being afforded security over part only of what they had anticipated.

In addition, there were tactical delays by Gilbert in registering charges to allow for title splits, or in cases where mortgages were double parked.²⁵⁰ For example, in relation to one title split, the registration of two mortgages was delayed by nine months (Counts 4 and 5) and another was delayed by fourteen months (Count 3).

Gilbert was also able to misrepresent property names and addresses to conceal multiple mortgages on the same property. One example of this is referring to a property named Woodberry Down as 'Woodley Down', 'Woodberry Down House', 'Woodbury House' and 'Woodberry Down Lodge'. A completion statement for a TMB mortgage relating to this site referred to it as a 'building plot' also.²⁵¹ The objective was to "hide and confuse prying eyes within Willmetts".²⁵²

Melvin Berryman, Willmetts's managing partner, advised SRA forensic investigator Miss Taylor in 2009 that Gilbert's tactics were:

To throw our accounts [department] off the scent, as it were, that there may be anything untoward, it now transpires that Gilbert gave false addresses of properties or used plot numbers which weren't appropriate or stated that transactions were re-mortgages when that wasn't appropriate or mis-spelt addresses and clients names.²⁵³

Gilbert also employed the use of generic ledgers and mis-described the purpose of bank transfers. The use of general terms to describe a ledger breaches the Law Society's rules, however this was not detected within the firm's accounting department, and the dispersal of funds from these ledgers went unnoticed. Gilbert

²⁵⁰ Double parked or double parking in this context is the situation where there are multiple mortgages drawn down on a single property, not necessarily simultaneously, but where only one or an existing registered mortgage is secured against the title.

²⁵¹ Other examples include: 1B The Grove, was referred to by an alternative name of 'Grove Villas, 1B The Grove'; Orsett House was referred to as 'Odett House', 'Building Plot at Ozett House' and was also referenced by a 'change of name' to 'Melwood House'.

²⁵² Prosecution opening p.32.

²⁵³ SRA Forensic Investigation Report (SRA report) dated 12th October 2009, p.20.

placed £2,850,000 of a fraudulent advance into a ledger at Willmetts named “Mezzanine Funding Development Station Road” (Count 20). Another, a payment of £1,459,078 to Entwistle’s own business account, was described by Gilbert as “RBS redemption” on the relevant chit. Both transfers were then applied as directed by Entwistle and dispersed by Gilbert to numerous recipients, including personal accounts and Betfair.²⁵⁴

When Berryman was pressed by Miss Taylor on large sums of money being paid directly to Entwistle and not to purchase a property, Berryman replied:

Well as I said Mr Entwistle is a developer and it was not unusual for him to be using money to buy certain properties or repay mortgages and refinancing properties, this was his business but uh, and had Gilbert put correct addresses then immediately we would have been notified.²⁵⁵

Furthermore, Gilbert was able to manipulate the appearance of a transaction when victim lenders queried the status of the registration. On one occasion Gilbert claimed to a lender that he was waiting for the title plan to be changed before registration (Count 17). In others he blamed Land Registry requirements (Count 6); claimed the original transfer deed was misplaced on a photocopier in the office (Count 18); claimed a mix up (Count 8); and that a registration had ‘slipped through the net’ (Count 6).

Gilbert was able to circumvent victim lenders’ suspicions when matters became more serious as each Willmetts office worked autonomously.²⁵⁶ There are examples of lenders writing to the ‘Senior Partner’ in order to raise concerns about the conduct of a transaction. These letters went directly to Gilbert as the supervising partner in his office. Gilbert then replied with further deceit (Counts 6, 9 and 15). Berryman

²⁵⁴ In another instance funds of £2,050,000 illegitimately received from a Rigsby New Homes Poole Limited (Rigsby Poole) bank account were paid into a ledger referenced as “refinancing” (Count 13).

²⁵⁵ SRA report, p.20.

²⁵⁶ During the offending period Willmetts had offices in Windsor, Maidenhead, Woodley, and Reading. It was at Reading that the accounts department was based.

advised SRA forensic investigators that the reason for the firm's failure to detect wrongdoing was because of the branch office network:

Another reason why this has only come to light following that phone call is it would appear that no lenders at any time wrote to us in a separate office saying, "what's happening with the deeds?" or "how is our registration coming along?" so we weren't put on notice of anything... Gilbert of course was in the unique position of opening the post and able to take any letters that may in that nature have come to him.²⁵⁷

Mike Groark, another former partner of Gilbert adds:

Each equity partner was running an office, and you know you can't have one equity partner from Reading going over to Maidenhead on a daily basis or bi-weekly to supervise your fellow equity partners you have to earn a living.²⁵⁸

Robinson was able to use his company's FCA approved status and his experience of the mortgage market to manipulate applications submitted on behalf of Peter Entwistle for Mark Entwistle's benefit. He had knowledge of which lenders would accept the inflated and otherwise unverified income certificates; which lenders business development managers were chasing new business; which lenders had more relaxed due diligence requirements; and what loan to value should be pitched to the lender.

Robinson instructed his employee, Tucker to submit the applications, providing him with false income and employment information for Peter Entwistle. Both Tucker and the victim lenders relied on the fraudulent information put forward by Robinson. When challenged by staff to clarify duplicated mortgage applications for Peter Entwistle, Robinson would inform them that they were in the process of being redeemed.

²⁵⁷ SRA Report, p.23.

²⁵⁸ Ibid, p.26.

The prosecution described a situation where Robinson supplied Derbyshire Building Society with copy bank statements for Entwistle and certified them as true copies of the originals. The statements were in fact forgeries. Given Robinson's professional standing, the victim lender trusted his certification of the bank statements and verification of the entries on them. They showed a large amount of money going out of the relevant account to Betfair. Robinson dishonestly clarified this to the lender when Derbyshire queried it by saying:

Mark operates a very active Betfair account, which I am intimately aware of...The payments on his bank statements labelled 'advice confirms' are receipts from his Betfair account.²⁵⁹

Based on Robinson's explanation this meant that over a two-month-period, Entwistle had paid £358,000 to Betfair and received £1,579,280 from them.²⁶⁰

Pomroy had previously acted as an accountant for the Rigsby Group but had never been Barker's accountant. Pomroy provided false income details for Barker in two mortgage applications (Counts 10 and 14) and was named as Barker's accountant in others.

He was also falsely named as Peter Entwistle's accountant in other fraudulent applications. He was trusted to provide false information if the victim lender requested further information. Given his ICAEW status the victim lenders would not have questioned the integrity of the financial information he submitted on behalf of Barker. Some did not even require income details from him and relied purely on his ICAEW accreditation.

Entwistle had a close professional and personal relationship with Shon Williams at RBS, a victim in 7 of the 24 counts. Williams was responsible for processing Entwistle's funding applications to RBS, using his experience and influence at RBS

²⁵⁹ In evidence.

²⁶⁰ The prosecution did not offer further forensic evidence as to whether these were net or gross payments.

to identify underwriting weaknesses in order to maximise lending to Entwistle. When RBS underwriters were reluctant to extend further lending to Entwistle or the Rigsby group of companies due to risk exposure, Williams was instrumental in gaining approval of loans to Sweeney Brothers Limited, a company controlled by Entwistle, via Natwest, which ultimately transpired to be fraudulent (Counts 15 and 16).

Williams was able to ensure that Willmetts were instructed to act for RBS/NatWest as well as Rigsby/Entwistle and he was in a position to tip off Entwistle in cases where RBS/NatWest were getting concerned about delays in registration. He was also on good professional and personal terms with Alex Mitchell of Stevens Drake to softly influence him, if required.

7.4.2. Victim targeting

7.4.2.a. RBS and NatWest

RBS was the principal victim lender in the fraud. It was targeted as Entwistle had a good personal and working relationship with Williams and exploited this to extract significant amounts of money from RBS, often subject to little due diligence, and/or via insider influence. On one occasion Williams reported to the bank that Entwistle and/or one of his companies could provide £425,000 towards a purchase price. There was no independent verification of this (Count 20).

On another, Williams stated to RBS's underwriters that £400,000 towards a purchase was to be funded in cash (Count 13). There was no further due diligence undertaken by RBS, in spite of anti-money laundering (AML) regulations. The customer in this instance was Rigsby Poole but the cash contribution actually came from a fraudulent advance in Barker's name relating to another property (Count 4).²⁶¹

When Entwistle could no longer obtain funding in his own name or that of his Rigsby companies with RBS itself, he, with the support of Williams, resorted to forming a 'special purpose vehicle', with Barker as sole director, for use in the fraudulent

²⁶¹ In evidence. Williams also refers to a personal guarantee required of Barker for a mortgage being offered to Sweeney Brothers Limited, "which he is good for". Barker had actually refused to enter the guarantee (Count 15).

applications in Counts 15 and 16 to Natwest. Applications Williams could then process without internal bank interference.

7.4.2.b. Birmingham Misfires, Mortgage Excuse, et al²⁶²

Lenders were targeted by Robinson in the applications he submitted in Peter Entwistle's name, who would not require proof of income for Peter Entwistle to verify the employment and income details stated in the applications. In some instances, Robinson made online applications on behalf of Peter Entwistle (Counts 17, 21, 23 and 24) and paid the valuation fees using his personal credit card to expedite the application (for example, Birmingham Midshires, Counts 21, 23 and 24).

In relation to the applications made in Barker's name, again victim lenders were targeted who would either not ask for further verification of the accounting details provided (Count 4, Count 7 as personal guarantor), or would be satisfied with an accountant's certificate from Pomroy (Counts 10 and 14). In the event an application was rejected, an alternate lender would be identified and targeted. Gilbert says:

Lenders routinely failed to red flag suspicious circumstances to the competition.²⁶³

Gilbert says that Mortgage Express were targeted following their entry to the buy-to-let mortgage market and were seen as an ambitious lender offering innovative products. He says that Entwistle was identified by Mortgage Express's business development managers and ended up with an overall facility of £10,000,000:

²⁶² Nicknames attributed to the lenders Birmingham Midshires and Mortgage Express by the actors and others within the sector.

²⁶³ MSc thesis p.6. Lenders have multiple fraud prevention tools available including reporting to National Hunter and also the FCA's Information from Lenders (IFL) platform where reports can be made on intermediaries involved in mortgage fraud, see: <https://www.fca.org.uk/firms/fraud/report-mortgage-fraud-lenders>

As an ambitious borrower they wanted on their books...they offered him their platinum facility. To Mark this constituted lottery funding and he had every intention of spending it.²⁶⁴

Whilst victim-targeting techniques initially supported reproduction of the fraud with Mortgage Express, a subsequent change in their security protocols led to fraud displacement.²⁶⁵

7.4.3. Organisational dynamics

7.4.3.a. The controlling hand, the indispensable, and others

The prosecution said Entwistle was the controlling hand and the principal beneficiary. Entwistle faced every count in the indictment. He recruited the other actors including those not prosecuted, and determined the subject properties and, in certain instances, the victim lender, by example, RBS and Mortgage Express. He used his façade of wealth and success to dupe lenders into believing that he was a successful entrepreneur and property developer. His status as a pilot lent weight to the appearance of legitimacy. DC Steve Lawrence says:

He is far and away the most intelligent guy as a fraudster I've dealt with.

With you and Philip [Barker] you would never ever have been involved if it wasn't for circumstances. I do feel you were in some way unlucky. I can't believe there are many Marks out there.

The actors were otherwise all known to each other, albeit by earlier introductions from Entwistle, and had developed personal relationships to varying levels. Gilbert already knew Robinson. They were friends and had worked together previously.

²⁶⁴ Ibid p.12.

²⁶⁵ Mortgage Express from about 2007 adopted a more belligerent and proactive strategy for ensuring their mortgages were secured, by employing the services of independent solicitors to reclaim files and threaten sanction if security was not forthcoming, within tightly set timescales. Whilst this disrupted the fraud against Mortgage Express, it led to fraud displacement as other lenders were targeted to support reproduction.

Gilbert introduced Robinson to clients of his living in and around Windsor who Robinson then started acting. It was one of these clients who introduced Robinson to Entwistle, and Entwistle to Gilbert.

Gilbert describes his first meeting with Entwistle at Entwistle's home in central Windsor and feeling impacted by his apparent success and ambition. Entwistle attended the meeting in his captain's uniform having just piloted a long-haul flight and impressed Gilbert with a rundown of his property portfolio and his plans for further expansion.

The various actors' involvement in the fraud was primarily orchestrated by Entwistle. It was Entwistle who provided instructions to the other actors as to what was to be done, and the other actors applied their professional knowledge to ensure that Entwistle's instructions were realised. Although Entwistle's was the controlling hand in the fraud, Gilbert is described as an indispensable part of it. HHJ Beddoe remarked in sentencing:

Entwistle could have achieved almost nothing of what he managed without your avid complicity.²⁶⁶

7.4.3.b. A blind eye, wilful complicity, and entrenchment

Gilbert, however, says that his role evolved from one where initially he turned a blind eye to what should have been obvious to him as an experienced solicitor, to one where he was directly involved with the fraudulent scheme. This evolution went from facilitation to entrenchment. In addition to drawing down the fraudulent mortgage advances and paying them away as directed by Entwistle, Gilbert acknowledges that his role had become essential:

I was now fully aware that properties were incomplete, security was unavailable, and purchase funds were the proceeds of earlier

²⁶⁶ HHJ Beddoe sentencing remarks 21st July 2014.

fraud...my attempts to conceal my involvement entrenched my position further with my professional fingerprints littering the crime scene.²⁶⁷

He adds:

Whereas my initial role was one of facilitation, my involvement now was one of protectionism through security deception. There was no skilful process involved, I merely reacted to events...If a lender lost patience and threatened sanction my attention would turn to them.²⁶⁸

Gilbert says that when he was first asked by Entwistle to release a mortgage advance from Mortgage Express to Entwistle without paying down the mortgage already secured against the property, he considered the risk of detection against the rewards of an expanding client's business, and the potential for kickbacks. His thought processes included:

Firstly, Mortgage Express could be repaid from further borrowing or from sales. Secondly, I could rely on Mortgage Express's willingness to cross collateralise security. Thirdly, the money would be reinvested and yield further equity. Finally, the additional work would be great for fees and would enhance my position and influence within Willmetts.²⁶⁹

In any event, with such a burgeoning empire, there was plenty of opportunity to distract observers and obscure reality if needed. Gilbert initially viewed it as a case of financial juggling.

Gilbert's loyalty was rewarded with a level of inclusiveness as Entwistle would invite Gilbert to attend board meetings and meetings with other professionals including bankers, planners, investors and newly appointed London accountants. Willmetts ran a hot desk at Entwistle's offices which Gilbert and colleagues would work from at

²⁶⁷ MSc thesis, p.9.

²⁶⁸ Ibid, p.14.

²⁶⁹ Ibid, p.15.

least one day a week. This was all beyond his working brief as Entwistle's conveyancer, but further entrenched Gilbert, whilst also giving him false hope that they would be able to turn things around.

Gilbert says he invested his own savings into Entwistle's defective business model:²⁷⁰

I had become intrinsically connected to my client, whilst increasingly disconnected from my firm and the profession.²⁷¹

DC Lawrence believes there should have been a greater difference in the sentences handed down at trial to reflect that Entwistle corrupted Gilbert:²⁷²

There was no doubt who was the brains behind it and then when you looked at the financial...you didn't get a busting lot!

7.4.3.c. High rollers, flying low

Entwistle extended lavish corporate entertainment and hospitality to all of the actors in the fraud and was the main point of contact for all of the actors. There are examples of inappropriate hospitality also, which formed the basis of bad character applications against three actors at trial. Ronald Parsons, a then employee of Entwistle's describes a trip to Weatherby races in Yorkshire at Entwistle's expense, which culminated in a night at Barker's hotel with prostitutes in attendance.²⁷³ It was highly probable that Entwistle contrived such situations in order to have greater control over the participants.

²⁷⁰ It was established in subsequent proceedings in 2015 under the POCA EC2002 that Gilbert had paid Entwistle in excess of £300,000 between 2004 and 2008, a sum that exceeded the rewards Entwistle paid him for his involvement in the fraud. HHJ Beddoe ordered a nil benefit figure against Gilbert with no financial liability owing under the Act.

²⁷¹ MSc thesis, p.23.

²⁷² Entwistle and Gilbert were both given 14 year sentences with Gilbert receiving a 2 year discount on account of his guilty plea.

²⁷³ Witness statement of Ronald Parsons dated 29th March 2012.

7.4.3.d. Friends and family made of straw

Entwistle resorted to the recruitment of straw persons when his inability to borrow threatened the continuation of the fraud. He recruited his close friend Barker initially, to allow applications to be submitted in his name for Entwistle's benefit. Ultimately out of loyalty to Entwistle, Barker allowed applications to be made in his name and also formed Sweeney Brothers Limited on the advice of Williams, with Entwistle, to enable Entwistle to fraudulently obtain funding from Natwest (Counts 15 and 16). DC Lawrence describes him as a "fantastically loyal friend" to Entwistle. DC Burleigh describes it as:

A loyalty thing everyone had to him [Entwistle].

Entwistle knew that Robinson would submit false mortgage applications in Peter Entwistle's name on Mark's instruction and would provide fictitious income details and dispense with the proper identification checks. Gilbert says Entwistle:

Regularly required the support and assistance of a corrupted broker who would add authority and detachment to the dishonesty.²⁷⁴

Zoe Monk was a financial adviser, initially working for Toby Joyce Associates, but latterly employed by Entwistle at Rigsby Finance Limited. Three of the counts in the indictment relate to fraudulent mortgages processed by Toby Joyce Associates in the name of Entwistle (Counts 2, 3 and 8).²⁷⁵ Four counts related to mortgage applications processed by Monk at Rigsby Finance Limited in the name of Barker, all citing Pomroy as Barker's accountant. Pomroy says it was Monk who asked him to help Barker to catch up with his accounts and provide references for Barker.

DC Lawrence refers at interview to the need to set parameters to the police investigation. He says Monk refused to attend court and give evidence. DC

²⁷⁴ MSc thesis, p.6.

²⁷⁵ The witness statement of Philip Martin dated 10th September 2010 refers to Monk directly facilitating the release of a £500,000 retention from Heritable Bank plc, victim lender in Count 8.

Lawrence wanted to arrest her but says he was outranked on that decision.²⁷⁶ He recalls taking a witness statement from her colleague, Toby Joyce:

I remember getting witness statements from him and it just didn't sit quite right with me but I needed the witness statement...I think there was much more of a case for Zoe to be honest.

It was the intervention of Barker's personal assistant, Susie Winder, that ceased the further involvement of Barker. Barker was unable to have this conversation with Entwistle himself. Winder emailed Entwistle saying:

Now he [Barker] is in a situation where it has been suggested to put another twenty mortgages in his name and yet the existing ones are being returned unpaid each month.²⁷⁷

Entwistle tasked Robinson with responding. DC Lawrence says:

Robinson as far as I'm concerned is a villain and a crook.

DC Burleigh says he is:

Cut from the same cloth as Mark.

Once Barker was no longer an option for further fraudulent mortgage applications Entwistle recruited his own brother, Peter, to take Barker's place. Peter Entwistle was ideally placed to put his name to these applications and to financially assist his brother once Entwistle was unable to obtain further funding in his own or his companies' names. Peter was also loyal to his brother, believing vehemently that Entwistle would turn things around.

²⁷⁶ The witness statement of PC Richard Bates dated 19th February 2013 also refers to Monk destroying files.

²⁷⁷ In evidence.

7.4.3.d. The numbers man and the inside man

Pomroy had been Entwistle's accountant since he relocated from the Midlands to the Thames Valley, where Pomroy had his practice. Gilbert recalls attending a meeting with Pomroy at his offices, where Entwistle and Pomroy enjoyed banter over the complexity of Entwistle's tax affairs, or more specifically, their non-existence. Entwistle regularly joked that 'tax was what kept carpets down'.

Pomroy was a reliable professional agent for Entwistle and provided information and false accounting documents for applications made for fraudulent mortgages in the name of Barker for the benefit of Entwistle. Pomroy enjoyed acting for Entwistle and had a love of gambling and horse racing that provided them with a common link.

The prosecution alleged that Williams became far too close to Entwistle and his role within the bank in his dealings with Entwistle went beyond what was the norm for his actual position. Williams enjoyed hospitality from Entwistle and received unauthorised payments and home improvements from Entwistle. As well as rewarding Williams for his services, these payments, in Entwistle's mind, drew Williams into the conspiracy. A position that would firstly, benefit Entwistle in the continuance of the fraud, and secondly, in the event of detection, it would provide him with someone else to share the blame.

Subsequent to the fraud being detected, there was an internal investigation into Williams at RBS. Williams said to investigators that Entwistle was "entrepreneurial, persuasive, and convincing" but pushed the boundaries:

I have known many property clients and almost without exception they would have had to *sail close to the wind* to conclude deals at various points in their careers. I didn't believe Mark Entwistle was any different.²⁷⁸

²⁷⁸ In evidence.

7.4.4. Local bad character referrals

All of the actors in the fraud were well known to Entwistle and in terms of Gilbert, Robinson and Pomroy, they had all acted for him professionally on previous occasions. Gilbert was at the time solicitor for Entwistle, and his companies and he and Entwistle had regular dealings on all of his property matters. Entwistle was, in terms of volume of work, a valuable client.

The offending period coincided with a mortgage frenzy in the financial markets where lenders competed aggressively with one another and where innovative products were offered to applicants. Gilbert said:

Matt [Robinson] at this time was so prolific at securing inflated mortgages that he was...acting for dozens of Windsor residents.²⁷⁹

Robinson knew that a lot of Gilbert's clients (some of whom Robinson also acted for) were engaged with similar mortgage products. There developed patterns of professional representation between the actors where legitimate and illegitimate business co-existed, most notably, fraud for property and fraud for profit.²⁸⁰

Between 2005 to 2007 Entwistle used Monk to process mortgage applications and set up a subsidiary company named Rigsby Finance Limited²⁸¹ (Counts 4, 10, 12 and 14). It was Monk who introduced Entwistle to a 'reliable' printer who could, for a fee, create forged bank statements. These forgeries would propel Entwistle's fraudulent objectives. Gilbert says:

Mark would routinely procure false income references from his accountant, forged bank statements, fictitious tenancies at excessive

²⁷⁹ MSc thesis, p.9.

²⁸⁰ One tactic used by Robinson for his Windsor clients was 'sale-boarding', where legitimate 'For Sale' boards of local estate agents were removed the night before a valuation so that the valuer could not rely on any direct confirmation of a sale price from the agent that conventionally dictates a valuation figure.

²⁸¹ The company name was subsequently changed to Burlington Finance Limited to distance Entwistle from the brokerage which was processing mortgages on his behalf.

rentals and otherwise dishonestly reply to further enquiries of lenders.²⁸²

Entwistle also engaged the services of a Countrywide valuer who would overvalue properties within Entwistle's portfolio.²⁸³ Entwistle was, however protective of his wider cohort of enablers, although his valuer was made available to Robinson in order to retain overall control.

Gilbert describes an occasion where Bank of Scotland allowed Countrywide to act as valuer on Entwistle's recommendation, rather than 'commercial valuers of repute' for valuation of a £3,000,000 commercial property.²⁸⁴ The valuation report when received by Entwistle was insufficient as it was prepared as a basic valuation of a residential house or apartment and only ran to two pages. As a result, Entwistle spent the weekend preparing his own report, which he did on Countrywide notepaper, and which ran to thirty pages.²⁸⁵

A former FCA enforcement officer who participated in the study describes his experience of surveyor complicity in mortgage fraud, saying:

Complicit surveyors would happily confirm whichever value they were asked to. In one case, I recall that the surveyor left blank valuation forms with the broker, for the broker to complete as they wished.

Gilbert also acted for a multi-millionaire former car dealership owner. This client became aware of Entwistle's rapid expansion in the Thames Valley property market and asked that Gilbert introduce the two of them. The two clients became friends and

²⁸² MSc thesis, p.6.

²⁸³ The valuer was subsequently expelled from membership with RICS but for dishonest misconduct unrelated to Operation Cassandra and Entwistle generally.
<https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/regulation/panel-hearings/disciplinary-panel-hearings/derek-porter-disciplinary-panel-hearing-11-12-october-2018.pdf>

²⁸⁴ Countrywide were predominantly a residential valuation business.

²⁸⁵ Valuation abuse here against Bank of Scotland plc did not form part of the indictment.

ostensibly partners in business, where loans of £1,000,000 would be regularly advanced to Entwistle in return for a large repayment levy.

7.4.5. Criminogenic culture in the workplace

7.4.5.a. Entwistle and Rigsby Group

When Gilbert first started acting for Entwistle, he employed a personal assistant who managed his properties from a small office in a building that he owned. Within a period of four years Entwistle employed over thirty staff operating from upmarket offices he had bought opposite Windsor Castle. His staff were loyal and well rewarded as Entwistle paid them above market rates and treated some to the sort of hospitality that he was offering his fellow actors. Gilbert recollects that eyes would roll and mock eyebrows were raised in certain circumstances surrounding Entwistle's business dealings. He was considered a likeable rogue by his staff, all of whom would unquestionably act on his instruction.

Notwithstanding, there were limits to what some would do. Daryll Callum, a former employee, says Entwistle wanted one property to be flooded and the copper ripped out of it in order to raise quick cash and to support a claim to insurers. Callum noticed that the locks had been changed at the property by one of the banks that had advanced money on the site and refused then to do so. He says:

This made me think that Mark was corrupt.²⁸⁶

7.4.5.b. Gilbert and Willmet

Having started working at Willmet, Gilbert was asked to work from the Woodley office, close to Reading. He recalls on his first day questioning his decision to join the firm as there was nothing to do, the filing cabinets in his office were empty. He was instead tasked with knocking on estate agents' doors, chasing leads and hustling to survive.²⁸⁷ He says:

²⁸⁶ Witness statement of Daryl Callum dated 29th March 2012.

²⁸⁷ Gilbert joined Willmet in 1994 during a moderate slump in the property market. Willmet were making other conveyancers in the practice redundant.

The responsibility placed on me to be hunter, gatherer and practitioner unquestionably changed me both as a person and a solicitor...my ethical and professional naivety also meant that I was unaware of predators targeting me.²⁸⁸

The firm's ethos was driven by an 'eat what you kill' mentality. The more you billed, the more you earned. Gilbert had some success in bringing business into the firm, including a number of Reading based property developers who, following a swift apprenticeship, applied pressure to achieve their own business objectives.

By conforming to what was expected of me I handsomely exceeded my monthly targets and built my practice. The alternative I feared would have been failure and unemployment...there were no prizes for ethical performance.²⁸⁹

Governance and control within the firm was poor, the culture and management of the firm was also deficient. By example, a number of the partners drank heavily: this included lunchtime sessions to which Gilbert was invited. Gilbert says:

There existed no moral compass to otherwise guide me. The partners were preoccupied by my fee income and expanding client base and had little interest in offering any tutelary support.

If I did ask for ethical guidance, issues would be trivialised, [and] they would regale stories of their own dubious transactions.²⁹⁰

Through socialising with his partners, Gilbert became aware of the means they would go to in order to secure their monthly drawings. On more than one occasion Gilbert heard how a partner at the Windsor office would dummy bill a large probate matter that he acted on to pay the partners' drawings, although no actual work had

²⁸⁸ MSc thesis, p.19.

²⁸⁹ Ibid.

²⁹⁰ Ibid, p.28.

been attended to. It was the firm's culture and Gilbert's socialisation into the profession that led, firstly to his ethical slippage, secondly to professional misconduct involving dishonesty, and thirdly to his complicity in fraud. Gilbert says:

Money laundering checks were non-existent, client care letters non-compliant...and problem files 'lost' when required by the firm's auditors.²⁹¹

In 2006 the SRA commenced an investigation into the firm. Senior partner Nick Powe's attitude to the investigation was, 'Let's make sure they don't find anything, if they do then we'll throw the fucking sink at it'. Gilbert was fortunate not to have been referred to an SDT following the investigation as a result of issues found on his files.²⁹² Gilbert says:

My saviour came from the very person that should have been the firm's gatekeeper.²⁹³

Berryman deliberately mis-spelt Entwistle (as 'Entwhistle') to avoid problematic ledgers being brought to the investigator's attention.

Gilbert had a loyal team of assistants working for him who would warn him of any issues brewing with his partners, particularly in cases where he had been out of the office on leave. Gilbert says of his departmental staff:

They undoubtedly witnessed the professional and ethical compromises I was making.

²⁹¹ Ibid, pp.25-26.

²⁹² At this point in 2006 the value of the fraud would have been less than £5,000,000, of which a significant proportion would have been settled by an uplift in the value of the portfolio and option agreements maturing on development properties.

²⁹³ MSc thesis, p.28.

If Melvin or Nick were gunning for me, I'd be warned of their grievance and supported by my colleagues...loyalty my conduct was undeserving of.²⁹⁴

Gilbert's staff were empathetic and supportive, and were aware how stressful it was working for Entwistle. Two colleagues worked closely with Entwistle from the hot desk at Entwistle's offices and witnessed fraudulent transactions, yet remained loyal and supportive to Gilbert and Entwistle. It was this allegiance, coupled with the ethical detachment of his fellow partners, that served in part to counteract the mental anxiety of Gilbert's ongoing participation.

7.4.5.c. Robinson and David Elliot

Robinson ran David Elliot from offices he owned on the Thames at Richmond. He used support staff in a way that would shelter him from some aspects of the fraud and, as with Entwistle and Gilbert, there was deference on the part of staff. By example, Mark Tucker, received and acted on false information provided to him by Robinson. Tucker said:

It was accepted by all of us that if the client was well known to Matt and he had obtained the documentation we would be the one that endorsed it as it was us that were processing the applications and not Matt.²⁹⁵

Robinson says he never met or spoke with Peter Entwistle; he says Tucker did. Tucker denies this and says all the details, including the identification he received, came from Robinson. Peter Entwistle was based in Warwick. Tucker acknowledged at police interview that he knew this was not entirely ethical but clarifies it by saying that Robinson was:

²⁹⁴ Ibid, p.53.

²⁹⁵ Witness statement of Mark Tucker dated 17th November 2010.

...the boss and registered with the FSA and we had no reason to doubt anything he told us. I believe we wouldn't have lasted very long if we had declined to verify details Matt had supplied us with.²⁹⁶

Wendy MacMillan, an employee of Robinson states that there were:

Several cases where all identity requests had to be referred to Matt Robinson.²⁹⁷

There was also a lack of objective due diligence on the part of staff. In relation to two loans where the valuations were insufficient to meet the loan requested, Tucker says he was told by Matt on each occasion to proceed to offer on the revised figures (Counts 21 and 24). He did not independently verify the source of the shortfall in funds.²⁹⁸

Laura Williamson, Robinson's office manager, and then sister-in-law, states:

I became aware that Mark had got back in touch with Matt and wanted his help in securing loans on his properties but in other people's names.²⁹⁹

She says initially she understood this was to be in Laura Jane Hill's (Entwistle's partner's) name but that two loans were then drawn in Barker's name instead (who she knew to be a friend of Entwistle and Robinson), and then further loans in Peter Entwistle's name. She says:

Everything was very disjointed; Matt would drip feed us information.

²⁹⁶ Witness statement of Mark Tucker dated 17th November 2010.

²⁹⁷ Witness statement of Wendy MacMillan dated 19th September 2011.

²⁹⁸ Two mortgage offers for Peter Entwistle on the same property were applied for by Tucker virtually simultaneously (Counts 23 and 24). Tucker says in his witness statement he 'assumed' one offer was more attractive than the other and Peter Entwistle would have chosen between them rather than proceeding with both. He does not appear to have verified this.

²⁹⁹ Witness statement of Laura Williamson dated 8th August 2011.

Matt dealt with all other matters directly with Mark Entwistle, Jonathan Gilbert and I presumed Peter Entwistle, I am sure this was due to their good friendship.³⁰⁰

Williamson says:

I specifically recall 180 & 182 Cherry Tree Road, Beaconsfield as I knew that two loans were drawn down on one of these properties. I remember asking Matt what was happening with the second loan that had been drawn and him saying Jonathan Gilbert was sending the funds back to the lender.³⁰¹

7.5. Facilitative influences in the financial services sector

7.5.1. Competition and shared dispositions amongst lenders

The offending period in Cassandra (2005 to 2009) coincided with the property and mortgage boom and bust, the latter the consequence of the financial crisis. Between 2002 and 2006 Entwistle's business model exploited weaknesses in lender's underwriting practices alongside fraud to expand his business. This included targeting the self-certified mortgage sector. Gilbert says:

My early career coincided with the age of self-certified mortgages or 'liar loans' [this] created a systemic culture of fraud across the mortgage market...playing ignorant was easy.

Had I taken a position of principle I would have lost a large proportion of my practice in one stroke. Everyone played the fraud game.³⁰²

A former FCA enforcement officer who participated in the study describes how:

³⁰⁰ Ibid.

³⁰¹ Ibid.

³⁰² MSc thesis, p.9.

Structural weaknesses in the mortgage process were open to abuse, for example lenders recouped costs from insurers rather than investing in risk controls.

Gilbert refers to both Northern Rock and Bank of Scotland as lenders who would advance mortgage offers equalling, and in some cases, exceeding the purchase price or valuation. Northern Rock would also add to the loan the cost of stamp duty and Bank of Scotland would provide a cheque book facility equivalent to a further five percent of the advance. It was widely known which lenders to target if the borrower wanted to put very little deposit down or to take further equity out. Both lender and borrower gambled on property values increasing.

Notwithstanding subsequent shrinkage in lending following the financial crisis, Entwistle et al. continued to expand, purchasing properties that included a block of ten residential apartments, and a row of three Georgian mansion houses in Windsor. The strategy was to recycle existing fraudulent debt, whilst also creating more opportunities for concealment. Gilbert says:

My subsequent offending as the banking crisis hit, was very different and resembled extreme fire-fighting.

Mark's fraudulent business model was now at the point of no return...inevitably lenders were calling in their loans.³⁰³

To fully identify the impact competition and shared dispositions amongst lenders had on the reproduction of fraud in Operation Cassandra, this section is divided into conditions and factors that can be identified pre-completion of the mortgage and those conditions and factors relevant post-completion.

³⁰³ Ibid, p.63.

7.5.1.a. Pre-Completion conditions

Entwistle and his companies provided a significant amount of business to RBS, both legitimate and illegitimate, and Williams and colleagues earned substantial bonus payments, equating to one hundred percent of salary. Accordingly, there was a desire certainly from Williams and RBS, not to lose Entwistle's business. As a consequence, high value loans were approved on the basis of unverified information. Special purpose vehicles were also set up by Entwistle, at Williams' direction, utilising Barker's creditworthiness, for loan applications to Natwest to circumvent due diligence and prudential risk safeguarding at RBS/Natwest. These strategies supported the reproduction of fraud.

