**Government
Counter Fraud
Function**

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MINISTER OF STATE LORD AGNEW OF OULTON

Bounce Back Loan Stocktake

Purpose
1. To provide an update on the Bounce Back Loan scheme, flagging the progress that has been made and the key remaining gaps. Our view is that it is now time to take stock. This note is to support a discussion on the limitations of how much further we can push on BBL and how cross system efforts should be focused in the future.

Background
2. Since the launch in May, the Counter Fraud Function has been supporting BEIS and HMT with the BBL Scheme (a summary of the scheme is at **Annex A**). We have given expert advice and delivered activities where we have recommended action but there has not been the capability to undertake it. We have been working closely with the HO and NCA throughout.

3. We have had a variable degree of success, with many barriers. With your support, we have had some notable impact, which is detailed in **Annex B.** This has both reduced risk and financial loss in the scheme. **However, many big issues remain**.

4. Our view is that the opportunity to make a difference is now reducing and, in light of your role as the lead Minister for public sector fraud, we would like a frank conversation with you about the scheme, our activity, the gaps that have not been dealt with and the limitations of how much further we can push. The reality is that many of the areas that, for many of the areas where action could be taken the leavers lie with HMT, not us.

5. You met with EST following the C-19 Fraud Ministerial Board and have asked for a letter to be drafted from HMT Ministers to BEIS Ministers listing the post loan interventions we would like them to take. We have a draft we can share as soon as you would like to send it. We believe there would be benefit in having the broader discussion before this letter is sent.

Overarching Questions
6. Officials in the Counter fraud Function and the Home Office are aligned on the specific areas where we do not have clarity. It will be beneficial to set expectations and agree on these to set expectations with Ministers and Parliament.

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7.   Specifically:
      a.   To what **extent** does the government want to go after fraud within the BBL scheme (and other lender led schemes)?
      b.   What **types** of fraud do we want the system to go after and what are we accepting will not be attempted to be detected or acted upon?
      c.   With this in mind - who is doing what and to what extent (including expected volumes of interventions), how are they resourcing it, who is accountable for each piece and how will activity be overseen and assured.

8.   Our view is, that to set expectations across the system, these questions should be answered at a detailed level, with examples attached to the types of fraud we want to accept and metrics attached to the extent of response we would expect.

Answer lies with: These policy questions rest with HMT and BEIS. HO, NCA and CO can help have this conversation, but these questions are not being prioritised.

The Gaps

9.   Significant gaps exist in the overall counter fraud response to the BBL scheme. The view of CO and HO officials is that these areas will lead to significant levels of unresolved fraud, posing both a financial and reputational risk to the government. All of these gaps could be accepted but they come with risk.

Incentives in the scheme to prevent, detect and recover fraud

10.   The incentives in the system for lenders to look for fraud beyond their basic, up front controls (mandated in the guidance) are extremely limited.

The **HMT position** is that *the lenders* are responsible for finding and dealing with fraud in the system.
The **lender position** is that *law enforcement* need to provide significant support to find and investigate potential fraud.
Law enforcement are not funded (and – given the scale – would lack the skills and capabilities needed) to deal with the expected volume of fraud.

If a lender looks for fraud beyond the basic checks, they will take on the cost of additional administration and may not be able to claim on the guarantee - with no benefit. If they do not look for fraud (beyond the up front checks) they are likely to be covered by the guarantee.

The answer lies with: HMT
Impact could be made by: Finding a route to incentivise the lenders or BEIS to find and recover fraud and encourage them to do their own data analytics activity on the stock of fraud in the system (with rewards for finding and recovering fraud loss).
If we accept this: There will be significant levels of undetected fraud (likely between £2-4bn) and, by the time we know about it, it will be too late to take action. Accepting that many of the fraud flags from data analytics activity will not be actioned.

Lender Discretion

11.   The 'Recoveries Guidance' for the BBL scheme is built on the twin principles that lenders will use their current BAU capabilities to detect fraud, and that they should have broad discretion to interpret the scheme rules and the guidance. This will lead to people in the same circumstances being treated differently by different lenders.

