

Research Briefing

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Public Authorities (Fraud, Error and Recovery) Bill 2024-25



Summary

- 1 Part 1: Cabinet Office Public Sector Fraud Authority (PSFA)
- 2 Part 2: DWP fraud, error and debt recovery powers
- 3 How bills go through Parliament

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Summary

The [Public Authorities \(Fraud, Error and Recovery\) Bill 2024-25](#) was introduced on 22 January 2025. It is bill 167 of the 2024-25 parliamentary session. The bill is listed for second reading on Monday 3 February 2025.

The government intends part 1 of the bill to safeguard public money by reducing public sector fraud, error and debt. Part 2 would introduce new powers to help the Department for Work and Pensions (DWP) address fraud and error in the social security system, and recover overpayment debt.

This briefing does not provide an exhaustive guide to every clause of the bill. At the time of publication, the government has published a range of accompanying documents alongside the bill:

- Explanatory notes
- An impact assessment
- A delegated powers memorandum
- A human rights memorandum

All these can be found on the bill page for [The Public Authorities \(Fraud, Error and Recovery\) Bill](#).

Part 1: Cabinet Office Public Sector Fraud Authority (PSFA)

Part 1 of the bill is intended to help the government address losses due to fraud and error occurring outside the tax and benefits systems.

What is fraud and how much has been lost?

Fraud generally refers to intentionally dishonest actions aimed at either making a gain or causing a loss of money or other property. Error refers to cases where payments and other transactions are incorrect but losses appear unintentional. Fraud and error are seen as longstanding threats to public finances.

The total amount of fraud and error outside the tax and benefit system is difficult to estimate. The National Audit Office puts the amount [in the range between £5 billion and £30 billion in 2023/24](#). Temporary covid-19 schemes

that were not run by HMRC, such as the bounce back loan scheme, [are estimated to have lost £5.4 billion](#) to fraud and error.

The government's impact assessment estimates that the powers in this part of the [bill could help recover around £54 million over ten years](#). The benefits are expected to exceed the costs of recovery.

Previous government's response

In response to concerns over increased levels of fraud during the covid-19 pandemic, faltering recovery efforts and the lack of a coordinated cross-government response, past governments have taken various steps.

In August 2022, the previous Conservative government established the [Public Sector Fraud Authority \(PSFA\)](#) within the Cabinet Office as the centre of expertise for the management of fraud against the public sector. The PSFA has powers to investigate suspected fraud and refer these matters to other government departments and bodies.

Labour's commitments on counter fraud

Labour's manifesto for the 2024 general election set out its commitment to act against fraud and waste across the government. In December 2024, the Chancellor appointed a covid counter-fraud commissioner to recover funds lost to fraud during the pandemic.

Historically, the government's [focus has been on recovering losses in the areas with the highest levels of known fraud](#), mainly in the tax and social security system. This has left departments other than DWP and HMRC with limited powers and resources to address sizeable losses. This bill would broaden PSFA's powers to investigate fraud against the public sector and recover losses on behalf of other departments and public bodies, with the exception of DWP and HMRC. The powers would be similar to those held by the DWP and HMRC.

Cabinet Office functions and PSFA powers in the bill

Part 1 of this bill would set in statute the core functions of the Minister for the Cabinet Office to investigate suspected fraud against public authorities, to recover money they are entitled to, to take enforcement action and to support other departments with their counter-fraud efforts. It creates new powers to this end.

Part 1 would also allow the PSFA, currently within the Cabinet Office, to be established as a separate body from the Cabinet Office. The Cabinet Office would be able to transfer the functions under this bill to the PSFA. The government intends to test various approaches to the new fraud and error powers, before using this option. The Minister for the Cabinet Office would also be able to delegate certain tasks to officials at the PSFA.

Investigatory powers

The enhanced investigatory powers of the PSFA would include power to compel third parties to provide specific information and get access to certain communications data to support its information gathering. The bill also provides oversight and independent review for these powers.

Entry, search and seizure powers

The bill would extend the PSFA powers to allow authorised investigators to enter and search premises subject to a court warrant. Investigators would be able to seize any relevant material. The government's [intention is to ease the burden of fraud investigations on the police](#). It says these powers would be the minimum necessary to secure evidence.

The Independent Office for Police Conduct (IOPC) (in England and Wales) would be given a role in providing oversight of the use of these powers.

Recovery of assets

The bill would also provide for new powers to recover assets. This concerns debt and overpayment related to fraud against the public sector. The minister would be able to act on behalf of another public authority. The recovery powers could also be used to recover certain penalties and costs incurred during the process. The bill would provide for an oversight of these powers.