Mark Gidman, Williams' manager at RBS refers to a requirement for pre-sales before the completion of funding on one site (Count 20). He says:

I inform Entwistle that the £2,000,000 in pre-sales need to be evidenced as a condition of the advance by confirmation from Jonathan Gilbert that he holds deposits from the purchasers and that they have the ability to complete.³⁰⁴

Within one and a half hours Gidman says Entwistle claimed he had pre-sales of over £3,000,000 and that Gilbert would confirm. The relevant information was emailed to Gilbert and Williams and Gidman says "it would be assumed that this information is accurate and true".³⁰⁵ Without further verification the loan was advanced the following day.

Norman Langford's name was on the list of pre-sales provided by Entwistle. He says he never negotiated any such purchase or paid any deposit to Gilbert. He adds:

³⁰⁴ Witness statement of Mark Gidman dated 12th July 2011.

³⁰⁵ Witness statement of Mark Gidman dated 17th December 2012.

The document also states that I purchased Trinity Place, Windsor from Mark. Again, this is a total fabrication. To the best of my knowledge Jonathan Gilbert lived in this property.³⁰⁶

Langford actually sold 1B The Grove, Woking to Entwistle (Counts 6 and 7). He also notes Monk and another employee of Entwistle's, Zack O'Sullivan were both on the list of purported purchasers. Sir Stuart Burgess was listed as a purchaser also. He confirms in his witness statement that he never registered to purchase any apartment at the site or paid any deposit, neither did he know Entwistle.³⁰⁷

Victim lenders were targeted who would accept online applications and, in the case of Peter Entwistle, who would not request further evidence of income. Where the applicant was Barker, similar tactics were employed and on the only two occasions where further evidence of income was requested, the targeted lender accepted a false accountant's certificate without further proof (Counts 10 and 14). The victim lender in Count 14 only queried the figures provided when the mortgage payments fell into arrears referring to manuscript figures which appeared to have been altered. Pomroy replied stating that he would have made those changes and commenting:

The client supplied us with a number of spreadsheets of his various trading activities, which were on the whole very profitable.

There is nothing to suggest the lender took the matter further (Count 14).

Gilbert says Birmingham Midshires was widely known as 'Birmingham Misfires' due to its reputation for lack of due diligence.³⁰⁸ At the point late in the currency of the fraud where it was becoming increasingly difficult for Entwistle to obtain further borrowings, even in other people's names, Gilbert says:

³⁰⁶ Witness statement of Norman Langford dated 12th December 2012.

³⁰⁷ Witness statement of Sir Stuart Burgess dated 13th December 2010.

³⁰⁸ Robinson paid the valuation fees for the fraudulent applications in Peter Entwistle's name on his own credit card. This was not queried by Birmingham Midshires.

Birmingham Midshires (or Misfires as they were known due to lax underwriting) were still lending and these funds were used in a vain attempt to recycle fraudulent debt.³⁰⁹

Notwithstanding its desire to lend whilst other lenders withdrew, risk was exacerbated by failures to undertake basic pre-completion checks. By example, there were a number of fraudulent applications where significant additional funds would have been needed for completion. One application for Peter Entwistle stated that a £390,000 deposit was to be paid out of his savings. There was no independent verification of this and no indication as to where the Birmingham Midshires anticipated the remaining funds to come from. The application also said he held no other mortgages (Count 23). Failures of verification as to the source of deposit funds were also seen in Count 17 and 21. The victim lender here, Birmingham Midshires, failed to verify combined shortfalls of approaching £2million across the three mortgage advances.

Steve Wood of UCB in his witness statement describes an underwriting credit search on Entwistle raising three high risk referral codes. The underwriter did not have a mandate to override the scores and they were referred to a senior manager, who opted to override the credit score based on the fact that Entwistle was:

An experienced landlord who had a portfolio of properties that were all maintained well [and the portfolio] appeared to be self-financing.³¹⁰

The lender's charge was registered on this occasion but gave rise to Count 6. A retrospective valuation of the property valued it at £525,000. It had been valued at £650,000 by Countrywide.

Gilbert provides further examples of lack of due diligence on the part of lenders. He cites a Mortgage Express advance to Entwistle which Gilbert held on account at Willmetts for three weeks. When Gilbert advised the victim lender that he hadn't

³⁰⁹ MSc thesis, p.13.

³¹⁰ Witness statement of Steve Wood dated 28th October 2009.

completed the remortgage the lender's response was that he needed to inform the client that they would be charged interest. There was no challenge or enquiry as to the status of the transaction, neither did the lender request repayment of the advance.³¹¹

Gilbert explains that Mortgage Express's strategy evolved during the period of offending. Entwistle was identified by Mortgage Express as an ambitious borrower they wanted on their books, offering him after six months their platinum facility of £10,000,000:

To Mark this constituted lottery funding and he had every intention of spending it; "Jonny just think what we can do. We'll clean up!"³¹²

Northern Rock, who had been the first lender to be hit by the crisis and was subject to a run on its bank in August 2007 due to fears that it was facing collapse, continued to lend to support securitisation, the economic model on which its business was based.³¹³ It advanced, in October 2007, a £3,500,000 loan applied for in Barker's name, notwithstanding its valuer's unequivocal instruction to retain the full amount until the property was completed (Count 10).

The property, at the point of the advance, had only been completed to the first fix, where internal surfaces were ready for the second fix comprising fixtures and fittings, such as bathrooms and kitchen. The full retention was lifted following the intervention of Monk who telephoned her contact at Northern Rock.

DC Stephanie Burleigh says of mortgage fraud:

Often it always came down to well if the bank had done their job properly or if they'd done this check or they'd just done that check it wouldn't have happened.

³¹¹ The transaction fell outside the indictment.

³¹² MSc thesis, p.12.

³¹³ <https://publications.parliament.uk/pa/cm200708/cmselect/cmtreasy/56/56i.pdf>

When we were working at the peak anyone could get mortgages couldn't they, they were two a penny.

DC Steve Lawrence adds:

It is criminal that the training is so poor and there's so little checked. These institutions would be well advised to have an arm that actually checked; does this place exist? Is this person going to be there? A few simple checks that would save them thousands, millions of pounds.

He further believes that some lenders leave themselves susceptible to victimisation and have ineffective fraudproofing tools available, or simply choose not to use them. He says:

They are not policing themselves. They cry wolf when it all goes wrong. This is one of the reasons why mortgage fraud was never something we really ever took on.

He also believes that lenders turn a blind-eye to fraudulent mortgages on their books if the mortgage is being serviced each month, only then reporting fraud to the police when it all goes wrong and they are exposed to financial loss. He adds:

We then say, no, go away!

7.5.1.b. Post-completion conditions

Gilbert made extensive use of 'TBA' in reference to title numbers on the Certificates of Title he sent to the victim lenders. This appears to have gone largely unchallenged, but on the couple of occasions a lender did query it, Gilbert's response was to say that the property in question was unregistered (Counts 4 and 12). There were significant delays in some instances in registering charges to allow for title splits. These delays were on occasion up to nine or fourteen months (Counts 4 and 5, Count 3). It is unclear why such significantly long delays did not alert the

lenders to something being wrong. The time delays were not queried by the Land Registry either.³¹⁴

Chasing letters were sent addressed to the 'Senior Partner' at Willmetts on multiple occasions where victim lenders were concerned as to the security for their mortgage advance.³¹⁵ These letters went directly to Gilbert as the conveyancing partner in his office and, as Berryman confirmed, each Willmetts office operated autonomously. (Counts 9, 15 and 16).³¹⁶ On four of these occasions the lender was RBS/Natwest and the letters had been sent because the bank had actually made its own Land Registry checks and found that its charge had not been registered. Gilbert was able to respond to these letters himself without anyone else's knowledge and the bank appears to have taken no further action.

In the case of Count 15, the title showed that the property was not registered in the borrower's name and there was an existing charge on the title to another lender.³¹⁷ In relation to Count 16 Natwest chased its security between the end of April 2008 and the end of February 2009, wrote to the 'Senior Partner' and made several Land Registry checks of its own which confirmed it had no security.³¹⁸ Here the bank was told by Gilbert on two occasions, six months apart, that the situation would be rectified within 28 days.³¹⁹

³¹⁴ FSA's 2011 review *Mortgage fraud against lenders* identified that delays in solicitors registering charges over property with the Land Registry was a key mortgage fraud indicator. <https://www.fca.org.uk/publication/archive/fsa-mortgage-fraud-lenders.pdf>

³¹⁵ One occasion not indicted but gave rise to Count 6. The lender here, UCB, was given security in place of Mortgage Express because they had sent repeated reminders to the 'Senior Partner'.

³¹⁶ Count 16 relates to 10 and 11 Park Street, Windsor, where individual chasing letters were sent by NatWest.

³¹⁷ The title was in fact registered in Mark Entwistle's name where prior to this advance RBS had stopped lending to him, hence the use of Williams' recommendation of a 'special purpose vehicle' and Barker.

³¹⁸ Witness statement of David Hewitt dated 21st July 2010.

³¹⁹ Notwithstanding issues with security, NatWest released multiple instalments of connected development finance between July 2008 and February 2009 for 9, 10, and 11 Park Street, Windsor (Counts 15, 16).

RBS, in one instance, chased its security from August 2007 to March 2009, without success despite having written to the 'Senior Partner' in August 2007 and being advised in April 2008 that the 'supervising partner' was now dealing with the matter, and having made Land Registry checks of its own which confirmed there was no security in place (not in the indictment).

There is a similar pattern with other lenders also. Santander chased security on a loan to Peter Entwistle and, despite waiting over two months for a reply, then diarised the matter for review in a further six months (Count 17).³²⁰

Contrast this with examples given by the prosecution of bridging finance loans obtained by Entwistle in relation to some of the properties comprised in the indictment. Here, the relevant lenders had independent legal representation and retained control of the funds and the transaction, including security for the loan. In these instances, the relevant lender on each occasion received the appropriate security and within a reasonable time. These loans were also fully redeemed (e.g., Orsett House; Credit & Mercantile and Cheval, 9 Park Street; Cheval).

Although Mortgage Express was lax with its due diligence and underwriting protocols, it was one of the first lenders to adopt an increasingly belligerent and proactive strategy for chasing security.³²¹ This resulted in a disruption to their victimisation but a reproduction elsewhere to redeem their fraudulent mortgages to avoid detection.

7.5.2. Regulation, guardianship and controls

7.5.2.a. Regulatory response

The SRA undertook an investigation into Willmetts in 2006. The investigation was the consequence of complaints made by clients against Powe, who managed the firm's Woodley office, and a complaint from a former solicitor of the firm, Michael Lyons,

³²⁰ Witness statement of Tracey Carr, date unknown in evidence.

³²¹ This change in policy is likely to have been a response to UK investment market's requirement for improved scrutiny of security as a consequence of credit reference agencies' verification of the securitisation model in the US mortgage markets.

who had been made redundant six months earlier.³²² Lyons' complaint centred on bad practice and misconduct within the firm, which included acting for both parties to a transaction, constituting a potential conflict of interest.

A forensic investigator visited the Reading office by written appointment in March of 2006 and commenced the investigation. Accounting software was used to identify dormant balances and ledger peculiarities. By example, a longstanding client balance on a conveyancing matter could be indicative of an unspent disbursement, such as a Land Registry fee.³²³ This would then indicate that registration had not been affected. Fee earners, predominantly conveyancers, across five offices, were requested to produce files that were flagged up by the investigator for further examination. Gilbert was asked to provide in excess of a dozen files, some of which included Entwistle matters.

After five days the investigation was adjourned for four weeks. Ahead of returning, the investigator wrote to Berryman and set out a number of requirements for his return, one of which was that *all* Entwistle ledgers were to be provided for examination. On his return, Berryman produced a printout of all Entwistle ledgers but had deliberately mis-spelt Entwistle, as 'Entwhistle', to avoid additional problematic ledgers being brought to the investigator's attention. Despite this, two Entwistle mortgage files were flagged up by the investigator.

Gilbert was telephoned by Berryman who was in the presence of the investigator and asked whether there was an existing mortgage on the relevant property as the mortgage advance had been paid directly to Entwistle. Gilbert replied, "no". Berryman hung up but later called Gilbert back saying:

³²² Lyons was subsequently struck off and prosecuted for fraud whilst working as a sole practitioner with his wife Kelly Lyons <https://www.solicitortribunal.org.uk/sites/default/files-sdt/11435.2015.Lyons.Lyons.pdf> <https://www.kentononline.co.uk/canterbury/news/michael-lyons-and-kelly-lyons-convicted-of-fraud-160275/>

³²³ Gilbert was not aware of this investigative tool ahead of the investigation and had a large number of dormant ledgers across his client base. Having been made aware of this Gilbert would subsequently draw a client account cheque and send a chit for such files to accounts to show the disbursement as paid. The cheque would, however, remain on file as the security was not capable of being registered.

You fucking owe me Jonny. You are a lucky boy!³²⁴

DC Lawrence says the scale of the case was not immediately apparent until they started looking at the Entwistle and Rigsby ledgers at Willmetts. He says:

At that point we really only thought it was the RBS was our main concern. It was only when we started to look at the ledgers and it became pretty obvious.

In a transaction in October 2008, where Willmetts acted on both sides of an Entwistle sale, Gilbert, on completion failed to redeem an existing mortgage on the property. This was subsequently flagged up by his more junior colleague who acted for the buyer. The files were requested by Berryman for rectification and Gilbert's office supervisory authority was withdrawn by his partners. However, funds were subsequently drawn down from an unrelated Barker ledger (not in the indictment) in order to redeem the existing mortgage. Gilbert was challenged by Berryman about this at a partners meeting, but the matter was not pursued further by the partners. That same month Powe wrote to Gilbert on several matters of concern across the firm, including issues within Gilbert's department. The letter concluding that:

You will get over this, but we need to be very focussed so do not get bogged down with Entwistle etc. in the short term.³²⁵

Following Gilbert's resignation in March 2009 the remaining partners reported their concerns to the SRA, which commenced an investigation that led to Gilbert being struck off the Roll of Solicitors in 2010. Gilbert says that when he was eventually interviewed by the SRA in May 2009 it was clear to him that the focus was specifically on him and his actions and not any organisational dynamics:

³²⁴ MSc thesis, p.29. Note: It is not suggested here and at this point that Berryman was aware of fraudulent misconduct, but it is suggested that he was aware that Entwistle matters would be problematic for Gilbert (and the firm) if detected.

³²⁵ The letter was dated the 18th October 2008 and personally delivered to Gilbert's residence at Trinity Place, Windsor.

Investigators had no desire or appetite to understand motivation...client pressure and firm culture [instead it] constricted itself to the individual focus.³²⁶

During the investigation that followed, Gilbert kept in touch with colleagues who remained friends, and who told him that Berryman directed support staff to isolate evidence that would only incriminate Gilbert and not implicate the remaining partners.

Tucker says of David Elliot that in 2009 the business received notification from Birmingham Midshires that they were unhappy with the quality of their referred business:

I was very surprised by this and as they were the principal lender we used for Buy-to-let mortgages it was obvious the business could not continue.³²⁷

He says that Pink Home Loans took all of their mortgage files then, including the Peter Entwistle ones, of which there were sixteen in total. It is unclear whether Pink Home Loans took the files in response to the actions of Birmingham Midshires or a wider investigation, or whether any compliance issues were detected by them prior to this.

Robinson was not disciplined by the FCA and is listed as no longer being in a role requiring regulatory approval.³²⁸ There is a suspension note relating to David Elliot.³²⁹

³²⁶ MSc thesis, p.34.

³²⁷ Witness statement of Mark Tucker dated 26th August 2011.

³²⁸ <https://register.fca.org.uk/s/individual?id=003b000000KSppzAAD>

³²⁹ <https://register.fca.org.uk/s/firm?id=001b000000MgBqwAAF>

Pomroy was excluded by the ICAEW as a result of his criminal conviction, and not as a consequence of an investigation into his regulated activities.³³⁰

7.5.2.b. Law enforcement response

DC Steve Lawrence and DC Stephanie Burleigh agree that resource was woefully low at the outset of their investigation into Entwistle, Gilbert, et al. Another major investigation into the fraudulent activities at the Reading branch of Halifax Bank of Scotland, Operation Hornet, was being conducted by TVECU at the same time which DC Lawrence says both were:

The two biggest jobs we've ever had come in together...you can cope with these jobs if they come in three or four years apart.

The decision after Operation Hornet, which cost £7,000,000 to investigate, was not to take on like cases again.³³¹ DC Lawrence commends his former Detective Inspector for taking on Operation Cassandra. DC Burleigh says that management's decision-making was becoming based more on expediency than the seriousness of offending. By example, the recovery of proceeds of crime was prioritised and where there was evidence of money laundering, then this would generate quicker outcomes. She says of Operation Cassandra:

It was seen as a corporate case...they don't do these anymore.

The argument was always look how long these fraud cases are taking, up to four years. We can get a money laundering case in and out of court within six months.

³³⁰ <https://www.icaew.com/-/media/corporate/files/about-icaew/what-we-do/protecting-the-public/disciplinary-orders/december-2016.ashx?la=en>

³³¹ <https://www.thamesvalley-pcc.gov.uk/news-and-events/thamesvalley-pcc-news/2017/01/operation-hornet-statement-from-police-and-crime-commissioner/>

However, it was their collaboration with KPMG, receivers for the Rigsby Group, and the principal victim RBS that was the catalyst in the early stages of the investigation.³³² DC Lawrence says:

Luckily, we had Emma [Hau, an accountant seconded from KPMG] who really saved us a year's work... She quickly got all the bank accounts in an order where we were able to have a search facility that was at that point way out of the grasp of what us as detectives would have had.

We had access like I've never had on another case to banking information. RBS basically gave me an access that I have never experienced before from a bank.³³³

However, the volume of evidence they needed to obtain from RBS was overwhelming, particularly in terms of email traffic, and this nearly toppled the investigation. DC Burleigh says:

Those emails were too big for the police in the end that's why we had to go to an outside company so that just shows that the police didn't have the capacity to trawl through all of RBS's emails like we needed to. That nearly killed the case those emails, just the quantity of them.³³⁴

DC Burleigh believes that a good working relationship with the barristers instructed by the CPS improves the likelihood of convictions at trial, certainly in highly complex cases of fraud:

We had such a good rapport with them right from the start. They were open to Steve's suggestions. They respected Steve for knowing the

³³² By example, evidence on complex money flows was primarily collated and presented using the expertise and resource of KPMG.

³³³ Initially Williams was their go to for witness statements from RBS until an anonymous letter prompted an internal inquiry relating to work Entwistle carried out to Williams' house.

³³⁴ The disclosure was requested by Entwistle as a means to overburden the investigation.

case so well. That case did particularly well at court because of the relationship between the barristers and Steve.

She adds that this is not always the case.

Notwithstanding their collaborative efforts, DC Lawrence says that investigative parameters still needed to be set that excluded other parties of interest, particularly where tactically those parties were needed as prosecution witnesses. There were also the two severed counts against Charalambous and Tilemachou, who were subsequently acquitted. DC Burleigh says their trial was prejudiced by the absence of Entwistle from the dock and a reduction in resource:

If we'd have had those two in with the main trial, they would have been found guilty for sure. The evidence was overwhelming.

The jury kept asking things we couldn't answer which is another thing with trial separation.

DC Lawrence refers to another fraudulent property transaction involving Charalambous and Tilemachou, in this case involving another solicitor. He wanted to widen the investigation but was outranked.

I wasn't happy with Healys [solicitors] either. We were told we don't want to go down that line. I thought if I had two transactions with Entwistle involving that same family it may add weight to the one we were looking at.

We had to pare it back. We got to the mid £30,000,000 and the sentencing was never going to be any higher if we went and we went up another £20,000,000 it wasn't going to make any difference to that at all, it was only going to add more time to the investigation and a longer time to the trial. I accepted that had to happen.

Notwithstanding their successful prosecution DC Lawrence identifies issues in policing fraud:

**I think fraud needs dealing with and I see what I started dealing with in fraud all crumbling away. Who is dealing with these cases now?
They've not gone away.**

Since the introduction of Action Fraud, he fears that fraud, whilst being reported more, is not being properly recorded by both Action Fraud and the police generally, and consequently not investigated:

You are getting people making decisions on fraud who haven't got any experience or knowledge.

He believes that if the case was reported to TVECU now, it would not be taken on and attributes this to lack of resource and investigative experience.

7.6. Concluding remarks

The Cassandra case study provides an empirical investigation of a mortgage fraud conspiracy within its real-life context. It presents the causal agency and biographies of Entwistle, Gilbert et al. within a conceptual framework, based upon Clegg's Circuits of Power theory, that examines the impact dispositional and facilitative influences and conditions have on their day-to-day activities.

The case study identifies, through auto-ethnography, interviews, primary documentary data and media reports, how dispositional and facilitative powers converge with the criminal action of the actors, to support the commission of mortgage fraud and its reproduction and disruption.

In accordance with a multiple-case study design, the key themes identified in this chapter will be compared to the cases of Opal and Aztec in chapter 7, in order to test and adapt those theoretical propositions that have guided data collection. It is

believed that this will then provide a concrete understanding of how mortgage fraud in England and Wales is organised.

Part 2

Chapter 8: Cross case-study analysis

8.1. Introduction

The structure of this chapter utilises Clegg's Circuits of Power conceptual framework to identify those causal agents, dispositional and facilitative powers which, it is proposed are central to the organisation of mortgage fraud. This framework informed the theoretical propositions about the organisation of mortgage fraud which guided the collection and analysis of data, set out in the foregoing chapters. These theoretical propositions, reiterated below, are adapted in this chapter as a consequence of the key themes arising out of the cross-case analysis of how mortgage fraud was organised in the Opal, Aztec and Cassandra cases: -

1. The commission of mortgage fraud in England and Wales is facilitated by the exploitation of those dispositional factors prevalent in the financial services market, by motivated offenders, including key professional agents.
2. The governance, regulation and control of mortgage fraud in England and Wales faces challenges in the disruption of mortgage fraud as a consequence of those dispositional factors.
3. The reproduction of mortgage fraud is possible within the financial services market in England and Wales as a result of the convergence of these causal, dispositional and facilitative powers.

This chapter is divided into four parts: The Conventional Mortgage Fraud Script, Dispositions, Governance and Reproduction. At the outset the chapter will present a conventional mortgage fraud script representative of the findings of each of the case studies. Each subsequent part will discuss and adapt its respective theoretical proposition by direct reference to the case studies, including data collected from other sources. In the final part, Reproduction, improvised mortgage fraud scripting will be presented that will identify how mortgage fraud is organised, and how it is capable of reproduction as a consequence of the evolving interrelationship between causal agents, dispositional and facilitative circuits of power.

Accordingly, it is argued that mortgage fraud exists due to substantive relations of connection which are necessary to the conventional mortgage fraud script, but otherwise contingent, rendering its crime commissioning processes both dynamic and evolving, presenting challenges to preventers in the arms race with organisers. The chapter will establish that necessary relations identified across the three case studies include the incapable guardianship of KPAs acting on behalf of motivated offenders in circumstances where lenders present themselves as suitable victims, in highly competitive and inadequately regulated financial markets.

8.2. The Conventional Mortgage Fraud Script

All three case studies comprise multi-million-pound mortgage fraud conspiracies that involved multiple fraudulent applications, across a wide range of properties, targeting a broad range of lenders and extending over a prolonged period of time.³³⁵ This establishes that multitudinous conditions and factors repeatedly supported the reproduction of mortgage fraud notwithstanding conditions and measures aimed at disruption.³³⁶

In Cassandra and Aztec there was a greater need for resilience and adaptability amongst motivated offenders and KPA to sustain reproduction. This resulted in improvisations to the mortgage fraud script as will be illustrated in the final part of this chapter, particularly as Opal was typical of a *fraud-for-property* conspiracy, whereas Cassandra and Aztec were distinctive *fraud-for-profit* conspiracies, where shared dispositions amongst actors involved a higher level of deceit and criminality that included obfuscation to avoid disruption, which then supported reproduction.

Across the three cases, motivated offenders shared dispositions to defraud lenders, avoid disruption and effect reproduction, by whatever means available. In Opal, they supplied an essential service to mortgage applicants who could not otherwise obtain

³³⁵ According to the indictments, between four and eight years.

³³⁶ Notably, investigators in each case also advised that the scale and value of the indictments was lower than the actual extent of victimisation. This was due to investigatory and prosecutory parameters set to ensure that indictments did not become over-cumbersome and threaten the viability of successful prosecution.

the mortgage they required, lawfully. This illegitimate service predominantly involved status abuse where unregulated online payroll websites and accountant's income certificates falsified the applicant's true income.

In all three cases the motivated offenders recruited KPA to support the commission and then the reproduction of the fraud. As this chapter will discuss, brokers were necessary to each case, most notably for reproduction.³³⁷ Accountants were contingent, but necessary in Opal and Cassandra for mortgage applications that required income certificates and/or financial accounts as opposed to falsified payslips and P60s. There was no evidence of complicity with solicitors or valuers in Opal which renders their involvement in fraud-for-property cases, either unnecessary or contingent.³³⁸

Furthermore, the chapter will demonstrate that it was necessary for KPA in each of the cases to practice within criminogenic firms where the opportunity to facilitate mortgage fraud was reinforced by an environment where poor supervision and governance, deference of support staff and limited or non-existent compliance safeguards were the norm. These conditions were facilitated by a lack of capable guardianship on the part of regulators.

In Opal and Cassandra, alternative KPA were recruited to safeguard reproduction. Following Miller's panel suspension and dismissal from Aspect he moved to Fincentric where he took up the role of mortgage introducer, having recruited Baldwin. Similarly, following Gilbert's resignation and the investigation by the SRA which led to him being struck off the roll, Entwistle recruited another solicitor to act for him.

³³⁷ It is accepted here that in other instances the role of the broker may be contingent as a broker may unwittingly facilitate mortgage fraud, an example being where the broker is provided with fraudulent documents by the applicant which he accepts as genuine in good faith.

³³⁸ There may be scenarios where the solicitors exercise contrived ignorance and fail to challenge the client on the transaction in order to keep the broker and the introducer of the business content.

Adaptation to the script in Opal is, however, limited to processes of displacement, as opposed to an increased level of deception, which would have resulted in greater improvisation to the script, as was evident in Cassandra and Aztec. In Opal, there were multiple examples of applications being declined as a consequence of disruption but then placed with another lender, revealing limitations in claims of disruption. Furthermore, Brown set practical rather than ethical boundaries when it came to the level of deception. When Gray suggested by email the use of false SA302s, Brown replied that it was “too risky”.

Whilst lenders actively share information on victimisation through fraud prevention reporting systems and protocols that provide intelligence on fraud targeting and victimisation, principally through National Hunter, the FCA’s IFL and CIFAS. It was evident in each of the case studies that these systems were prone to circumvention by motivated offenders and KPA.³³⁹ In Cassandra and Aztec this was principally through the recruitment of straw persons or name changing; in Opal, when the IFL scheme recorded that Miller had lost lender panel status, he then swapped his role to one of an *introducer*.³⁴⁰

A former head of financial crime at a medium-sized mortgage lender and a victim in Opal believes that the FCA’s IFL scheme was not adequately administrated.

The FCA were saying well if lenders are removing brokers from their panels for suspected fraud, we want to know about it. They whipped all the lenders up and said you need to be reporting through the IFL... and then suddenly it was like, oh yeah, because we’re getting so many

³³⁹ At interview one financial crime manager described the FCA’s IFL scheme as more effective than SARs, as they felt more certain that it would have a positive outcome as information is disseminated across the sector through fraud prevention agencies: “I know that information gets shared with other lenders who are members of National Hunter because I will see confirmation of the IFL alerts being shared around the membership group”.

³⁴⁰ In the case of Akanbi (2008) a report was made to the IFL of the broker losing panel status, which disrupted fraud. The subsequent investigation sampled eighteen applications to four different lenders and found that all were supported by falsified identification documents. Accordingly, there were multiple cases of reproduction before the fraud was finally disrupted. See: <https://www.fca.org.uk/publication/final-notice/rafinakanbi.pdf>

reports and it's difficult for us to actually manage and resource those reports so what we're doing is for some, we're pushing out of the industry or persuading them to get out the industry... but from a lender perspective we were saying, we're not seeing the transparency, so potentially those brokers could be coming back through another door and start giving us business again. That could be as a backdoor broker. And doing it through an authorised person or setting themselves up again or whatever.

As the chapter will discuss, victim lenders in Opal, Aztec and Cassandra were targeted as they shared dispositions that made them susceptible to mortgage fraud. By example, there existed limited appetite on the part of lenders to identify false documentation and disrupt the fraud. These dispositions led to an erosion of the rules of meaning and membership amongst lenders, where prudential risk and due diligence became secondary to profit and growth, and where convergence with motivated offenders supported systemic and reproductive mortgage fraud.

However, these dispositions amongst mortgage lenders are not evenly shared across the sector, particularly as smaller and medium sized building societies operated business models that had a low tolerance to fraud. These lenders operated more efficient fraud prevention measures, reinforced by working practices where personal appointments with applicants and manual underwriting protocols were the norm. However, this did not necessarily lead to disruption in the three cases, as these lenders were not targeted in the first place. A Senior Fraud Investigator at a medium sized bank said:

Your building societies will be different [to the lenders]. In some cases, they probably check 100% of applications as they will be very risk averse.

Across the three case studies there is evidence of regulatory failures, and these findings will be corroborated by the enforcement data set out within this chapter. Light touch regulation supported a defective bank and bonus culture where

“excessive risk-taking and short-terminism”³⁴¹ led to a proliferation of mortgage fraud throughout the sector. An example of this was evident in Cassandra, particularly Williams’ bonus scheme at RBS/NatWest. These criminogenic market conditions allowed organisers the opportunity to reproduce mortgage fraud without any concerted effort from preventers to disrupt.

Additionally, regulators failed to prevent KPA across the financial services sector from facilitating mortgage fraud. By example, in Cassandra the SRA in 2006 commenced an investigation into Willmetts and identified a number of breaches of professional rules but failed to identify fraud.³⁴² Additionally, failures in the FSA approved persons regime led to a significant proportion of rogue brokers entering the profession, as evident across the three case studies, where none were then subject to regulatory sanction for misconduct, which effectively diminishes the impact of regulatory enforcement as a specific and general deterrent.³⁴³

Furthermore, regulatory strategies and initiatives were one dimensional, blaming and targeting predominantly the rogue high street practice as opposed to the board members of the lenders who were offering high-risk and innovative products without the appropriate level of due diligence and fraud prevention measures. Banks and building societies who shared these criminogenic dispositions were, as a consequence subject to the greatest exposure and were targeted in each of the three cases. As described by Carter in Aztec, victim targeting strategies resembled “shooting fish in the barrel”.

Bradford and Bingley plc, a former building society, expanded rapidly through its acquisition of Mortgage Express and GMAC (two lenders that focused their business on self-certification mortgages and the buy-to-let market as a means to support securitisation), and was subsequently bailed out by the UK government. In Aztec, it

³⁴¹ The Third Report – Banking Crisis, p.8.

³⁴² This point is also relevant to criminogenic firms as Gilbert’s managing partner had deliberately mis-spelt Entwistle to avoid problematic files being brought to the attention of the forensic investigator.

³⁴³ This is also evidenced by its reactive response of regulatory cleansing between September 2007 and August 2011, where high risk brokers and firms were subsequently removed as well as a small percentage banned.

was targeted eight times, with each fraudulent application completing. HBOS and its subsidiaries of Birmingham Midshires and TMB were targeted six times in Cassandra and five times in Aztec, with all but one application completing. RBS/Natwest were targeted seven times in Cassandra, although here the complicity of Williams was necessary to support reproduction. Additionally, Lloyds Bank which merged with HBOS in 2009, was targeted on five occasions in Aztec with each application completing.

A former head of financial crime at a medium-sized mortgage lender described how the large mortgage lenders believed that their size and market share meant that they could offer products which carried a high risk of fraud:

We were not surprised. I know HBOS caused shockwaves...when it fell. We weren't surprised, because we knew the risks they've taken over and above what they should have done. You know, because they felt they were, and they weren't the only ones, that they were so big and so powerful and so strong as a business that they could afford to take the risks.

As the chapter will evidence, regulatory failures were allied to deficiencies in state governance in England and Wales which provided the facilitative conditions that supported the commission of mortgage fraud and its reproduction. These failures were ultimately the result of the challenges regulatory frameworks face in supervising markets in neo-liberal societies where regulation is subservient to a wider political philosophy. Ultimately, these factors facilitated the primary causes of the financial crisis. Furthermore, as offending in all three case studies traversed the crisis, notwithstanding the introduction of a macro-prudential policy aimed to deal with failures in the regulation of financial services, this timeline is indicative of a continuing failure of governance that remains present, despite the catastrophic impact the crisis had on the UK economy.³⁴⁴

³⁴⁴https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/191584/condoc_fpc_tools_180912.pdf

It is the convergence of these circuits of power that supports the conventional mortgage fraud script as displayed in figure 5 below.

