

## NEW DEPARTMENT TO TACKLE FRAUD

**Challinors has formalised its anti-fraud legal expertise with the creation of a dedicated Fraud and Asset Recovery Department, the first of its kind in Birmingham.**

The team is led by Arun Chauhan and Mark Kenkre, both specialist dispute resolution lawyers. Arun says: "Fraudsters cost the UK economy £14 billion a year according to the National Fraud Strategic Authority. As the cost of fraud, both financial and personal, continues to escalate, businesses are increasingly seeing the need to strengthen their approach to combating fraud.

*"Our dedicated Fraud and Asset Recovery department, based in the heart of Birmingham's business quarter, delivers a sophisticated legal and commercial service, with a proven track record in complex commercial disputes."*

Mark Kenkre adds: "We are one of the few dedicated teams outside London specialising in fraud and asset recovery work. Our geographical location enables us to provide a highly cost-effective service across the UK."

Arun explains: "The team draws together lawyers from across our commercial and corporate legal departments. Between us we have successfully handled multi-million pound commercial fraud work for clients including National Government agencies and large corporates, on cases involving commercial fraud litigation, VAT irregularities and fraudulent breach of warranty claims. The team has also acted for clients in complex investigative cases and proceedings in the High Court, so our track-record is certainly proven.

"Last year, Challinors was appointed to the Treasury Solicitor's Department Panel based on its ability to deliver litigation and investigation services to the Treasury

Solicitor's Department and other central government bodies. The Department provides legal services to more than 180 government departments and other publicly funded bodies throughout England and Wales."

He adds: "Our new department works closely with the firm's Crime team, headed by Ghulam Sohail, a VHCC Panel A member, who is frequently involved in serious white collar fraud matters investigated and prosecuted by HMRC, SFO and the CPS. This level of crime expertise is unique to Challinors in Birmingham, and one key example of how the firm's team structure works and provides complementary legal expertise across the firm."

More information about Challinors new Fraud & Asset Recovery Department is available at <http://www.fraud.challinors.co.uk>

## SURVEY REVEALS MIDLANDS' BUSINESSES WAKING UP TO EXPOSURE TO FRAUD

**According to the findings of Challinors' first-ever Fraud & Asset Recovery Survey, more than a third of UK businesses have no systems in place to help detect fraud and 47 percent do not invest in training staff on how to spot fraud.**

"Overall our survey confirmed that over half of UK businesses are worried about business or commercial fraud," comments Arun Chauhan. "It is surprising therefore that more than 40 percent have no systems or trained, dedicated staff, in place to help detect fraud, especially in the current economic climate. This is surprising as the Survey further revealed that 75 percent of businesses taking part believe that fraud is having a direct effect on their business". Furthermore, concerns over fraudulent activity have risen in the last 12 months.

The survey revealed that businesses believe complacent internal procedures, the Banks and Government, are to blame for the increased threat to business from fraud.

A quarter of businesses surveyed believe that fraudulent activity in Birmingham and the Midlands has increased, whilst more than 60 percent believe fraud is on the rise on both a national and international scale.

Over 97 percent of businesses believe the knock-on effect of fraud will be an increase in

insurance premiums, followed by a financial loss for the business (90%), increased end-user prices (82%) and overall a loss of commercial confidence (77%).

"The financial sector and on-line businesses are deemed at greatest risk from fraud, followed by the property and construction sector, retail, music and entertainment, and hospitality," says Mark Kenkre.

The full findings of the survey are available at Challinors Fraud & Asset Recovery website.



## INVOICE FACTORING COULD BE THE **NEXT BIG THING**

"One of the biggest challenges in the current economic climate is getting invoices paid and we believe the use of invoice factoring could become a significant area for fraud," says Arun Chauhan.

"The issue of invoice payment is not unique to the economic climate but is one example of how a business's activities can be susceptible to fraudulent activity if sufficient controls are not in place. A Managing Director may not be aware that those responsible for raising company invoices could be devising a fraudulent scheme by creating 'fresh air' or made-up invoices, and pretending these represent real orders. The MD would remain liable under their personal guarantee if staff have caused the Factoring fraud, even though they had not been party to or benefited from the scam."

# THE GROWING EFFECT OF MORTGAGE FRAUD

**Signs indicate a number of specific areas have a significant potential for growth and exposure to fraudulent activities for financial institutions. Mortgage fraud is a prime example of such increased exposure.**

There are potential problems of fraud for mortgage lenders, on occasion caused by both the surveyor and broker involved in a transaction, as Mark Kenkre explains:

"Historically, lenders have been able to avoid large exposure to mortgage fraud, relying on the market's upward trend to recoup any losses if they had been duped. With the market much changed, comes the increased exposure for lenders to fraudulent activities.

"There are a number of avenues open to the fraudster and the most common is valuation fraud, particularly from the surveyor who overstates the value of a property.

"Another emerging area is that of broker fraud. This can occur in a number of ways, the most common of which involves a broker acting on behalf of a property investor, in which the broker secures a mortgage for the investor at the resident homeowner rate, leading to potential losses for the lender of typically two percent over the term of the mortgage. Brokers, increasingly desperate to maintain commission rates, may see this as an innocent exploitation of the system, but the potential ramifications and continuing financial effect to the lender can be devastating."

## IS THERE SUFFICIENT AWARENESS OF FRAUD?

**The National Fraud Strategic Authority (NFSA) is a body set up by the Government, which is tasked with tackling fraud in the private and public sector. It is one of a number of initiatives put in place by the Government following the Fraud Review in 2006.**

"The Government is increasingly aware of the losses businesses and individuals suffer at the hands of fraud and recognises more needs to be done to protect and assist businesses targeted by fraudsters who are ever more determined and sophisticated in their methods. No sector is immune to the dangers of fraud which extends across all sectors of industry both in the UK and beyond. It is assisted by the pace of technology and the willingness of fraudsters to embrace technology to perpetrate their scams," says Mark Kenkre.

"Businesses are increasingly aware of the potential losses but often do not believe they will be targeted. We often get involved after the fraud has been perpetrated as businesses start to investigate 'black holes' in the balance sheets and seek to investigate the source.

"In light of the unprecedented economic climate, businesses need to be more proactive to minimise the risks of fraud to their businesses. Coping with the consequences of even a small fraud can be extremely time-consuming and businesses cannot afford to lose the focus of managers to these matters when their capacity is already stretched.

### **How can businesses protect themselves?**

"Businesses must start by identifying the areas of their business most susceptible to loss from fraud. This may involve an analysis of the process the business undertakes to identify key

areas of concerns such as record keeping or stock controls. This can involve instructing an external organisation with suitable experience in this area as they will be best placed to offer an impartial and independent view on the key areas of concern.

"Controls need to be introduced to reduce the risk of a fraud being perpetrated in the areas identified as most susceptible, such as by introducing greater controls when authorising transactions. It is a good idea to appoint an individual or team to continually monitor and manage the risk from fraud. They should be suitably trained to ensure they are as effective as possible for the business in fulfilling this role. Unfortunately, even with all of these systems in place, businesses are still susceptible to fraud, but at least they have sought to make it more difficult for the fraudster to succeed without detection."

IF YOU WOULD LIKE MORE INFORMATION ON OUR FRAUD AND ASSET RECOVERY SERVICES, PLEASE CONTACT:

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