The bill sets out the methods for recovery of assets from bank accounts or deductions from earnings. The minister would, for example, be able to request a bank to make lump sum and/or regular payments from an individual's bank account to the government, subject to certain procedures.

Similarly, the minister would be able to request an employer to make deductions from earnings of an employee, subject to review and appeal.

Civil penalties

The bill would allow the minister to impose a penalty for fraud, provided that on the balance of probability, a person has carried out fraud or conspired to do so. The minister would also be able to impose a penalty on persons and bodies, for failing to comply with requirements concerning fraud investigations and recovery of money or assets. The penalties would be subject to appropriate appeals.

The bill would also [extend the time limit for bringing action against fraud](#) to twelve years from the date the fraud is discovered or could have been discovered with reasonable diligence. This would enable the government to spend more time on complex investigations, such as those linked to covid-19 contracts.

Part 2: DWP fraud, error and debt recovery powers

An overpayment occurs when a person receives a benefit they are not entitled to, or more benefit than they are entitled to. This may be due to fraud or error on the part of the claimant, or because of a mistake, failure to act or delay on the part of the DWP ('official error'). In most cases overpayments become debts the DWP will attempt to recover when identified.

[For the financial year 2023/24, the DWP estimates](#) that benefit overpayments totalled £9.7 billion, 3.7% of all benefit expenditure. Overpayment rates are higher for means-tested benefits such as Universal Credit: an estimated £6.5 billion, or 12.4% of total Universal Credit expenditure, was [overpaid due to fraud or error in 2023/24](#). 10.9% was estimated to have been overpaid due to fraud alone. The level of fraud and error in 2023/24 was lower compared with the previous two years, but remains higher than before the covid-19 pandemic.

The increase in the value of benefits overpaid due to fraud and error during and after the pandemic has renewed the government's focus on addressing the problem.

Previous Conservative government's approach

The previous Conservative government announced [various measures to tackle this increased fraud activity](#), including increased funding and resource for counter-fraud teams, enhanced checks of high-risk claims before payments begin, and delivering 'targeted case reviews' of existing Universal Credit awards considered at risk of being incorrect.

The Conservative [government also said it would legislate for new powers](#) as part of a package of measures to address the issue of increased levels of fraud and error following the pandemic.

Labour government's plans

[Autumn Budget 2024 confirmed measures](#) to tackle fraud and error in the social security system, including funding for additional fraud and error staff and an extension of targeted case reviews. The government estimated that new powers in an [upcoming Fraud Error and Debt Bill](#) could save around £1.5 billion over the five years to 2029/30, out of a total £9.2 billion in savings from measures to tackle fraud and error in the welfare system.

New DWP powers in the bill

The new powers would help the DWP address fraud and error in the benefits system and recover overpayment debt.

Information gathering powers

The bill would reform existing information gathering powers the DWP has by expanding the range of third parties the DWP can compel to provide information in support of criminal investigations. It would also allow improved efficiency through workforce changes and a digital platform for information requests, and extend powers to include grants and other DWP payments.

Powers to verify eligibility with financial institutions

New eligibility verification powers would allow the DWP to require banks and other financial institutions to provide information about claimants of certain benefits to help verify eligibility and entitlement. These powers are not limited to individual cases where there are already reasonable grounds to suspect fraud, so could be used at scale to identify potential fraud or error.

The bill provides for safeguards, including limitations on what information can be shared between the DWP and financial institutions, and the requirement to consult on a statutory code of practice.

Entry, search and seizure powers

The bill would give DWP investigators new powers to enter and search a premises with a warrant, and seize relevant material. The bill would also make it a criminal offence to obstruct DWP officers exercising these powers, and provide a legal framework for the DWP to dispose of property it has seized.

The bill would give the Independent Office for Police Conduct (IOPC) (in England and Wales) and the Police Investigations and Review Commissioner (PIRC) (in Scotland) a role in providing oversight of the use of these powers.

Overpayment debt recovery and enforcement

New overpayment debt recovery and enforcement powers would allow the DWP to recover overpayment debts from individuals no longer receiving benefits and not in Pay As You Earn (PAYE) employment. The DWP would be able to recover debts from such individuals directly from their bank accounts, without having to go to court.

The DWP would also be able to apply to the court to disqualify a debtor from holding a driving licence, where all other attempts at recovery have failed.

Changes to Administrative Penalties

New powers would extend the scope of Administrative Penalties to include fraud involving a wider range of DWP payments, not just benefits. The bill would also remove the additional 'loss of benefit' claimants can face when they accept an Administrative Penalty.

