NAFUNA & CO. CLIENT GUIDES · GOLD & MINERALS · NO. 11

You Reported a Gold Scam to the Police: What Should Happen Next?

Investigations, Evidence, Prosecution and the Complainant's Rights in Uganda

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Introduction

A police reference number marks the beginning of a criminal process.

The buyer has paid for gold, the gold has not come, and the matter has been reported to the Uganda Police Force with the Sale and Purchase Agreement, the payment records and the WhatsApp messages. Weeks pass. The investigating officer says inquiries are continuing. The supplier may have been summoned, questioned, arrested or released on police bond, and the buyer hears little about any of it.

What should happen next depends on the evidence and the stage the case has reached. It also depends on which institution is responsible for each step:

INSTITUTION	ITS FUNCTION
Uganda Police Force	Investigates the suspected offence and assembles the evidence (Constitution, Article 212)
Director of Public Prosecutions	Decides independently whether to prosecute, and may direct the police to investigate (Article 120)
The courts	Decide criminal liability and grant relief within their jurisdiction
The buyer	Complainant, witness and, separately, potential civil claimant

Each of the buyer's roles carries different rights and responsibilities. Understanding them lets the buyer help the investigation, protect the evidence and keep the prospects of recovery alive.

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SECTION 1

When the Complaint Is Registered

A complaint begins with a report at a police station or a specialised unit. The buyer gives an account of the alleged offence, the people involved, the payments and the evidence. The report is entered in the station records and given a reference, and an investigation file may be opened. The buyer’s statement and documents become part of that file.

Registration records that an allegation has been made; the investigation determines whether it is supported by evidence of an offence. Keep:

- the police reference number
- the name and contact of the investigating officer and the supervising officer
- a copy of the statement recorded
- copies of every document handed over

SECTION 2

What the Investigation Should Cover

Article 212 of the Constitution charges the police with preventing and detecting crime and protecting life and property. In a gold fraud, detection means establishing facts:

WHAT THE SUPPLIER CLAIMED	WHAT THE INVESTIGATION SHOULD ESTABLISH
That it owned a consignment	Whether it owned or controlled the gold
That it held a mineral licence	Whether the licence is genuine, current and covers the activity
That the gold was at a refinery	Whether the refinery received it
That money was due	Who received the payment and where it went next
That a government charge was payable	Whether the charge exists, and whether the demand was genuine

The investigation should also fix each participant's role. A broker who introduced the parties stands in a different position from the seller who took the money or the person who forged a document. Each suspect should be connected to identifiable conduct and to the elements of an offence, and the suspect's explanations and any evidence in their favour must be considered as well.

NAFUNA & CO. PRINCIPLE

The purpose of an investigation is to establish what happened, who was responsible and whether the evidence satisfies the elements of an offence.

SECTION 3

"This Is a Civil Matter"

The commonest obstacle a buyer meets is the supplier's answer that the dispute is contractual: the buyer paid, delivery failed because of regulatory delays or financing problems, and the remedy is a civil suit. Complaints are sometimes closed on that basis simply because the parties signed a Sale and Purchase Agreement.

A contract and a fraud can exist in the same transaction. Under sections 284 and 285 of the Penal Code Act, Cap. 128, the offence of obtaining by false pretences turns on a knowingly false representation of a past or present fact, made with intent to defraud, that induced the payment. The High Court set out those ingredients in *Nanteza Agati v Uganda*, Criminal Appeal No. 33 of 2023, [2024] UGHCCRD 10. A supplier who claimed to own gold it never had, who produced a fabricated

assay certificate, or who demanded a government charge that did not exist, has made representations of present fact. They require investigation regardless of the contract.

The reverse also holds. A genuine agreement can fail without any offence being committed, and a promise about the future that is not kept is a breach of contract. The investigation should therefore identify the alleged false representation, establish whether it was true, examine what the maker knew, and connect it to the payment. Client Guide No. 09 sets out the evidence that does this.

SECTION 4

Arrest, Police Bond and Bail

An arrest is an investigative step and a finding of nothing. A suspect keeps his constitutional rights, including the requirement in Article 23(4)(b) that a person arrested on suspicion of an offence be brought before a court within forty-eight hours, and may be released on police bond. Release on bond does not mean the investigation has ended.

Police bond concerns the suspect's liberty. It is not a judgment and does not fix the amount owed to the buyer. Two warnings follow:

- **Police bond is free.** Any demand for money in return for bond, from either side, should be reporte
- **Bond is not a debt-collection tool.** The police cannot properly hold a suspect until the purchase price is refunded, or treat a refund as a substitute for the criminal process. A voluntary settlement between the parties is a separate matter

Once a suspect is charged, the same distinction applies to bail. Bail concerns the accused's liberty pending trial, and its grant decides nothing about guilt. If the buyer has evidence that the accused may interfere with witnesses or destroy evidence, it should be put to the prosecutor or the court; a demand that the accused stay in custody until the money is repaid is not a ground the law recognises.

