

Fraud Newsletter No. 88

January 2024



CASES

LPP & LAP: (i) balance of probabilities is merits threshold of privilege iniquity exception save in exceptional circumstances - full analysis & review of authorities; (ii) documents disclosable if “part of” or “in furtherance of” the iniquity - distinction explained; (iii) lit. p. extends to docs brought into existence in contemplation of litigation to which the person having that contemplation is not a party; (iv) *Three Rivers* does not apply to lit. p.: [*Al Sadeq v Dechert LLP, Gerrard & Ors*](#) [2024] EWCA Civ 28.

[*Phillips v Secretary of State for Foreign, C&DA*](#) [2024] EWHC 32 (Admin): s 38 SAMLA 18 authorises regulations that permit imposition of sanctions that interfere with common law and convention rights.

“Officer of a body corporate” under TULRCA 92 excludes insolvency administrators: [*R \(Palmer\) v North Derbyshire Mag. Crt*](#) [2023] UKSC 38.

SENTENCING & CONFISCATION

[*Gross*](#) [2024] EWCA Crim 21: sufficient to convict D of s.328 POCA offence if D knew or suspected monies were crim. Property.

BILLS, STATUTES & Sis

[*The Criminal Procedure \(Amendment\) Rules 2024*](#) coming into force 1 April 2024. Note changes to CrimPR 15.2 (Defence response required to DMD)

[*Online Safety Act 2023 \(Commencement No.3\) Regulations 2024*](#) (SI 2024/31): Brings into force Part 10 Communications Offences on 31 January 2024.

GUIDANCE, CIRCULARS, REPORTS AND CONSULTATIONS

Draft amendments to POCA codes arising from *Economic Crime (Transparency and Enforcement) Act 2022* and *Economic Crime and Corporate Transparency Act 2023*: (a) [*POCA \(Search, Recovery of Cryptoassets and Investigations: Codes of Practice Regs 2024\)*](#); (b) [*POCA \(Investigative Powers of Prosecutors: Code of Practice\) Order 2023*](#); (c) [*Proceeds of Crime Act 2002 and Terrorism Act 2000 \(Certain Information Orders: Code of Practice\) Regulations 2024*](#) and (d) [*Terrorism Act 2000 \(Code of Practice for Authorised Officers\) Order 2024*](#). The draft Codes to be force 26 April 24.

- [*Draft Code: Recovery of Cryptoassets: Search powers*](#)
- [*Draft Code of Practice under S47s POCA 2002 \(Search, Seizure and Detention of Property \(England and Wales\)\)*](#).
- [*Draft Code of Practice under s377 POCA \(Investigations\)*](#)
- [*Draft Code of Practice for officers acting under Sched 1 to ATCSA 2001*](#)

[*Corruption Perceptions Index 2023*](#) UK falls to lowest ever position: Transparency International: 31 Jan 24

[*Investigation into student finance for study at franchised higher education providers*](#) who account for 6.5% of total Student Loan Co. funded students but 53% of £4.1m detected fraud: Nat. Audit Off. 18 Jan 24: [*Summary*](#) see §§12-16

[*Guidance on ML reporting obligations re the DAML exemption provisions introduced*](#)



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[by the Economic Crime and Corporate Transparency Act 23](#): HO: 10 Jan 24

NEWS

POST OFFICE SCANDAL:

Post Office Horizon IT inquiry: Recordings, transcripts, reports, evidence and key documents etc available on the [POHITI website](#).

- [Post Office set targets for recovering cash from operators accused in Horizon scandal](#): Guardian: 23 Jan 24.
- [Government to quash wrongful Post Office convictions](#): MoJ: 10 Jan 24
- [Post Office scandal: Met Police investigate 'potential fraud offences'](#): BBC News: 6 Jan 23
- [Post Office scandal: lawyers in the frame](#): Joshua Rosenberg: LSC: 5 Jan 24

CPS:

Nothing of note.

FCA:

[Individual charged with fraud over unauthorised investment scheme](#): 22 Jan 24.

[Car Finance Complaints](#): FCA investigating possible breaches of 2021 ban on discretionary commission arrangements: 11 Jan 24.

NCA:

[8 yrs for E. London money launderer who took payments for small boats crossings](#): 24 Jan 24.

[Couple sentenced for romance fraud and laundering criminal cash](#): 24 Jan 24

[Two more convictions in £100m 'cash in suitcases' conspiracy](#): 12 Jan 24.

[Telegraph faces potential probe by NCA over report of 'suspicious financial activity'](#): Mail: 6 Jan 24.

SFO:

[Extradited Autonomy founder Mike Lynch sues SFO over data request](#): Guardian: 31 Jan 24

[David Cameron's activities at Greensill a 'matter of interest' in wider fraud inquiry](#): Guardian: 27 Jan 24

[SFO charges two company directors over £88m car lease scheme](#): 19 Jan 24.