Inspection and oversight

The bill would require the Secretary of State to appoint an ‘independent person’ to inspect and report on the DWP’s use of its investigative powers.

Territorial extent

Annex A of the Explanatory Notes gives a clause-by-clause overview of the bill’s territorial extent and application, and provides an overview of the clauses for which consent is being asked.

Part 1 of the bill – on powers to address fraud outside the benefit and tax system, and on the functions of the PSFA – would extend to England and Wales, in line with policing powers and Fraud Act 2006.

Specific provisions in part 1 engage the devolved legislative competencies in Wales. These concern:

- the investigatory, enforcement and recovery functions of the minister for the Cabinet Office (clauses 1 and 2);
- the Police and Criminal Evidence Act 1984 (PACE) powers and their oversight (clauses 7 and 9 and schedule 1);
- the independent review of the new Cabinet Office powers (clauses 64 and 65); and
- the establishment of the PSFA as a statutory body (clause 69 and schedule 2).

The UK Parliament normally only legislates on devolved matters with the consent of the relevant devolved legislature. For this bill, the UK Government intends to seek a [legislative consent motion](#) from the Welsh Government in relation to matters which fall within the devolved competence.

Part 2 of the bill providing for DWP fraud, error and debt recovery powers extends to England, Wales and Scotland.

1 Part 1: Cabinet Office Public Sector Fraud Authority (PSFA)

1.1 Background

The bill does not provide a definition of ‘fraud against a public authority’ or ‘error’. The Public Accounts Committee defines fraud as:

an act of dishonesty, normally through deception or breach of trust, with the intent to either make a gain or cause a loss of money or other property.¹

There are various types of fraud, including grant, procurement and commercial fraud, as categorised by the NAO:

Types of fraud	
Area of risk	Potential fraud and error risks
Grant fraud	Misappropriation (for example, through the grant recipient being ineligible) or misuse (using the grant money for something other than the defined purpose) of grant money, by an individual or entity.
Service-user fraud	Using false information dishonestly to obtain money, goods or services from government that the individual or entity is not eligible for, or using the money for something other than the intended purposes.
Procurement and commercial fraud	Fraudulent activity specifically related to supplying goods or services to the government, or illegal practices that occur between government and the private sector.
Income evasion	An intentional attempt to avoid payment for goods, services or other financial obligations owed to the government.
Internal fraud and corruption	When somebody within government defrauds, or circumvents regulations, the law or policy, whether alone or in collusion with any other person, with intent to cause government to sustain a loss or obtain an improper gain for the employee or any other person or body acting in collusion.
Regulatory fraud	Abuse of a government owned process through false representation or a dishonest act, with the intention of making a gain or causing a loss to individual(s) independent of government. There may be no monetary trail within government for regulatory fraud, which can make it harder to quantify and prevent, while the possible absence of a direct loss to government may mean that public bodies are less incentivised to tackle this risk.

Source: Taken from National Audit Office, [Tackling fraud and corruption against government](#), March 2023

¹ PAC, [Progress combatting fraud. Forty-Third Report of Session 2022–23](#), HC40, 31 March 2023, para 2

The NAO describes error as a situation “where a case or transaction is incorrect but, on the balance of probability, no-one intended it to be incorrect”.²

The scale of fraud and error outside the tax and benefits systems

Total amount of fraud and error in 2023/24

Estimates by the National Audit Office put the amount of fraud and error outside the tax and benefits system at between £5 billion and £30 billion in 2023/24.³ The exact amount of fraud and error outside the tax and benefits system is unknown.

This is out of a total of between £55 billion and £81 billion in fraud and error across the public sector, including tax and benefits.

These figures do not include local or devolved spend and income, and only include overpayments or loss to taxpayer, not underpayments.⁴

Fraud and error in covid-19 schemes

It is estimated that there was £5.4 billion of fraud and error in temporary covid-19 schemes that were not run by HMRC:

- £4.1 of fraud and error in relation to the bounce back loan scheme. This figure is the total estimated fraud and error that occurred before recoveries or loan repayments – the Department for Business and Trade expects that after repayments have finished and recoveries have been made, the actual loss to the taxpayer will be around £2.7 billion.
- £1.0 billion of fraud and error in relation to the covid-19 business support grants.

² NAO, [An Overview of the impact of fraud and error for the new Parliament 2023-24](#) (PDF), November 2024

³ National Audit Office, [The impact of fraud and error on public funds 2023-24](#), 18 Nov 2024, pp 6 and 23.