NAFUNA & CO. PRINCIPLE

Police bond concerns the suspect's liberty. Recovery concerns the buyer's enforceable right to money or property.

SECTION 5

From the Police to the DPP

Under Article 120(3) of the Constitution, the Director of Public Prosecutions may direct the police to investigate information of a criminal nature and report expeditiously, and may institute, take over,

continue or discontinue criminal proceedings. Article 120(5) requires the DPP to have regard to the public interest, the interests of the administration of justice and the need to prevent abuse of legal process. Under Article 120(6), the DPP is not subject to the direction or control of any person or authority.

The DPP's published *Decision to Charge Guidelines* govern how the evidence is assessed before a charge is approved. A complex gold fraud file may need bank records, company records, licensing information, forensic examination of electronic communications and witness statements before that assessment can be made.

The buyer cannot compel a prosecution because money was lost or a complaint was registered. What the buyer can do is make sure the file contains the evidence a prosecutor needs. A file waiting for an identified piece of evidence is in a different position from a file that has stopped moving for no reason, and a lawyer can ask which of the two it is.

SECTION 6

When the Police Say the Evidence Is Insufficient

A finding of insufficient evidence should be tested against the elements of the offence. The buyer may have proved payment and non-delivery while the open question is the supplier's knowledge when the money was taken. Or the investigation may simply not have verified the refinery certificate, obtained the bank records or interviewed a material witness.

These are different situations. A reasoned request for further investigation identifies the specific unresolved question, the evidence that would answer it, and why it matters to the charging decision. Such a request is far more effective than a general protest.

SECTION 7

When the Investigation Stalls

Ask for the status in writing. Quote the reference number, the date of the report and the investigating officer, and ask whether the file is still under investigation, whether more information is needed, and whether it has gone to the DPP. Some information may legitimately be withheld to protect witnesses and investigative methods; a buyer is entitled to ask about the status of the case, and is not entitled to the whole file.

Escalate within the police. If reasonable follow-up produces nothing, raise the matter with the officer in charge of criminal investigations at the station, then the district or regional command, then a higher authority, with a short chronology of the complaint, the evidence supplied, the follow-up and the steps still outstanding.

Petition the DPP. Under Article 120(3)(a), the DPP may direct the police to investigate. A petition should identify the suspected offence, the evidence, the status of the investigation and the specific direction sought: a missing bank record, an unverified government document, an outstanding witness statement. The DPP retains discretion; the petition's purpose is to place a coherent matter before the authority that can act on it.

SECTION 8

Police Misconduct Is a Separate Complaint

Delay and misconduct are different. An investigation may be slow because the evidence is complex. A demand for money, suppression of evidence, intimidation, or a refusal to act raises a question of accountability.

Complaints by members of the public against police officers are provided for under the Police Act, and the Uganda Police Force publishes Police Form 105 for complaints of unprofessional conduct and neglect of duty. The complaint should name the officer, describe the conduct precisely, give dates, and attach the supporting evidence. It runs separately from the fraud investigation.

SECTION 9

When the Suspect Is Charged

The accused is brought before a court with jurisdiction and the charge states the offence and its particulars. The accused is presumed innocent (Article 28(3)(a)) and the prosecution must prove the case beyond reasonable doubt.

The buyer will usually be a prosecution witness. Documents, payment records and electronic communications will be produced through witnesses and the rules of evidence, including the authentication requirements of the Electronic Transactions Act, 2011. The buyer should keep the originals and remain available to the investigators and the prosecutor.

Attend every hearing. The buyer should appear in court at every hearing, and not only when called to testify. A complainant who is present shows the court and the prosecution that the case matters to someone, learns at once of adjournments, bail applications and any proposal to withdraw or amend the charge, and is on hand when the prosecutor needs instructions or a document.

A watching brief. Where the buyer cannot attend, or wants the prosecution followed closely, Nafuna & Co. can hold a watching brief: an advocate attends the hearings on the buyer's behalf, follows the progress of the prosecution, keeps the buyer informed, and raises the buyer's interests with the prosecutor and, where the court permits, with the court. A watching brief also keeps the criminal case and any civil recovery coordinated.

SECTION 10

Repayment and Withdrawing the Complaint

Suspects often offer to repay if the complaint is withdrawn. The buyer may settle a civil claim and acknowledge repayment. Control of the criminal proceedings, however, rests with the DPP under Article 120, and a buyer's willingness to settle does not automatically end a criminal case, though it may be considered in the prosecutorial assessment.

Any repayment agreement should therefore be drafted with a clear understanding of what it can and cannot achieve: it can settle the buyer's civil claim; it cannot buy the end of a prosecution.

SECTION 11

A Conviction and Recovery Are Separate

A conviction establishes criminal liability. Recovering the money requires restitution, compensation or civil enforcement. Under the Magistrates Courts Act, Cap. 19, a court may order a convicted person to pay compensation for material loss (section 196) and may order restitution of property (section 200), although section 200(2)(a) provides that goods obtained by fraud not amounting to stealing do not revest merely because of the conviction.