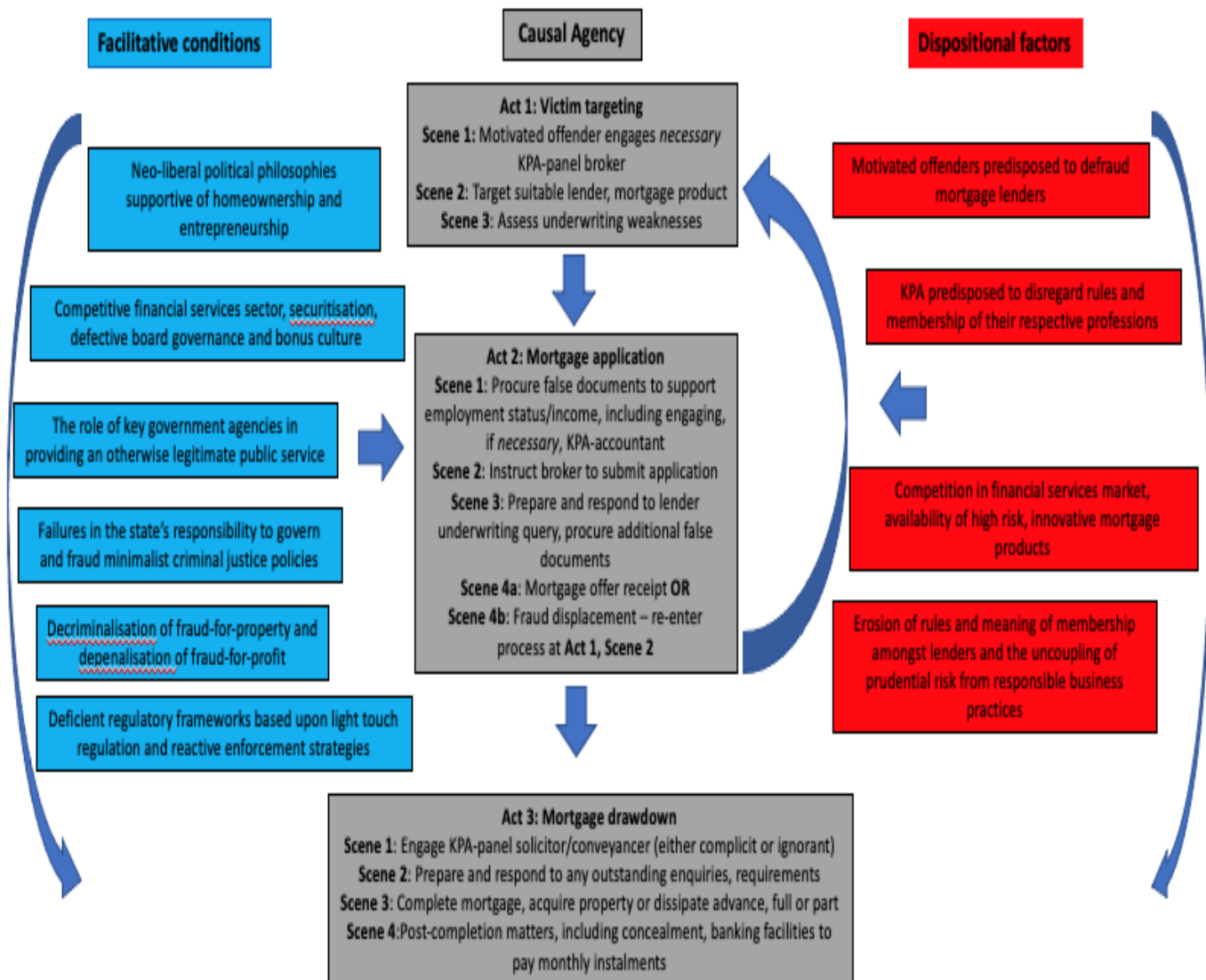


Figure 5: The Conventional Mortgage Fraud Script

8.3. Dispositions

8.3.1. Introduction

This section will consider those dispositions, as depicted in the conventional mortgage fraud script, and improvisations thereof, that existed amongst the actors in each of the case studies, and as evident within the financial services market that contributed to failures on the part of victim lenders to disrupt mortgage fraud. It will adapt and redefine the theoretical proposition that mortgage fraud is committed by motivated offenders, supported by KPA and facilitated by dispositional market conditions.

Whilst this proposition is adequately supported by findings from each of the case studies, additional data collected indicates shared dispositions amongst lenders that support reproduction and contribute to a disinclination to report victimisation to law enforcement. This arguably erodes the deterrent effect of criminal justice outcomes and contributes to the depenalisation and potentially the ultimate decriminalisation of mortgage fraud. It also supports displacement as motivated offenders and KPAs remain operational to target alternate suitable lenders.

8.3.2. Motivated offenders and their biographies

The main categories of actors involved in each case included motivated offenders, KPA (otherwise known as enablers) and supporting actors, including straw persons. Each case involved two motivated offenders responsible for orchestrating and managing the fraud and supervising and delegating tasks to the supporting actors.³⁴⁵ They utilised their knowledge and experience of the property and mortgage market to inform their approach to the fraud. Similar features across the three cases included specific knowledge of the mortgage application process, particularly an awareness of lending criteria, underwriting protocols and fraud prevention measures.

³⁴⁵ Gilbert's role in Cassandra evolved from one of enabler to subsequently a leading role.

A supplemental category of actors involved in each of the cases included individuals who fell outside prosecutorial parameters.³⁴⁶ These included additional professional agents across all three cases, the mortgage applicants in Opal and an additional straw person in Cassandra.

8.3.3. The role of KPA

Across all three cases the role of KPA was instrumental to the fraud and to its reproduction. These agents covered all of the key professions, both regulated and unregulated, involved within the property and mortgage lending sector. Table 2 below shows the extent of participation, repeated in the case of multiple agents.³⁴⁷

Opal	Aztec	Cassandra
Bank personnel	Broker	Solicitor
Broker	Estate agent	Broker
Accountant	Solicitor	Accountant
Broker		Bank personnel
Accountant		Solicitor
Accountant		Broker
		Broker
		Valuer
		Solicitor

Table 12: Role of Key Professional Agents in Opal, Aztec and Cassandra

In total, six mortgage brokers,³⁴⁸ four solicitors,³⁴⁹ four accountants, two bank personnel, one estate agent and one valuer acted as KPA across the three cases. Aztec had the least, engaging three, whilst Cassandra had the most, engaging nine. These agents all had knowledge and experience of their respective professions and the trust of the victim lender (in most cases lender panel status). In all cases these

³⁴⁶ This point is also relevant to facilitative conditions, particularly the impact that resource has on the investigation of financial crime such as mortgage fraud and consequently prosecutory decision-making, both supporting reproduction.

³⁴⁷ Those professional agents highlighted in red, were not prosecuted.

³⁴⁸ Excluding Price and Mistry in Opal who acted as unregulated mortgage introducers.

³⁴⁹ At least one solicitor in Aztec, however DC Peach believes that there was wider involvement from solicitors, but these enquiries fell outside of his investigatory parameters.

agents worked in professional firms where supervision and oversight were absent, rendering these organisations criminogenic.

8.3.4. The role of straw persons

The use of straw persons to reproduce the fraud was evident in both Aztec and Cassandra, but not in Opal, as the actors in this case were predominantly applying for mortgages for applicants with a need for an illicit service due to their inability to demonstrate income and employment status.³⁵⁰ In Aztec, four supporting actors were used as straw persons. Their role involved putting their name to mortgage applications and also representing themselves as either the buyer or the seller in sham property transactions. In Cassandra, three supporting actors were used for this same purpose.

The straw persons recruited by Powell, Carter and Entwistle were all individuals they had a close familial or personal connection to. These relations provided the assurance to the lead actors that they could be trusted to carry out their role, albeit by proxy or heavily coached as to what to say and what to do. They could also be more efficiently supervised and managed compared to other potential actors outside of these proximate social relations. Finally, recruitment of family and close friends assisted in reducing operating costs, particularly as they predominantly agreed to assist with little or no return for their involvement.

8.3.5. Organisational dynamics amongst motivated offenders and supporting actors

The organisational dynamics of the three cases vary in design. Aztec and Cassandra were symmetrical in construction, where social interactions amongst the actors were carefully managed and controlled by the motivated offenders who delegated key responsibilities to supporting actors. However, there were distinctions.

In Cassandra, there was a greater social interaction amongst the actors as they were known to one another, either by way of an earlier introduction by Entwistle, or due to

³⁵⁰ Aas would argue here that a “[d]eviant supply is therefore essentially driven by a deviant demand” (2013 p.133).

prior social relations. In Aztec, the motivated offenders shared relations with the broker, but otherwise had their own group of supporting actors. These proximate relations, the result of close familial and personal relationships, gave the conspiracy the added durability that supported reproduction.

In Opal, the motivated offenders delegated key responsibilities to KPA, who were otherwise largely disassociated from one another. Furthermore, as a consequence of reproduction, the organisational dynamic bifurcated as sub-agreements were formed with other actors.

8.3.6. Necessary dispositions across Opal, Aztec and Cassandra

Across the three cases, motivated offenders shared dispositions to defraud lenders, avoid disruption and effect reproduction, by whatever means. The success of these dispositions also necessitated the recruitment of entrusted KPA, operating within criminogenic firms, who themselves shared a disposition to disregard rules and membership of their professions and facilitate mortgage fraud. The nature and role of the KPA, with the exception of the broker was, however contingent to each case.

Accordingly, cross-case study analysis supports the proposition that motivated offenders were supported by KPA whose role and responsibility proved to be both contingent and necessary, the latter essential to reproduction.

The broker was a necessary agent in each of the cases, targeting suitable lenders, that is, those most susceptible to fraud. They were predisposed to behaviour that led to them breaching their profession's rules and codes of conduct and behaving unethically and illegally. Victim targeting was identified in all three cases, where lenders exposed to deficient underwriting procedures and/or inadequate fraud prevention protocols, were victimised. Opal targeted seven lenders, Aztec eleven and Cassandra fifteen.³⁵¹

³⁵¹ These figures are based on Notices of Indictment for each case.

Other KPA, as discussed below were not necessary to each of the cases but were essential to the fraud in the cases where they did feature for the reproduction of that particular fraud.

Additionally, there existed in all cases shared dispositions amongst lenders in the highly competitive mortgage market prior to the financial crisis and in its aftermath, where innovative products were introduced that were more susceptible to fraud. This led to the distortion of the system of rules and membership within the mortgage sector, particularly the lenders' relations with one another, which effectively weakened what should have otherwise been a sector-wide coalition intent on disrupting fraud. The existence of these dispositions and the broker's knowledge of these underwriting deficiencies was a necessary feature in all three cases. These factors were supported by a lack of capable guardianship at both firm and regulatory levels of supervision.

8.3.7. Contingent dispositions: Case specific

The actors in Opal and Aztec shared dispositions to defraud, which predominantly involved status abuse within mortgage applications. Actors were predisposed to behaviour that included inventing phantom employers and producing false payslips and P60s. And, whilst Opal retained an accountant as a KPA to falsify income certification, Aztec overall involved a higher degree of behaviour predisposed to defraud, which included identity swapping, sham transactions and the recruitment of straw persons. The role of the broker was, however, necessary to the success of both.

This distinction is based upon reward. Motivated offenders in Aztec were defrauding lenders for their personal benefit, whereas their counterparts in Opal were facilitating fraud for the benefit of their client applicants, albeit for procurement fees on completed mortgages and cash payments.

The actors in Cassandra shared dispositions that adapted a prototypical mortgage fraud involving systematic status and valuation abuse to one that evolved into

mortgage redemption³⁵² and development loan fraud. The wider complexity and scale of Cassandra is attributable to the solicitor taking on a leading role.³⁵³

Recruitment of a solicitor is contingent to the commission of mortgage fraud, but was also necessary in the case of Cassandra to support improvisation and reproduction. Solicitors were active KPA in both Cassandra and Aztec but not in Opal. Solicitor KPAs in Aztec did not take on a lead role in the fraud but were nonetheless also necessary in that case to support reproduction. They were predisposed to behaviour that led to them breaching their profession's rules and codes of conduct, abusing their entrusted panel status with lenders and behaving unethically and illegally. Their role and responsibility, as most evident in Cassandra, also included avoiding disruption by adopting strategies that included title manipulation (see appendix I).

An accountant's role in mortgage fraud is contingent, becoming necessary in instances where proof of income and employment is required beyond other means of verification, as in Opal and Cassandra where they provided false accounts and income statements. They were predisposed to behaviour that led to them breaching their profession's rules and codes of conduct and behaving unethically and illegally. These factors, both in the case of solicitors and accountants, were supported by a lack of capable guardianship at both firm and regulatory levels of supervision.

Estate agents, valuers and bank personnel also acted as KPA in both Aztec and Cassandra. These KPA are not necessary to the commission of mortgage fraud but there are circumstances where their role evolves from a contingent one to a necessary one. By example, fraudulent schemes involving land development and new builds, as seen in Cassandra and Aztec, necessitated these agents to support reproduction.

In Cassandra, Williams (a bank official at RBS/Nat West) became necessary to the circumvention of underwriting and risk protocols to facilitate multiple land and

³⁵² This adaptation of conventional mortgage fraud meant that multiple mortgages existed on one property due to the solicitor's failure to redeem a pre-existing mortgage.

³⁵³ Clarke (1991) describes this as "going for broke" mortgage fraud as the solicitor's involvement gets him/her to the point of no return.

development loans. In Opal, Gray (a former bank official at Santander) had intimate knowledge of lending protocols and fraud prevention measures, which proved necessary to the reproduction of the fraud in that case, and led to Santander being targeted on eighteen occasions. By contrast, no bank personnel are known to have been involved in Aztec.

Furthermore, the straw persons in Aztec and Cassandra supported the fraudulent dispositions of the motivated offenders by offering their services in circumstances where crime commissioning processes were exposed to disruption. The straw persons were predisposed to assist the motivated offenders with whom they had close familial or personal connections, notwithstanding that it would involve dishonest behaviour that would facilitate mortgage fraud. They shared dispositions to place their utmost faith and trust in the activities of the motivated offenders without particular regard to the exposure of police investigation and prosecution. Whilst the role of straw persons is contingent to the commission of mortgage fraud, they became necessary in both cases to the reproduction of the fraud where either, as in the case of Entwistle, the motivated offender had at that time no further means of borrowing or where, as in the case of Powell, they were subject to disruption by fraud prevention measures.

8.3.8. Dispositions within criminogenic cultures

Shared dispositions within competitive markets, such as financial services firms, can lead to processes of uncoupling where the rules of meaning and membership in business practices amongst colleagues become detached from otherwise ethical and moral customs and practice. This uncoupling can create a criminogenic environment where non-compliant behaviours and misconduct become the norm, in the absence of proper governance and supervision.

KPA in Opal, Aztec and Cassandra operated within firms where criminogenic culture was evident. Shared dispositions within an organisational structure support the activities of individual agents predisposed to misconduct. This can vary widely from lack of oversight and supervision to poor or improper business practices. This renders some element of these dispositions necessary to the commission of

mortgage fraud, but the extent of the criminogenic culture is otherwise contingent upon the scale and complexity of the fraud.

By example, in Opal and Cassandra, there was evidence of staff deference to motivated offenders and KPA which rendered safeguards, such as whistleblowing, non-existent.³⁵⁴ Additionally, in Cassandra, there existed inappropriate socialisation of newly-qualified staff, partner remuneration schemes based upon 'eat what you kill' and corporate hospitality used to corrupt and reward.

8.3.9. Dispositions within the financial services market

Victim lenders in Opal, Aztec and Cassandra included banks and building societies offering mortgages tailored for the buy-to-let and self-certification markets, as well as pioneering fast-track and other innovative products. It was these lenders and products that were routinely targeted, particularly as they were identified as having deficient underwriting protocols and inadequate fraud prevention measures.

There were two principal shared dispositions amongst lenders that were common to all three cases. Firstly, poor due diligence and failures in fraud prevention that solicited victimisation. Secondly, ineffective data sharing amongst lenders and fraud prevention agencies that should have disrupted fraud. Whilst both factors are relevant when discussing shared dispositions as a condition to the reproduction of mortgage fraud, they also interconnect to facilitative and exogenous conditions that exist in the macroprudential sphere of financial services that, along with causal agents, converge to form the script.

A former head of financial crime at a medium-sized mortgage lender and a victim in Opal spoke at interview about the difference in fraud training and experience between lenders, particularly when comparing the smaller and medium sized lenders to the larger banks and building societies.

³⁵⁴ In Aztec, although a whistle-blower colleague alerted management to the activities of James, he was still able to facilitate multiple fraudulent mortgage applications over a number of years prior to detection.

We'd always joked about if we were going to commit mortgage fraud there were certain lenders, we knew who we'd go to, because some of the lenders they were so big and they were doing so much volume, they literally just thought they could take the hit and, oh we don't get fraud.

But these guys came in [from a fraud prevention team at a large mortgage lender] and...they knew absolutely nothing. And literally they went away with lots of sheets of paper, and I was left thinking and I mean then I was laughing with my team and I said I've just basically told them how to do their job.

These shared dispositions led to an erosion of the rules of meaning and membership amongst lenders, where prudential risk and due diligence became secondary to profit and growth. The weakening of this dispositional power within the financial services market and the convergence with motivated offenders supported systemic mortgage fraud and diminished any concerted effort to disrupt.³⁵⁵ These two factors were instrumental and necessary to the commission and reproduction of mortgage fraud in all three cases, demonstrating failures in regulation as a consequence of incapable guardianship across the sector.

A Financial Crime Manager at a medium sized building society who had previously worked at the NCA said:

A lot of businesses were lending on the self-certification which every reasonable person would know was open to misrepresentation...The principal blame lies with the lender as we choose what products to put out there, we choose our processes and procedures.

One financial adviser interviewed, who previously acted also as a mortgage broker, described the pressure placed on business development managers to hit their lending targets and how that fed down to the brokers:

The whole mortgage frenzy pre-2008 we would have on a weekly basis business development managers coming in here, the ones that stick in my mind was definitely Bradford and Bingley and Northern Rock. We were told, we just want the cases, we don't care about quality. We've got lending targets. Just give us the cases and we'll make them fit.

The Parliamentary Select Committee (PSC) responsible for investigating the causes of the financial crisis identified bonus culture within the sector and securitisation as conditions propelling excessive risk-taking amongst lenders. Inappropriate incentive schemes encouraged behaviours that contributed to the crisis, where bonuses were set at large multiples of salary, based on annual profit over exposure to risk.³⁵⁶ This led to staff in business development roles becoming "incentivised to pursue overly risky practices",³⁵⁷ as was evident in Cassandra where Williams (associate director of business development at RBS/NatWest), 'greased the wheels' to ensure Entwistle's applications were approved without issue. In addition to receiving financial incentives from Entwistle, Williams also received bonuses equivalent to 100% of his annual salary.

With lending targets determined by senior managers, themselves directed by the Board of Directors, these practices facilitated mortgage mis-selling and fraud, which highlights deficiencies in governance and organisational culture, driven by divergent commercial objectives. Failures of corporate governance were identified by the PSC as a facilitating factor to the crisis. The banks failed because those board members "leading and managing them failed".³⁵⁸

Although it is argued that the bonus culture at RBS/Natwest was necessary to the commission and reproduction of the fraud against *that* lender there is no available

³⁵⁶ See also The Turner Review, March 2009 available at: https://webarchive.nationalarchives.gov.uk/ukgwa/20090320232953/http://www.fsa.gov.uk/pubs/other/turner_review.pdf.

³⁵⁷ The Third Report - Banking Crisis p.1.

<https://publications.parliament.uk/pa/cm200809/cmselect/cmtreasy/462/462.pdf>

³⁵⁸ Ibid p.107.

evidence to suggest that the same was necessary to its commission against other lenders in Cassandra, or at all in Opal and Aztec.

Furthermore, defective bank culture endemic across the sector was not simply driven by the sale of a mortgage product to a Mr. and Mrs. Smith; it was also allied to the sale of Mr. and Mrs. Smith's mortgage to an investor, along with Mr. and Mrs. Jones etc. etc. This form of securitisation based upon *originate and distribute*, where mortgages were converted into marketable securities and sold to investors, was an innovative way for lenders to increase profit whilst also reducing risk. However, the PSC found that the model was not underpinned by sound lending practices, particularly as without "skin in the game" there was little incentive on the part of the lenders to screen and monitor borrowers, rendering a high volume of mortgages low quality, where the risk of fraud was high.

With only a few exceptions, the victim lenders in the three case studies utilised originate and distribute securitisation as a means of increasing profit and market share. One notable proponent was Northern Rock, who following a run on the bank in August 2007, continued to irresponsibly lend in order to raise profits through securitisation. By example, count 10 of Cassandra saw Entwistle et al. secure a mortgage offer of £3,562,000 against a property under construction and otherwise without value. Following the intervention of Entwistle's broker, the valuer's advice to withhold funds until the property was complete was ignored and the full mortgage advance was released to Gilbert.

All three case studies have multiple examples of failures in underwriting, risk management and fraud prevention. Whilst the existence of these failures is necessary for the commission of mortgage fraud a specific failure can be necessary to some but not all cases according to the modus operandi of that case as depicted by Table 13 below. Moreover, the Financial Services Authority's (FSA) thematic review of mortgage fraud against lenders post-crisis concluded that the "*industry could do better*" (FSA 2011).

In interview, a Chief Risk Officer at a small building society identified high risk lending strategies that facilitated fraud, whilst threatening a lender's financial stability:

If you look at Northern Rock, they were a great case study. You know they're offering 120% mortgages, and they rely purely on the wholesale markets...and with securitisation they lost their business model [and with] a leadership team that were hell bent on growth, it was a toxic recipe.

In a post-crisis review of mortgage lending practices undertaken by the FCA it was found that at its peak, in excess of half of all mortgage applications were approved with no verification of income, including a significant proportion of higher loan-to-value mortgages offered to higher risk applicants.³⁵⁹ These included either fast-tracked mortgage applications, where the lender did not look at income documentation as the application was considered low risk, and self-certified applications where income documentation was not required. The FCA reported that the line between these two applications became blurred, and this was a "widespread market practice".³⁶⁰

Furthermore, the consequence of these market practices was widescale failure in risk management and fraud prevention, particularly dissemination of information, as there was no shared disposition amongst lenders to protect the sector against fraud, neither was there the appropriate level of regulatory supervision. However, these practices and facilitative conditions, as evidenced by the case studies, in fact traversed the financial crisis. A financial crime manager at a medium-sized mortgage lender interviewed said:

I kind of get the impression now that these forums that we used to go and share information may have died a little bit. I'm worried that on the mortgage side maybe moved backwards with regards to sharing

³⁵⁹ <https://www.fca.org.uk/publication/archive/fsa-mmr-datapack2012.pdf>

³⁶⁰ Ibid p.61.

information, intelligence and helping each other and supporting one another.

The prosecution of Bank of Scotland (2012)³⁶¹ by the FSA identified “very serious misconduct”, including the ineffective management of staff, and a culture where “staff were incentivised to focus on revenue rather than risk, which increased the appetite to facilitate customers, to increase lending and take on greater risk”.³⁶² A public censure was issued as the enforcement outcome, as opposed to a “substantial” fine, on the basis that the taxpayer would have been again impacted. The FSA believed that this would provide a deterrent to other lenders.

The prosecutions against two former directors at Northern Rock, David Jones³⁶³ and Richard Barclay³⁶⁴ (April 2010) identified bank wide misconduct which was intended to obscure the reality of their high-risk lending model, including mis-stating loan impairment and repossession rates. FSA investigators identified a criminogenic culture amongst senior directors to misreport since 2005.

Table 13 below sets out the consequences of shared dispositions amongst the victim lenders in the case studies that led to failures to disrupt. These include necessary dispositions across two or more cases and case specific contingent dispositions.

	Opal	Aztec	Cassandra
Failures to disrupt: Necessary dispositional factors	Failure to verify employment status and income with HMRC. Failure to check whether employers traded and filed	Failure to verify employment status and income with HMRC. Failure to check whether employers traded and filed	Failure to verify employment status and income with HMRC.

³⁶¹ <https://www.fca.org.uk/publication/final-notice/bankofscotlandplc.pdf>

³⁶² Ibid p.13.

³⁶³ https://www.fca.org.uk/publication/final-notice/david_jones.pdf

³⁶⁴ https://www.fca.org.uk/publication/final-notice/richard_barclay.pdf

	<p>accounts at Companies House.</p> <p>Failure to see multiple use of the same false employer and trading addresses.</p> <p>Failure to spot inaccuracies in falsified documents.</p> <p>Failure to verify the source of deposit funds.</p>	<p>accounts at Companies House.</p> <p>Failure to see multiple use of the same false employer and trading addresses.</p> <p>Failure to spot inaccuracies in falsified documents.</p> <p>Failure to verify the source of deposit funds.</p> <p>Failure to identify property transactions amongst connected parties, including use of aliases.</p> <p>Failure to identify changes in new build property addresses.</p>	<p>Failure to spot inaccuracies in falsified documents.</p> <p>Failure to verify the source of deposit funds.</p> <p>Failure to identify property transactions amongst connected parties.</p> <p>Failure to identify changes in new build property addresses and changes to property descriptions, 'rear of', 'part of' etc.</p>
<p>Failures to disrupt:</p> <p>Contingent</p> <p>Dispositional factors</p>	<p>Failure to consider the multiple use (18) of an out-of-town accountant.</p> <p>Failure to verify that accountant's qualifications.</p>	<p>Failure to identify cash payments into bank accounts to boost purported income/deposits (potential for money laundering).</p> <p>Failure to identify recent increased income level for same applicant.</p> <p>Failure to identify multiple change of</p>	<p>Failure to identify irregular financial transactions, including large debits from gambling companies.</p> <p>Failure to identify omissions on certificate of title</p> <p>Failure to challenge/act upon prolonged delays in registering security.</p>

		name applications with DVLA and Passport Office and use of aliases. Failure to identify selling party as non-trading company. Failure to identify multiple use of actors and properties in falsified documents over multiple applications. Failure to reject applications from previously repossessed borrowers. Failure to follow up on CIFAS markers.	Failure to carry out/act upon independent Land Registry checks. Failure to identify patterns of multiple undertaking breaches. Failure to identify adverse credit searches. Failure to retain mortgage advance on the advice of the valuer. Failure to verify pre-sales prior to release of development finance. Failure to risk assess prior to extending substantial lending facilities.
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Table 13: Failures to disrupt as a consequence of shared dispositional factors

Both Cassandra and Aztec have the higher number of failures to disrupt (fourteen), whereas Opal has the lowest (seven). This is the consequence of the differences in the modus operandi of the case studies and demonstrates that, in Cassandra and Aztec there was a greater need for resilience and adaptability amongst the motivated offenders and KPA. This resulted in improvisations to the common script for mortgage fraud, particularly as Opal is typically a *fraud-for-property* conspiracy, whereas Cassandra and Aztec are distinctive *fraud-for-profit* conspiracies, where shared dispositions involve a higher level of deceit and criminality that includes tactics of obfuscation to avoid disruption, the consequence of which is reproduction.

Notwithstanding this distinction, all three cases have common necessary dispositional factors, most notably lender failure to verify income and in the cases of Opal and Aztec, to carry out basic checks on the status of an applicant's employer, particularly as the same employer and registered office was used on multiple applications. Moreover, in Opal whilst there were failures to properly identify Brown's qualifications. Once challenged he adapted his behaviour by impersonating a chartered accountant.³⁶⁵

In Aztec, failures also included not identifying multiple factors and circumstances that should have been further investigated. These included an applicant's name changing history, the use of non-trading companies as employers, alterations to property addresses and applications from repossessed borrowers or those with adverse credit. There were also a number of privately agreed property transactions between parties and not negotiated by a local estate agent (save in the case of Dawson representing otherwise), which would have provided some level of assurance that the relevant transaction was being held at arms-length. Private transactions are also indicative of the use of straw persons.

In Cassandra, similar strategies were adopted to those in Aztec to exploit the lenders' predisposal to the risk of fraud. These included failures to verify pre-sales, the source of deposits and shortfalls and, most notably, to act upon patterns of delay or failure in registering security. Furthermore, lenders have the power to suspend solicitors from their lending panel in circumstances where the solicitor fails to register their legal charge in a reasonable timescale. This failure constitutes a breach of undertaking and if reported to the SRA would lead to sanctioning.

Additional shared dispositions amongst lenders related to their response to victimisation most notably, their subsequent reporting characteristics. Twelve financial crime professionals across eight different lenders, representative of the mortgage sector, participated in this study. Participants were asked to comment on

³⁶⁵ When asked to verify his 'chartered' status Brown was only able to produce a membership certificate for the ICAEW, not a practicing certificate, as the chartered accountant he was impersonating had retired.

their reporting protocols for applications identified as fraudulent and their experience of law enforcement engagement. Whilst all participants confirmed that reports would be made to their fraud prevention providers, including National Hunter, CIFAS, regulators and the FCA's IFL scheme, there was less consensus on reporting to the police through Action Fraud.

Of the twelve participants only three said they would report to Action Fraud and/or the police, with one participant saying:

I have no confidence in the police to investigate any sort of fraud. They won't take it on. You can report it as much as you like. You can give them the name, the address, the date of birth and all the evidence of someone committing fraud and they won't pick it up...It's all smoke and mirrors with Action Fraud and the police. We would report it to the police with no expectations.

Another participant said:

I know what the police will do [following a report]. It won't be actioned. Or you report through Action Fraud, and it will just sit there and will be NFA'd [no further action] because police only have so much resource.

And another participant interviewed said:

Action Fraud for reporting mortgage fraud is absolute pants... you're just sending it into a black hole to be honest.

Notwithstanding concerns with Action Fraud and the police, six participants said that they would consider filing a SAR with the NCA. Two participants, however, complained of a subsequent lack of response and an ignorance of the eventual outcome, which disincentivises the reporting process. Furthermore, one participant

questioned the effectiveness of the whole SAR regime, having himself previously worked for the NCA:³⁶⁶

If they do a [mortgage] fraud paper, I guarantee that it will all be about intelligence sharing, better co-operation between law enforcement and banks and all the rest of it. And it's all bullshit because none of it will work...Intelligence is worthless unless you can action it. If you haven't the staff to action intelligence what's the point of having it.

This predisposition towards not reporting mortgage fraud to law enforcement indicates that lenders have little confidence in criminal justice outcomes compared to those of regulators. It is also reflective of how reports are recorded and actioned, particularly where law enforcement express cynicism of lender victimisation. A former Detective Inspector of the Economic Crime Department at the City of London Police (Detective A) argued that building societies did not care about fraud when property values were increasing and interest rates were low.

I remember one particular post-it-note on a mortgage file and the post-it note says 'this one looks like it's a fraud to me'. And in the file was an internal note from one colleague to another acknowledging that this was probably a fraud and they still went ahead and lent on it. When it came to us, we said we're not going to prosecute that.

A former Detective Sergeant at the Metropolitan Police Fraud Squad (Detective B) also believes that lenders do not report to Action Fraud in cases where the monthly mortgage instalments are being met:

In the majority of cases there's no issue with it because the lenders they're being paid, they don't care really.

³⁶⁶ <https://www.nationalcrimeagency.gov.uk/who-we-are/publications/569-sars-in-action-september-2021/file>

Finally, and as will be discussed at section 8.4. below, these facilitative factors and conditions relative to guardianship were exacerbated in the aftermath of the financial crisis as a result of public sector austerity.

8.3.10. Concluding remarks

This section has identified necessary dispositions amongst motivated offenders and KPA across each of the three case studies. There are contrasts, particularly the recruitment of straw persons in Cassandra and Aztec which, whilst contingent to the commission of mortgage fraud, became necessary to sustain reproduction in those cases.

It also identified secondary necessary dispositional forces within criminogenic cultures in the workplace, not only in the firms and companies the organisers worked from; but also, within lender organisations targeted for their vulnerabilities to fraud. Here, shared dispositions included the prioritisation of competitive forces in the mortgage markets driven in some instances by a criminogenic bonus culture, unsupported by efficient governance, regulation and control (to be considered further in section 8.4.).

These dispositional factors predominantly supported reproduction due to their inherent failure to disrupt mortgage fraud, which ultimately contributes to a disinclination to report victimisation to law enforcement. This was evident in each of the three case studies.

These findings support the refinement of the first theoretical proposition to now read; the commission of mortgage fraud in England and Wales is facilitated by the exploitation of those dispositional factors prevalent in the financial services market by motivated offenders, including key professional agents, *in circumstances where shared dispositions amongst victim lenders are necessary to support reproduction, which includes a disinclination to report victimisation and contributes to the depenalisation and potentially decriminalisation of mortgage fraud.* This refinement will be discussed further with respect to governance and the criminal justice system in part 8.4.

8.4. Governance

8.4.1. Introduction

This section will consider the governance, regulation and control of mortgage fraud in England and Wales. It will adapt and redefine the theoretical proposition that there exist challenges in disrupting mortgage fraud as a consequence of those dispositional factors referenced in section 8.2. Whilst this proposition is adequately supported by key themes from each of the case studies, wider findings from data collected from parliamentary proceedings, regulatory enforcement proceedings and study participants support the refinement of this proposition.

Accordingly, it will be established that deficiencies and failures in governance and regulation, specifically a lack of capable guardianship on the part of the state, law enforcement and regulators, provide the facilitative conditions that complete the circuit of power and support the reproduction of mortgage fraud. It will also be argued that incapable guardianship was a contributory cause of the financial crisis of 2007/08.

8.4.2. Parliamentary interest in mortgage fraud as a contributory cause of the crisis

A search of Hansard between 2007 and 2020³⁶⁷ was undertaken to gauge UK government and legislature's response to mortgage fraud and to determine whether it was viewed by Parliament as a contributing factor to the crisis. Keywords, *mortgage* and *fraud*, were entered into the search to *Find debates*.³⁶⁸ The search identified seventy-five references in parliamentary debates across both the House of Commons (HoC) and the House of Lords (HoL) of which sixteen discussed mortgage fraud in some form or another, with four debates between 2007 and 2009 in the HoC making specific reference.³⁶⁹

³⁶⁷ These search parameters were set to capture any parliamentary debates which referenced mortgage fraud at the point of the financial crisis and beyond.

³⁶⁸ <https://hansard.parliament.uk/search/Debates>

³⁶⁹ By example some debates made non-specific reference alongside other financial crime or made implied reference in discussion on crime and social harm (e.g. HBoS scandal in Reading).

These debates included an MP's account of a constituent victimised by property theft and mortgage fraud³⁷⁰ and a debate entitled *Mortgage Fraud*.³⁷¹ In another, Rob Wilson MP blamed a lender for the plight of one of his Reading East constituents, who was the victim of identity theft and mortgage fraud by the actions of his own wife:

Irresponsible lending in the extreme; money was fraudulently obtained by Mr. Howard's ex-wife simply because the lenders did not carry out reasonable, significant or responsible checks.

He also said that the subsequent police investigation was hampered by the lender's failure to provide evidence and the FSA refusal to investigate.³⁷²

Robert Buckland MP, then Solicitor General, advised in another that the Serious Fraud Office (SFO) were currently investigating six mortgage fraud cases, but otherwise implied that mortgage fraud was not a financial crime under SFO purview.³⁷³ Buckland advised the chamber that:

The police...have responsibility for investigating crime in this country, and Action Fraud has been established as the national reporting centre to which reports of alleged fraud should be referred in the first instance.³⁷⁴

³⁷⁰ Held on 7th November 2007. The debate also reported that from 2004 to 2007 the Land Registry recorded 70 cases where fraudsters acquired title and then remortgaged the property before disappearing. This led to £25 million in compensation payments.

³⁷¹ Held on 15th January 2009 the focus being to ensure that mortgage funds were "available for legitimate house purchases and not by profiteering fraudsters".

³⁷² Hansard HC Deb. 2nd April 2009.

³⁷³ In a later, unrelated debate, Buckland discusses the use of 'straw men' in fraudulent mortgage applications made on behalf of human traffickers. Hansard HC Deb. 15th October 2015.

³⁷⁴ Hansard HC Deb. 15th January 2009.

Otherwise, debates discussed failures in regulation;³⁷⁵ bank misconduct (most notably RBS and the HBoS fraud in Reading);³⁷⁶ and the potential for conflict of interest between banks and their panel valuers.³⁷⁷

In the HoL, debate concentrated more on the causes of the financial crisis, particularly the impact of the US subprime crisis and securitisation, the latter being blamed for high-risk lending practices across the sector. In one debate, Lord MacGregor of Pulham Market acknowledged that the UK had “our fair share of faulty mortgages”, whilst Lord Marlesford blamed the crisis on an:

Illusion of prosperity fuelled by an orgy of consumer borrowing, with lenders conspiring in a cocktail of greed, negligence and dishonesty, unchecked by naïve and incompetent regulators.³⁷⁸

Lord Plant of Highfield, in another debate argued that it was not just a matter of failure of regulation, what was needed was a separation of retail and investment banking:

The bankers caused that mess and it is the bankers’ responsibility, by and large... We would be extremely naive to think that a new regulatory system is going to cure all the problems.