Figure is based on:

- £823 million of fraud and error detected by bodies other than HMRC and DWP, from the Public Sector Fraud Authority, [Cross-Government Fraud Landscape Report 2021-2022](#), 21 March 2024
- £1.5 billion of fraud and error estimated but not detected by bodies other than HMRC and DWP, based on National Audit Office analysis of departmental annual reports and accounts and related reports (see page 24 of [The impact of fraud and error on public funds 2023-24](#) for details)
- £3 billion to £28 billion in ‘unknown’ fraud, that is, areas not subject to fraud and error measurement. This figure is based on evidence gathered by the Public Sector Fraud Authority that suggests that the level of fraud and error in unmeasured areas of government activity is between 0.5% and 5.0%.

⁴ National Audit Office, [The impact of fraud and error on public funds 2023-24](#), 18 Nov 2024, p6

- £300 million of fraud in relation to personal protective equipment.⁵

Note that these figures are uncertain and estimates may change in future.

Financial benefits of this part of the bill

Amount recovered from fraud

According to the impact assessment for the bill, the powers in this part of the bill are estimated to lead to around £54 million (best estimate for net present benefits) being recovered from public sector fraud over ten years.⁶

This estimate is based on the assumption that cases from across government are taken on by the Public Sector Fraud Authority Enforcement Unit.⁷

Different numbers of cases could mean that the recoveries range from £29 million (lower estimate) to £55 million (higher estimate).⁸

The explanatory notes say that the Cabinet Office will implement a ‘test and learn’ approach when utilising these powers, piloting different approaches to find the best way to tackle public sector fraud. There is the potential to scale up the amount recovered in the future.⁹

Costs

There are also estimated to be around £31 million in costs (net present costs) across ten years, largely to staff the Public Sector Fraud Authority enforcement unit and oversight team.¹⁰

Benefits minus costs

Across the ten years, the best estimate for fraud recovered minus costs is £23 million (best estimate of net present value).

Different numbers of cases could mean a loss (lower estimate for net present value is -£1.5 million) or a slightly higher return (upper estimate is £24 million).¹¹

Approach to tackling fraud before the pandemic

Fraud and error are seen as longstanding threats to public finances. To address these challenges and improve the public sector’s ability to detect and prevent fraud, previous governments have taken various steps.

⁵ National Audit Office, [The impact of fraud and error on public funds 2023-24](#), 18 Nov 2024, page 17

⁶ [Impact Assessment to the Public Authorities \(Fraud, Error and Recovery\) Bill 167 2024-25](#), page 150

⁷ [Impact Assessment to the Public Authorities \(Fraud, Error and Recovery\) Bill 167 2024-25](#), page 169

⁸ [Impact Assessment to the Public Authorities \(Fraud, Error and Recovery\) Bill 167 2024-25](#), page 175

⁹ [Explanatory Notes to the Public Authorities \(Fraud, Error and Recovery\) Bill 167 2024-25](#), para 12

¹⁰ [Impact Assessment to the Public Authorities \(Fraud, Error and Recovery\) Bill 167 2024-25](#), page 150

¹¹ [Impact Assessment to the Public Authorities \(Fraud, Error and Recovery\) Bill 167 2024-25](#), page 175

In 2018, the Cabinet Office set up the Government Counter Fraud Function (GCFF) to provide a framework for the officials working to tackle fraud, bribery, and corruption across departments and public bodies. It also established the Government Counter Fraud Profession (GCFP) network for specialists working in the public sector.¹²

Covid-19 pandemic and its aftermath

Since the covid-19 pandemic, the amount of fraud in government spending reported in the accounts audited by the NAO has significantly increased.¹³

The Public Accounts Committee attributed this to the high risks of fraud introduced by several large-scale government schemes, such as the bounce back loan scheme and covid-19 business support grants, which provided support to many vulnerable businesses and individuals. These schemes increased the government's exposure to fraud and error and have resulted in large amounts of additional losses to the taxpayer due to their scale and rapid implementation.¹⁴

There were also significant issues with procuring goods and services during the pandemic. The government and other public sector bodies outsourced many activities, including supplies of personal protective equipment (PPE), medical equipment and the organisation of covid-19 testing, to the private sector. Large volumes of supplies, services and works had to be procured with extreme urgency and facing global shortages.¹⁵ As a result, many contracts were awarded to suppliers directly, without opening contracts to competition, but following [emergency procurement procedures](#) instead.¹⁶

Various concerns have been raised about the performance of these outsourced services, and about the lack of transparency of some procurement processes, both in Parliament and outside.^{17 18}

¹² Gov.uk, [Government Counter Fraud Function and Profession](#), accessed 28 January 2025

¹³ NAO, [Good practice guidance: Fraud and Error](#), 2 March 2021; ; NAO, [Tackling fraud and corruption against government](#), 30 March 2023

¹⁴ PAC, [Tackling fraud and corruption against government](#), Sixty-Ninth Report of Session 2022–23, 8 September 2023, p4; Commons Library research briefing CBP 9309, [Public spending during the Covid-19 pandemic](#), section 1.5

¹⁵ Background on the range of contracts involved in the Government's Covid-19 response can be found in the National Audit Office (NAO) report, [Investigation into government procurement during the COVID-19 pandemic](#), November 2020.