[Judge demands answers from SFO over Glencore charging delays](#): SFO potentially requires AG approval for charges: GIR [paywall]: 18 Jan 24.

[Deal or no deal](#): Catherine Baksi article on DPAs: Law Soc Gaz. 15 Jan 24

[Nick Ephgrave – the first 100 days](#): Law Soc Gaz: 12 Jan 24.

HOME:

[Tax measures to encourage economic growth: Part 3 Managing the risk of error and fraud in non-structural reliefs](#) – likely level of fraud and error on R&D SME relief 24.4% (£1B) 2020/21: Nat. Audit Off: 31 Jan 24.

[Woman tried in London over alleged bitcoin laundering from \\$6.3bn China fraud](#): Reuters: 30 Jan 24

[Fortress scandal boss accused of falsifying Companies House register](#): Times (paywall): 30 Jan 24

[UK sets global blueprint for APP fraud reimbursement](#): The Banker: 26 Jan 24

[Michelle Mone has £75m of assets frozen as NCA investigates fraud](#): Guardian: 26 Jan 24



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[Spot-fixer's associate received £80k cash from boxing promoter](#) Associate is a close connection of Mazhar Majeed imprisoned for his role in the Pakistan fixing scandal at Lords: S.Times: 20 Jan 24 (paywall)

[HMRC has not charged a single company over tax evasion under landmark legislation](#): Guardian: 20 Jan 24

[Liar: The Fake Grooming Scandal](#): BBC 3 – documentary on 22-year-old Ellie Williams sentenced to 8½ years for perverting the course of justice: Guardian: 19 Jan 24.

[Michelle Mone's husband linked to tax firms whose clients submitted misleading claims](#): Guardian: Guardian: 18 Jan 24.

[Pension fraudsters forced to hand over their assets after TPR probe](#): TPR: 17 Jan 24.

[Former solicitor jailed for defrauding clients of £1.7m ordered to pay back £3,000](#): LSG: 15 Jan 24.

[Tribunal slaps Clyde & Co with £500k fine for AML failures](#) to carry out adequate due diligence) and £128k costs: legalfutures: 12 Jan 24.

2 directors of Tuita found to have defrauded investors and ordered to pay £20m: [Tiuta International \(Liquidators\) v Booth and Nichols](#) [2023] EWHC 3195 (Ch).

[PM urged to suspend whip from pensions minister accused of misusing taxpayer funds](#): Guardian: 6 Jan 24

[Endeavour Mining ousts CEO over 'serious misconduct'](#): Reuters 5: Jan 24

[Fraudsters impersonate NCA officers in 'child pornography' scam emails](#): Action fraud: 5 Jan 2024

EU:

[AML: Council and Parliament strike deal on stricter rules](#): EU Press Release: 18 Jan 24.

[Trial of Guillian Méjane: the "Madoff of Maine-et-Loire"](#) – €16m Ponzi scheme on 57 "aristos": Forbes: 8 Jan 23.

[New rules to combat fraud on cross-border payments in the EU in force from 1 January](#) to help combat VAT fraud: EC Press Corner: 1 Jan 24

ABROAD:

[Former Freshfields partner sentenced to jail for German tax fraud](#) - 3½ years for Maple Bank "cum-ex" fraud: Reuters: 30 Jan 24.

[Ukraine says it has uncovered major arms corruption](#): BBC: 28 Jan 24.

[Former Law Firm Partner Sentenced to 10 Years for Laundering \\$400m of OneCoin Fraud Proceeds](#): DOJ: 25 Jan 24.

[British billionaire Joe Lewis pleads guilty to US insider trading](#): Guardian: 24 Jan 24.

[US: CEO of Bitcoin Platform Charged in Multi-Million Dollar Ponzi Scheme](#): OCCRP: 23 Jan 2024.

[UN staff on £1.5bn Iraq aid project 'demanding bribes'](#): Guardian 22 Jan 24.

[Cryptocurrency firm Terraform Labs files for bankruptcy in US](#): lost \$40B in May; co-founder in Montenegrin custody awaiting extradition to US or S. Korea: BBC News: 22 Jan 24.

[Isabel dos Santos charged with 12 crimes in Angola over dealings as Sonangol chair](#): accused of defrauding the country of \$219 million: ICIJ; 19 Jan 2024.

[US: Fifth Member in Off-Road Tire Ponzi Scheme Pleads Guilty](#): Estimated \$50 million; OCCRP: 16 January 2024

[US: Another Feeding Our Future Fraudster Pleads](#)



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Guilty: \$250 million stole from a US federal programme; OCCRP: 12 January 2024

Software firm SAP to pay \$220m over bribery charges: BBC: 10 Jan 24

Guinea Orders Legal Action Over Rosewood Export Fraud: illegal export of critically endangered rosewood to China; OCCRP: 5 January 2024

Ex Vitol Trader Heads to US Trial on Ecuador bribery charges: Reuters: 2 Jan 24.