Baroness Kramer concurred, arguing that you cannot simply rely on regulation and supervision to solve deep rooted problems, which include the state’s failure in governance. She, however, remained sceptical that without structural change the financial services sector would return to its previous bad habits:

I think that we can guarantee that the leaders of our various banking institutions will, within thirty-six months, be back in through the door of

³⁷⁵ Hansard HC Deb. 10th May 2018.

³⁷⁶ By example, Hansard HC Deb. 18th January 2018.

³⁷⁷ Hansard HC Deb. 18th April 2017.

³⁷⁸ Hansard HL Deb. 7th May 2009.

the regulators and the Treasury trying to persuade everyone to go back to a much lighter touch.

However, in the government's subsequent review and policy package aimed at addressing risk posed by large, complex or interconnected firms, *Reforming financial markets*,³⁷⁹ it disagreed that a Glass-Steagall³⁸⁰ style split between retail banking and investment banking activities was necessary. However, as evident in the case studies, most specifically Northern Rock and the buy-to-let lenders in Cassandra, this lack of separation between retail and investment banking was intrinsic to the structure and organisation of the fraud.

What was most notable from the PSC's findings into the causes of the financial crisis was that market *risk* was a common theme across all hearings and appeared throughout the evidence, whereas mortgage fraud was referenced only once. The solitary reference was identified from transcripts of the PSC proceedings held on the 18th November 2008. The witness Richard Pym, Chairman of Bradford and Bingley, when asked whether the public should be made aware of any other risks to the sector, replied:

One of the emerging issues for the mortgage market as a whole is mortgage fraud, and certainly the FSA thematic review³⁸¹ does point out that in some areas of the buy-to-let market there is high fraud; so this is not just the economic problems of repaying a debt; this is also a market that has attracted people with less than honest motivations.³⁸²

³⁷⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/238578/7667.pdf

³⁸⁰ Glass-Steagall refers to legislation introduced in the US following the Wall Street crash of 1929 that separated commercial and investment banking to prevent losses to customers' deposits in the event of default. It was subject to a number of repeals before President Bill Clinton declared in November 1999 that it was no longer applicable. Some commentators argue that the repeal of the affiliation restrictions within the legislation was a significant cause of the US subprime crisis of 2007.

³⁸¹ <https://www.fca.org.uk/publication/archive/fsa-mortgage-fraud-lenders.pdf>

³⁸² <https://publications.parliament.uk/pa/cm200809/cmselect/cmtreasy/144/144i.pdf>

Notwithstanding Pym's evidence and those more thorough inquiries into the subprime crisis conducted in the US which identified mortgage fraud as contributory factor in their crisis;³⁸³ the PSC overlooked an opportunity to identify and understand one of the root causes of the financial crisis. This is despite the FSA accepting that mortgage fraud was a contributory factor; although its focus of blame was on complicit brokers on the high street as opposed to lenders predisposed to profit and growth over risk and fraud.³⁸⁴

It is argued that these failures of state governance, prior to (and following) the crisis, created the facilitative conditions in the financial services sector that supported the commission and reproduction of mortgage fraud. Additionally, in all three case studies, mortgage fraud traversed the crisis, despite the introduction of macro-prudential policy aimed to deal with failures in the regulation of financial services.³⁸⁵ This factor supports the proposition that these facilitative conditions, though necessary to, do not support the commission of mortgage fraud in isolation. They remain interdependent upon dispositional factors and together create the challenges preventers face in disrupting mortgage fraud.

8.4.3. Criminal Justice response to fraud

The UK government, through the Ministry of Justice is responsible for protecting and advancing principles of justice in UK society. This includes prosecuting mortgage fraud and sentencing offenders through the courts.³⁸⁶

Law enforcement involved in each of the case studies spoke independently of the lack of resource and appetite to investigate and prosecute fraud, and the difficulties in investigating complex cases such as Opal, Aztec and Cassandra. These themes

³⁸³ <https://www.govinfo.gov/content/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf>

³⁸⁴ In this case they refer to the impact of mortgage fraud on the stability of the financial system https://www.fca.org.uk/publication/final-notice/abdul_karim.pdf p.7 See also <https://www.fca.org.uk/publication/archive/fsa-mortgage-fraud-lenders.pdf>

³⁸⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/191584/condoc_fpc_tools_180912.pdf

³⁸⁶ <https://www.gov.uk/government/organisations/ministry-of-justice/about>

were repeated in interviews with other law enforcement participants who had experience of investigating mortgage fraud.

Detective A recalled his time investigating mortgage fraud in the late 1980s and early 1990s. Resource was available then, which allowed his team of up to twenty officers to investigate complex and largescale cases that were highly organised, involving multiple KPA. However, he believes the criminal justice system is ill-equipped to deal with large and complex fraud prosecutions, particularly trial by jury.

Then you've given them this complicated pile of documents. They're having stuff explained to them that is so advanced and so technical and so complicated that they're gonna get lost anyway. And when the accountants come in and give their evidence, you can see the jurors eyes glaze over. They start playing with the pencils, and you know that you are onto a loser because they are not understanding and not listening.

Detective B had a number of successful prosecutions but also a number of significant failures:

In hindsight we should really have just focused on a particular strand and prosecuted that. Back then we had more resources, so we thought we could deal with that and it just becomes too unwieldy. So, there were a couple of big ones which sort of basically in the end didn't get prosecuted.

From his experience he believes that in order to support the largescale reproduction of mortgage fraud there is a need to recruit a full team of professionals, most notably a solicitor. However, both Detective A and B agreed that prosecuting professionals and proving dishonesty beyond reasonable doubt, was another challenge, which in some cases meant engaging complicit professionals as prosecution witnesses instead. As Detective A said:

We can't have everybody being a suspect. We need this solicitor to give evidence, so he needs to be a witness, despite the fact that he's complicit.

In interview, a former Detective Inspector of West Yorkshire Police (Detective C), spoke of a number of successful outcomes for his fraud team and, even then (mid-2000s), he had the ability to call upon additional officers to assist complex investigations.³⁸⁷ Notwithstanding, he believes that fraud has never been a priority for the government or for the police, and as a consequence, law enforcement is now simply unable to deal with it:

I think policing today has actually lost the ability to investigate this type of offence [mortgage fraud]. The experience, the resource and the capability has all gone...I don't even know whether anybody would come and knock on your door if it was now [referring to Gilbert and Operation Cassandra].

Detective B argues that fraud nationally is not being prosecuted due to a reduction in fraud capability and experience:

Fraud teams have been decimated over the last ten years, so fraud isn't a priority albeit it's a huge issue. And that includes the knowledge and expertise required to prosecute complex fraud.

This demonstrates that a reduction in resource and capability are both contributory factors to incapable guardianship on the part of law enforcement and prosecutors, which is central to the structure of mortgage fraud.

Furthermore, the consensus of all participants was that victim lenders are failing to protect themselves against mortgage fraud. As a consequence, it disincentivises

³⁸⁷ One example being: <https://www.thetelegraphandargus.co.uk/news/1914318.conman-tried-to-steal-houses/>

senior police officers from taking on cases, even after cases have navigated their way through the reporting and recording protocols of Action Fraud.³⁸⁸

Detective A said that his team would not refer files to the CPS in cases such as self-certification because of the lender's failure to verify income. He considers that widescale recklessness in lending practices encouraged victimisation.

Detective B agrees believing that lenders do not report to Action Fraud in cases where the monthly mortgage instalments are being met:

In the majority of cases there's no issue with it because the lenders they're being paid, they don't care really.

The law enforcement participants interviewed generally agreed that they had a productive working relationship with regulators and would share intelligence and occasionally co-ordinate investigations. However, there were instances of regulators failing to sanction professionals following tip-offs and also of regulators operating a watching brief, intervening only after a successful prosecution. These examples were evident in all three case studies.

Analysis of FSA/FCA enforcement proceedings (which will be discussed in greater detail below) identified one-hundred and eighteen cases of mortgage fraud.³⁸⁹ Of these, eighteen cases were prosecuted by the CPS and two cases were prosecuted by the FSA.³⁹⁰ Furthermore, whilst there were some examples of effective dissemination amongst police, regulators and government departments,³⁹¹ with two

³⁸⁸ Detective B also believes that lenders more frequently report mortgage fraud as a SAR as opposed to a report to Action Fraud, because they take the view that: "There's no point in reporting it because nobody can investigate it anyway."

³⁸⁹ One of which was in Northern Ireland and two in Scotland.

³⁹⁰ However, these prosecutions are limited in scope as seen in Sharma (2010), where a Slough mortgage broker who made misleading and fraudulent statements to the FSA during their investigations was fined £6,000 by Westminster Magistrates Court: [Final Notice: Vijay Kumar Sharma \(fca.org.uk\)](#)

³⁹¹ Including the Home Office's Identity and Passport service as in: https://www.fca.org.uk/publication/final-notices/zia_chowdhury.pdf

cases promoted in media reports as being collaborative investigations;³⁹² there were also examples of incoordination between police and regulators and, in one instance, a delay in suspending a broker who had been arrested and charged by police that led to further victimisation.³⁹³

Otherwise, Detective A argues, there is a disconnect between preventers which was reflected in the interviews with the lender participants:

It's just a one-way street. The police don't want to give anything to anyone, and they don't even want to give feedback to the companies that give them information in the first place. So that's the sticking point.

Notwithstanding, the case studies demonstrate how effective the police and prosecutors can be in investigating and prosecuting complex fraud and securing prison sentences for the offenders. That said, there are examples in each case of the setting of investigative parameters due to a lack of resource which not only limits the available data for effective qualitative research but also potentially supports the subsequent reproduction of mortgage fraud (unless regulators have otherwise incapacitated those outside the parameters) as there remain KPAs in the sector available for recruitment.

8.4.4. Regulatory guardianship of KPA

Data from enforcement proceedings across the financial services sector was collected and analysed to consider the efficacy of regulatory guardianship and to identify the causal mechanisms of misconduct. It will be argued that *light touch*

³⁹² One example being <https://bridgingandcommercial.co.uk/article/2906/fsa-bans-broker-for-1638m-mortgage-fraud> FSA's Head of Financial Crime and Intelligence Bob Ferguson said: "This is a good example of agencies working together to get justice done, and of the benefits that come from sharing intelligence. The FSA Intelligence Team worked closely with Serious Organised Crime Agency in the early stages of this investigation to help ensure a successful conclusion. This is not the first time and certainly will not be the last time that the FSA helps law enforcement."

³⁹³ https://www.fca.org.uk/publication/final-notice/gordon_benville.pdf
<https://www.thisismoney.co.uk/money/midasextra/article-1687146/The-couple-who-paid-for-FSAs-failure-over-mortgage-fraud.html>

regulatory philosophies allied to reactive enforcement strategies, contributed to deficiencies in regulatory guardianship, as is evident in each of the three case studies. These factors provided the necessary facilitative conditions which, together with agency and dispositional factors supported both the commission of mortgage fraud and its subsequent reproduction.

8.4.4.a. The City Policeman: the FSA and its successor, the FCA

The FSA's regulatory philosophy prior to the crisis was based upon a politically driven *light touch* regulation. Lord Turner former Chair of the FSA argues that this regulatory philosophy was:

...rooted within a political philosophy where the pressure was on the FSA *not* to scrutinise more closely the business models of firms.³⁹⁴

Expert witness testimony at the PSC hearings into the crisis opined to a general consensus that the FSA regulatory policy disproportionally focused on risk at the micro-meso-level within individual firms, rather than at the macro-level where systemic risks emerged unconstrained. This focus restricted oversight to a truncated part of an otherwise entire chain of regulation and uncoupled micro-prudential regulation from an otherwise "robust macro-prudential framework".³⁹⁵ As a consequence, the regulator failed in its responsibility to be unpopular with lenders, borrowers and politicians and take the punch bowl away when the party was in full swing.

In a boom everyone loves it and the idea that you are going to have a regulator saying, "I am sorry, we are not going to have 100% or 125% loan to value ratios; Northern Rock, you are not allowed to behave that way, you are not allowed to do sub-prime mortgages based on nothing except the expectation that housing prices will go on rising, you are not allowed to do that," runs counter to the wishes of the lenders, the borrowers, and virtually every politician at the time during the boom, so

³⁹⁴ The Fourth Report – Banking Crisis, p.11.

³⁹⁵ Dr Kern Alexander, Cambridge University in the Fourth Report – Banking Crisis, p.30.

what you are asking regulators to do is effectively to take the punch bowl away when the party is going, and that is not a popular activity.³⁹⁶

Furthermore, whilst the findings of the PSC explain how bank culture and failures in governance were contributory factors to the crisis, subsequent regulatory proceedings against Northern Rock, HBOS, Bradford and Bingley and RBS,³⁹⁷ (victim lenders in the case studies), demonstrate a continuance of organisational and criminogenic behaviour, unabated by the impact of the crisis. Additionally, it questions the effectiveness of the new regulatory framework for financial services which was intended to be both intensive and intrusive.

In addition, there were failures in regulation at the micro-macro-level within individual firms, including the supervision of authorised mortgage brokers. A review of disciplinary proceedings before the FSA and the FCA between 2007 and 2015³⁹⁸

³⁹⁶ Professor Charles Goodhart, London School of Economics in the Fourth Report – Banking Crisis, p.11.

³⁹⁷ The prosecution of RBS/NatWest (2014) identified multiple breaches of the Mortgage Conduct of Business Regulations (MCOB) between June 2011 and March 2013 rendering its mortgage business “not fit for purpose”. See: [Final Notice: Royal Bank of Scotland plc and National Westminster Bank Plc \(fca.org.uk\)](#)

The prosecution of Bank of Scotland (2012) identified “very serious misconduct” including the ineffective management of staff and a culture where “staff were incentivised to focus on revenue rather than risk, which increased the appetite to facilitate customers, to increase lending and take on greater risk” (p.13).

<https://www.fca.org.uk/publication/final-notices/bankofscotlandplc.pdf> The prosecutions against two former directors at Northern Rock, David Jones and Richard Barclay (April 2010) identified bank wide misconduct extending back to 2005 and intended to obscure the reality of loan impairment as a consequence of their high-risk lending model. Staff within the DMU [Debt Management Unit] perceived that they were under pressure to maintain the Firm's reported arrears and possessions figures at half of the CML average...As it became more difficult to maintain the arrears figures, additional action was taken to achieve a target of half the CML average (page unnumbered). See: https://www.fca.org.uk/publication/final-notices/david_jones.pdf and https://www.fca.org.uk/publication/final-notices/richard_barclay.pdf

See also Willford (December 2013) where a Bradford and Bingley director was fined for failing to report mortgage impairments: <https://www.fca.org.uk/publication/final-notices/christopher-willford.pdf>

³⁹⁸ The relevant period of 2009 to 2015 was extended to 2007 following a review of media reports which documented that the FSA had banned record numbers of rogue mortgage brokers. <https://www.thetimes.co.uk/article/financial-services-authority-shuts-record-number-of-rogue-advisers-wlcm3n6g66s>

identified 1,825 enforcement cases, of which 194 related to mortgage fraud. Table 14 sets out the number of cases identified per annum, with the highest number of cases prosecuted in 2009. However, following aggregation to connect related cases, 118 distinct cases were identified for further analysis.³⁹⁹

Year	2007	2008	2009	2010	2011	2012	2013	2014	2015
Cases	10	37	55	46	20	11	11	2	2

Table 14: Mortgage fraud cases brought by the FSA/FCA 2007-2015

A former lead investigator at the FCA Intelligence Unit believes that enforcement outcomes against complicit brokers were modest compared to the overall scale of wrongdoing:

I suspect it's a very small amount in comparison with the actual number of people actively involved.

Findings identify failures in the FSA's *conduct-of-business* and *fit and proper persons* regime as the profession became highly populated by authorised brokers predisposed towards misconduct.⁴⁰⁰ In Malik (2008), the respondent posed a "risk to lenders and therefore the confidence of the financial system", yet he had been an authorised person since at least 2004 and had failed to pass the CeMAP3 examination. In addition, he had failed to notify the FSA that his firm Abbaci had been removed from three lending panels.⁴⁰¹ In Karim (2009), the FSA impliedly

³⁹⁹ The FSA/FCA enforcement strategy separately prosecutes individuals and firms as opposed to undertaking a multi-party prosecution, which could reduce cost and procedural delays. An example of this is seen in enforcement proceedings against Newcastle Home Loans Limited, which involved five Final Notices against five individuals and two Final Notices against the firm: https://www.fca.org.uk/publication/final-notice/newcastle_hl_0226.pdf

⁴⁰⁰ PSC criticism of the FSA here concentrated on the *fit and proper persons* regime at board room level, but did not consider failures within brokerage firms. See the BBC's Money Programme 2003 report into broker facilitated mortgage fraud endemic in the financial services market in the lead up to the crisis: https://www.bbc.co.uk/pressoffice/pressreleases/stories/2003/10_october/29/money_programme_mortgage.shtml

⁴⁰¹ <https://www.fca.org.uk/publication/final-notice/malik.pdf>

accepted that the augmentation of broker facilitation of mortgage fraud had threatened the stability of the financial system:

Mortgage fraud has contributed to destabilisation of the lending market and the FSA must therefore continue to deal robustly with this type of misconduct by mortgage intermediaries.⁴⁰²

The reactive and corrective, but effective, response of the FSA was to undertake widescale regulatory cleansing between September 2007 and August 2011, which removed large numbers of high risk authorised individuals and firms.⁴⁰³ A former FCA Intelligence operative interviewed identifies the tightening of the regulatory approval regime as being responsible for driving a high number of unscrupulous brokers out of the sector:⁴⁰⁴

It's a different regulatory landscape where changes have basically made it increasingly difficult for the real charlatans to thrive as it was.

The data also identified a correlation between ethnicity and FSA enforcement proceedings against individual brokers. Most notable was the proportion of brokers sanctioned who originated from Nigeria and South Asian countries, which equated to 44% of all mortgage fraud cases prosecuted by the FSA. Of those, twenty cases involved respondents of Nigerian descent, eleven of Pakistani, nine of Indian, five of Bangladeshi and seven of descent across five other countries within Africa and South Asia.

These findings indicate, that either these ethnicities were disproportionately more active in mortgage fraud than other ethnicities, or that they were not more active, but

⁴⁰² See: https://www.fca.org.uk/publication/final-notice/abdul_karim.pdf p.7

⁴⁰³ Processes of deadwood clearance continued after August 2011, but not to the scale of 2007-2009.

⁴⁰⁴ The enforcement data does not always indicate the underlying issue(s) with the approved person or firm, but the stated reasons include failures to meet threshold conditions, to have adequate resource, not filing returns, payment of fees and failure to evidence professional indemnity insurance (failure here may be due to pending claims or an increase in premium).

instead, were more likely to be respondents in enforcement proceedings.⁴⁰⁵ If the answer is the latter then it could be argued that the FSA's enforcement policy was defective, potentially rendering regulatory guardianship contingent upon ethnicity. Even were that the case there still remained deficiencies in guardianship, regardless of ethnicity. By example in Opal, Mistry, of Indian descent, was not subject to enforcement proceedings as, although he held a CeMAP qualification he operated as an introducer and was not FSA regulated.

Furthermore, these ethnicities also made up a notable proportion of individuals and firms removed from the profession by the FSA's regulatory cleansing strategy, although these cases do not provide specific detail as to the respondent's activities and accordingly, were not subject to further analysis. By example, in the case of Nwosu and Gemini Mortgages, the FSA pleaded in the Final Notice that action was necessary to maintain confidence in the financial system but gave no specific details as to the misconduct.⁴⁰⁶ In Aramide, the respondent was subject to a prohibition and a fine of £101,279.49 for mortgage fraud but then fled to Nigeria, making the recovery of the fine and costs challenging.⁴⁰⁷

Data analysis also identified how enforcement strategies were dictated by resource as opposed to regulatory risk, which contributed to overall deficiencies. Prior to July 2008 the FSA adopted a policy of expulsion or removal without fine, believing it achieved an expedient resolution; "at a time when Enforcement were investigating a

⁴⁰⁵ The data is indicative, however, of the exploitation of the regulatory approval regime to set up shop in the UK's financial services market with the objective of engaging in high value fraud.

⁴⁰⁶ See: https://www.fca.org.uk/publication/final-notices/gemmini_firm.pdf

By further example, in Ifesanya (2010), the respondent was deemed unfit and lacking integrity as he had no place of business and no valid contact information see:

https://www.fca.org.uk/publication/final-notices/kayode_ifesanya.pdf.

⁴⁰⁷ https://www.fca.org.uk/publication/final-notices/gabriel_aramide.pdf.

significant number of mortgage fraud cases with limited resources”.⁴⁰⁸ This strategy was, however, at the expense of an effective specific or general deterrent.⁴⁰⁹

Additionally, the FSA/FCA adopted an increasingly moderate prosecutory objective to expedite proceedings, where allegations were pleaded down to broker *recklessness* as opposed to *deliberately and knowingly* facilitating mortgage fraud. This had the effect of devaluing enforcement outcomes. In the case of Wagner, proceedings were adjourned in order that an agreement could be reached that Wagner had acted recklessly, as opposed to being “knowingly involved in mortgage fraud”. An anomalous outcome in a case where a lender had reported suspicions to the FSA, where mortgage applications totalled £2,000,000 and where income was stated as being between £500,000 and £610,000 per annum (at interview when asked he accepted it was nowhere near that). Instead, Wagner blamed his staff.

All six brokers identified across Opal, Aztec and Cassandra were *not* subject to enforcement proceedings brought by either the FSA or the FCA.

8.4.4.b. Causal mechanisms of broker misconduct

Data analysis also identified causal mechanisms of broker misconduct, which were highly similar to the activities of the six brokers in the case studies. These findings, as set out in table 15 below assist in informing the script and corroborating and triangulating with the data collected in the case studies, particularly with regard to the characteristics of their activities.

In Opal, misconduct involved causal mechanisms 1, 2 and 5,⁴¹⁰ notably fraudulent applications including false payslips, phantom employers and falsified accountant’s certificates. In Cassandra, misconduct involved 1, 2 and 5 and included forged bank

⁴⁰⁸ Wagner was initially found to have knowingly and deliberately inflated his income on five mortgage applications in his name and was subject to a prohibition order and a £100,000 fine. [Microsoft Word - Raymond Wagner v FSA.doc \(publishing.service.gov.uk\)](#)

⁴⁰⁹ As a consequence of the crisis, however, the FSA changed this philosophy to an outcome-based approach through an intensive supervisory model underpinned by a “focus on credible deterrence”.

⁴¹⁰ DC Ed Middleton, the SIO in Opal however argues that the applicants were not complicit, which would then include classification 3.

statements, falsified accountant certificates and criminogenic factors.⁴¹¹ In Aztec, misconduct involved 1, 2 and 5 and included similar methods as in the other two cases and, along with Cassandra, involved straw persons.

	Causal Mechanism	Characteristics
1.	Submission of fraudulent mortgage applications <ul style="list-style-type: none"> • for applicants • for self • for family members 	Income and employment status Submitting self-certified applications for employed applicants Applicants complicit and quasi-complicit “leave out the earnings part” Status (residence/buy-to-let)
2.	Submission of fraudulent mortgage applications with falsified documents <ul style="list-style-type: none"> • for applicants • for self • for family members 	Income and employment status Status (residence/buy-to-let) False payslips, P60s, employer reference, fictitious ‘phantom’ businesses, credit reports False identity documents, including passport, driving licence, marital status, utility bills, bank statements, proof of residency Failure to disclose outstanding loans Use of an alias False and misleading financial accounts, accountant’s certificate False ‘certified’ documents Resubmitting rejected applications (crime displacement) Using other advisers to submit applications (disassociation tactics) False property valuations ⁴¹² False bridging loan arrangements ⁴¹³

⁴¹¹ The bank statements forged by Entwistle were printed online banking statements, which made it an easier task to forge compared to the previous official bank statements that were produced on official bank stationery and posted by Royal Mail each month to bank account holders.

⁴¹² Foster, Purdie D., Robinson, Patterson, Newcastle Home Loans Limited, Purdie G. (2009).

⁴¹³ To give “the illusion that the transaction was a genuine ‘remortgage’ and that the Lender’s funds had not been used to finance the purchase” (Foster, 2009).

		Property clubs
3.	<p>Submission of fraudulent mortgage applications with falsified documents where applicant and lender are victimised</p> <ul style="list-style-type: none"> • blank application, mortgage mis-selling • hijack and skimming mortgage fraud • linkage to other harmful practices such as investment fraud/mis-selling 	<p>False payslips, P60s, employer's reference, fictitious 'phantom' businesses</p> <p>False identity documents, including passport, driving licence, marital status, utility bills, bank statements, proof of residency, direct debit mandates</p> <p>Non-existent applicants</p> <p>Adding third party to utility bill</p> <p>False and misleading financial accounts, accountant's certificate</p> <p>False 'certified' documents</p> <p>Resubmitting rejected applications (crime displacement)</p> <p>Further other misconduct including mis-selling investments, pensions</p> <p>Sale and rent back transactions</p>
4.	Criminal conviction for mortgage fraud (where misconduct involves varying characteristics as identified in 1, 2, 3)	
5.	Failure to ensure adequate measures were in place to prevent the firm from being used for the purposes of mortgage fraud (which involves varying characteristics as identified in 1, 2, 3)	<p>Criminogenic culture</p> <p>Mortgage mis-selling</p> <p>Failures in compliance relative to supervision, monitoring, file review, training, record keeping, KYCAE, recruitment, screening, evidence of qualifications, failure to vet non-authorised introducers</p> <p>Failure to verify income, employment</p> <p>Complicity on the part of firm owners and authorised persons</p> <p>Abrogating responsibility and shifting blame (disassociation tactics)</p> <p>Controlling mind non-authorised (stooge management)</p>

		Submitting applications without external compliance consultant sign-off Applying for authority in the name of an inexperienced stooge, misrepresenting interest Money laundering breaches (large cash deposits to inflate income, or as proof of deposit) Advisers unqualified, unregulated
	Miscellaneous	Acting in dual roles including adviser and accountant Failing to report mortgage fraud to the police Placing mortgages through other brokers (disassociation tactics) Failure to hand over files

Table 15: Causal mechanisms of broker misconduct

These findings evidence those improvisations to a *conventional* mortgage fraud script, particularly where the broker adapts his actions (albeit by sometimes crude methods such as forgery), to avoid disruption and to support reproduction. It also identifies shared dispositions amongst targeted lenders who accept falsified documents, company and employer details at face value without a requirement on their part, notwithstanding fraud prevention measures, to seek verification by other means, as depicted in Table 13 above.

Furthermore, these dispositions are embedded in a facilitative regulatory framework that underpins their existence and supports the ability for mortgage fraud to be reproduced beyond its ability to disrupt, as evident in each of the case studies. Having said that, in circumstances where tighter regulatory controls via the FCA's approved persons regime allied to improved levels of board governance (where fraud prevention is paramount) then there would exist broader circumstances where mortgage fraud could be disrupted.

8.4.5. The Gatekeeper: solicitors, the SRA and the SDT

8.4.5.a. A reactive response to mortgage fraud

A review of disciplinary proceedings brought by the SRA before the SDT between 2009 and 2015 was undertaken.⁴¹⁴ Table 16 sets out those SRA enforcement cases that were determined by the SDT over the relevant period. In total, 521 cases were identified from the SDT judgement database for analysis.⁴¹⁵ The judgements were categorised according to allegation as summarised in the table.⁴¹⁶

At their peak in 2009 and 2010, mortgage fraud cases equated to 37% and 27% of proceedings before the SDT. In a response to a written enquiry of the SRA, it acknowledged that this was an inevitable fallout following the crisis, which was the consequence of high-risk lending practices and an increase in the volume of reports from lenders, but does not believe these findings were indicative of an endemic problem for the profession.⁴¹⁷ Furthermore, it believes that otherwise, the risk to the profession is modest in terms of its incidence and probability, but moderate to high in terms of its impact.⁴¹⁸

⁴¹⁴ These search parameters were set to capture the regulatory response, if any, to the facilitation of mortgage fraud by solicitors in the aftermath of the financial crisis and beyond.

⁴¹⁵ <https://www.solicitorstribunal.org.uk/judgment-search-results#search>

⁴¹⁶ Unlike FSA/FCA enforcement cases, proceedings brought by the SRA included multiple respondents to the allegations or to alternate allegations relevant to the same investigation.

⁴¹⁷ Mortgage fraud cases still equated to 31% and 24% of proceedings before the SDT in 2011 and 2012.

⁴¹⁸ The SRA requested of the researcher that “no direct quotes” from the written responses to enquiries be included in this study.

Principal allegation category	2009	2010	2011	2012	2013	2014	2015
Breaches, failures, accounts rules	50	55	31	43	25	35	49
Criminal convictions	17	14	13	21	10	11	12
Mortgage fraud (incl. criminal convictions)	39 (2)	26 (2)	20 (1)	20 (2)	4	7 (3)	4
Administrative matters (incl. RSA) ⁴¹⁹	0	0	0	0	0	3	12
Total	106	95	64	84	39	56	77

Table 16: SDT disciplinary proceedings 2009-2015 overview table

In total, there were ten criminal convictions for mortgage fraud identified in the data (although this did not represent the total number of solicitors prosecuted for mortgage fraud), a smaller percentage compared to convictions for theft and fraud.⁴²⁰ Notwithstanding, this suggests that regulatory prosecution is more effective than criminal as a means of disrupting reproduction through incapacitation, but can do little more than incapacitate in serious cases unless allied with a criminal prosecution and subsequent prison sentence, as in the case of Gilbert in Cassandra.

⁴¹⁹ Regulatory Settlement Agreements (RSA) were used since 2014 to settle matters ahead of a tribunal where the facts and outcome were agreed between the parties. They were not used in cases of criminal conviction or mortgage fraud instead used for practicing conditions violations or failures in procuring professional indemnity insurance.

⁴²⁰ By example, Gilbert was struck off the roll in November 2010, whereas his criminal conviction was not until July 2014: <https://www.barryanddistrictnews.co.uk/news/8987560.solicitor-struck-off-after-damaging-reputation-of-legal-profession/> and Jones (2012) was firstly convicted for his role in a large mortgage fraud in North Wales before then being struck off the roll following conviction <https://www.lawgazette.co.uk/news/former-solicitor-convicted-in-20m-fraud-case/71274.article>

The data, however, demonstrates a reactive regulatory response to mortgage fraud as with financial crime generally. Analysis set out in table 17 identified that in 54% of cases the origination of regulatory intervention followed production of a certificate of conviction, compared to 6% which originated from a regulatory inspection.

Analysis involved reviewing each judgement and identifying what event triggered SRA intervention. By example, the factual background to each case provided information on the enforcement process, including whether an investigation was carried out, by whom and on what date. It was also possible (albeit approximate) to correlate the amount of costs ordered against a respondent to the source of the report. By example, costs ordered in cases triggered by a certificate of conviction were significantly lower than in cases where a full forensic investigation had taken place.

Origination of regulatory intervention	2009	2010	2011	2012	2013	2014	2015	TOTAL
Police/prosecutors notified SRA during investigation	3	1	2	0	0	0	1	7
Respondent's firm, third party reported or respondent self-reported	0	3	1	2	0	4	4	14
Regulatory outcome following inspection/investigation or intervention	1	2	1	1	0	0	0	5
Evidence of parallel investigation/prosecution	1	2	3	3	1	1	0	11
SRA informed by production of a certificate of conviction	6	5	6	12	5	7	5	46
Not stated or indicated	2	0	0	0	0	0	0	2
TOTAL	13	13	13	18	6	12	10	85

Table 17: Origination of SRA intervention for financial crime prosecutions 2009 - 2015⁴²¹

⁴²¹ Includes immigration and identity fraud cases but not those other offences including sexual and drug offences, perverting the course of justice, road traffic, assault and in one case murder.

These findings, which need to be read with some caution, raise questions as to the effectiveness of dissemination and co-operation amongst the SRA and police, and indicate that enforcement strategies in respect of solicitors engaged in financial crime are typically reactive in nature. In the case of Hanson (2011), police arrested the respondent in September 2008 for theft against a charity and charged him in January 2009, which triggered a forensic investigation, although it was not until July 2009 that his practicing certificate was suspended (and that was the consequence of his bankruptcy, presumably resulting from the civil claim brought by the charity for restitution). In other cases, the SRA responded more expeditiously. In Taylor (2015), following a tip off from Greater Manchester Economic Crime Unit concerning suspicious activity on the respondent's bank account, the SRA immediately inspected, commissioned a partial intervention and suspended the respondent's practicing certificate.

Furthermore, there was also limited evidence of co-operation with other regulators, notwithstanding published *Memorandum of Understanding* between them that aims to provide working relationship frameworks between the SRA, FCA,⁴²² RICS⁴²³ and ICAEW,⁴²⁴ particularly in response to financial crime. In a response to a written enquiry to the SRA as to the efficiency and effectiveness of Memorandum of Understanding, particularly in sharing intelligence on professional agents, it argues that the arrangement is only as effective as the staff who record and share that intelligence within their organisation and with other regulators.

8.4.5.b. Causal mechanisms of solicitor misconduct

Data analysis identified the causal mechanisms of solicitor misconduct, some of which bore close similarities to the activities of the solicitors identified in Cassandra and Aztec. By example, in Cassandra, causal mechanisms 1 – 5, 8 and 9 were evident. These findings, as set out in table 18 below assist in informing the script and corroborating and triangulating the data collected in the case studies, particularly with regard to the characteristics of their activities.