¹⁶ Cabinet Office, [Procurement Policy Note 01/20](#), 18 March 2020; [Procurement policy note PPN 01/21](#), 4 February 2021

¹⁷ For example, [HC Deb 21 June 2021 \[Government Contracts: Covid-19\]](#) and Commons Library debate pack, [Government contracts during the Covid-19 outbreak](#), 18 June 2021; [HC Deb 17 November 2021 \[Randox Covid contracts\]](#); [HC Deb 6 December 2022 \[Government PPE Contracts\]](#) and Commons Library debate pack, [Opposition day debate: Government PPE contracts](#), 6 December 2022.

¹⁸ NAO, [Investigation into government procurement during the COVID-19 pandemic](#), HC959, 26 November 2020, para 3.2; NAO, Report by the Comptroller and Auditor General, [The supply of personal protective equipment \(PPE\) during the COVID-19 pandemic](#), HC 961, November 2020; NAO,

One of the points of contention has been a high priority referral route that the government used to process a share of PPE offers – also known as ‘the VIP lane’. Opposition MPs expressed concerns that this route may have led to contracts being awarded without proper checks, wasting taxpayer money. The Conservative government’s position was that all PPE offers underwent similar due diligence checks regardless of the route.¹⁹

The section above, on the scale of fraud and error outside the tax and benefit system, looks at the estimated scale of fraud and error in more detail.

NAO reporting

The National Audit Office (NAO) has reviewed the government’s overall capacity to address fraud and corruption and published a range of reports:

- NAO, [An overview of the impact of fraud and error for the new Parliament 2023-24](#) (PDF), November 2024
- NAO, [Tackling fraud and corruption against government](#), 30 March 2023
- NAO, [Lessons learned: tackling fraud and protecting propriety in government spending during an emergency](#), 8 February 2024
- NAO, [Progress combatting fraud](#), Session 2022–23, HC654, 15 November 2022
- NAO, [Good practice guidance: Fraud and Error](#), 2 March 2021

The NAO has also extensively examined covid-19 procurement, including the overall procurement practices during that time, the supply of personal protective equipment (PPE) and public authorities’ management of certain PPE contracts.²⁰

Public Accounts Committee scrutiny

Based on NAO reporting, the Public Accounts Committee (PAC) has held several [inquiries into covid-19 procurement](#) and published reports with recommendations to the government to improve procurement and contract

[Investigation into the management of PPE contracts](#), HC 1144, March 2022; Transparency International UK, [New research raises corruption questions over billions in COVID public spending](#), updated September 2024.

¹⁹ Commons Library debate pack, [Opposition day debate: Government PPE contracts](#), 6 December 2022; [HC Deb \[Government PPE Contracts\]](#), 6 December 2022

²⁰ NAO, [Investigation into government procurement during the COVID-19 pandemic](#), HC: 959, 2019-21, November 26, 2020; NAO, [The supply of personal protective equipment \(PPE\) during the COVID-19 pandemic](#), HC 961, November 2020; NAO, [Investigation into the management of PPE contracts](#), HC 1144, March 2022

management practices.²¹ The committee has also [scrutinised the government's capacity to address fraud](#). The most recent report is:

- PAC, [Tackling fraud and corruption against government](#), Sixty-Ninth Report of Session 2022–23, HC 1230, 8 September 2023; and

HM Treasury, [Government Response to the Committee of Public Accounts on the Sixty-eighth to the Seventy-first reports from Session 2022-23](#), 18 November 2023

The Public Accounts Committee concluded that:

- There is a significant risk that increased levels of fraud seen since the start of the COVID pandemic undermines public confidence in the integrity of the government.
- There are large gaps in government's understanding of the extent and location of fraud and corruption risks.
- Departmental counter-fraud staff often lack the credibility and authority needed to exert influence at senior levels.
- Government has often failed to implement basic counter-fraud measures into its new initiatives.
- Government is not generating enough of a deterrence effect from pursuing those that commit fraud against the public purse.
- It is very unlikely that most of the losses due to fraud and corruption will ever be recovered.
- Central government often relies on local government to manage fraud risks on its behalf but does little to support local authorities' capability to do so.²²