Answer lies with: HMT
Impact could be made by: Changing the Recoveries Guidance so it is based on scenarios that may occur and providing clear requirements for the lenders to follow, with an assurance process to check compliance.
If we accept this: We accept inconsistent treatment of borrowers in similar circumstances. This could undermine criminal cases, as a defense could be mounted that the borrowers behaviour has been accepted in other schemes. Any media coverage would have a detrimental impact on the reputation of the government.

Capacity in law enforcement/NATIS to investigate fraud

12.   The demand for investigation far outstrips the available supply/capacity in the system. The system has worked to free up capacity in the NCA and NATIS. However, we estimate this capacity is under 100 cases. There could be c.25,000 cases in the system.

13.   The NATIS support is to be further expanded, but even with a scaled up NATIS response the demand will far exceed the supply. This issue is compounded by the lenders stated position that fraud in the system should be investigated by law enforcement.

Answer lies with: HMT
Impact could be made by: HMT providing funding to NATIS and law enforcement to investigate BBL fraud. However, this would only increase the number of cases by a small amount compared to the overall case level. It would lead to more organised crime cases being adopted and more opportunities for proactive comms on the government's impact.
If we accept this: The volume of investigations will be very low. Regardless, it should be accepted that the main activity to take action on fraudulent claims will have to come from BEIS or the lenders.

Capacity and ability to take action outside law enforcement and recover money

14.   As noted above, no matter what we invest in the police and NATIS, their investigative activity is only going to deal with a small proportion of the total fraud in the scheme. If this was HMRC or DWP (or even MoJ) the primary focus would be in compliance activity to find fraud and irregularity in the loan book and take action where possible.

Many lenders are reluctant to do this, as it will increase their operating costs – which was not something that they agreed to when they joined the scheme. However, as the capacity needed if far greater than law enforcement/the justice system could cope with – we see non law enforcement means of recovery as the only really practicable option, with limited law enforcement/NATIS resources being reserved for the most egregious examples of serious and organised crime.

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In addition, it is worth noting that much of the fraudulently obtained money will now be difficult to recover, as it is likely to have been moved (especially by the more organised fraudsters). This is compounded by the limited capability and powers that BEIS and British Business Bank have to review potential fraud cases and get the money back. We will have to keep a close view on the return on investment of compliance and investigative activity - and how successful it is in recovering money.

Answer lies with: BEIS and HMT
Impact could be made by: A plan for how fraud and irregular loans will be detected and dealt with in the system. This is likely to need to be supported by compliance and recovery resources to take action on the instances, which could either be a unit in BEIS/BBB or activity from the lenders. This benefit from close monitoring on returns.
If we accept this: Action on the majority of fraud within the system will be limited.

Longer term impact could be made by: The legislation workstream under the C-19 Fraud Ministerial Board would open up powers to the government to both investigate and recover monies more efficiently from schemes like this in the future.

Capability in BEIS
15.   Prior to taking on several high fraud risk C-19 schemes, BEIS had a fraud team of 2FTE. This was not fit for purpose. Since this, BEIS have secured funding from HMT to build a larger fraud function and support from NATIS. We have placed an experienced SCS to lead the response and provided a design for a BEIS Counter Fraud Function.

Answer lies with: BEIS and HMT
Impact could be made by: Continuing to build BEIS capability, encouraging BEIS to move more quickly. Looking to place skilled counter fraud resources into the team, as we have with the SCS1 lead.
If we accept this: We have to accept that it will take time to build the capability in BEIS.

Next Steps
16.   We hope to have a discussion with you, and HO colleagues on Bounce Back Loans to agree where we should focus our efforts and where we should accept the current position.

17.   Our proposal is that the outcome of this is a letter from the Security Minister and Lord Agnew to EST and the BEIS SoS outlining what the gaps are and encouraging them to consider them, while making it clear that we will not push them further on these.

18.   Home Office colleagues would need to broach that proposal with the Security Minister once you have had a chance to comment – but would anticipate that he would be supportive.