⁴²² [Memorandum of Understanding between the SRA and the FCA](#)

⁴²³ [Scanned Document Memorandum of Understanding RICS \(fca.org.uk\)](#)

⁴²⁴ [Scanned Document Memorandum of Understanding ICAEW \(fca.org.uk\)](#)

	Causal Mechanism	Characteristics
1.	Client account shortages as a consequence of the misuse of mortgage advances	Misrepresentation in the certificate of title Breaches of undertakings and Council of Mortgage Lenders (CML) regulations Breaches of solicitors account and professional rules Dishonesty and theft
2.	Sub-sales or back-to-back transactions	Misrepresentation in the certificate of title Breaches of undertakings and CML regulations Involving property ownership clubs Sham bridging finance arrangements SDLT evasion schemes
3.	'No money down' transactions	Misrepresentation in the certificate of title Breaches of undertakings and CML regulations Non-disclosure of allowances, incentives and price reductions Third party deposits Mortgage advance only purchases SDLT evasion schemes
4.	Failure to redeem registered mortgages	Mortgage redemption fraud Breaches of undertakings and CML regulations 'Double parking', allowing multiple mortgages on a single property
5.	Paying away mortgage and sale monies	Misrepresentation in the certificate of title Breaches of undertakings and CML regulations 'Drawdown and shutdown' Assisting unusual settlement requests
6.	Outright fraudulent sale or remortgage (cuckoo transactions)	Misrepresentation in the certificate of title Breaches of undertakings and CML regulations Registered owner identity theft Ghost property transactions

		Parallel fraudulent transactions Sham and complicit firms acting for other party
7.	Vulture transactions	Misrepresentation in the certificate of title Breaches of undertakings and CML regulations “Up front rental and clear debt” transactions
8.	Valuation abuse	Misrepresentation in the certificate of title Breaches of undertakings and CML regulations
9.	Money laundering	Breaches of solicitors account and professional rules Breaches of AML regulations

Table 18: Causal mechanisms of solicitor misconduct

These causal mechanisms of misconduct can be broadly divided into four main classifications, including mortgage fraud, mortgage redemption fraud, property fraud and money laundering (here in relation to money acquired through commission of the mortgage fraud). The most common element across all cases was fraudulent misrepresentations in the certificate of title, the formal reporting tool to the lender that triggers drawdown of the mortgage advance. Misrepresentations predominantly included providing a false and dishonest statement as to the purchase price of the property or failing to disclose material information to the lender. All four classifications of misconduct were evident in Cassandra and Aztec.

Findings also identified dispositions amongst national developers in the housing market that supported the reproduction of mortgage fraud. There was evidence of complicity or recklessness on the part of developers in relation to ‘get rich quick’ property ownership clubs, where large discounts are negotiated with developers before completing back-to-back sales to members funded by mortgage advances based upon the non-discounted value. In the case of Islam (2009, 2011), the SRA during its investigation interviewed Mr. K of P. Homes Legal Department (possibly Persimmon Homes), who advised that a 15% discount off the gross value of a new build was an acceptable practice – at least at that time - “provided that you confirm

as solicitors for the lender, that the lenders have been notified of the discount and have approved the discount".

However, this statement assumes that the lender would be happy to proceed on the basis of that disclosure, which remains highly improbable and it is equally improbable that developers would not know that (as several associated civil court proceedings would indicate). It also raises a simple question, why even proceed on the basis of a gross and net purchase price in the first place, as opposed to a straightforward price reduction to reflect the housing market at that point in time? The reality is that it provides a mechanism by which mortgage fraud can reproduce, notwithstanding the commercial objective of the developer.⁴²⁵

Additionally, there is evidence of more sophisticated methods of improvisation to support reproduction, including cuckooing, where small firms being sold by retiring partners are targeted by organised crime groups to secure ongoing panel status. In Pritchard, Obeng & Das (2012), the first respondent, who acted as a sole practitioner and held panel status with a number of lenders, was approached by an *agent* enquiring whether he would be interested in selling his practice. Terms were agreed, following which Obeng and Das gained control over the firm and its bank accounts and forged Pritchard's signature on certificates of title.

In cases where panel status was not available, improvisations to the script included mortgage redemption fraud, where undertakings to redeem were deliberately breached and sale proceeds dissipated. This is possible as panel status is not required on a sale transaction. In Bridge, McNabb & Stansfield (2013), Bridge failed to redeem three buy-to-let mortgages held in hers and Stansfield's names in order to conceal client account shortfalls (otherwise known as *teeming and lading*);⁴²⁶ and in

⁴²⁵ See also *Eyeoyibe & Another* (2009) a case including sub-sales and involving Bovis Homes. Other reported cases involved *Westbury Homes* (Grace, 2010) and *Crest Homes* (Dowdeswell & another, 2012).

⁴²⁶ See the HoL decision in *Law Society v Sephton & Co and others* Session 2005-06 [2006] UKHL 22 for an example and definitions for *teeming and lading*. Available at: <https://publications.parliament.uk/pa/ld200506/ldjudgmt/jd060510/seph.pdf>

Newell-Austin, Assroundi & Ahsan (2015) two solicitors infiltrated a small high street firm and used it as a vehicle to commit both mortgage fraud and redemption fraud.

Finally, as identified in the analysis of FSA/FCA enforcement proceedings, there exists a connection between ethnicity and mortgage fraud, an example of contingent relations, as opposed to necessary, in the structure of the fraud. Findings here noted a high prevalence of misconduct commissioned by Registered Foreign Lawyers regulated by the SRA, prosecuted at the SDT. Between 2009 and 2015 this accounted for 13% of striking offs, compared to Registered Foreign Lawyers as of December 2015 making up 1.26% of all regulated solicitors/lawyers in England and Wales.⁴²⁷ However, the data does not assist in determining whether the intention in registering in England and Wales was to commit fraud or whether that arose out of an inability to build a legitimate practice. Contrariwise this data could also be indicative of a bias by regulators in the deployment of capable guardianship.

Most notable misconduct included *drawdown and shutdown* cases, where mortgage fraud preceded practice abandonment. In Obeng & Adeyemi (2010), fraudsters mimicked a legitimate firm in order to intercept purchase monies, following which the firm was abandoned with the respondents returning to Nigeria. In Omuvwie (2009), SRA pleadings to the SDT referenced a typical *drawdown and shutdown* mortgage fraud.

When asked to comment on the disproportionate incidence of mortgage fraud involving registered foreign lawyers or their appearance before the SDT, the SRA argued that the available sample was too small and the data too old to draw any firm conclusions, although it did acknowledge that there has been infiltration of corrupted lawyers into the profession with the intention to facilitate mortgage fraud. However, it believes that it has sufficient systems in place now to assess an applicant's character and their suitability, which includes vetting for criminal records and financial behaviour.⁴²⁸

⁴²⁷ https://www.sra.org.uk/sra/research-publications/regulated-community-statistics/data/population_solicitors/

⁴²⁸ <https://www.sra.org.uk/solicitors/standards-regulations/assessment-character-suitability-rules/>

8.4.6. Bean counters: accountants, chartered and otherwise

A review of ICAEW disciplinary orders against chartered accountants was undertaken to determine the extent of the profession's involvement in, and response to mortgage fraud.⁴²⁹ As Opal and Cassandra demonstrate, falsified accountant's certificates and references were routinely used as a means of supporting misrepresentations made within the mortgage application, most notably where the applicant was represented as being self-employed.⁴³⁰

Misconduct included professional and audit failings, professional rule breaches and criminal offences, including for theft, insider dealing, investment and tax fraud. Sanctions included reprimands, fines and exclusion. As with the FCA, there is no enforcement policy against former members, which raises issues over effective deterrence and oversight. A former Intelligence Team Leader at the ICAEW (ITL) at interview said:

We don't strike them off like you do a solicitor. What we do is stop them being members of ICAEW...we don't stop them being an accountant.

Within the period available, 158 disciplinary orders were analysed to identify mortgage fraud or misconduct that bore the hallmarks of it. Only two cases were identified, that of Looi,⁴³¹ convicted under proceeds of crime following a mortgage

⁴²⁹ Due to differences in regulators' publication policy for their enforcement decisions there was a reduced period for data capture, compared to the FSA/FCA and the SRA. Accordingly, the first case identified was in April 2012 and, although data was recorded for the period up until the end of 2020, only enforcement proceedings published until the end of 2015 were considered for further analysis.

⁴³⁰ Additionally, a review of ACCA enforcement proceedings provided limited data for analysis, particularly as publication policy meant that only orders post-2016 were available online. Whilst there were a notable volume of expulsions and removals for serious misconduct, including for criminal convictions, there were no cases of mortgage fraud identified. What was notable was the reactive nature of enforcement proceedings, particularly following police tip-offs, although there was evidence of an overall lack of data sharing with the police and other regulators.

⁴³¹ October 2012, available at: [005407MATT-266577-DC_Publicity_Statement.ashx \(icaew.com\)](https://www.icaew.com/publications/005407MATT-266577-DC_Publicity_Statement.ashx)

fraud by her husband, and Jayakar,⁴³² a sole practitioner who completed fraudulent references and certificates for non-client applicants.⁴³³ Post 2015, there were two further cases identified out of a total of 722 disciplinary orders, one being the exclusion of Pomroy, the accountant in Cassandra⁴³⁴ and the exclusion of Bance in relation to an investment fraud that involved misrepresentations to lenders.⁴³⁵

The data corroborates case study findings that the accountancy profession at large includes a significant proportion of firms and individuals that practice free of regulatory oversight. The Professional Standards Manager (PSM) at the ICAEW at interview said that, of the 40,000 accountancy firms in the UK there are a very high proportion of them that are not members of any professional body. Some acquire professional status through organisations such as the IPA (as with Brown and Miah in Opal):

They can join these organisations and it gives that veneer of a greater credibility, doesn't it? But actually, it's just an organisation that allows them to use letters...It looks like you're being regulated and that you've got qualifications that you haven't.

Even in serious cases of mortgage and loan fraud the ICAEW enforcement strategies are limited as they do not hold evidence collection powers and are not a prosecutorial authority, therefore they are unable to prosecute fraud. The ICAEW does, however, expel members following criminal conviction, as they did with Pomroy, though due to challenges in obtaining information and evidence from the police, this invariably means that the member remains in practice up until trial and conviction, as did Pomroy. ITL said:

⁴³² July 2014, see: <https://www.accountingweb.co.uk/practice/general-practice/accountant-banned-for-reckless-mortgage-references>

⁴³³ This latter case followed a report from South Yorkshire Police who were prosecuting one of the applicants for mortgage fraud. Jayakar was fined and excluded by the ICAEW but not prosecuted.

⁴³⁴ December 2016. The order is no longer available online but details available at: <https://www.accountancydaily.co/accountant-jailed-over-role-£35m-mortgage-fraud>

⁴³⁵ September 2017. The order is no longer available online but details available at: <https://www.casemine.com/judgement/uk/5a8ff7bd60d03e7f57eb1af9>

Police forces don't necessarily share, even if they're investigating criminal matters. And I know as I deal with that most weeks. Even where they're taking it as far as prosecution, they won't necessarily share with the regulator, and that's common across regulators...So we're a bit hampered.

When the researcher suggested that the police look to the regulators to incapacitate rogue accountants in cases where they do not prosecute, ITL replied:

The impact of these decisions is not what law enforcement believe them to be.

Consequently, there is limited deterrent effect from ICAEW enforcement proceedings against its members, particularly as it cannot prevent the member from continuing to practice as an accountant, due to it being a non-restricted label. Instead, the regulator relies heavily on the presumption of professional status and members' moral compass. PSM said:

It's a really risky thing to be doing [mortgage fraud] because you really don't want to lose your title chartered accountant... Is it worth it for the sake of keeping your client happy?

Whilst these factors may erode an enforcement strategy based upon deterrence, ITL argued that there remains a latent deterrent as members are sensitive to any reputational damage as a consequence of a fall from grace:

It matters at the Golf Club; it matters when they go to wherever it is they go for their funny handshakes. Whatever it is they do, but it does matter to them, but from a legal perspective, it makes no difference.

Whilst the enforcement data relevant to accountants' involvement in mortgage fraud is modest, they remain contingent to the organisation of mortgage fraud, albeit necessary in certain improvisations to the script, as in Opal and Cassandra.

However, a more significant finding is the inadequacy of regulatory oversight and enforcement powers across the sector as a whole and how that incapability of guardianship in this context is necessary to the organisation of mortgage fraud.

8.4.7. Valuers and Estate Agents

RICS is the regulatory body responsible for valuers and estate agents. However, there is no requirement for an estate agent to be regulated by RICS. RICS has powers to investigate members and take action to protect the public or to uphold standards across the profession. The Disciplinary Panel of the Regulatory Tribunal is an independent body that hears disciplinary cases against its members and it has authority to impose reprimands, fines and expulsions.

Between 2010 and 2015, the relevant period for analysis, tribunal decisions averaged seven per year, although the frequency increased for the period January 2016 to March 2020 to eighteen cases per year.⁴³⁶ They also include members in international practices.⁴³⁷ The data identified that between 2010 and 2015 there were two cases of mortgage fraud out of fifty-two proceedings (there were also two cases that bore the hallmarks of mortgage fraud recorded between 2016 and 2020 out of ninety-two proceedings).⁴³⁸

RICS's test for an interim finding as to misconduct, which would include mortgage fraud, is based upon whether there is *liability to establish disciplinary action*, more specifically; is there evidence to support an allegation of misconduct? However, as with the ICAEW, its enforcement powers are limited as RICS is not a statutory regulator, which means that it does not have the power to compel disclosure of documents. The Director of Regulation Enforcement and Governance at RICS said at interview:

⁴³⁶ Disciplinary cases for 2009 were unavailable through the RICS publication guidelines.

⁴³⁷ Their reach is a global one, which places a strain on resource and presents further challenges in accessing evidence to support proceedings in foreign jurisdictions. Within the data analysed, disciplinary proceedings involved members practicing in Russia, Malaysia, Australia and UAE.

⁴³⁸ See the case of Ian McGarry: <https://www.ft.com/content/2ce4fcc4-3292-11e4-a5a2-00144feabdc0> and Mary-Jane Rathie: <https://www.bbc.co.uk/news/uk-england-london-13968587>

We don't have those statutory powers, so we very much work with our members on the basis of consensus. Of course, if they don't cooperate and they don't provide us with documents that would look highly suspicious...and that is a different kind of breach, a different type of misconduct.

Accordingly, the RICS regulatory model is based upon engagement with members and firms to prevent misconduct, where strategies include analysing data included on annual returns to create risk profiles and undertaking regulatory review visits.

In the case of mortgage fraud, which is “not big numbers” for RICS’s investigation teams, it disseminates with other regulators and Action Fraud to fulfil its regulatory purpose. However, with police, the Director said that their enforcement strategy is determined on a case-by-case basis, particularly as fraud prosecutions can run for several years.

Sometimes we will wait for the police to complete their investigations. It just depends at what point we're notified and it depends on how much information we are actually able to obtain.

She did, however, say that as with all regulators there remain inconsistencies in receiving information from police, particularly as there are no nationwide dissemination protocols in place which would provide regulators with information and evidence that would make enforcement outcomes more effective. This, allied to its inability to compel disclosure on its members, hampers effectiveness.⁴³⁹

What we've had many discussions about it [amongst regulators], is that the police don't have a uniform approach to what they will disclose and what they won't disclose. It varies from police force to police force and even station to station.

⁴³⁹ It does have the power to make an order for interim measures where a member who is under police investigation is suspended pending a decision to prosecute.

Furthermore, only a small percentage of estate agents are regulated members of RICS and are otherwise not required to be licensed or qualified to practice. The National Association of Estate Agents (NAEA) offer membership but have no regulatory responsibility. Enforcement falls to NTSEAT, delivered by Powys County Council in Wales. NTSEAT is responsible for ensuring that estate agents comply to practice standards. It undertakes these responsibilities by issuing offending estate agents (and agency firms) with warning and prohibition orders. Furthermore, it is worthy of note that a significant proportion of property purchases negotiated by estate agents subsequently involve the referral of either an in-house mortgage broker or the agent's nominated broker. This, in certain circumstances could be necessary to the commission of mortgage fraud.

There is limited data available for analysis and cases principally follow criminal conviction.⁴⁴⁰ There is also an absence of case summaries to identify the extent to which estate agents have been complicit in mortgage fraud.⁴⁴¹ Dawson in Aztec was subject to proceedings brought by the NTSEAT and banned from estate agency in May 2016 following her conviction, as too were Powell and Carter, although neither were directly involved in estate agency.⁴⁴² The case summary reads:

Whilst D [Dawson's name redacted] was the only one who was involved in estate agency work when she was convicted, it was decided that there could be a risk that they [Carter and Powell] may wish to engage in estate agency work in the future and that they would not be considered fit to do so given their convictions.

The modest findings within the RICS data suggest that either valuation abuse is not as prevalent as it previously had been, certainly in the late 1980s, as identified in

⁴⁴⁰ Sixty-three cases were included on the register for the period 2009 to 2015, which included 23 warnings and 40 prohibitions.

⁴⁴¹ In response to a request for further information from NTSEAT the Principal Solicitor for Regulatory Enforcement advised by email on the 23rd March 2020 that: Specific details of the matters are sensitive and cannot be disclosed unless within a judicial arena, whereas the outcomes are noted upon the public register.

⁴⁴² Although Powell advised at interview that he had worked on a temporary basis at a family member's estate agency.

Clarke's seminal study. Accordingly, valuer KPAs are contingent to the organisation of mortgage fraud, however, are necessary in larger fraud for profit schemes as seen in Cassandra. The data may otherwise suggest that valuation abuse is not readily identifiable and targeted by RICS as a regulatory risk and even where it is, there is limited information available within the decision notices.⁴⁴³ Notably, the valuer KPA in Cassandra was subject to expulsion by the panel in 2018, but not for misconduct relevant to mortgage fraud.⁴⁴⁴

8.4.8. Concluding remarks

This section has established that there existed broad deficiencies in the governance, regulation and control of financial services in England and Wales. This includes failures in state governance preceding and following the financial crisis, most notably PSC's neglect in identifying mortgage fraud as a contributory factor in the crisis.

Notwithstanding successful police investigations in the cases of Opal, Aztec and Cassandra and subsequent prosecutions; it has been argued that the criminal justice system is ill-equipped and under-resourced to prosecute the organisers of mortgage fraud (as it is with fraud generally). Additionally, there remains a reluctance on the part of lenders to report fraud, due it has been argued here and in the previous section, to those shared dispositions that make them vulnerable to victimisation, which further adds to the diminution of criminal outcomes.

It has also established that there existed incapable guardianship across the financial services sector in England and Wales, this being a necessary relation in the successful organisation of mortgage fraud. This is evident within four distinct and

⁴⁴³ By example, in 2012 McGarry was expelled from RICS due to his conviction for his facilitating role in a £50million mortgage fraud conspiracy. The decision notice references a bundle of documents before the disciplinary panel that included the certificate of conviction and the sentencing remarks of the trial judge, but otherwise contains limited additional information. However, there are a number of press releases, which is an additional sanction used by RICS as they recommend publication in a paper local to the respondent. Case details are otherwise available at: <https://www.sfo.gov.uk/cases/birmingham-mortgage-fraud/>

⁴⁴⁴ <https://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/regulation/panel-hearings/disciplinary-panel-hearings/derek-porter-disciplinary-panel-hearing-11-12-october-2018.pdf>

inadequately regulated relationships. Firstly, those substantive relations of connection between the applicants (motivated offenders) and the suitable targets (victim lenders). Secondly, those relations between KPAs (brokers, solicitors, accountants et al.) and their guardians (regulators, law enforcement and the criminal justice system). Thirdly, the relations between the motivated offenders and their guardians (law enforcement etc...). And fourthly, the relations between victim lenders and their respective guardians (regulators and the state).

These findings support the refinement of the second theoretical proposition to now read; the governance, regulation and control of mortgage fraud in England and Wales faces challenges in the disruption of mortgage fraud as a consequence of those dispositional factors, *allied with deficiencies and failures in governance, regulation and control.*

8.5. Reproduction

8.5.1. Introduction

This section will consider patterns of behaviour amongst motivated offenders, KPAs and supporting actors in Opal, Aztec and Cassandra as a means of understanding the organisation of mortgage fraud and its evolution. It will adapt and redefine the theoretical proposition that reproduction of mortgage fraud is possible as a consequence of the convergence of the circuits of power as discussed above in sections 8.2 and 8.3.

The section will firstly apply case study data and research findings to adapt the conventional mortgage fraud script as set out above. It has already been established that KPAs, most notably the broker, are necessary to support reproduction, though some KPAs are contingent. Furthermore, shared dispositions, both necessary and contingent, amongst lenders and failures of state governance and regulation, as argued above, support reproduction and inform the script.

The section will demonstrate how, in the case of Opal, the script adapted to avoid disruption, albeit principally by way of displacement, and by recruitment of alternate KPA. It will construct reproductive mortgage fraud scripts, by example, where KPA

become increasingly necessary to support reproduction, particularly the solicitor. They will also demonstrate how improvisations are made to the conventional script to avoid disruption, principally by way of increased levels of deception, the recruitment of straw persons and Land Registry manipulation. Within the context of this latter example, it will also argue that fraudsters exploit those legitimate services of key government agencies necessary to avoid disruption and support reproduction.

These necessary and contingent relations of connection also demonstrate that mortgage fraud is a product of the arms race between organisers and preventers, and this creates a dynamic which ultimately supports an adaptable and transformative script.

8.5.2. The reproductive mortgage fraud script based upon case study analysis

Changes in the behavioural dynamics of the motivated offenders and KPAs in both Cassandra and Aztec led to improvisations to the conventional script. Prototypical mortgage fraud was initially used as a means of illegitimately supporting property acquisitions and development. Due to escalating scale and value and the need to reproduce in order to recycle fraudulent debt, it became necessary to increase the level of victim targeting and the methods by which lenders could be deceived.

To this end, solicitor involvement as KPA in Cassandra became necessary and essential to support reproduction. This led to Gilbert's role and responsibility in Cassandra evolving to one of joint motivated offender, alongside Entwistle. Clarke (1991) associates the complicit solicitor to higher value mortgage frauds as they are the most essential agent to ensure reproduction, though as already discussed they are otherwise contingent. The engagement of the solicitor, as KPA, is a significant factor in the improvisation of the conventional script, particularly with regard to their ability to represent sham property transactions as being at arms-length, engage in mortgage redemption fraud whilst also obfuscating efforts to disrupt. The reliance placed on the panel solicitor and their access to professional indemnity insurance (PII) diminishes the ability of the lender to otherwise identify wholly suspicious activities and red flags.

Enforcement data from the SDT illustrates that notable improvisations to the crime-commissioning processes of the script were necessary to circumvent preventers' efforts to disrupt. By example, a response to a tightening of lenders' panels post-financial crisis saw the emergence of cuckooing, where small firms being sold by retiring partners were targeted by organised crime groups to secure their ongoing panel status.⁴⁴⁵ Additionally, the prevalence of mortgage redemption fraud was also evident, a means of facilitating fraud without the requisite panel appointment.⁴⁴⁶ As a former head of financial crime at a medium-sized mortgage lender said:

It's not just always about mortgage fraud, it could be linked to something much bigger than that. It could be linked to serious and organized crime, and it could be linked to drug trafficking.

In Cassandra and Aztec, the recruitment of straw persons became necessary in circumstances where the motivated offenders were facing increasingly disruptive conditions. They were used to support crime displacement strategies where the motivated offenders were refused a mortgage, or where their knowledge of the system and their access to mortgage underwriting software informed them that they would be unsuccessful if they applied. By example, in Aztec, this was to avoid CIFAS markers, whilst in Cassandra, Entwistle and his companies had exceeded credit limits and had become less creditworthy due to his increasing inability to pay the multiple monthly mortgage instalments owing, some of which were legitimate.

⁴⁴⁵ In Pritchard, Obeng & Das (2012) the first respondent, who acted as a sole practitioner but held panel status with a number of lenders, was approached by an *agent* enquiring whether he would be interested in selling his practice. Terms were agreed, following which Obeng and Das gained control over the firm and its bank accounts and forged Pritchard's signature on certificates of title.

⁴⁴⁶ In Bridge, McNabb & Stansfield (2013), Bridge failed to redeem three buy to let mortgages to conceal client account shortfalls (known as *teeming and lading*), and in Newell-Austin, Assroundi & Ahsan (2015) two solicitors infiltrated a small high street firm and used it as a vehicle to commit both mortgage fraud and redemption fraud. Other cases include Adil & Another (2015), where the first respondent repeatedly operated a system of misplacing the decimal point in the redemption figure so as to only redeem ten percent of the actual amount and claim negligence. The case of Odunlami (2011) demonstrated greater organisation and a dishonest arrangement with another firm where redemption cheques were dishonoured and undertakings deliberately breached.

Without the active involvement of the straw persons in both cases, the fraud would have been disrupted at an earlier stage.

A former Detective Inspector of the Economic Crime Department at the City of London Police had experience of fraudsters recruiting straw persons to circumvent fraud prevention measures:

A fresh name, somebody that wouldn't come up on Hunter. Somebody who is *genuinely* making a mortgage application for a property that exists...if you've got a solicitor in on the case too then you're good to go.

In all three cases motivated offenders and KPA utilised public services, the responsibility of key government agencies, to reproduce mortgage fraud. These agencies included the DVLA, HM Passport Office, Companies House and the Land Registry. They provided the necessary and otherwise legal means by which the motivated offenders and KPA could change name and their key identification documentation, abuse company formation rules and regulations and misuse the land registration regime. This is a further example of incapable guardianship, as these agencies failed to identify suspicious applications submitted and lacked the resource and means to protect themselves from the risk of fraud. This consequently enabled reproduction in each of the case studies over the ability and capability of these agencies to disrupt.

In Aztec, lead actors were able to reproduce the fraud by abusing deed poll, the otherwise legal route by which an individual can change their name. Carter changed his name on five occasions and made five separate applications to the DVLA for a replacement driving licence in his new alias. Powell changed his name on two occasions and made two applications to HM Passport Office for a new passport in his new alias. Both reverted back to their original names, Carter on two occasions.

In Cassandra, Gilbert was able to reproduce the fraud by title manipulation at the Land Registry. This became a necessity due to changes in the lenders' security protocols, particularly the use of independent solicitors to pursue outstanding

security. Whilst this should have had an immediate impact in disrupting Cassandra, it in fact led to reproduction as new mortgages were necessary to avoid disruption. There is also evidence of similar practices of title manipulation in Aztec, together with bogus land disputes, used as a means to reacquire property from lenders at low value following repossession.

These processes created improvisations to the conventional script which included failing to redeem existing mortgages or to register new mortgages and the concealment of multiple mortgages against the same property by title splitting. In Cassandra, applications to split or divide title were submitted with architecturally drawn and Land Registry compliant plans, produced by in-house architects. This would have supported a façade of authenticity and legitimacy within the application.

However, these activities would still require the submission of multiple applications, a high volume of which would have been cancelled due to failure to deal with requisitions raised by the Land Registry or due to prolonged periods of delay. Notwithstanding, no complaints were made by the Land Registry to the firm, the lenders, or the SRA into emerging patterns of suspicious activities.⁴⁴⁷

In all cases there is evidence of the systemic abuse of company formation law and procedure with Companies House, as individual and complex corporate structures were used to obfuscate reality to the victim lenders. Companies were then used to circumvent underwriting safeguards, misrepresent true ownership, conceal fraudulent property transactions and to act as false employers. Tactics were highly effective in reproducing the fraud, particularly as Companies House's failure or inability to carry out due diligence on formation agents and company officers limited its capacity to disrupt.

⁴⁴⁷ The Land Registry's Head of Fraud, Julie Jenkins, was invited to participate in this study but declined on the basis that she considered that the Land Registry was also a victim in this fraud. There are multiple witness statements from Katherine Brothers of the Land Registry, predominantly dated the 25th January 2013, that chronicle the sequence of registrations and tactics used by Gilbert.

By example, failures included not identifying patterns between the use of the same registered office and formation agents with multiple non-trading companies. As the Professional Standards Manager at the ICAEW said at interview:

If you set up a company through an ICAEW firm, that firm has to do due diligence on the beneficial owners ...If I was to go straight to Companies House to set up a company, Companies House wouldn't ask me anything about that at the moment so I could just put your name, your address and there would be no checks and balances.

Furthermore, these conditions were necessarily supported by the dispositions of lenders, specifically their unconditional reliance on the authenticity of identification and company formation documentation. This reliance ultimately led, in some cases, to a general failure in fraud prevention, particularly in carrying out additional checks on documentation where the risk of fraud was high.⁴⁴⁸

These examples demonstrate how interaction amongst the organisers of mortgage fraud and the preventers, including victim lenders, regulators and key government agencies, create improvisations to the script that become increasingly proactive in objective, reactive to efforts to disrupt and sufficiently dynamic to support reproduction. These improvisations to the conventional mortgage fraud script are set out in figures 6-9 below.

Figure 6 sets out those disruptive and reproductive influences that create improvisations to the script in relation to victim targeting. By example, in Aztec the CIFAS marker against Powell necessitated improvisations to the script by the introduction of straw persons and the further abuse of the mortgage application process as set out in figure 7.

⁴⁴⁸ By example, failure to identify that an applicant's *employer* as stated on a fraudulent payslip has not filed any annual accounts at Companies House and was therefore a non-trading entity incapable of paying any form of salary.

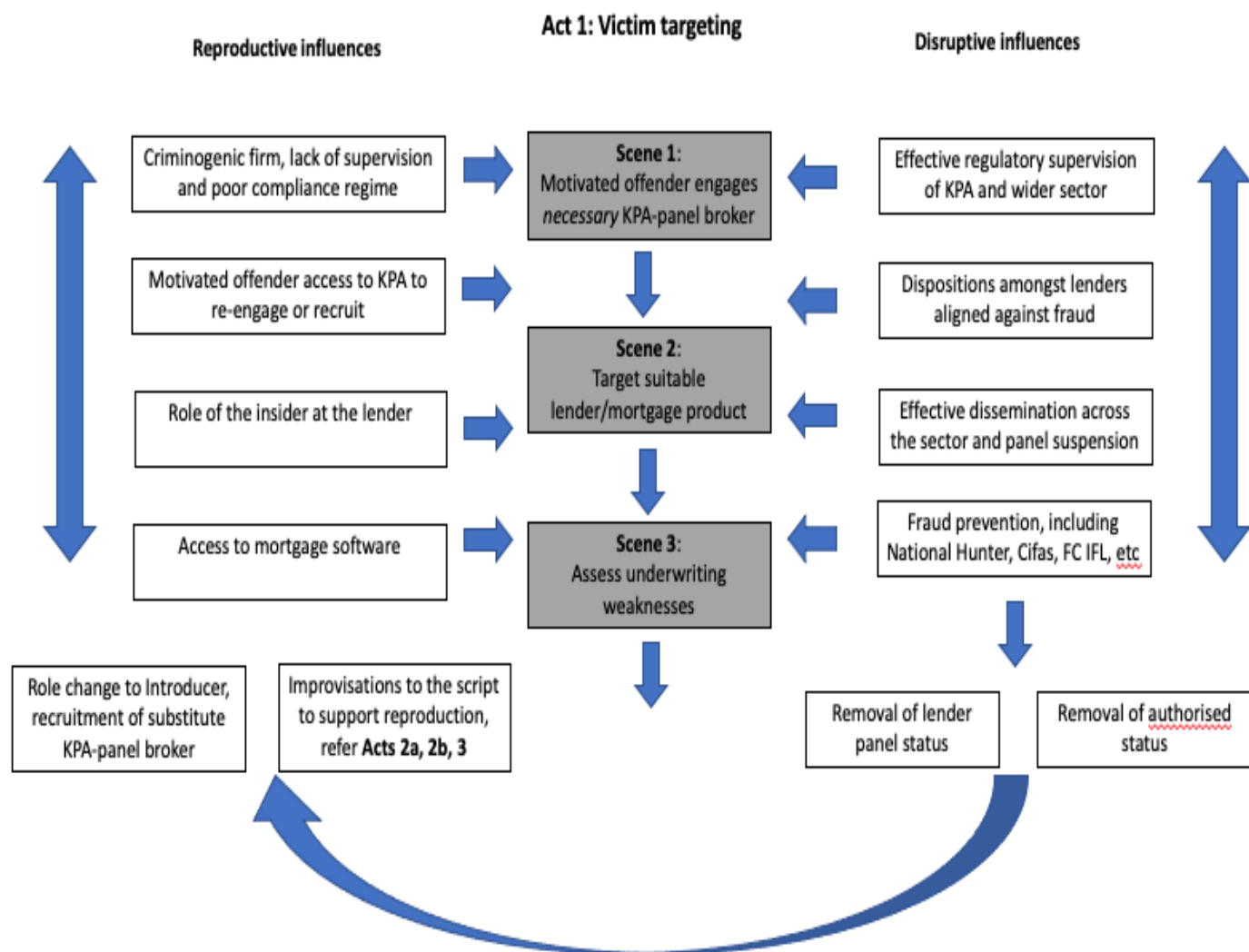


Figure 6: The Reproductive Mortgage Fraud Script- Victim Targeting

Additionally, figure 7 includes those improvisations to the script, which included, in all cases the use of phantom employers and falsified payslips and income certificates to satisfy requests for proof of income. However, the general failure on the part of victim lenders to utilise the HMRC income verification scheme (potentially due to administrative cost) or to effectively disseminate evidence of potential fraud, resulted in loss of the opportunity to disrupt.

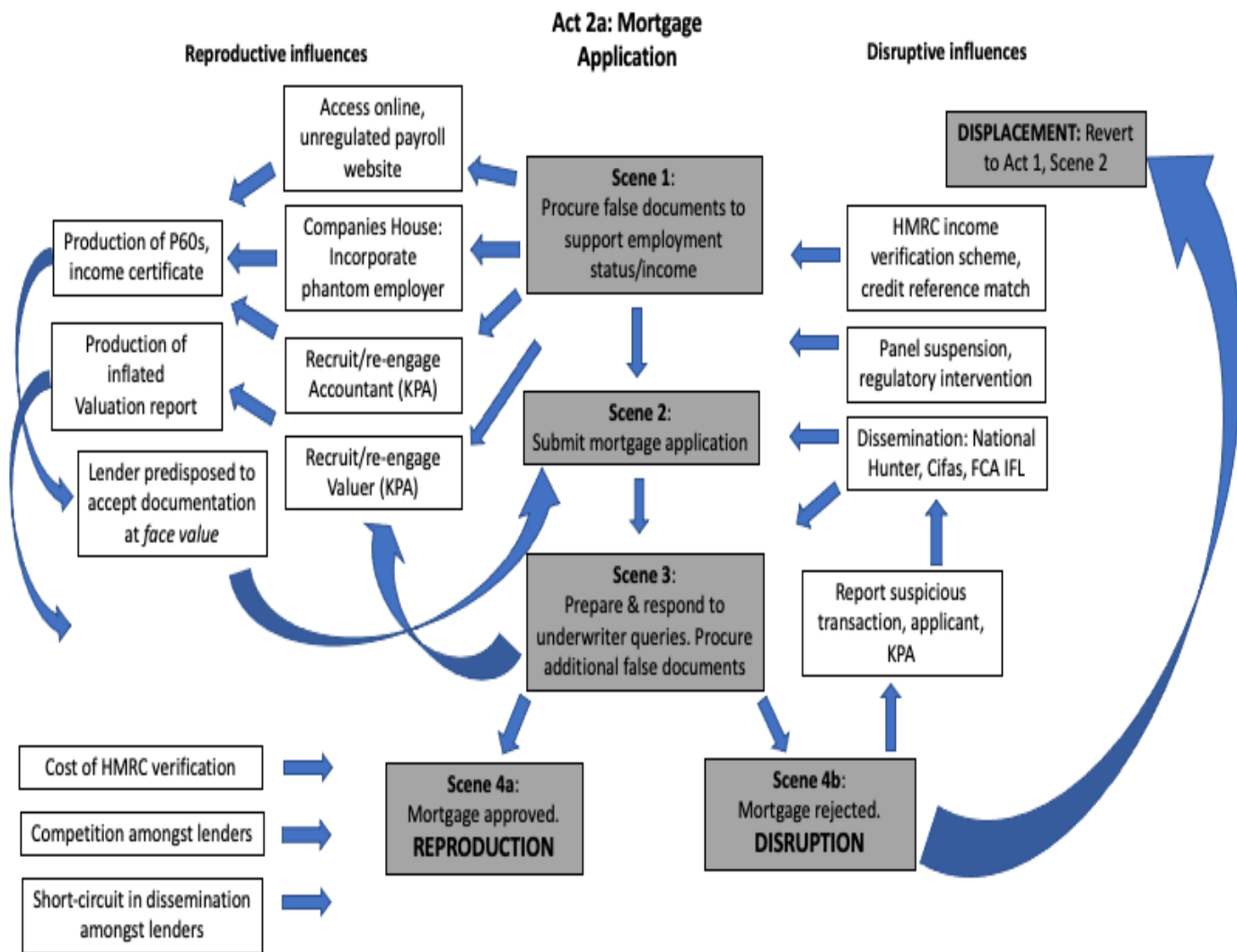


Figure 7: The Reproductive Mortgage Fraud Script- Mortgage Application

Figure 8 demonstrates examples of mortgage fraud displacement as evident in the case studies. In addition to displacement via the use of straw persons with close personal or familial ties to the motivated offender, further improvisation of the script is depicted through the use of aliases and the subsequent abuse of key government agencies, the DVLA and HM Passport Office.