Previous governments' actions to address fraud

In response to concerns over increased levels of fraud during the covid-19 pandemic, past governments have taken various steps. In 2020/21, the Cabinet Office [commissioned an independent expert review](#) in relation to pandemic procurement. Nigel Boardman, a former non-executive board member of the Department for Business, Energy and Industrial Strategy (BEIS) and the Chair of the former department's Audit and Risk Assurance Committee, published two reports and recommendations, which the

²¹ For example, Public Accounts Committee, [Forty-Second Report – COVID-19: Government procurement and supply of Personal Protective Equipment](#), HC 928, Session 2019-21, 10 February 2021, paras 8-10; PAC, [DHSC management of PPE contracts](#), Session 2022-23, HC 260, 20 July 2022

²² PAC, [Tackling fraud and corruption against government](#), Sixty-Ninth Report of Session 2022–23, HC 1230, 8 September 2023

government accepted.²³ Among other steps, it updated guidance on exclusion of suppliers suspected of fraud, and managing conflict of interest.²⁴

The statutory [covid-19 inquiry will look at procurement](#) of healthcare equipment and supplies, from March 2025. Its focus will include steps taken to eliminate fraud and the prevalence of fraud.²⁵

Public Sector Fraud Authority (PSFA)

Reacting to concerns about the shortcomings of its fraud recovery efforts and the lack of a coordinated cross-government response,^{26 27} the government established the [Public Sector Fraud Authority \(PSFA\)](#) in August 2022. PSFA sits within the Cabinet Office and reports to both the Cabinet Office and HM Treasury. Initially, it was awarded £25 million of funding over three years – double the funding of its predecessor, Government Counter Fraud Function.²⁸

PSFA acts as the centre of expertise for the management of fraud against the public sector and leads the GCFF and GCFP.²⁹ Its core tasks are to:

improve the performance of departments in tackling fraud and

expand the breadth and depth of counter fraud knowledge.³⁰

See further [Public Sector Fraud Authority 2024/2025 delivery plan](#).³¹

Labour Party's commitments to counter fraud and waste

The Labour Party has expressed its commitment to enhancing counter-fraud measures across the government. In October 2023, Rachel Reeves, as Shadow Chancellor announced Labour's plans for a new commissioner "to recover taxpayer cash lost to waste and fraud".³² According to the Guardian reporting, the "Covid corruption commissioner" would be given the power to bring together public authorities including HMRC, the Serious Fraud Office

²³ Cabinet Office, [Independent report, Findings of the Boardman review into pandemic procurement](#), 7 May 2021; for a summary of the recommendation see Commons Library debate pack, CDP 2021/0089, [Government contracts during the Covid-19 outbreak](#), 18 June 2021, section 1.1

²⁴ Cabinet Office, [Procurement Policy Note 04/21: Applying Exclusions in Public Procurement, Managing Conflicts of Interest and Whistleblowing](#), 20 May 2021

²⁵ UK Covid-19 Inquiry, [Module 5 Provisional Outline of Scope](#), 24 October 2023

²⁶ "[Government sets up world-first Whitehall anti-fraud squad](#)", The Telegraph, 23 May 2023; "[UK anti-fraud minister attacks 'Dad's Army' Covid loan recovery](#)", The Financial Times, 9 March 2022

²⁷ PAC, [Tackling fraud and corruption against government](#), Sixty-Ninth Report of Session 2022–23, 8 September 2023, p4

²⁸ HM Treasury, [Government Response to the Committee of Public Accounts on the Sixty-eighth to the Seventy-first reports from Session 2022–23](#), 18 November 2023

²⁹ NAO, [An Overview of the impact of fraud and error for the new Parliament 2023–24](#) (PDF), November 2024, pp8–9

³⁰ [Public Sector Fraud Authority Annual Report 2022–2023](#), 13 November 2023

³¹ [Public Sector Fraud Authority 2024/2025 Delivery Plan](#), 15 January 2025

³² Rachel Reeves' Labour Party conference speech, '[Labour is ready to rebuild Britain](#)', labourlist.org., 9 October 2023

and the National Crime Agency to investigate and recover “lost” public funds. The commissioner would examine contracts in detail and would have an obligation to update parliament on their progress.³³

The Labour Party said it will also propose reforms to public procurement rules to include a strong “debarment and exclusion” regime for those complicit in fraud against the state.”³⁴