All these remedies depend on assets. A suspect may be convicted after the money has been spent or moved. Tracing and preservation should therefore run alongside the investigation; waiting for the end of a criminal trial can close the opportunities to recover. A civil claim may be brought while the police investigation continues, provided the two are coordinated to protect the evidence and avoid inconsistent positions. Client Guide No. 10 sets out the recovery options in detail.

SECTION 12

If the Suspect Leaves Uganda

A suspect's departure complicates investigation, prosecution and recovery, and does not end them. The buyer should record the suspect's identity, last known location, travel information and any evidence of money or assets moving abroad. Extradition and international police cooperation depend on the legal frameworks and the facts, and a police complaint does not automatically produce an international arrest notice. Civil recovery against assets in Uganda or elsewhere should be considered separately.

SECTION 13

The Complainant's Rights and Responsibilities

A buyer who reports a fraud is entitled to have the complaint dealt with according to law: to give evidence, identify witnesses, ask about the progress of the case, and raise neglect or misconduct through the proper channels.

The buyer also has responsibilities. Statements must be accurate. Documents must be preserved. Facts that weaken the allegation must be disclosed. Witnesses must be left to give their own accounts. And criminal process must not be used purely as leverage to collect a disputed commercial debt.

A complaint is only as strong as the integrity of the record behind it.

CHECKLIST

Checklist After Reporting

01	Has the complaint been registered, and what is the reference number?
02	Who are the investigating officer and the supervising officer?
03	Has a complete statement been recorded?
04	Have the contracts, payment records and electronic communications been handed over?
05	Have the identities and roles of the suspected participants been established?
06	Have the documents, licences, refinery records and payment instructions been independently checked?
07	Have the necessary witnesses been identified and interviewed?
08	What investigative steps remain outstanding?
09	Has the file gone to the DPP, or is further investigation needed?
10	Are bank recall, civil proceedings or asset preservation needed in parallel?

11 Once charged: will you attend every hearing, or instruct an advocate to hold a watching brief?

How Nafuna & Co. Can Assist

Within the scope of a given engagement, Nafuna & Co. Advocates and Legal Consultants can review the police complaint and the evidence, identify the outstanding investigative questions, prepare supplementary statements and documentary submissions, make representations to police supervisory authorities and to the Office of the Director of Public Prosecutions, and hold a watching brief for the buyer throughout the prosecution. The firm can also advise on civil recovery, asset preservation, settlement and litigation.

Where an investigation has stalled, the first assessment establishes the procedural status of the complaint, the evidence already obtained, and the specific steps needed to move it forward. The firm's services and engagement procedure are set out in _____ _____.

NAFUNA & CO. PRINCIPLE

A complaint supported by a coherent evidential record, and pursued through the right institution, is the one that moves.

RELATED NAFUNA & CO. CLIENT GUIDES

No. 01 Buying Gold in Uganda: A Legal Due-Diligence Guide for Foreign Buyers

No. 02 How to Verify a Ugandan Mineral Dealer's Licence

No. 03 Ten Documents to Request Before Travelling to Uganda to Buy Gold

No. 04 Before You Pay: Payment Safeguards in a Ugandan Gold Transaction

No. 05 The Seller Wants You to Pay Someone Else: Third-Party Accounts in Ugandan Gold Transactions

No. 06 Is This Gold Deal Legal? When a Gold Transaction Is Illegal Under Ugandan Law

No. 07 "But the Gold Is Mine": Carrying Gold Through Entebbe Airport

No. 08 Common Gold Scams in Uganda: Warning Signs Foreign Buyers Should Know

No. 09 How to Prove a Gold Scam in Uganda: The Evidence You Need

No. 10 Recovering Money After a Gold Scam in Uganda

AUTHORITIES

- Constitution of the Republic of Uganda, Articles 23(4)(b), 28(3)(a), 120 and 212
- Penal Code Act, Cap. 128, sections 284 and 285
- *Nanteza Agati v Uganda*, Criminal Appeal No. 33 of 2023, [2024] UGHCCRD 10
- Magistrates Courts Act, Cap. 19, sections 196 and 200
- Electronic Transactions Act, 2011
- Police Act; Uganda Police Force, Police Form 105
- Office of the Director of Public Prosecutions, *Decision to Charge Guidelines*

IMPORTANT NOTICE

This Client Guide provides general legal information concerning the reporting, investigation and prosecution of suspected gold-related offences in Uganda. It does not constitute legal advice concerning any particular complaint, investigation, prosecutorial decision or civil claim.

The registration of a complaint does not establish that an offence has been committed. Arrest, charge and conviction are distinct legal events, and the availability of any remedy depends upon the applicable law, the evidence and the procedural circumstances.

Submission of documents to Nafuna & Co. does not establish a professional engagement or constitute independent verification.

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