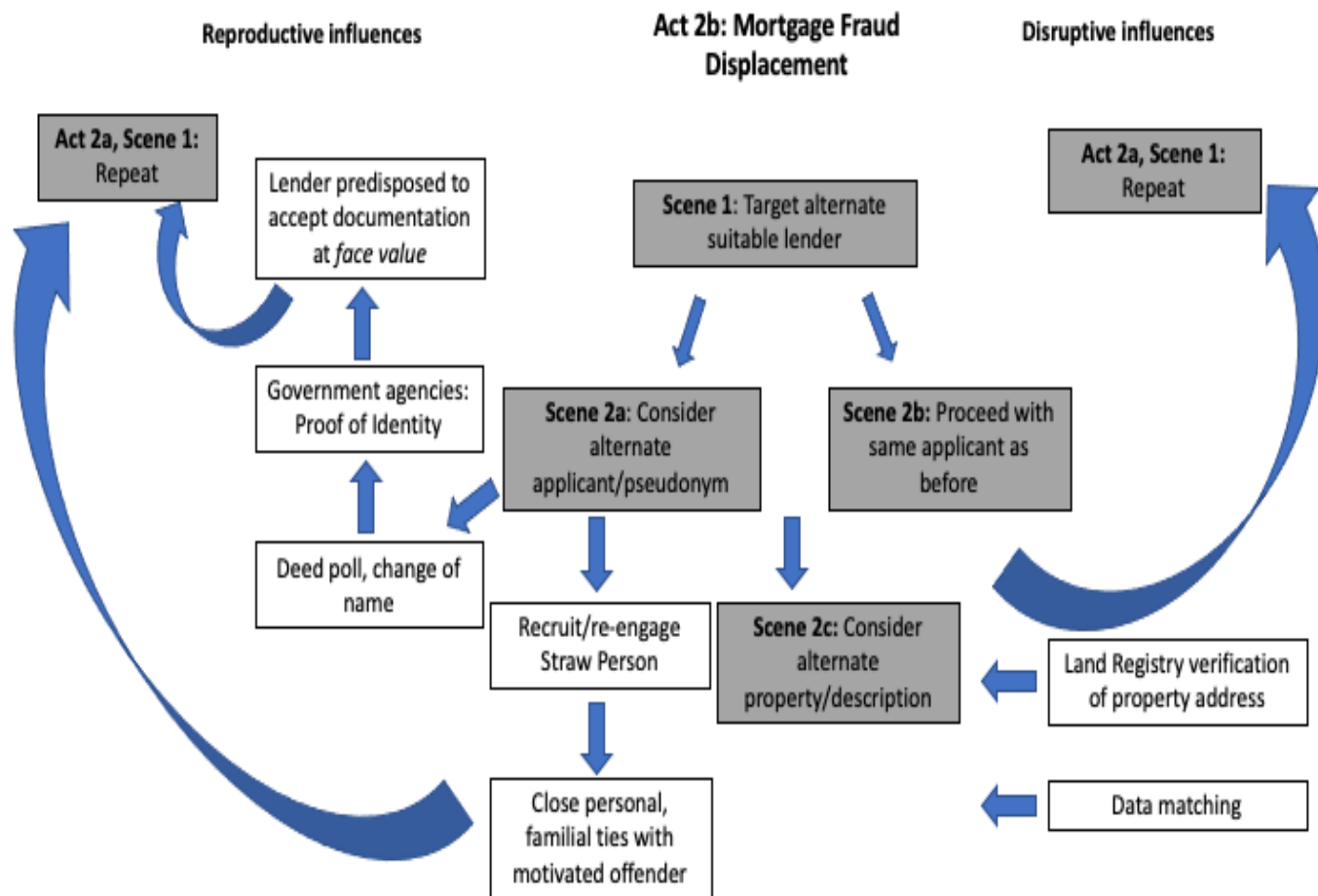


Figure 8: The Reproductive Mortgage Fraud Script- Mortgage Fraud Displacement

Finally, figure 9 presents the script for mortgage drawdown as described in chapter 4. As already discussed, the solicitor as KPA is contingent to the conventional script, however, necessary in the case of the reproductive script. Figure 9 illustrates improvisations to mortgage drawdown that may be applied by solicitor KPAs, which include misrepresentations in the certificate of title ahead of completion and, post completion the manipulation of Land Registry rules and practices. As was discussed in Cassandra, panel suspension and the appointment of independent solicitors proved to be an effective means of disruption, albeit it also contributed to reproduction as further mortgage applications were required to recycle fraudulent debt.

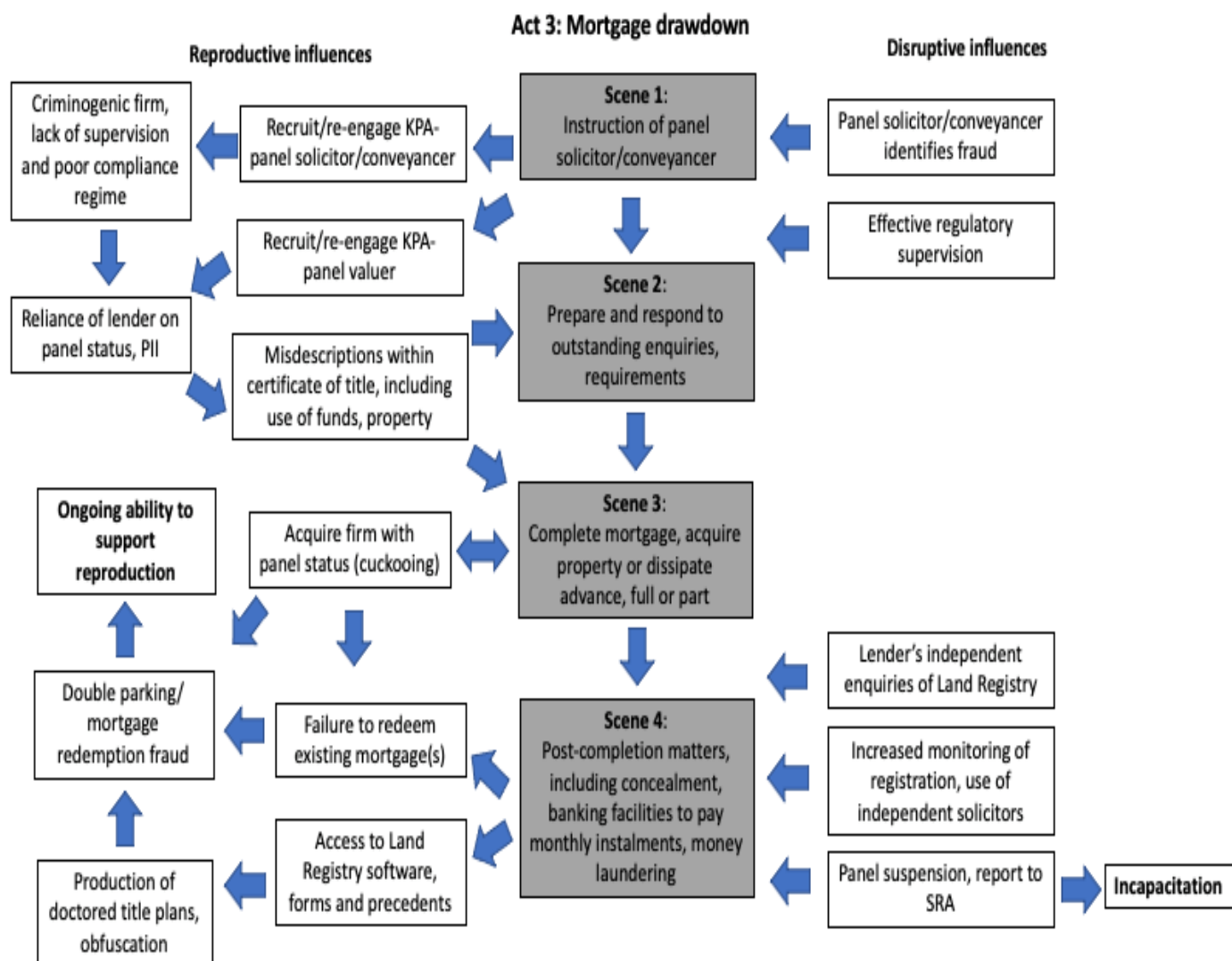


Figure 9: The Reproductive Mortgage Fraud Script- Mortgage Drawdown

8.5.3. A final comparative overview of the case studies

Table 19 below provides a comparative overview of the three cases by proposing certain pre-requisites to offending characteristics alongside factors that support either the disruption or reproduction of mortgage fraud. The characteristics proposed were identifiable in all cases and were therefore necessary to the commission and reproduction of mortgage fraud.

However, this is with the exception that there existed a closer social dynamic in Cassandra compared to Opal and Aztec (although in Aztec there were distinct personal and familial connections between the motivated offenders, albeit distinct

from one another); and as Opal was more commonly a fraud-for-property conspiracy, there were no straw persons involved. Neither did it evolve from an earlier legitimate enterprise. These characteristics and factors are therefore contingent to the organisation of mortgage fraud.

Offending characteristics and causal mechanisms	Opal	Aztec	Cassandra
Was adaptation necessary to support reproduction?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Was the conspiracy led by distinct motivated offender(s)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Were KPA necessary to the fraud and its reproduction?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Were social relations amongst <i>all</i> actors closely connected?			<input checked="" type="checkbox"/>
Did the modus operandi involve the provision of false documents that were capable of being verified as such?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Were straw persons used to support adaptation and reproduction?		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Did knowledge of underwriting/fraud prevention weakness prevail over opportunity in the reproduction of the fraud?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Did the fraud evolve from an otherwise legitimate enterprise?		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Was that legitimate business and the property portfolio a driver to the reproduction of mortgage fraud?		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Were victim targeting strategies essential to reproduction?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Were multiple red flags ignored by the victim lender?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Were KPA working within criminogenic organisations?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Was reproduction supported by exogenous mortgage market forces, including competition and securitisation?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Were there failures in the regulation of financial services and the professions of the KPA?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Is there evidence of adaptation in response to changes on market forces?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Table 19: Comparative overview of Opal, Aztec and Cassandra

8.5.4. Concluding remarks

These findings support the refinement of the third theoretical proposition to now read; the reproduction of mortgage fraud is possible within the financial services market in England and Wales as a result of the convergence of *dynamic* and *evolving* causal, dispositional and facilitative powers. *Furthermore, irrespective of the variance between the conventional and reproductive mortgage fraud script, the combination and convergence of these circuits of power, in both instances, ultimately enables reproduction.*

In addition, any change or adjustment in any of the three powers is countered by adjustment within the others. Therefore, any changes to the governance, regulation and control of financial services in England and Wales is nullified by the improvisation of the causal mechanisms within the script allied to the dispositions of motivated offenders and the victim lenders themselves.

This supports adaptation of the theory proposed as it also demonstrates how mortgage fraud and its reproduction is a dynamic and evolving problem for regulators and lenders, as a consequence of the three circuits. This is evident through the arms race existing between organisers and preventers of mortgage fraud as evident in Opal, Aztec and Cassandra.

In the concluding chapter it will be argued that knowledge of the combination and convergence of these circuits is a prerequisite to a fuller understanding of the organisation of mortgage fraud. It will also identify broader themes for future research into the reproduction of mortgage fraud and possible interventions to the

mortgage fraud script that will further inform the arms race between organisers and preventers.

It will also be argued that the study advances knowledge about fraud as a distinct field of contemporary (even convict) criminology, and supports the furtherance of the understanding of the organisation of financial crime, particularly broadening the scope of inquiry beyond the offenders to encompass other agents and facilitating conditions and their implications for prevention.

Chapter 9: Conclusion

9.1. Adapting and refining the theoretical propositions

The overarching aim of this study has been to offer a comprehensive and critical explanation of the *organisation* of mortgage fraud in England and Wales, beyond that of a reductive account of the phenomenon. Clegg's Circuits of Power conceptual framework (1989) was chosen as a novel way of identifying causal agents, dispositional and facilitative powers, which it is proposed, are central to the organisation of mortgage fraud. This framework informed those theoretical propositions that were established to support an adaptive research strategy, which guided the collection and analysis of data as set out in the foregoing chapters (Layder 1998).

The first proposition was based upon the tenet that the commission of mortgage fraud, by organisers is only possible due to dispositional factors operating in the financial services market in England and Wales. These dispositions, which are evident in each case study include shared dispositions, both necessary and contingent to the commission and reproduction of mortgage fraud. Furthermore, it is argued that the convergence of these conflicting dispositions, as evident in the contest for ascendancy in the arms race amongst organisers and preventers, creates the environment that supports reproduction and to a lesser extent, disruption.

Cross-case study analysis identified substantive relations of connections between actors that supported the commission and reproduction of mortgage fraud, whether in terms of necessary relations, without which the fraud would not exist, or contingent relations which in specific cases, notably fraud-for-profit schemes, do exist and are supportive of reproduction.

More specifically, it identified KPA predisposed to mortgage fraud in order to consider the extent to which their role in the organisation of mortgage fraud was either necessary or contingent to support reproduction. Whilst the broker was considered necessary in all cases, the role of the solicitor, accountant and valuer

were otherwise considered contingent, but becoming essential in certain scenarios, particularly highly reproductive schemes, as seen in Cassandra. Moreover, the case studies established that it was necessary for the KPA to practice within a firm or organisation where a criminogenic culture was evident, most notably where there existed an absence of effective governance and oversight, and where deferential colleagues failed to intervene.

Accordingly, applying these scenarios to the script identified improvisations that enabled reproduction. This process then provided greater understanding of the circumstances surrounding the recruitment of KPA and their role and responsibility within a mortgage fraud conspiracy. It also demonstrated both the singularity and the plurality of the script.

By example, it was evident in Cassandra and Aztec that the recruitment of straw persons was a necessary prerequisite to reproduction. Without this improvisation to the script, disruption was highly probable. Moreover, recruitment criteria were based upon the straw person enjoying a close familial or personal connection to Entwistle, Powell or Carter. This social dynamic is contingent to the organisation of mortgage fraud as regulatory data analysis demonstrated that, in other cases, straw persons were either unknown or loosely associated with the motivated offender. In the two case studies, however, these close ties did ensure that the activities of the straw person were efficiently supervised and managed and provided the dynamic where proximal social relations, reinforced by loyalty and trust, countered disruptive elements. It also reduced operational costs of sorts, as these straw persons received little or nothing in return for their involvement, compared to those lesser associated straw persons within the regulatory data, who commonly received cash payments for their role.

Whilst the first proposition stood up well to cross-case study analysis, there was the need to adjust the proposition to take account of findings that identified a greater influence of dispositional factors amongst victim lenders, that supported reproduction over disruption. These dominant dispositions included high-risk lending practices, inadequacies in fraud prevention and a general disinclination to report victimisation to law enforcement. They were evident in each case study as the same cohort of

suitable victim lenders were repeatedly targeted. This demonstrates the consequences of an erosion of the coalition amongst lenders, where rules of meaning and membership based upon prudential risk, due diligence and sound mortgage lending practice and custom should be the industry norm. Additionally, it was evident across the three case studies and through the interviews conducted with mortgage lenders that there also existed a disinclination to report fraud to law enforcement. These factors rendered the suitable victim lenders in all three cases effectively incapable of disrupting mortgage fraud, which perversely then supported reproduction. These dispositional factors are necessary to the organisation of mortgage fraud.

As a result, the first proposition is adapted to now read; the commission of mortgage fraud in England and Wales is facilitated by the exploitation of those dispositional factors prevalent in the financial services market, by motivated offenders, including key professional agents, *in circumstances where shared dispositions amongst victim lenders are necessary to support reproduction, which includes a disinclination to report victimisation and contributes to the depenalisation and potentially decriminalisation of mortgage fraud.*

The second proposition sought to augment the theoretical positioning of the first by suggesting that shared dispositions amongst organisers, particularly their desire to commit and reproduce mortgage fraud, is interconnected to facilitative conditions within the sphere of governance, regulation and control of financial services in England and Wales.

In order to develop the second proposition there was a need to extend data gathering to parliamentary and regulatory proceedings. This was intended to establish the level of interest, if any, that exists from those who govern and regulate to understand the impact of mortgage fraud on the financial services sector. Data collected from parliamentary proceedings, particularly the PSC's investigation into the financial crisis, identified dispositional and facilitative factors, which included failures of governance and regulation within the banking and mortgage sector. It otherwise failed to correlate these dispositions directly with mortgage fraud, notwithstanding that they are interdependent on one another.

Furthermore, the failures identified support the proposition that there existed incapable guardianship across the sector, this being a necessary relation in the successful organisation of mortgage fraud. This is also evident in four distinct and inadequately regulated relationships. Firstly, those substantive relations of connection between the applicants (motivated offenders) and the suitable targets (victim lenders). Secondly, those relations between KPAs (brokers, solicitors, accountants et al.) and their guardians (regulators, law enforcement and the criminal justice system). Thirdly, the relations between the motivated offenders and their guardians (law enforcement etc...). And fourthly, the relations between the victim lenders and their respective guardians (regulators and the state).

The case studies demonstrate effective criminal justice outcomes for preventers, albeit after highly-reproductive schemes, yet investigators involved in each case spoke independently of the ineffectiveness of law enforcement in policing fraud. This included a lack of resource, which extended to the appropriate level of training and investigator experience, and the low priority given to fraud by senior management and the UK government. There also existed reciprocity between these beliefs and lender failure to report victimisation, as the lenders had little confidence the report would be formally recorded and then investigated.

Regulatory enforcement data yielded a varied representation of efficacy in terms of guardianship across the sector in the preceding years to the financial crisis (and post), but otherwise demonstrated uniformly reactive and light touch regulatory strategies amongst regulators tasked with supervision. This provided the facilitative factors where high-risk lending was common across the sector, where profit and growth was prioritised over prudential risk and appropriate lending practices. Additionally, due to failures in regulatory oversight of the high street brokerages, the profession became contaminated with corrupted or corruptible KPAs.

These factors and conditions within the criminal justice and regulatory systems evidence incapable guardianship on the part of the UK government and regulators. There is a rich irony in that the banking sector needed a bail-out as a consequence of the financial crisis, leading to a period of austerity where public services, particularly the criminal justice system, were not provided with sufficient funding in

order to undertake effective guardianship. This includes ensuring that the sector is subject to adequate regulation, which includes effective sanctioning to incapacitate complicit KPAs, and that there also exist criminal justice outcomes for the organisers of mortgage fraud. Consequently, incapable guardianship is a key causal mechanism necessary for the successful organisation of mortgage fraud.

Findings from the data and the cross-case study analysis support refinement of the second theoretical proposition to read; the governance, regulation and control of mortgage fraud in England and Wales faces challenges in the disruption of mortgage fraud as a consequence of those dispositional factors, *allied with deficiencies and failures in governance, regulation and control*.

The third proposition was structured to homogenise the three, whilst consolidating the premise on which the understanding of the organisation of mortgage fraud is possible when it is viewed as a circuit which has capacity to exist and reproduce, due to the convergence of causal, dispositional and facilitative conditions and influences. This circuit of power was evident in Opal, Aztec and Cassandra.

Cross-case study analysis identified how mortgage fraud was reproduced as a consequence of shared dispositions and substantive relations of connection amongst organisers and preventers, and between criminal action and regulation. These factors and the conditions in which they operated demonstrate that mortgage fraud is a product of the arms race between organisers and preventers, structured by criminogenic dispositions, incapable guardianship and suitable victim lenders in highly competitive financial services markets. It is this dynamic that ultimately supports an adaptable and transformative script.

Furthermore, it was identified that an adjustment or change in an individual power is counteracted by an adjustment or change within another power. Accordingly, and by example, attempts to disrupt mortgage fraud by increased oversight, including regulatory cleansing, can be counteracted by the role and activities of unregulated actors within the script. Additionally, the requirement of verifying an applicant's status and earnings can be supported by the modest cost (£12) and facility by which

companies in England and Wales are capable of being incorporated, in circumstances where they can then be used as vehicles to enable fraud.

Therefore, the third and final theoretical disposition is refined as; the reproduction of mortgage fraud is possible within the financial services market in England and Wales as a result of the convergence of *dynamic and evolving* causal, dispositional and facilitative powers. *Furthermore, irrespective of the variance between the conventional and reproductive mortgage fraud script, the combination and convergence of these circuits of power, in both instances, ultimately enables reproduction.*

9.2. Answering the research questions

Following the refinement and settlement of the three theoretical propositions it is now possible to answer the three research questions posed in the introduction to the study and considered alongside current criminological theory, as presented in the literature review in chapter 2. Each question is answered as follows:

1. “How is mortgage fraud organised and what are the crime-commissioning processes for its occurrence?”

The study has applied script analysis, an epistemology of critical realism and an innovative method of identifying how mortgage fraud is *organised* in England and Wales (Cornish 1994, Levi and Maguire 2004). It also allows for the context-dependency of mortgage fraud to be understood, particularly “how necessary and contingent relations are configured” within the script (Edwards 2016a, p.248).

Accordingly, in chapter 8, a conventional and several reproductive scripts were presented. These scripts capture those dynamic and evolving processes which provide the flexibility and adaptability needed to avoid disruption, whilst improving opportunities within the script to support commission and reproduction. An example of these dynamic and evolving processes, evident in all three cases, included the systemic abuse of company formation law and procedure. Additionally, in Cassandra and Aztec, improvisation to the script included the recruitment of straw persons and

the manipulation of Land Registry rules and practice, both necessary to support reproduction and avoid disruption.

Furthermore, to understand how mortgage fraud is organised there was a need to examine circumstances beyond individual activities and biographies of the organisers, and to consider the crime facilitative environment in which they operated. This environment was the financial services sector, which included exogenous conditions and influences that operated throughout the system from the early *noughties* (pun intended), up to and beyond, it is argued here, the financial crisis. Most notably, this included a regulatory framework ineffective in supervision and guardianship (Jordanoska and Lord 2019).

Accordingly, the analysis of these broader structural factors is an essential requirement to understand how mortgage fraud, as presented in each of the case studies, is possible and, accordingly the circumstances in which these factors and influences support reproduction or disruption (Levi and Maguire 2004).

Clegg's Circuits of Power theory (1989) was chosen as a conceptual framework to understand the organisation and reproduction of mortgage fraud by transposing causal agency, dispositional and facilitative powers to the schema of the script. This then produced a script that concretely represents how mortgage fraud is organised, the crime-commissioning processes that are necessary or contingent to its organisation, and how it is a product of the arms race between organisers and preventers, a relationship that provides the standing condition for mortgage fraud to exist (Layder 1998).

2. “Are the proximal causes of mortgage fraud related to causal, dispositional and facilitative circuits of power and if so in what ways?”

Yes. The script identifies that causal agency and the individual activities and biographies of the organisers at the proximal level are interrelated to distal factors that support their existence and their capacity to reproduce (Jordanoska and Lord 2019). The study has adapted criminological inquiry into the interrelationship between proximal and distal factors and crime, to one where the distal element is

considered by way of dispositional and facilitative conditions (Schrager and Short 1978; Tombs and Whyte 2007; Lord et al. 2018). It has been established that together with causal agency, they constitute a circuit of power where financial crime, such as mortgage fraud, can exist and freely operate, and where the circuit supports the existence of an arms race and a contest for ascendancy between organisers and preventers (Clegg 1989, 2014).

Cross-case study analysis identified that whilst motivated offenders shared dispositions to defraud lenders, avoid disruption and effect reproduction, by whatever means available; concomitantly there existed dispositions amongst lenders that made them vulnerable to victimisation. Dispositional factors evident within the financial services market pre- and post-financial crisis, led to processes of uncoupling where the rules of meaning and membership in business practices amongst some lenders outside of the coalition, became detached from otherwise ethical and moral customs and practice (Clegg 2014). These processes supported victim targeting and contributed to an inherent failure to disrupt, notwithstanding strong indicators of fraud.

Dispositions amongst lenders also included a disinclination to report victimisation to law enforcement, through Action Fraud. This dispositional factor interconnects with facilitative conditions, which collectively contributed to deficiencies in governance, regulation and control, to be discussed further in the response to question 3 below.

3. “How effective is the governance, regulation and control of financial services in England and Wales in disrupting mortgage fraud?”

The study has concluded that there existed, and arguably still exists, deficiencies in the governance, regulation and control of financial services in England and Wales. These deficiencies included the UK government's failure to identify systemic fraud within the mortgage markets in the preceding years to the financial crisis, allied to deficiencies in regulation. The latter extends to supervision at both boardroom level, particularly in governance and exposure to risk and fraud, and within the high street brokerages, where a defective conduct-of-business and fit and proper persons regime led to a significant proportion of unfit brokers within the profession. This latter

point is particularly evident in the three case studies where principally six brokers acted, all of whom were necessary to support commission and reproduction, and none of whom were subject to regulatory sanction.

These deficiencies provided the facilitative conditions to complete the circuit providing mortgage fraud with the headroom to exist and as a consequence of this, the capacity for reproduction. It has been established through primary documentary data collected from parliamentary proceedings and the regulators of financial services that governance, regulation and control has been ineffective in disrupting mortgage fraud, and is a necessary relation of connection to support its existence.

Furthermore, notwithstanding successful criminal outcomes in each of the cases, it has otherwise been established that the criminal justice response to mortgage fraud is ineffective due to a fraud minimalist position held by the UK government and due to its status as reactive control strategy (Levi et al. 2023). Additionally, dispositions and a disinclination amongst lenders to report fraud, arguably further adds to the diminishment of criminal justice outcomes, whether by way of depenalisation or decriminalisation. These factors are indicative of ineffective state governance and control and failures of policies of responsabilisation (Garland 2000; Button and Tunley 2017).

Collectively, ineffective governance, regulation and control has contributed to a state of incapable guardianship within the financial services sector in England and Wales. This is supported by the existence of suitable victim targets and the reproductive needs of motivated applicants. These conditions are necessary to support the existence of mortgage fraud and its ability to reproduce, as evident in the three case studies (Cohen and Felson 1979; Felson 2000).

9.3. Criminology, zemiology and the road map for further research

The study emerged from depths of adversity in many ways, and the findings are very much the outcome of the crime that it has sought to examine. It has developed criminological inquiry into understanding the organisation of complex financial crime and has merged the field of criminology with its sub-discipline, convict criminology

(Newbold et al. 2014). However, its scope extends beyond the yesteryear activities of the researcher and his fellow organisers, to seek a level of explanation that informs how criminal action is intrinsically connected to a circuit where facilitating conditions and influences support its existence, and its capacity to reproduce and the implication this has on crime prevention or reduction.

Initial concerns included the replicability of the study's findings, particularly as the researcher had lived experienced of the subject crime, where others have not. This was, however, countered by a non-reductive research strategy and design aimed at providing an understanding of the organisation of mortgage fraud in its heterogenous form.

Similarly, it was considered that the Cassandra case study would not have parity with Opal and Aztec because it did not involve the participation of the researcher's former co-defendants and was otherwise principally based upon auto-ethnography. To counter any bias however, the case study drew on voluminous prosecution documentary evidence, witness statements, regulatory enforcement documentation and interviews with three police investigators in the case. This provided the context and balance to the case study analysis. Furthermore, consideration should be had for the fact that the researcher spared no blushes in the account of his previous behaviour.

The findings are relevant to criminologists, the victims of mortgage fraud and to the wider counter-fraud community. Cross-case study analysis identifies multiple examples of failures to disrupt, which can inform those tasked with mortgage fraud reduction. The use of crime scripting further advances this innovative concept as an effective way of examining how complex crime is organised and consequently where lie the cues for intervention and disruption.

The study provides an original contribution to knowledge about fraud as a distinct field of contemporary criminology and adds to an emerging body of research that seeks understanding of how crime is *organised* (Jordanoska and Lord 2019; Lord et al. 2019). Its findings have combined sociological and criminological inquiry and

demonstrate how methodology can be constructed in a way that supports an innovative research strategy and design, that adapts and refines those theoretical propositions that guide data collection (Layder 1998, Yin 2003).

In contrast with the majority of research studies into financial crime, this study collected data from both preventers and organisers of mortgage fraud, including law enforcement, regulators, the victim lenders and then the motivated offenders and KPAs committing and facilitating the crime (Bernasco 2010). Interview transcripts were thematically analysed, alongside prosecution case files and media reports, to provide insights into causal mechanisms and offending characteristics that informed the case study narrative and consequently enhanced the script. It also constituted a theoretical design that was true to a critical realist approach and supported the amalgamation of “active-subject individually orientated” and “active-subject socially oriented” theories (Bottoms 2008; Gottschalk 2012).

Whilst mortgage fraud is not considered harmful in the same way as other frauds – especially those against individuals, such as romance and investment fraud, it has significant societal implications. In the US, mortgage fraud allied to predatory lending was a contributory factor to the subprime crisis. The consequence of this was widescale social harm which exponentially increased repossession rates and impacted public services and local communities. And, whilst findings here demonstrate that mortgage mis-selling was prevalent in the mortgage market in England and Wales, albeit not at the same level, there remains a likelihood that these criminal and harmful practices, and others within financial services, will increase due to the intensification of globalisation in the financial markets and as a consequence of Atlantic crossings (Aas 2013).

Furthermore, whilst there are data sets available in the UK, by example to identify the level of repossessions following the financial crisis, there has been no research that has correlated mortgage mis-selling and mortgage fraud. This is notable on two levels. Firstly, financial crises are known to be cyclical in nature and secondly, government bail-outs lead to public sector austerity (including the funding of the criminal justice system), whilst also impacting a government’s ability to bail-in in response to other crises, as seen with the COVID-19 pandemic in 2020 (Aviram

2011; Mor 2018). Accordingly, there is a need for further research into mortgage fraud and mortgage mis-selling as both a crime and a social harm. Research of this nature would also be a means of exploring the interrelationship between criminology and zemiology in an ever-broadening category of financial crime (Paoli and Greenfield 2013; 2018; Tombs 2018).

Undertaking comparative studies with the US, including a multi-disciplinary approach, would also build on the findings of this study, particularly alongside the work of Clegg, who applied the circuit of power concept to identify what he refers to as a short-circuit in the financial services systems in the US that contributed to the subprime crisis (2014). Although legal and property ownership practices vary between the two jurisdictions and there exists a dominance of quantitative over qualitative studies in the US, there remains value and purpose in transnational comparative study (Sheptycki and Wardak 2012).

Finally, and as the mortgage market becomes technically more sophisticated, particularly with the advancement of artificial intelligence (AI) in mortgage processing software, there will be an increasing need to counteract cyber threat and to ensure systems are sufficiently fraud-proofed and adaptable to support disruption. This will also call for further research from criminologists specialising in cybercrime and cybersecurity. These scenarios, current and future, will be discussed below.

9.4. The arms race and informing preventers

Dissemination of the findings of this study across the counter-fraud community would assist in ensuring that “the balance is tilted as far as possible, for as much of the time as possible, in favour of preventers” (Ekblom 1999, p.47). However, there needs to be wider acceptance of how the contest for ascendancy in the arms race between organisers and preventers provides the standing conditions for mortgage fraud to exist, as demonstrated through cross-case study analysis. It is this dynamic that supports an adaptable and transformative script.

Accordingly, lenders need to improve the means by which data is disseminated across the sector through fraud prevention agencies, including National Hunter, the

FCA IFL scheme and CIFAS. These agencies provide a valuable service, but as demonstrated in the cross-case analysis, they were capable of being circumvented by organisers on multiple occasions. Furthermore, consideration should be given to what criteria is applied to the burden of proof for reports of suspicious activity to be made. By example, and as highlighted in this study, CIFAS applies the criminal standard of proof. This reduces the number of reports made (and recorded) and, as evident in Aztec, could lead to suspect actors remaining active.

Whilst there is evidence of cooperation agreements and protocols being in place amongst preventers across the sector, there is little orchestration and collaboration, whether formal or informal, between them to effectively support disruption. One recent improvement was the DVLA becoming a member of CIFAS, an initiative that will assist in disrupting identity fraud, as was evident in Aztec.

There is also a need for those key government agencies, that include the DVLA, HM Passport Office, HMRC, Companies House and the Land Registry (who all offer legitimate public services), to improve their capability to reduce the risk of fraud. The findings of the study provide multiple examples of how organisers were able to reproduce fraud due to the agencies' incapability to disrupt, allied to dispositions amongst lenders to accept processed documentation at face value. There is evidence of the underuse of existing processes designed to disrupt fraud, by example, HMRC's income verification scheme, which is only called upon in a small proportion of applications, potentially for reasons of cost and expediency.

There have been further recent initiatives targeting the disruption of mortgage fraud. These include the Land Registry Anti-Fraud Restriction scheme and digitalisation through the Digital Registration Service, and the Companies House identity verification process, the latter introduced by the Economic Crime and Corporate Transparency Bill. However, whilst these initiatives are likely to have a disruptive effect on mortgage fraud there remains the opportunity for circumvention by way of improvisations to the script, as was evident in Aztec and Cassandra.