Labour’s manifesto for the 2024 general election reiterated a commitment to act against fraud and waste across the government. It also said that Labour would appoint a fixed-term covid corruption commissioner to “recoup public money lost in pandemic related fraud and from contracts which have not delivered”.³⁵

On 3 December 2024, the Chancellor appointed Tom Hayhoe in the role of a [covid counter-fraud commissioner](#) with a one-year contract to support the work of the PSFA.³⁶ The commissioner [reports to the Chancellor](#) and is supported by a team of experts from HM Treasury, the PSFA, the Government Commercial Function, the Government Debt Management Function and the Department of Health and Social Care.³⁷ The Guardian reported the commissioner was expected “to receive assessments of fraud recovery work that has taken place to date in other major Covid loan schemes such as furlough, business support grants and Covid-era universal credit fraud”.³⁸ At the end of his term, the commissioner will make recommendations for crisis procurement and report to Parliament.³⁹

1.2

Public sector fraud: clauses 1 & 2

Part one of the bill is intended to help the government address losses due to fraud and error occurring outside the tax and benefits systems. Historically, the government’s focus has been on recovering losses in the areas with the highest levels of known fraud, mainly in the tax and social security system.⁴⁰ This, according to the government, has left departments other than DWP and HMRC with limited powers to address sizeable losses (for the amounts see section 1.1 above). This legislation is intended to address this shortcoming.⁴¹

³³ [“Covid corruption commissioner’ would seek to recoup lost billions, says Labour”](#), the Guardian, 8 October 2023

³⁴ [“Covid corruption commissioner’ would seek to recoup lost billions, says Labour”](#), the Guardian, 8 October 2023

³⁵ Labour Party, [‘Labour Party manifesto 2024’](#), June 2024, p19

³⁶ [HC Deb 25 July 2024](#) [Covid-19 Pandemic: Cost to Public Purse of Public Procurement Fraud]

³⁷ PQ 12002 8 November 2024 [[Covid Counter-fraud Commissioner](#)]

³⁸ [“Covid fraud squad will have power to seize fraudsters’ cash under Labour bill”](#), the Guardian, 22 January 2025

³⁹ HM Treasury, [Covid counter-fraud commissioner](#), 20 December 2024

⁴⁰ [Explanatory Notes to the Public Authorities \(Fraud, Error and Recovery\) Bill 167 2024-25, para 7](#)

⁴¹ [HCWS383 22 January 2025](#)

Chapter 1 (clauses 1 and 2) sets out the key concepts of part 1 of the bill.

Clause 1 sets out the core functions of the Minister for the Cabinet Office:

- to investigate suspected fraud against public authorities.
- to recover money that public authorities are entitled to recover, including as a result of investigations, referred to as “recoverable amounts”. This includes interest.
- to take enforcement action related to fraud against public authorities.
- to support other public authorities in preventing and tackling fraud against them.⁴²

Schedule 2 of this bill (discussed alongside clause 69) would allow the PSFA to be established as a separate body from the Cabinet Office, and would allow the functions set out in clause 1 to be transferred from the Cabinet Office to the PSFA.

Currently, the powers of the PSFA are limited. It investigates suspected fraud and refers these matters to other government departments and agencies. The PSFA relies on common law and data sharing arrangements under existing law.⁴³ It cannot compel a person to provide information, lacks powers of entry, search and seizure, and must rely on civil courts to secure debt repayment.⁴⁴

With this bill, the Minister for the Cabinet Office – and potentially the PSFA – would gain statutory powers to require necessary information concerning fraud, and to impose penalties for fraud or failure to comply with its requests. It would also be able to recover debt directly from a person’s bank accounts or earnings.

Clause 2 provides that the minister would only use the new powers on behalf of other public authorities at their request.⁴⁵

The clause states that these powers could not be used on behalf of the Secretary of State with responsibility for social security (DWP) or HMRC. The government says that this is because these powers are intended to be used to act outside the areas of government where most of the existing counter fraud resource is currently situated.⁴⁶

⁴² Clause 1;

[Explanatory Notes to the Public Authorities \(Fraud, Error and Recovery\) Bill 167 2024-25](#), paras 83-84

⁴³ [Explanatory Notes to the Public Authorities \(Fraud, Error and Recovery\) Bill 167 2024-25](#), para 63; this legislation includes the Local Audit and Accountability Act 2014, Schedule 9(4) and the Serious Crime Act 2007, s68.