19.   Our view is that our remaining resource is best targeted to:
        a. delivering the Data Analytics Programme we have developed for BBL;
        b. monitoring overall progress on fraud in the scheme;
        c. Carrying out a lessons learned exercise to assist future schemes.

Annex A - The Scheme

The Scheme

1. Bounce Back Loans is the C-19 scheme with the highest residual risk of fraud[1]. To date over £42bn has been paid out to over 1.4m entities. The current run rate of payments is just under £2bn a month - the equivalent of the annual spend on the legal aid system. Our estimate of losses to fraud and error is currently 5% - 10% (£2bn - £4bn)[2], which is the figure that BEIS are also currently using.

2. The BBL scheme is delivered through lenders who offer loans that are 100% backed by the government. The lenders are required to operate to a minimum standard, which includes basic Know Your Customer and Anti Money Laundering checks.

3. Unlike commercial loans, credit and affordability checks are not undertaken. The scheme is based on a principle of self certification and lenders are not required to verify the information provided on an application.

4. The policy driver is for applications to be turned around within 24 hours. Where lenders have concerns they are afforded a further 24 hours to make a decision.

5. The scheme is overseen by the British Business Bank. BEIS is the accountable department. The scheme itself was designed by HMT.

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[1] HMRC's JRS (Furlough) and DWP's UC may be higher, but both HMRC and DWP have resources and capability to address the risks.

[2] This will be informed by sampling activity by BEIS/BBB as part of their Post Event Assurance Action Plans.

Annex B - Counter Fraud Function Activity in the BBL scheme

With your help we have:
- **Helped BEIS, BBB and HMT understand the risks**
  - Provided expert resources to ensure the Fraud Risk Assessment met the government standard.

- **Designed and implemented new up front controls**
  - Supported the development of an industry wide duplication check to reduce the risk from multiple applications - estimated to have prevented over £1.4bn in losses to fraud and error (benefit yet to go through assurance)
  - We led the development and implementation of three new up front checks:
    - Identifying where company directors have changed before application
    - Identifying if the company was created after C-19 support started
    - Checking turnover in identified high risk cases.
  - This has stopped **£14.1m** in loans being made (to date) and identified irregular loans in the loan books of up to **£60m**. Further impacts are expected before the end of the scheme.

We provided advice and identified capability to support BEIS
  Resourcing
- Provided an SCS1 expert to lead the BEIS response
- Secured intelligence and investigation resource (NATIS) to lead on BBL criminal investigations
  Advice
- Worked to convince BEIS about the need for a larger counter fraud team, supporting their submissions to Ministers to prioritise this work and secure funding.
- Designed an operating model for the BEIS response to BBLs
- Brought together experts from across the Function to design BEIS' Counter Fraud Function
- Created processes for BEIS and BBB (e.g. how to deal with C-19 Fraud Hotline referrals
- Provided guidance to BEIS on fraud risks in the scheme to inform Senior Governance and Ministerial engagement

We are delivering a programme to find fraud in the loan book
- Set up the COVID Fraud Hotline to encourage reporting from members of the public;
- We are delivering an 8 phase data analytics programme utilising data sets from BEIS, CH, HMRC, NCA and Policing. Early analysis has identified further risk areas including:
  - Common directors across recently incorporated companies - identified 125 loans worth £5.4m
  - Backdated directorship - identified a further £9.75m in potential fraud through formation agents and virtual offices.
  - Voluntary dissolution risk - identified £15m in loans to companies now in voluntary dissolution.

Supported Post Event Assurance Activity

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- Detailed support for development of Post Event Assurance Action Plan for BBLs
- Provided detailed guidance to help shape the BBB/PWC sampling exercise for the PEA Action Plan;

Reviewed and Provided Expert Advice on the Recoveries Guidance
- Provided insight to BBB from our wider stakeholders (inc private sector) around potential disincentives for lenders to proactively seek out fraud - leading to refocus of BBB post payment audit approach to target this risk
- Strengthened the Recoveries Guidance to maximise the likelihood of recoveries in fraud cases.