Furthermore, whilst the script presents the crime-commissioning processes of mortgage fraud and identifies cues for intervention, disruption remains conditional on

the members of the financial services coalition buying in to ensure that rules and meaning of membership are based upon practices and norms where fraud is differentiated from risk. Otherwise, lenders with dominant dispositions to the contrary will be placed outside of the coalition and will remain predisposed to victimisation.

Additionally, regulators need to act as capable and independent guardians, ensuring the highest standards of boardroom ethics and governance, prudential lending practices across the sector and the proactive supervision of the professions who service the market. This requires, at the appropriate time, to be unpopular in this role with lenders, borrowers and politicians, and being prepared to take away the punch bowl before the party gets out of control.

Moreover, and consequential to the fraud minimalist position of the criminal justice system in England and Wales, preventers will only gain an ascendancy over organisers in circumstances where the circuit of power is short-circuited in their favour. This ultimately requires a convergence of these dispositional conditions within a financial services system, that as a consequence of effective governance and regulation, does not provide the facilitative conditions that support reproduction, and is instead a circuit that is calibrated to disrupt mortgage fraud.

9.5. Conjectures and future scenarios

The future scenarios for mortgage fraud can principally be divided into three broad categories. Firstly, the role of technology, notably AI in the mortgage application and underwriting process. Secondly, the effectiveness of post-crisis philosophies of regulation across the sector, particularly as criminal justice outcomes are likely to remain a fringe element in the control of mortgage fraud. And thirdly, the extent to which there is in the sector, a deviant supply driven by a deviant demand.

Whilst AI is increasingly utilised by lenders to approve mortgage applications on the basis of expediency and accuracy, case study analysis identified that lenders were in fact targeted on the basis that they were using AI, by example to process fast track mortgage applications. Accordingly, the use of AI in these instances failed to disrupt fraud. Contrariwise, it was the smaller building society lenders that were more

resilient to victimisation, to the extent that motivated offenders considered them unsuitable targets. However, as AI becomes more sophisticated it may become more effective in fraud prevention, however this will be set against ever more innovative measures adopted by organisers, as demonstrated in all three cases, including the use of counter AI bot technology and sharing resource via the dark web.

From a governance and regulation perspective, those regulatory philosophies that superseded light touch regulation, as evident before the financial crisis, have yet to be stress tested within the financial sector (although presently we are awaiting the full extent of the fall out following the collapse of Silicon Valley Bank and the impact this has had on the US and international banking sector). It also remains uncertain as to how effective the FCA will be in providing effective regulation, bearing in mind that its scope of supervision remains broad, from multi-national corporations to high street brokers. Without the necessary resource and political support, it may struggle to achieve its regulatory objectives.

Additionally, the hollowing out of law enforcement and regulatory resources for over a decade has contributed to extensive depenalisation of mortgage fraud, which may ultimately lead to its decriminalisation, certainly fraud-for-property cases and probably the vast majority of fraud-for-profit cases. Furthermore, the ongoing war in Ukraine is likely to lead to further diminution of public sector funding, as a consequence of ongoing volatility in the energy markets and the escalation of defence spending. However, as has been argued in this study, ineffective criminal justice and regulatory outcomes are a key causal mechanism that acts as a driver to increasingly incapable guardianship. Accordingly, these factors are likely to continue to support the existence and reproduction of mortgage fraud.

Finally, mortgage fraud necessitates a deviant supply, driven by a deviant demand. In the years following the financial crisis, credit shrinkage and stricter prudential measures provided disruptive conditions for the organisation of mortgage fraud. This however, created a significant proportion of mortgage prisoners among homeowners in England and Wales who required, and may still require, either a legitimate or illegitimate supply of mortgage finance, otherwise precluded by those conditions.

The COVID 19 pandemic in 2020 created societal changes, particularly in terms of employment practices, where working from home, regardless of the profession, full or part-time, has become increasingly normalised. As a consequence, these factors alongside government policies, that included a stamp duty land tax moratorium and Help to Buy and affordable home ownership schemes, contributed to a mini housing boom. However, consecutive interest rate hikes by the Bank of England Monetary Policy Committee, since December 2021, are likely to impact the housing and mortgage market, and lead to an increasing demand for affordable mortgages. These factors, along with the demand of mortgage prisoners created by the crisis provide a key causal mechanism for the continuing presence, and potential increase, of mortgage fraud in the financial services market in England and Wales.

Furthermore, small high street practices remain an integral and essential part of the financial services apparatus, facilitating the demand for and supply of residential and commercial mortgages. However, regulatory cleansing and expulsions, the increased scrutiny of mortgage lenders' panels, and processes of natural wastage across the professions (by example, prohibitively high professional indemnity insurance premiums), are likely factors in the diminution of the supply of corrupt and corruptible professionals.

9.6. Rehabilitation and restoration

To regret one's own experiences is to arrest one's own development. To deny one's own experience is to put a lie into the lips of one's own life. It is no less than a denial of the soul (Oscar Wilde. *De Profundis*, 1905)

Final reference needs to be made to the personal value of the study as a means of supporting the researcher with his rehabilitative and restorative goals as he serves the remainder of his sentence on licence in the community.

For the researcher, convict criminology, if the study falls within that sub-discipline, can have increased societal and restorative value than an otherwise narrow focus on research within the US or UK criminal justice systems. It offers as well, a valuable

means by which an offender can atone for the mistakes they have made, however large; whilst offering society and the victims of crime a contribution, however modest, as recompense.

The researcher is thankful for the opportunity that the study has afforded him in his rehabilitation and for the personal pride and self-respect that it has so generously provided.

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Appendices

Appendix A

Discussion points for semi-structured interview with various study participants



**The organisation of mortgage fraud and its relationship to the governance,
control and regulation of financial services**

Semi-structured interview question list- Offender

Lead researcher: Jonathan Gilbert

**In fulfilment of PhD studies undertaken at the School of Social Science,
Cardiff University**

Name of participant: (otherwise anonymised)
Prison number (optional if serving):
Sex: <ul style="list-style-type: none">• Male• Female
Age band: <ul style="list-style-type: none">• 18-24 years• 25-34 years• 35-44 years• 45-54 years• 55-64 years• 65-74 years• 75 years +
Date of conviction:
Were you remanded into custody at any time ahead of sentencing?
When approximately were you charged for the offence?
How long did you spend on police/court bail?
Date of release:

Present and previous criminal conviction details:

Briefly explain to the interviewer the prosecution's case against you:

Who else was in the conspiracy?

Please identify those other actors involved in the fraud (whether or not subsequently prosecuted).

What role and importance did they have in the fraud?

Was there regular *social* interaction between you and the other co-defendants in the case the subject of discussion? What other social interaction existed with other individuals not involved in the case?

Who took overall responsibility for the organisation of the present fraud?

Were you 'recruited' by other actors? If so, please explain the circumstances of how this happened.

Did you benefit from the fraud? If so, to what extent? In money only, or were there other perks?

Were you aware of the benefit received by others?

What do you think your work contributed to the fraud?

Do you believe that without your involvement the fraud would have failed altogether or been significantly smaller?

What circumstances made you desist from further involvement in the fraud?
Where you acted in a professional capacity, what regulatory response was delivered? Please also advise on sanctioning outcome.
Was this your first offence? If 'no' provide details:
Did you plead guilty? If 'yes' at what stage of the proceedings did you plead.
What sentence did you receive at trial?
Did you appeal conviction/sentence length?
Were you subject to Proceeds of Crime Act proceedings?
Were you subject to OCG or SCP order? (Organised Crime Group/Serious Crime Prevention orders)
Do you think that the sentence you received was fair? Explain why or why not.
Were you legally aided? If 'yes' have you paid a cost contribution or have you been subject to a cost recovery order post-sentence?
Who were the victims to your offending?

<p>Do you think your offending caused wider harm?</p> <p>If 'yes' provide details.</p> <p>If 'no', would you like to explain why not?</p>
<p>What impact has your prosecution/prison sentence experience had on you?</p>
<p>Did you have feelings of shame as a result of your offending, either immediately or later on? What do you think triggered those feelings?</p>
<p>Was there press/media attention as a result of your arrest and conviction?</p>
<p>Have you undertaken any restorative courses whilst in custody?</p> <p>If 'yes' provide details.</p> <p>If 'no' have you been offered any?</p>
<p>Have you undertaken any educational/vocational courses or training during your time in custody?</p> <p>If 'yes' provide details.</p> <p>If 'no' have you been offered any?</p>
<p>Would you be willing to assist further in any research related to your offending?</p>
<p>Please provide contact details for communication post release.</p>

Signed by the participant

Date:

Discussion points for law enforcement interviews

Thank you for agreeing to participate in research into mortgage fraud. There follows a number of discussion points that will form the basis of the Zoom interview of approximately 60 minutes.

1. What is the current system for reporting mortgage fraud? Is it reported by the victim lender directly or through Action Fraud or the NCA (following the filings of SARs)?
2. What is your understanding of the organisation of mortgage fraud, particularly whether it is undertaken by professional criminals who are also engaged in ordinary crime; by specialist fraudsters; and/or by generally respectable people who have fallen on hard time?
3. What is your understanding of mortgage fraud being facilitated by professional enablers?
4. Is there a protocol for referring professional enablers to their regulatory bodies for further or alternate sanctioning?
5. In the event of a referral to regulatory bodies, are there cases where the decision would be made not to prosecute professional enablers? At what stage does this usually happen?
6. How effective is intelligence sharing between the police, the regulators, and third-party preventers?
7. Is there adequate resource to prosecute some or all reported mortgage fraud?
8. Have you any experience of mortgage fraud being connected to other crime, such as drug dealing and money laundering?

9. Have you any experience of mortgage fraud being part of the activities of serious organised crime gangs?
10. In your experience is the Proceeds of Crime Act an effective tool to freeze and recover the criminal proceeds of mortgage fraud? What determines how well or badly it works?
11. Would you say that mortgage fraud prosecutions commonly lead to successful convictions at trial? How many have you personally or your team been involved in?

Discussion points for victim lender interviews

Thank you for agreeing to participate in research into mortgage fraud. There follows 9 discussion points that will form the basis of the Zoom interview of approximately 30 minutes.

1. What procedure was undertaken in the event of lender victimisation? Was the application simply rejected or were there protocols on recording and reporting the mortgage fraud threat?
2. Do you consider that your mortgage fraud prevention strategy has been effective in reducing victimisation at the same level throughout your professional experience or has it sometimes been more effective than at other times?
3. Were you aware of the complicity of other professionals such as accountants, valuers, solicitors?
4. Were reports made to the regulators of complicit or suspicious professionals involved in submitting fraudulent applications?
5. In the event of fraudulent applications submitted by a mortgage broker, did you consider the applicant to be complicit?
6. Can you give some examples of the tactics used by the brokers to obtain mortgage offers? Did this involve falsified documents such as payslips, P60s etc?
7. How often was a case reported to the police? Was there a criteria or a seriousness threshold that led to reporting to the police?
8. Can you briefly explain your current mortgage fraud prevention strategies?
9. Would you like to receive details of the researcher's findings?

Discussion points for consideration by and written response from the SRA

Thank you for agreeing to participate in research into mortgage fraud. There follows a number of research specific enquiries that you have agreed to consider and to provide written responses to:

1. How has the SRA approach to mortgage fraud evolved since the financial crisis of 2007/08 and what has driven these changes?
2. Do you consider mortgage fraud to be a big, a moderate or a small current risk within the profession [compared with other issues the profession faces]?
3. What deterrent measures and prevention efforts do you think need to be improved to reduce any perceived risk to the profession caused by mortgage fraud?
4. Are the Memorandum of Undertakings between the SRA and other regulators an efficient way of sharing intelligence on professional enablers across the professions (i.e., financial services, legal, accountancy, surveyors)?
5. A review of 525 Solicitor Disciplinary Tribunal decisions between 2009 and 2015 revealed that 121 cases related to mortgage fraud or misconduct that “bore the hallmarks of mortgage fraud”: that equates to 24% of overall cases. Does the SRA agree that this demonstrates how endemic mortgage fraud has been within the profession?
6. The data also revealed that Registered Foreign Lawyers were struck off the register in 13% of mortgage fraud cases, whereas they made up just 1.26% of regulated solicitors/lawyers as at December 2015. Are there any additional safeguards in place to prevent the infiltration of corrupted lawyers into the profession in England and Wales or to prevent them from becoming corrupted subsequently?

7. The data also reveals that sole practitioners and small firms on the High Street are more susceptible to mortgage fraud related misconduct. Do you think that these data are properly indicative or is there something about small firms that generates greater investigative attention?
8. Whilst conventional mortgage fraud was primarily based upon valuation or status abuse, the data has identified much wider and varied offending, including:
- a. Cuckoo practice, where retiring or struggling solicitors would sell their firm, goodwill to corrupted solicitors and/or non-regulated parties with the benefit of panel status, reputation etc. (this includes the involvement of OCGs).
 - b. Failure to redeem, paying away sale proceeds (this avoids the necessity of panel appointment on a purchase).
 - c. Hijack fraud, where there is complicity with other corrupt solicitors.
- How have your enforcement strategies evolved to deal with these new threats?
9. Has there been any change in enforcement policy to combat the risk posed by cuckoo practice as defined above, particularly following the high value indemnity losses sustained following the Wolstenholmes intervention?
10. Can you describe the ongoing engagement between lenders and insurers and the SRA concerning the risks posed by mortgage fraud? Is this a big issue for any of the parties?

Discussion points for ICAEW interview

Thank you for agreeing to participate in research into mortgage fraud. There follows a number of discussion points that will form the basis of the Zoom interview of approximately 60 minutes.

1. Can you briefly explain ICAEW's regulatory enforcement procedures in the event of serious misconduct and/or suspicion of criminal activity on the part of your regulated firms and members?
2. Can you briefly explain the level of resources that are available to investigate and enforce regulatory sanctions against your regulated firms and members in cases of professional misconduct?
3. What is your experience of the misconduct required by a chartered accountant to facilitate mortgage fraud? [This commonly involves the production of false financial statements and references as to income]
4. Do you consider there is a risk to the reputation of the profession at large from quasi-accountants and bookkeepers who facilitate financial crime for their clients and third parties?
5. Do you have any current risk policies relevant to mortgage fraud prevention?
6. How effective do you consider data sharing is between victim-lenders (in the case of mortgage fraud), other regulators of the professions and law enforcement agencies?
7. To what extent do you consider mortgage fraud to be a current risk to your members?
8. Do you consider that the ICAEW's fraud and crime prevention strategies have been effective in reducing victimisation at the same level throughout your professional experience or has it sometimes been more effective than at other times?

9. In what circumstances are incidents of alleged crime, such as mortgage fraud, reported to Action Fraud, local police or the NCA? Is there a criteria or a level of seriousness that leads to reporting?
10. What is known about the complicity of other professionals such as brokers, valuers, and solicitors in the commission of mortgage fraud? Are reports made to the regulators of complicit or suspicious professionals involved in mortgage fraud?
11. What are the ICAEW's current deterrent strategies to forewarn members of the risk of becoming complicit in financial crime generally?

Discussion points for RICS interview

Thank you for agreeing to participate in research into mortgage fraud. There follows a number of discussion points that will form the basis of the Zoom interview of approximately 60 minutes.

1. Can you briefly explain RICS' regulatory enforcement procedures in the event of serious misconduct and/or suspicion of criminal activity on the part of your regulated firms and members?
2. Can you briefly explain the level of resources that are available to investigate and enforce regulatory sanctions against your regulated firms and members in cases of professional misconduct?
3. What is your experience of the misconduct required by a surveyor to facilitate mortgage fraud?
4. Do you have any current risk policies relevant to mortgage fraud prevention?
5. How effective do you consider data sharing is between victim-lenders (in the case of mortgage fraud), other regulators of the professions and law enforcement agencies?
6. To what extent do you consider mortgage fraud to be a current risk to your members?
7. Do you consider that the RICS' fraud and crime prevention strategies have been effective in reducing victimisation at the same level throughout your professional experience or has it sometimes been more effective than at other times?
8. In what circumstances are incidents of alleged crime, such as mortgage fraud, reported to Action Fraud, local police or the NCA? Is there a criteria or a level of seriousness that leads to reporting?
9. What is known about the complicity of other professionals such as brokers, accountants, and solicitors in the commission of mortgage fraud? Are reports

made to the regulators of complicit or suspicious professionals involved in mortgage fraud?

10. What are the RICS' current deterrent strategies to forewarn members of the risk of becoming complicit in financial crime generally?

Discussion points for fraud prevention agency (CIFAS) interview

Thank you for agreeing to participate in research into mortgage fraud. There follows a number of discussion points that will form the basis of the Zoom interview of approximately 60 minutes.

1. Can you briefly explain the role of Cifas? Which other organisations do you work with in preventing fraud?
2. Can you briefly explain your mortgage fraud prevention strategies?
3. What processes follow a report to Cifas in connection with mortgage fraud?
4. How effective do you consider data sharing is between victim-lenders and agencies such as yours?
5. To what extent do you consider mortgage fraud to be a current risk to lenders?
6. How much resource is applied to preventing mortgage fraud?
7. Do you consider that Cifas mortgage fraud prevention strategies have been effective in reducing victimisation at the same level throughout your professional experience or has it sometimes been more effective than at other times?
8. In what circumstances are mortgage fraud cases reported to Action Fraud, local police or the NCA? Is there a criteria or a level of seriousness that leads to reporting?
9. What is known about the complicity of other professionals such as accountants, valuers, solicitors? Are reports made to the regulators of complicit or suspicious professionals involved in mortgage fraud?

Appendix B

Sample Participation Information Sheet and Consent Forms

PARTICIPANT INFORMATION SHEET (Lender-participants)

The organisation of mortgage fraud and its relationship to the governance, control and regulation of financial services

You are being invited to take part in a research project. Before you decide whether or not to take part, it is important for you to understand why the research is being undertaken and what it will involve. Please take time to read the following information carefully and discuss it with others, if you wish. Thank you for reading this.

1. What is the purpose of this research project?

The research project has been designed as an empirical study to create a crime script of a prototypical mortgage fraud transaction, as a means of explaining the organisation of mortgage fraud in England and Wales. The research also aims to examine the effectiveness of regulators and law enforcement in their efforts to reduce mortgage fraud.

2. Why have I been invited to take part?

You have been invited because you professional knowledge of mortgage fraud and you have experience of the processes relevant to its commission.

3. Do I have to take part?

No, your participation in this research project is entirely voluntary and it is up to you to decide whether or not to take part. If you decide to take part, we will discuss the research project with you and ask you to sign a consent form. If you decide not to take part, you do not have to explain your reasons and it will not affect your legal rights.

You are free to withdraw your consent to participate in the research project at any time, without giving a reason, even after signing the consent form.

4. What will taking part involve?

Your participation involves a single one-on-one interview with the researcher, Jonathan Gilbert. The interview should ask for approximately sixty minutes and will involve questioning you on your experiences of mortgage fraud. If you agree, the interview will be by Zoom or such other mode as best suits you and at a time that is convenient to you. The call will be recorded so that the recording can be typed up to form a record of the interview. Only the lead investigator will have access to the recording and any word documents created and they will be deleted following completion of the research. You remain free to withdraw consent and/or to refuse any question put to you.

5. What are the possible benefits of taking part?

The benefits include the opportunity of explaining on the part of lenders, your experience of mortgage fraud and the fraud preventative strategies that your company operates.

It will also improve understanding of the organisation of mortgage fraud and the researcher will be happy to share research findings.

6. What are the possible risks of taking part?

Believed none.

7. Will my taking part in this research project be kept confidential?

All information collected from (or about) you during the research project will be kept confidential and any personal information you provide will be managed in accordance with data protection legislation. Please see ‘What will happen to my Personal Data?’ (below) for further information.

8. What will happen to my Personal Data?

Cardiff University is the Data Controller and is committed to respecting and protecting your personal data in accordance with your expectations and Data Protection legislation. Further information about Data Protection, including:

- your rights
- the legal basis under which Cardiff University processes your personal data for research
- Cardiff University’s Data Protection Policy
- how to contact the Cardiff University Data Protection Officer
- how to contact the Information Commissioner’s Office

may be found at <https://www.cardiff.ac.uk/public-information/policies-and-procedures/data-protection>

9. What happens to the data at the end of the research project?

Otherwise, all personal data will be kept for five years post submission of the final PhD thesis.

10. What will happen to the results of the research project?

It is my intention to publish the results of this research project in academic journals and present findings at conferences.

11. What if there is a problem?

If you wish to complain, or have grounds for concerns about any aspect of the manner in which you have been approached or treated during the course of this research, please in the first instance contact:

Michael Levi, PhD, DSc (Econ.), FaCSS, FLSW

Professor of Criminology

Cardiff University

Glamorgan Building

King Edward VII Avenue

Cardiff CF10 3WT

Office: +44 2920874376

Email levi@cardiff.ac.uk

In the event that you feel that your complaint has not been handled to your satisfaction, you can contact:

Chair of the School Research Ethics Committee,

Cardiff University

Glamorgan Building

King Edward VII Avenue

Cardiff CF10 3WT

Office: +44 2920875179

12. Who is organising and funding this research project?

The research is organised by:

Michael Levi, PhD, DSc (Econ.), FaCSS, FLSW

Professor of Criminology

Cardiff University

Glamorgan Building

King Edward VII Avenue

Cardiff CF10 3WT

Office: +44 2920874376

Email levi@cardiff.ac.uk

The research is not funded.

13. Who has reviewed this research project?

This research project has been reviewed and was given a favourable opinion on 5th March 2020 by the School Research Ethics Committee, Cardiff University.

14. Further information and contact details

Should you have any questions relating to this research project, you may contact us during normal working hours:

Jonathan Gilbert

Cardiff University

1/3 Museum Place

Cardiff CF10 3RL

Office: +44 2920874376

Email: GilbertJM@cardiff.ac.uk

Thank you for considering taking part in this research project. If you decide to participate, you will be given a copy of the Participant Information Sheet and a signed consent form to keep for your records.

CONSENT FORM

Title of research project: The organisation of mortgage fraud and its relationship to the governance, control and regulation of financial services.

SREC reference and committee: School of Social Sciences Research Ethics Committee (SREC), reference SREC/3580 and dated 5th March 2020

Name of researcher: Jonathan Gilbert

**Please
initial box**

I confirm that I have read the Participation Information Sheet (PIS) dated [] for the above research project and have understood the information contained therein that relates to the above research project and that I have had the opportunity to ask questions and that these have been answered satisfactorily.	
I understand that my participation is voluntary, and I am free to withdraw at any time without giving a reason and without any adverse consequences (e.g. to medical care or legal rights, if relevant).	
I understand that Cardiff University will have access to personal information provided, how the data will be stored and what will happen to the data at the end of the research project.	
I understand that anonymised excerpts and/or verbatim quotes from my interview may be used as part of the research publication.	
I understand how the findings and results of the research project will be written up and published.	
I agree to take part in this research project.	

Name of participant (print)

Date

Signature

Name of person taking consent
(print)

Date

Signature

Role of person taking consent (print)

**THANK YOU FOR PARTICIPATING IN OUR RESEARCH YOU WILL BE GIVEN A
COPY OF THIS CONSENT FORM TO KEEP**

Appendix C

HMPPS Single Site Application Feedback Sheet dated 15th April 2020



HM Prison & Probation Service

Single Site Application Feedback Sheet

Applicant's name:	Jonathan Gilbert
Research site:	Wales
Title of project:	The organisation of mortgage fraud and its relationship to the governance, control and regulation of financial services.
Research ethics clearance from another institution / body:	Yes –Cardiff University
Proposal reviewed by:	HMPPS in Wales
Date of review:	15 th April 2020

The research approval criteria are as follows:

- There are sufficient links to HMPPS/MoJ business priorities.
- The demand on resources is **reasonable**.
- There are no concerns regarding overlaps with other (current/recent) research.
- The proposed methodology is appropriate and robust.
- Data protection/security issues have been sufficiently considered and addressed.
- Ethical issues have been appropriately addressed.
- The applicants possess the relevant experience and skills.

For further information please refer to the consultee guidance or single site process guidance document.

Decision (tick one box below):

Approve.....☐

Approve subject to modifications.....☐

Request further information.....☐

Reject.....X☒ - not currently applicable

Reviewer Comments (use as much space as necessary)

Having reviewed the application in full a decision was made that this did not require NRC approval given a) you do not wish to request any data or specific access from within HMPPS; and b) you have self-selected your participants from a community sample via an independent method &/or a 3rd party agency.

It is noted that you are still currently serving your licence with NPS and that some participants you plan to invite to participate may also still be subject to supervision and licence arrangements with the NPS. As such there are some considerations the reviewers would like to draw to your attention to aid you to strengthen your research. This outcome has been discussed and agreed with your Offender Manager and the Head of Ops for NPS Wales.

Feedback in brief:

- **Methodology is appropriate and robust:** researcher states that all interviews will not be digitally recorded, but rather detailed interview notes will be taken. It is suggested that, in light of the methodology chosen, for accuracy of data recording and analysis, a digital recording method could be adopted. This will allow for greater interaction between the researcher and participant whilst also enhancing accuracy in the transcription phase of analysis given the intended qualitative study.
- **Data protection/security/ethical issues:**
- The researcher states they are already aware of participants who they wished to interview. It is important that the researcher does not have a prior relationship with any participants involved within the proposed research (as this could impact on the ethics of the project e.g. coercion, voluntary consent etc) If this is the case, it is suggested that a different researcher may be better positioned to conduct the interviews to ensure independence, the accuracy of the data collected and prevent a potential bias/skew in the interview phase. The researchers own experiences should also be clearly acknowledged as a limitation to the study which could impact on their objectivity when analysing the data.
- Proposed participants would be serving community sentences (or had completed as such) for offences similar to the researcher. Therefore we would advise you clearly talk this through with your OM given the potential associations that would occur during your research to ensure you are compliant with any specified licence conditions.
- If approaching participants who are still subject to NPS supervision then we would recommend that you encourage participants to notify their OM (prior to participation) given they may have specific licence conditions regarding associations with others that could adversely impact on their progression and compliance etc.

Appendix D

**Approval letter from the Chair of School of Social Sciences
Research Ethics Committee dated the 5th March 2020**



School of Social Sciences
Ysgol Gwyddorau Cymdeithasol
Head of School, Pennaeth yr Ysgol
Dr Tom Hall

Cardiff University
Glamorgan Building
King Edward VII Avenue
Cardiff CF10 3WT
Wales UK
Tel: +44(0)29 2087 5179
Fax: +44(0)29 2087 4175
www.cardiff.ac.uk/social-sciences

05 March 2020

Our ref: SREC/3580

Jonathan Gilbert
PhD Programme
SOCSI

Prifysgol Caerdydd
Adelad Morgannwg
Rhodfa'r Brenin Edward VII
Caerdydd CF10 3WT
Cymru, Y Deyrnas Unedig
Ffôn: +44(0)29 2087 5179
Ffacs: +44(0)29 2087 4175
www.caerdydd.ac.uk/social-sciences

Dear Jonathan,

Your project entitled '*The organisation of mortgage fraud and its relationship to the governance, control and regulation of financial services.*' has now been approved by the School of Social Sciences Research Ethics Committee of Cardiff University and you can now commence the project should all necessary forms of approval been received.

If you make any substantial changes with ethical implications to the project as it progresses you need to inform the SREC about the nature of these changes. Such changes could be: 1) changes in the type of participants recruited (e.g. inclusion of a group of potentially vulnerable participants), 2) changes to questionnaires, interview guides etc. (e.g. including new questions on sensitive issues), 3) changes to the way data are handled (e.g. sharing of non-anonymised data with other researchers).

In addition, if anything occurs in your project from which you think the SREC might usefully learn, then please do share this information with us.

All ongoing projects will be monitored and you will be obliged periodically to complete and return a SREC monitoring form.

Please inform the SREC when the project has ended.

Please use the SREC's project reference number above in any future correspondence.

Yours sincerely

Professor Alison Bullock
Chair of School of Social Sciences Research Ethics Committee



Registered Charity, no. 1136855
Elusen Gofrestredig, rhif 1136855

Appendix E

Chronology of victim lender targeting- Operation Opal

Chronology of victim lender targeting- Operation Opal

Nationwide

	Application Date	Completed Yes/No	Count	Actors	Details
1.	??/02/11	No	1	PG, RM, KB	Rowan Accountancy Certificate. No. Applicant Didn't Proceed. Got D.I.P.
2.	22/02/11	Yes	1	PG, RM/KB	Rowan Certificate.
3.	24/02/11	Yes	3	PG, RM, KB, MB	Rowan Certificate: husband and wife (H & W).
4.	11/03/11	Yes	3	PG, RM, KB, MB	Rowan Certificate.
5.	05/08/11	Yes	1	PG, RM, KB	Rowan Certificate.
6.	04/11/11	Yes	2	PG, RM, KB, MP	False Payslips.
7.	30/11/11	Yes	2	PG, RM, KB, MP	False Payslip.
8.	09/12/11	Yes	2	PG, RM, KB, MP	Rowan Certificate.
9.	20/01/12	No	3	PG, RM, KB, MB	Rowan Certificate discussed. Unspecified why not completed.
10.	30/01/12	Yes	1	PG, RM, KB	Rowan Certificate.
11.	10/02/12	Yes	2	PG, RM, KB, MP	False Payslip.
12.	15/02/12	No	2	PG, RM, KB, MP	False Payslips. Lender Requested Bank Statements.
13.	17/02/12	No	2	PG, RM, KB, MP	Rowan Certificates (H & W – H's not submitted). W's Bank Statement Showed Receipt of Tax Credits and Income Support. H couldn't provide SA302's.
14.	18/02/12	Yes	3	PG, RM, KB, MB	Rowan Certificates (Both applicants)
15.	29/03/12	No	1	PG, RM, KB	Rowan Certificate. Property down valued.
16.	17/04/12	No	1	PG, RM, KB	False Payslip (H). Rowan Certificate (W – Not submitted). SA302's insufficient. Property down valued.
17.	07/09/12	Yes	7	PG, RM, SM, OM	False employment reference and payslip. TWM (Enterprise Way) used.
18.	10/09/12	Yes	1	PG, RM, KB	Rowan Certificate.
19.	25/10/12	Yes	7	PG, RM, SM, OM	False Employment Reference. Glamorgan Telecom.
20.	30/10/12	Yes	3	PG, RM, KB, MB	OM/TWM certificate (Enterprise Way). (Originally Rowan).
21.	08/11/12	Yes	3	PG, RM, KB, MB	Rowan Certificate.

					Manipulated Nationwide average on figures.
22.	08/11/12	No	3	PG, RM, KB, MB	Rowan Certificate. Discrepancy on figures provided. SA302's requested.
23.	18/12/12	Yes	3	PG, RM, KB, MB	Rowan Certificate. Manipulated Nationwide average on figures.
24.	05/02/13	Yes	3	PG, RM, KB, MB	Rowan Certificate.
25.	05/02/13	Yes	3	PG, RM, KB, MB	Rowan Certificate (For both applicants).
26.	22/05/13	No	3	PG, RM, KB, MB	3 years' SA302's requested.

Santander

	Application Date	Completed Yes/No	Count	Actors	Details
1.	23/06/09	Yes	3	PG, RM, KB, MB	False Payslip. Catrin Baldwin.
2.	25/10/10	No	1	PG, RM, KB	Rowan Certificate (H). False Payslip (W). Further Documents Requested but not provided.
3.	06/11/10	No	1	PG, RM, KB	Rowan Certificate (H). False Payslip (W). PG notes say problems with agents.
4.	??/03/11	Yes	3	PG, RM, KB, MB	False Payslip. Property changed. Employer misspelt on payslip 'Digital'/'Digitel'.
5.	28/07/11	No	1	PG, RM, KB	Rowan Certificate. Accountant's Certificate not legible. No new copy provided.
6.	??/08/11	Yes	1	PG, RM, KB	Rowan Certificate.
7.	??/08/11	Yes	1	PG, RM, KB	False Payslips.
8.	??/10/11	Yes	2	PG, RM, KB, MP	False Payslips.
9.	??/11/11	No	7	PG, RM, SM, OM	False Payslips (not submitted - 'Fast Track'). TWM (Enterprise Way) and Pinnacle IT (SM). Declined but no reason specified.
10.	??/11/11	No	7	PG, RM, SM, OM	False Payslips (not submitted – 'Fast Track'). TWM (Enterprise Way)

					Same person as one of joint applicants at 9 above, but Sheng Lee Che not Sheng Che Lee. Declined but no reason specified.
11.	??/11/11	Yes	7	PG, RM, SM, OM	False Payslips (not submitted - 'Fast Track'). Chauffeur Cars. Intended to use Universal Rice Mill but changed.
12.	??/11/11	Yes	7	PG, RM, SM, OM	False Payslips (Not Submitted). Universal Rice Mill.
13.	??/12/11	Yes	3	PG, RM, KB, MB	False Payslips (Not Submitted) No proof of income given.
14.	Unspecified (C. 02/12)	No	1	PG, RM, KB	Rowan Certificate. RM says in email took ages obtaining so certificate rejected.
15.	??/08/12	No	7	PG, RM, SM, OM	False Payslips. Glamorgan Telecom. Subsequent enquires revealed the applicant didn't work there and the payslip was false. Application declined.
16.	??/08/12	No	7	PG, RM, SM, OM	False Payslips. Bakers Textured Coatings (Enterprise Way). Further evidence of employment requested but not provided so application declined. *8 Courthouse Street
17.	06/08/12	No	7	PG, RM, SM, OM	False Payslips. D & S Wholesale and Euro Foods. Further evidence of employment requested but not provided so declined.
18.	22/08/12	No	7	PG, RM, SM, OM	False Payslip. TWM (Enterprise Way). Uzma Miah. *8 Courthouse Street

Halifax

	Application Date	Completed Yes/No	Count	Actors	Details
1.	05/10/11	Yes	7	PG, RM, SM OM	False payslips (not submitted). TWM (Enterprise Way).
2.	04/04/12	Yes	7	PG, RM, SM, OM	False payslips TWM (Enterprise Way).
3.	04/04/12	Yes	7	PG, RM, SM, OM	False payslips (not submitted) TWM (Enterprise Way).

4.	16/04/12	Yes	7	PG, RM, SM, OM	False payslips. TWM (Enterprise Way). OM's wife but spelt Uzua not Uzma Wrongly addressed false phone bill found in solicitor's file.
5.	18/04/12	No	7	PG, RM, SM, OM	TWM accountant (Enterprise Way) specified - no proof of income supplied though Mortgage fraud prevention team disrupted. Also discrepancy in spelling of applicant's first name – 'Stewart'/'Stuart'.
6.	30/04/12	Yes	7	PG, RM, SM, OM	False payslip (not submitted). Rydel Delivery Services (Enterprise Way).
7.	03/05/12	Yes	7	PG, RM, SM, OM	False payslip. Bakers Textured Coatings (Enterprise Way, TWM phone no).
8.	14/05/12	Yes	1	PG, RM, KB	False payslips.
9.	23/05/12	Yes	7	PG, RM, SM, OM	False payslip (not submitted). Bakers Textured Coatings (Enterprise Way).
10.	23/07/12	No	7	PG, RM, SM, OM	False employments details – no proof of income submitted. RF Brookes (Azalea Road). Discrepancy over spelling of name Zakir 'Ahammad'/'Ahmed'. Lender's notes say broker to check spelling if proceeding. *8 courthouse street
11.	03/08/12	No	7	PG, RM, SM, OM	False employment details – no proof of income submitted. TWM (Enterprise Way). Mortgage fraud prevention team requested 3 months' payslips, bank statements and P60, RM cancelled the application. RM requested to re-use valuation from 10 above. *8 courthouse street Nadir Ahmed
12.	04/10/12	Yes	7	PG, RM, SM, OM	False employment details – no proof of income submitted. D & S Wholesale and Euro Foods.
13.	08/08/12	Yes	7	PG, RM, SM, OM	False payslip (not submitted). Celtic Home Care (Enterprise Way). False phone bill wrongly addressed.
14.	09/08/12	No	7	PG, RM, SM, OM	False Payslip. Bakers Textured Coatings (Enterprise Way). OM's mobile no given as applicant's. No reason specified for declining.

15.	??/07/13	Yes	3	PG, RM, KB, MB	Malik & Co certificate. Certificate was false.
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Unspecified

	Application Date	Completed Yes/No	Count	Actors	Details
1.	Unspecified (C. 10/10 – 11/10)	No	3	PG, RM, KB, MB	Rowan certificate (unclear if submitted). Applicant went elsewhere as MB asked for higher fees.
2.	Unspecified ('Early 2011)	No	3	PG, RM, KB, MB	Client withdrew when MB said 35% deposit would be needed.
3.	Unspecified (C.08/12)	No	7	PG, RM, SM, OM	False payslips. Premier foods (Azalea Road) and Global Foods. Application initially approved but declined on review. No reason specified.

Accord

	Application Date	Completed Yes/No	Count	Actors	Details
1.	Unspecified (C. 04/11)	Yes	3	PR, RM, KB, MB	Rowan Certificate. Needed certified copy ICAEW certificate to complete.

Northern Rock

	Application Date	Completed Yes/No	Count	Actors	Details
1.	Unspecified	Unspecified	1	PG, RM, KB	Rowan Certificate.

Family Finance

	Application Date	Completed Yes/No	Count	Conspirators	Details
1.	Unspecified (C. 11/12)	Unspecified	3	PG, RM, KB, MB	Rowan certificate (unclear if submitted).

Appendix F

Overview of victim targeting- Operation Opal

Targeted lender	Frequency	Completed	Not completed
Leeds Building Society	10*	8*	2
Paratus	6	6	0
Lloyds Bank	5	5	0
Accord	3	1	2
Yorkshire Building Society	3	1	2
HBOS	2	2	0
Bradford & Bingley	2	2	0
Santander	2	2	0
Cheltenham and Gloucester	2	1	1
Birmingham Midshires	1	1	0
RBS	1	1**	0

*One of these was a further advance on the same property

**Prosecution documentation is contradictory as to completion

Count 1 – PG, RM, KB

Targeted lender	Frequency	Completed	Not completed	Comments
Nationwide	7	4	3	Reasons given for not completing were applicants not proceeding & property down-valuation. One instance of SA302's being requested. Genuine ones available (but presumably not good enough) but deemed too risky to forge.
Santander	6	2	4	Reasons given for not completing generally relating to delays/failure to provide documents.
Halifax	1	1	0	Reference to another Halifax D.I.P that didn't proceed as SA302's requested (subsequently completed with Nationwide).

Count 2 – PG, RM, KB, MP

Targeted lender	Frequency	Completed	Not completed	Comments
Nationwide	6	4	2	Reasons given for not completing relate to one instance of not providing bank statements requested evidencing income. One instance of declining as bank statements provided clearly showing one applicant was in receipt of tax credits and income support and spouse being unable to provide SA302's (worked abroad). Initially stated Gold Tops (where RM worked) as employer then changed to restaurant manager when lender queries this (P486). Spelling of name on false payslips changed to "Le", application name was "Ye". Also got P60 waived as "lost".
Santander	1	1	0	
Northern Rock	1	Unspecified	Unspecified	

Count 3 – PG, RM, KB, MB

Targeted lender	Frequency	Completed	Not completed	Comments
Nationwide	11	8	3	Discrepancies in figures provided flagged up in one instance. Lack of SA302's to verify those figures*. NB: Reference in PG emails to RM on two completed applications to manipulating three years' accounts figures due to lender averaging income - Nationwide "quirk" (P899, P927).
Santander	3	3	0	Reference to one completing with no proof of income. Reference to change of property on another and different spelling of employer's name on application and false payslip "Digital"/"Digitel" (P683, P684).

Unknown	2	0	2	Reasons given related to MB. In one instance he asked for further fees after applicant paid £2,000. In another he told applicant they'd need a 35% deposit.
Accord	1	1	0	Needed certified copy CIAEW certificate to achieve completion.
Family Finance	1	Unspecified	Unspecified	Little information on this application other than it defaulted from Nationwide.
Halifax	1	1	0	Different accountant used for false certificate. Followed a rejected application by same applicant with Nationwide*.

Count 7 – PG, RM, SM, OM

Targeted lender	Frequency	Completed	Not completed	Comments
Halifax	13	9	4	<p>Employer details: TWM- six occasions. Baker Coatings- three occasions. Enterprise Way address- eleven occasions. Azalea Road address- two occasions. Mortgage Fraud Prevention Team (MFPT) alert in two instances (April and August 2012). (P1230) Query over spelling of first name "Stewart"/"Stuart" so declined. Another cancelled by broker when MFPT requested further evidence of income (TWM used and 2nd application re 8 Courthouse Street NADIR AHMED*) *NB: 1st application on this property less than two weeks before ZAKIR AHMED (P1330) contact notes say CRS shows spelling as AHAMMAD not Ahmed – says broker to check spelling if proceeding (didn't complete). Also queried two different Ahmed rolls with different first names and details and which was proceeding</p>

				<p>Broker even requested to re-use valuation on 2nd application (P1341)</p> <p>Six applications completed with no proof of income. Three did not including both MFPT instances and the first Courthouse Street application</p> <p>APPEARS TO BE NO CORRELATION IN DATES – THOSE COMPLETING WITHOUT PROOF OF INCOME COINCIDE IN TIME WITH THOSE THAT DO NOT ie: some are post – MFPT.</p>
Santander	8	2	6	<p>Employer details:</p> <p>TWM- three occasions (two same applicant)</p> <p>Baker Coatings- one occasion.</p> <p>OM wife used to work for RF Brookes (used in a Halifax application).</p> <p>Four applications described as meeting “fast track” criteria so no proof of income needed. Two completed, two did not. The two that did not were the same applicant. No reason given for decline.</p> <p>Two applications, one month apart for same applicant, same property - one joint, one in sole name with a slight change – Sheng Che Lee on first, then Sheng Lee Che (TWM on both).</p> <p>Two applications for 8 Courthouse Street both August 2012. Griffin declined first- further evidence of employment requested but not provided (Bakers).</p> <p>Miah declined but no reason given (TWM).</p> <p>NB: Akram (P1317) subsequent enquiries of stated employer (Glamorgan Telecom) revealed she didn't work there and payslip false so declined.</p>
Nationwide	2	2	0	Includes final, successful 8 Courthouse Street.
Unknown	1	0	1	Declined but no reason specified.

Appendix G

Overview of properties, counts and offending- Operation Aztec

Application reference	Applicant Name	Property	Broker	Victim lender	Date (Month/Year)	Vendor	False Employer	Offending patterns
BDP App1	Ben Williams	'The Retreat'	James	Leeds Building Society (Leeds)	02-07/04 3 stages	Groombridge Homes Ltd (Groombridge)	Groombridge	Matthew John Ward named as Landlord in memorandum signed by James. Powell and Carter both involved with Groombridge as director/company secretary, now dissolved.
BDP App 2	Ben Williams	'The Retreat'	James	Leeds	09/04	N/A further advance	Groombridge	False tenancy agreement re: Foxton Homes Ltd submitted. Powell was a director and company secretary.
BDP App 3	Ben Williams	1 Manor Close later known as 'LLareggub'	James	Paratus AMC Ltd (Paratus)	11/04	Primestone Investments Ltd (Primestone)	Groombridge	Property name changed to 'Llareggub' and title number changed post completion.
BDP App 4	Ben Williams	21 Woodlands Crescent	James	Santander	07/05	Matthew Carter	Groombridge	Income level significantly higher than in BDP Apps 1 & 2.
BDP App 5	Ben Williams	Vicarage Road Plot	James	Accord	08/05 Did not complete – cancelled by broker	Primestone	Groombridge	Similar higher income stated as in BDP App 4. Cancelled by broker when last three months bank statements requested
BDP App 6	Ben Williams	'The Bungalow' Vicarage Road	James	Leeds	10/05	Primestone?	Groombridge	Letter to Leeds via James from Primesite Letting Agents claiming to be sole letting agent for a number of properties owned by Ben Williams, including Carter's residential address and have a further tenant interested in the letting. Property valued at £150,000-£200,000 less than stated purchase price. Independent

								valuations submitted to Leeds via James valuing it at c.£275,000. Following further valuations mortgage proceeded but at lower purchase price of £200,000
BDP App 7	Ben Williams	4 Grove House	James	Royal Bank of Scotland (RBS)	11/07	Webb	Primesite Investment Ltd (Primesite)	No record of Primesite at Companies House.
BD9 App 8	Powell	Plot 5 Golwg yr Ynys	N/A	Leeds	07/08 Rejected	Mr Williams	Clearway Financial Services Ltd (Clearway)	Vendor's address was one linked to Powell. Roberts given as Landlady. Clearway was a company Powell formed with Webb but never traded and is now dissolved. Lender raised an enquiry with HMRC. P60 didn't match HMRC records so the application was treated as fraudulent and terminated.
BDP App 9	Ben Williams	3 Ynys Dawela (later known as 3 Golwg yr Ynys)	James	Paratus	09/06	Marcus Caine	Primesite	One of 5 plots created out of Glyn Beudy Farm. No record of Primesite at Companies House.
BDP App 10	Ben Williams	2 Bryngelli Park	James	Accord	04/07 Did not complete – cancelled by broker	Not stated	Quay West Developments Ltd (Quay West) and previously Primesite	Ben Williams' address history and employment history inconsistent with BDP App 5. Quay West is now dissolved and never traded.

								Payslips requested and application cancelled.
BDP App 11	Ben Williams	21 Woodlands Crescent	James	Birmingham Midlands	09/07	Webb	Primesite	Partial debt consolidation (£30,000). Land Registry records show Roberts as owner at the time. Webb witnessed transfer deed and legal charge. No record of Primesite at Companies House. Mortgage immediately fell into arrears, later repossessed.
BDP App 12	Ben Williams	Plot 8 Golwg yr Ynys replaced by Plot 2 then by 'LLareggub'	James	Accord	07/08	Roberts (for 'LLareggub')	Quay West Primesite Investments Ltd	No record of employer at Companies House. Property details changed twice as both previous applications were down valued by the lender. Funds returned and re-advanced two months later as delayed completion. No mortgage payments made at all so repossessed.
BDP App 13	Powell	Plot 4 Golwg yr Ynys	N/A	Cheltenham & Gloucester	02/11 Did not complete	Leeds in possession of the property	Stanley Television Ltd (Stanley)	Powell wrote to Leeds as Director of Redwood Homes Ltd expressing an interest in buying the property. The company never traded and is now dissolved.

								Stanley was Carter's company. No accounts were ever filed, and it is now dissolved.
MSC App 1	Marcus Caine	'The Bungalow'	James	Leeds	09/04	Not known	Groombridge	Failure to disclose that he was an officer of Groombridge.
MSC App 2	Marcus Caine	Glyn Beudy Farm	N/A	HBOS	09/05	Unrelated persons	Groombridge	Split into plots after purchase and some sold/remortgaged. Redeemed 07/06.
MSC App 3	Marcus Caine	3 Golwg yr Ynys	N/A	HBOS Debt consolidation also	03/07	Not stated Part of Glyn Beudy Farm	Primesite	No record of Primesite at Companies House. Failed mortgage payments so lender attempted to repossess but problematic as also mortgaged by Powell as Ben Williams and Dawson. Lender eventually repossessed Plot 8 instead.
MSC App 4	Marcus Caine	Brynderwen	N/A	Yorkshire Building Society (Yorkshire)	11/06	Not stated	Premier Asset Investments Ltd (Premier)	Premier was Powell's company and is now dissolved. National Insurance number belonging to a Mr. Tait in Perth stated in application. Surveyor told by vendor stated purchase price was wrong so advance reduced. Stopped payments after c.6 months so repossessed.
MSC App 5	Matthew John Ward	'The Bungalow' – later changed to	James	Lloyds Bank	04/08	Ben Williams	Stanley Developments Ltd	The company never traded and is now dissolved. National Insurance number belonging to a Mr. Leask in

		Plot 1 Forest View						Edinburgh stated in application. Stopped payments after two months so property subsequently repossessed.
MSC App 6	Matthew John Ward	'The Bungalow'	James	Yorkshire	11/07 Did not complete	Not stated	Stanley Developments Ltd	National Insurance number belonging to a Mr. Leask in Edinburgh stated in application. Application cancelled after being put on hold and product expired.
MSC App 7	Matthew John Ward	Plot 4 Golwg yr Ynys	James	Leeds	10/08	Not stated	The Brynderwen Group	Landlady stated as 'Miss Webb'. National Insurance number belonging to a Mr Leask in Edinburgh stated in application. Leeds became aware in 2008 that the same NI number had been used for another lender in the name of Ward. Stopped payments after six months so property subsequently repossessed.
MSC App 8	Matthew John Ward	Ynys Dawela	James	Yorkshire	09/08 Did not complete	Not stated	The Brynderwen Group	No record of The Brynderwen Group at Companies House. Application cancelled due to down valuation.
MSC App 9	Matthew Carter	'Highfield House'	N/A	Leeds	03/10 Did not complete	Not stated	Stanley TV Productions??	Stanley was Carter's company. No accounts were ever filed, and it is now dissolved.

								Down valued so application did not proceed.
MSC App 10	Jaime Jones	'Highfield House'	N/A	Santander	12/10	Not stated	Stanley Productions??	National Insurance number belonging to a Mr. John Buckland stated in application. Mortgage payments irregular. Property later repossessed.
KCW App 1	Williams	5 Llys y Farchnad	James	Lloyds Bank	10/06	Not stated	Premier	Premier was Powell's company and is now dissolved.
KCW App 2	Williams	Plot 1 Golwg yr Ynys	James	Leeds	06/08	Mr Williams	2 nd job with Clearway	Clearway was a company Powell formed with Webb but never traded and is now dissolved. Employee reference signed 'E Webb' as a Director of Clearway. Mother/son relationship not made known to lender.
KCW App 3	Williams	Plot 5 Golwg yr Ynys	James	Lloyds Bank	09/08	Powell	2 nd job with Clearway	'Self-build' application Clearway was a company Powell formed with Webb but never traded and is now dissolved. Transfer and mortgage deed witnessed by Carter. As at the date of trial nothing had been built and Williams was still paying the mortgage.
CR App 1	Roberts	3 Clifton Terrace	James	Paratus	08/05	Powell	Foxton Homes Ltd (Foxton)	Foxton was Powell's company, in the name of Ben Williams. No accounts were ever filed,

								and the company is now dissolved. As at the date of trial the property was still owned by Roberts.
CR App 2	Roberts	61 Waterloo Road	James	Paratus	12/05	N/A	Foxton	Re-mortgage application. Foxton was Powell's company, in the name of Ben Williams. No accounts were ever filed, and the company is now dissolved.
CR App 3	Roberts	Plot between 32 & 33 Cwmbath Road	James	Leeds	07/06	Primestone?	Premier	Premier was Powell's company and is now dissolved. Powell named as contact for confirmation of income. Tenancy reference and covering letter provided in the name of Webb. Copy rent book with the initials BDP and EW in it. Two Tenancy Agreements stating Roberts as Landlord submitted signed by Roberts.
CR App 4	Roberts	21 Woodlands Crescent	James	Paratus	09/05	Powell	Premier	Premier was Powell's company and is now dissolved.
CR App 5	Roberts	'LLareggub'	James	Paratus	01/07	Powell	Premier	Premier was Powell's company and is now dissolved.
EW App 1	Webb	11 Leigh Terrace	James	Bradford & Bingley	01/06	Powell	YBF Conferences Ltd (YBF)	Powell involved in founding YBF. Webb was company secretary 07/05-03/06. No

								record of her employment with YBF during that time at HMRC. No accounts were filed, and a co-founder made a voluntary application to strike the company off in 03/07. Webb made a deal with the lender for shortfall and repossessed.
EW App 2	Webb	Flat 4 Grove House	James	Bradford & Bingley	02/06	Not stated	YBF	Powell involved in founding YBF. Webb was company secretary 07/05-03/06. No record of her employment with YBF during that time at HMRC. No accounts were filed, and a co-founder made a voluntary application to strike the company off in 03/07.
EW App 3	Webb and Bradley	12 Willow Tree Glade	James	Cheltenham & Gloucester	10/06	Not stated	Premier	Joint application with Kevin Bradley. Premier was Powell's company and is now dissolved.
EW App 4	Webb	12 Willow Tree Glade	James	Lloyds Bank	09/06	N/A	Quay West	Re-mortgage application. Quay West is now dissolved and never traded. Employment reference signed by Powell submitted. As at the date of trial this was Webb's home address.
ED App 1	Dawson	Ynys Dawela (later 3	James	Lloyds Bank	09/08	Williams	The Brynderwen Group	No record of The Brynderwen Group at Companies House. Redeemed 2 months later.

		Golwg yr Ynys)						
ED App 2	Dawson	3 Golwg yr Ynys	James	Leeds	11/08	N/A	The Brynderwen Group	Re-mortgage application. No record of The Brynderwen Group at Companies House. Made a new direct application at the local Leeds branch after James was sacked and complained about his service. Tax codes on false payslips were inconsistent. Subsequently repossessed.

Appendix H

Overview of properties, counts and offending - Operation Cassandra

Woodberry Down

Count	Victim Lender	Applicant	Date of advance	Actors	Advance	Security	Details
1	Barclays	Entwistle (ME)	25/08/05	Entwistle Gilbert (JG)	£900,000	None	Ledger 'Woodley Down' and in the name of Rigsby Asset Management Limited (RAM). Vast amount of funds not used for purchase. Subsequent loan from Credit & Mercantile to fund RAM purchase 09/05/05 – independent solicitors and full security given. Subsequently replaced by Cheval – independent solicitors and full security 02/06/05
2	Mortgage Express (MX)	Entwistle	02/06/06	Entwistle Gilbert Monk	£616,000	None	Ledger entitled 'R/M [Remortgage] Woodley Down'. Funds not used for remortgage.
3	The Mortgage Business (TMB)	Entwistle	23/06/06	Entwistle Gilbert Monk	£606,000	Part only – garage block. Transfer of part from RAM to ME. Not registered for +12 months when existing RAM charge to Cheval paid off.	Ledger 'R/M Woodberry Down House'. Completion statement for TMB refers to 'Building Plot'. Title number stated on Mortgage Deed as 'TBA'. Completed 21 days after MX advance. Funds not used for the purpose of a remortgage.

4	Kensington Mortgages (KM)	Barker (PB)	20/04/07	Entwistle Gilbert Barker Monk	£900,000	Part only – house only Transfer of part ME to PB Not registered for 9 months when existing RAM charge to Cheval paid off	Ledger 'R/M Woodbury Down House'. Funds not used for purchase.
5	Royal Bank of Scotland (RBS)	Rigsby New Homes Poole Ltd (RNHP)	03/05/07	Entwistle Gilbert Williams	£840,000	Part only – rear garden land. Transfer of part RAM to RNHP. Not registered for 9 months when existing RAM charge to Cheval paid off.	Loan signed by ME two weeks after KM drawdown. Report on title (ROT) said planning permission for new dwelling added "building plot at...". Funds applied to pay Cheval loan off – RBS aware of loan.

1B The Grove

Count	Victim Lender	Applicant	Date of advance	Actors	Value	Security	Details
6	Mortgage Express (MX)	Entwistle	19/09/06	Entwistle Gilbert	£487,500	None. Charge to UCB. NB: a pre-existing Barclays overdraft unsecured, never fully redeemed (10/05)	Ledger 'P/O [Purchase of] 1B The Grove'. Initially paid into a Windsor Land ledger. Funds not used for remortgage. MX threatened action if JG failed to evidence security. UCB used to repay MX even though purchase loan. NB: some dispute as to legitimacy of transfer deed transferring property to ME. Transfer from another JG client who disputes signatures and transaction date.
7	The Mortgage Trust	Barker (Rigsby Residential Limited)	20/08/07	Entwistle Gilbert Barker Monk	£487,000	None	Application two days after UCB registration. Nick Pomroy (NP) stated on application as PB accountant, NP not asked to certify/verify. Ledger 'Grove Villas, 1B The Grove'. Title number blank on ROT. Funds not used for purchase.

Orsett House

Count	Victim Lender	Applicant	Date of advance	Actors	Value	Security	Details
8	Heritable	Entwistle	14/09/06	Entwistle Gilbert Monk	£1.5m	Part only. Existing RBS charge over whole (to RAM). Only able to split title and register part as RBS anticipated refinancing of whole, so charge released for that purpose.	Forged bank statements submitted with application. Ledger 'Building plot at Ozett House'. Funds not used for remortgage. ROT gave title number for whole. Advance released in tranches. Applied to Land Registry (HMLR) to split title and register charge on part as lender chasing security. RAM to ME "Building plot at Orsett House".
9	RBS	Entwistle	22/06/07	Entwistle Gilbert Williams	£3.01 m	Part only.	Within three months of signing facility ME had borrowed £1m from Heritable. ROT title number 'TBA' (title not yet split). Funds not used for purchase. RBS did HMLR search and noted their charge was unregistered JG then registered part only.
10	Northern Rock	Barker	27/11/07	Entwistle Gilbert Barker Pomroy Monk	£3.562 m	None. Application to change title from ME to PB rejected as Heritable charge still registered over that part.	Brokers At Rigsby Finance told NR name change from Orsett to Melwood House. Accountant's certificate supplied by NP. Ledger 'R/M Melwood House'. Funds not used for purchase. JG sent HMLR OS1R Forms (priority notices) when chased.

5-11 North Drive

Count	Victim Lender	Applicant	Date of advance	Actors	Value	Security	Details
12	Rooftop	Barker	30/06/07 31/05/07 13/06/07 15/06/07	Entwistle Gilbert Barker Monk	£386,750 £357,500 £321,570 £298,975	Buildings only.	Four separate applications in total <i>to</i> purchase. Condition in JG mortgage instructions deposit required from applicant's own resources. Funds used for purchase but for RNHP.

							<p>Transfer of part then from RNHP and title split front and rear.</p> <p>JG said in ROT (no. 5) “to be presented for first registration at HMLR”.</p> <p>JG said in ROT (no. 7,9 & 11), title numbers ‘TBA’.</p> <p>JG countersigned TP1 [transfer of part deed] for RNHP (no 5).</p> <p>Balance on no. 5 from Kensington money (count 4) and paid into PB’s bank account on 7, 9 and 11 by ME then transferred to Willmetts.</p>
13	RBS	Rigsby New Homes Poole Ltd	25/05/07	Entwistle Gilbert Williams	£2.61m	Rear garden land only.	<p>ME had already made the Rooftop applications prior to negotiations with RBS.</p> <p>ROT title number ‘TBA’.</p> <p>Funds not used for purchase and development funds not used for intended purpose.</p>

9-11 Park Street

Count	Victim Lender	Applicant	Date of advance	Actors	Value	Security	Details
14	Cheltenham & Gloucester (C&G)	Barker	15/01/08	Entwistle Gilbert Barker Pomroy Monk	£1.6m	None.	<p>Application for purchase of no. 9.</p> <p>Ledger ‘R/M 9 Park Street’.</p> <p>C&G queried altered manuscript figures. NP replied to faxed query.</p> <p>Funds not used for purchase.</p>
15	Natwest (Part of RBS Group)	Sweeney Brothers Ltd (SBL)	02/04/08	Entwistle Gilbert Barker Williams	£1.553m	None. Existing Cheval mortgage registered against title – had	<p>ME & PB set up SBL as a special purpose vehicle (SPV) to purchase no. 9-11, five days after C&G advance.</p> <p>Ledger SBL, ‘mortgage 10 & 11 Park Street’.</p> <p>Loan was actually for purchase and refurbishment of no. 9.</p> <p>ROT states title number ‘TBA’.</p>

						independent solicitors.	
16	Natwest	Sweeney Brothers Ltd	01/02/08	Entwistle Gilbert Barker Williams	£1.8m	None.	ME registered as owner 12 months+ after purchase with SB loan. Purchase and development funds but not used for intended purpose.
17	Abbey (Santander)	Entwistle (Peter)	09/08	Entwistle Gilbert Robinson	£999,965	None.	False employment and income stated in application. Ledger ME 'R/M Blackhorse Yard'. ROT title number 'TBA' – no.9 already registered to ME. Funds not used for purchase of no.9.
18	OFJ Group Holdings Ltd	Entwistle	29/01/09 06/03/09	Entwistle Gilbert	£1.25m	First Legal Charge over whole OFJ's solicitors dealt with registration	OFJ instructed independent solicitors. Funds not used for refurb works to 9,10 & 11. Cheval repaid and charge on no.9 released 02/09. £725,000 laundered with Matthew Robinson (MR) (largely for yacht purchase).
19	OFJ Group Holdings Ltd/Natwest			Entwistle Robinson			Money laundering indictment.

44 & 46 Station Road

Count	Victim Lender	Applicant	Date of advance	Actors	Value	Security	Details
20	RBS	Rigsby New Homes Poole Ltd	16/05/08	Entwistle Gilbert Williams	£2.875m	None. Purchase never completed.	RBS instructed independent solicitors. Ledger RNHL 'Mezzanine Funding Development Station Road'. Funds not used for purchase. Catalyst for disrupting the fraud when owner of no.46, discovered a charge registered by RBS's solicitors at Companies House.
21	Birmingham Midshires	Entwistle (Peter)	13/10/08	Entwistle Gilbert Robinson	£585,757 £699,419	None. Purchase never completed.	Two separate applications. False employment and income details provided. ROTs title number 'TBA'. Ledger PE 'R/M Plot 1 Station Road' and 'R/M Plot 2, Station Road. Funds not used for purchase. False completion statements – redemption on 'Plot 1, The Heights, Candalmes Lane, off Station Road' and 'Plot 2, The Heights...' Payment out described as 'redemption RBS'.

180 & 182 Cherry Tree Road

Count	Victim Lender	Applicant	Date of advance	Actors	Value	Security	Details
22	RBS	Rigsby New Homes Poole Ltd	03/04/08	Entwistle Gilbert Williams	£1.29m	1st Legal Charge of Whole RBS instructed its own solicitors – JG registered	RBS instructed its own solicitors Ledger RAM 182 Cherry Tree Road Part used to buy 182 but balance not used to buy 180 180 later completed with RBS Station Road money

23	Godiva	Entwistle (Peter)	13/10/08	Entwistle Gilbert Robinson	£341,250	None	COT title no 'TBA' No.180 only Ledger R/M Plot 1, The Cherries, Cherry Tree Road False employment and income details provided
24	Birmingham Midshires	Entwistle (Peter)	13/10/08 18/12/08	Entwistle Gilbert Robinson	£297,233 £454,610	None	2 applications in total 3 weeks before Godiva application 182 drawdown same day as Godiva False employment and income details provided COT title no 'TBA' Ledger 'R/M Plot 2 The Cherries' (182) and 'Plot 3 The Cherries...' (180) Funds not used for purchases

Note: Williams and Monk are coloured blue and red respectively as they were both actors in these counts but not defendants in proceedings. Williams was separately indicted under the Bribery Act 2010.

Appendix I

Overview of HM Land Registry manipulation- Operation Cassandra

Count	Property	Lender	Borrower	Advance	Date of advance	Advance paid to	Registered Proprietor at date of advance	First legal charge given to lender and registered at Land Registry	Date first legal charge registered	Title number of property at date of advance	Title number on which first legal charge was registered	Defendants concerned in the count
1	Woodberry Down	Barclays	ME	£900,000	25/8/05	ME loan account Barclays	Ms Collett et al.	No	N/A	Unregistered	N/A	ME and JG
N/A	Ditto	C & M	Rigsby Asset Management (RAM)	£705,128	8/9/05	Willmetts	ditto	Yes	17/10/05	BK400157	BK400157	
N/A	Ditto	Cheval	RAM	£770,000 £187,500	14/2/06 11/12/06	Willmetts	RAM RAM	Yes Yes	3/3/06 10/1/07	BK400157 BK400157	BK400157 BK400157	
2	Ditto	Mortgage Express	ME	£616,000	2/6/06	Willmetts	RAM	No	N/A	BK400157	N/A	ME and JG
3	Ditto	The Mortgage Business	ME	£604,500	23/6/06	Willmetts	RAM	Yes	13/8/07	BK400157	BK415726	ME and JG

4	Ditto	Kensington Mortgages	PB	£900,000	20/4/07	Willmet	RAM	Yes	17/1/08	BK400157	BK516070	ME, JG and PB
5	Ditto	RBS	Rigsby New Homes Poole Ltd (RNHP)	£840,000	3/5/07	RNHP account RBS	RAM	Yes	18/2/08	BK400157	BK400157	ME and PB
N/A	1B, The Grove	Barclays	ME	£325,000 O/D facility	19/10/05	N/A	Windsor Land Ltd (WLL)	No	N/A	SY730642	N/A	
6	Ditto	The Mortgage Express	ME	£487,500	19/9/05	Willmet	WLL	No	N/A	SY730642	N/A	ME and JG
N/A	Ditto	UCB	ME	£487,000	11/9/06	Willmet	WLL	Yes	13/7/07	SY730642	SY730642	
7	Ditto	The Mortgage Trust	PB, Rigsby Residential Ltd (RRL)	£422,400	28/8/07	Willmet	ME	No	N/A	SY30642	N/A	ME, JG and PB
N/A	Orsett House	Credit and Mercantile	RAM	£1.274M	7/4/05	Willmet	Jones and Gregg	Yes	4/5/05	BK171881	BK171881	
N/A	Ditto	Cheval	RAM	£1.117M	14/2/06	Willmet	RAM	Yes	6/3/06	BK171881	BK171881	
N/A	Ditto	RBS	RAM	£1.5M+	28/4/06	Willmet	RAM	Yes	16/5/06	BK171881	BK171881	
8	Ditto	Heritable	ME	£1M £98,170 £396,740	14/9/06 23/11/06 1/12/06	Willmet	RAM	Yes	24/7/07	BK171881	BK415152	ME and JG
9	Ditto	RBS	ME	£2.9M £110,000	22/6/07 28/6/07	ME, RBS Orsett House Loan	RAM	Yes	11/2/08	BK171881	BK171881 residue	ME and JG

10	Ditto	Northern Rock	PB	£3.562M	27/11/07	Willmetts	RAM on BK171881 (residue) ME on BK415152	No	N/A	BK171881 Residue and BK415152	N/A	ME, JG, PB and NP
12	5 North Drive	Rooftop Mortgages	PB	£386,750	30/4/07	Willmetts	Mr and Mrs Hathrill	Yes	4/12/07	BM61720	BM330470	ME, JG and PB
12	7 North Drive	Ditto	PB	£357,500	31/5/07	Willmetts	Mr and Mrs Stevens	Yes	4/12/07	BM80681	BM330480	ME, JG and PB
12	9 North Drive	Ditto	PB	£321,570	13/6/07	Willmetts	Mr Ossi - Tutu	Yes	4/12/07	BM197697	BM330477	ME, JG and PB
12	11 North Drive	Ditto	PB	£298,975	15/6/07	Willmetts	Mr Reynolds	Yes	4/12/07	BM101252	BM330475	ME, JG and PB
13	5 – 11 North Drive	RBS	RNHP	£2.61M	25/5/07	Willmetts	The 4 original vendors	Yes	14/2/08	BM61720 BM80681 BM197697 BM101252	Residue of said title numbers	ME and PB
N/A	9, Park Street	Cheval	ME	£1.7M	3/1/08	Willmetts	AXA	Yes	1/5/08	BK86974	BK423156	
14	Ditto	C & G	PB	£1.6M	16/1/08	Willmetts	AXA	No	N/A	BK86974	N/A	ME, JG, PB and NP
15	Ditto	Nat West	Sweeney Brothers Limited (SBL)	£1.553M	2/4/08	Willmetts Via SBL Nat West 9, Park St,	AXA	No	N/A	BK86974	N/A	ME, JG and PB

						Land loan a/c						
16	10 and 11 Park Street	Nat West	SBL	£1.8M	1/2/08	SBL, Nat West 10 and 11 Park ST loan account	AXA	No	N/A	BK86974	N/A	ME, JG and PB
17	9, Park Street	Abbey National	Peter Entwistle (PE)	£999,965	3/9/08	Willmetts	ME	No	N/A	BK423156	N/A	ME, JR and MR
18	10 and 11 Park Street	OFJ	ME	£1.25M	6/3/09	ME Courtts a/c	ME	Yes	10/2/09	BK430651	BK430651	ME and JG
20	44 and 46 Station Road	RBS	RNHPL	£2.875M	16/5/08	Willmetts	Askews (44) Lawns (46)	No	N/A	BM60934 (44) BM157403 (46)	N/A	ME and JG
21	44 and 46 Station Road	Birmingham Midshires	PE	£585,757 £699,419	13/10/08	Willmetts	Askews (44) Lawns (46)	No No	N/A N/A	BM60934 (44) BM157403 (46)	N/A N/A	ME, JG and MR
22	180 and 182 Cherry Tree Road	RBS	RNHPL	£1,290,000	3/4/08	Willmetts	Bristows (180) Gritts (182)	Yes	1/8/08	BM53937 (180) BM71130 (182)	BM53937 BM71130	ME and JG
23	180 Cherry Tree Road	Godiva Mortgages	PE	£341,250	13/10/08	Willmetts	RNHPL	No	N/A	BM53937	BM53937	ME, JG and MR

24	180 and 182 Cherry Tree Road	Birmingham Midshires	PE	£297,233 (180) £454,610 (182)	18/12/08 (180) 13/10/08 (182)	Willmetts Willmetts	RNHPL	No No	N/A	BM53937 (180) BM71130 (182)	BM53937 BM71130	ME, JG and MR
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