⁴⁴ [Explanatory Notes to the Public Authorities \(Fraud, Error and Recovery\) Bill 167 2024-25](#), para 63

⁴⁵ [Explanatory Notes to the Public Authorities \(Fraud, Error and Recovery\) Bill 167 2024-25](#), para 86

⁴⁶ [Explanatory Notes to the Public Authorities \(Fraud, Error and Recovery\) Bill 167 2024-25](#), para 87

The powers in part 1 do not replace the existing counter fraud investigatory, recovery and enforcement powers of other public authorities.⁴⁷

Under this clause a fee could be charged for the counter-fraud functions.⁴⁸

1.3 Investigatory powers

Clause 3 would give the PSFA the power to issue an ‘information notice’ to a third party, which would compel them to provide information within a deadline. Clause 4 would allow an individual to appeal the terms of an information notice.

Clause 6 would allow for the PSFA to apply to the Investigatory Powers Commissioner’s Office for authorisation to obtain communications data as part of an investigation.

These powers would be only available in England and Wales.

Rationale

The PSFA, located in the Cabinet Office, acts as the centre of expertise for the management of fraud against the public sector (see section 1.1 above).

The government has suggested that historically, the public sector response to fraud has largely focussed on tax and social security, the areas with the highest known losses. However, it estimates that “at least £3bn per year is being lost to fraud and error” outside of these areas.⁴⁹ In March 2023, the National Audit Office (NAO) found that “11,200 (84%) of government’s counter-fraud staff (full-time equivalents) work for DWP or HMRC.” It found most government departments have “only limited counter-fraud and corruption capability”.⁵⁰

The bill proposes enhancing investigatory powers available to the PSFA, to enable it to investigate cases of suspected fraud on behalf of government departments that do not have specific investigative capability.

This would include giving PSFA officers, in the course of an investigation, the power to:

- compel a third party to provide specific information

⁴⁷ [Explanatory Notes to the Public Authorities \(Fraud, Error and Recovery\) Bill 167 2024-25](#), paras 86-87, 90

⁴⁸ [Explanatory Notes to the Public Authorities \(Fraud, Error and Recovery\) Bill 167 2024-25](#), para 88

⁴⁹ UK Parliament, [Written statement HCWS383 \[On: Public Authorities \(Fraud, Error and Recovery\) Bill\]](#), 22 January 2025

⁵⁰ NAO, [Tackling fraud and corruption against government](#), 30 March 2025

- apply to the Investigatory Powers Commissioner’s Office (IPCO) to obtain communications data
- and apply to a court for a warrant to enter and search a premises and seize relevant material

The PSFA currently does not have any investigative powers provided for in statute. Therefore, this bill would mark a significant change in its functions. Annex 5 of the impact assessment for the bill provides more detailed information as to the government’s rationale for extending these powers.⁵¹

The bill also provides for oversight of these powers, by compelling the Minister for the Cabinet Office to appoint an independent person to review the PSFA’s use of these investigatory powers.

New powers

Clause 3 would give the PSFA the power to compel a third party to provide specific information, where it is ‘reasonable and proportionate to do so’, as part of an investigation into someone suspected of committing fraud against the public sector.

To do this, the PSFA can issue an ‘information notice’, which must specify:

- who is suspected of committing fraud,
- what information is required,
- how the information should be provided,
- and the deadline for providing it (not less than 10 days).

Failure to provide the information required would carry a civil penalty of £300 per day.⁵²

The clause states that an information notice cannot require the giving of particularly sensitive information, known as ‘excluded’ or ‘special procedure’ material, as defined in [sections 11 to 14 of the Police and Criminal Evidence Act 1984](#) (PACE).⁵³ This includes confidential business records or journalistic material.

The police must apply to the courts for a warrant or a production order to access ‘excluded’ or ‘special procedure’ material as part of any investigation, as set out under [section 9 and schedule 1 of PACE](#).⁵⁴ Clause 7 of this bill would

⁵¹ UK Parliament, [Public Authorities \(Fraud, Error and Recovery\) Bill – Impact Assessment](#) (PDF), Annex 5

⁵² Penalties are specified under clause 53 of this bill. See section 1.7 of this briefing for more information.

⁵³ [Sections 11 to 14, Police and Criminal Evidence Act 1984](#)

⁵⁴ [Section 9 and schedule 1, Police and Criminal Evidence Act 1984](#)

extend this power to apply for a production order to the PSFA (see section 1.4 below, on Entry, search and seizure powers: PSFA).

Clause 4 would allow for the person to whom the information notice is given to appeal the notice up to seven days after it is issued. The PSFA must review any appeal, and decide whether to revoke, amend or uphold the notice.

Clause 6 would amend [schedule 4 of the Investigatory Powers Act 2016](#).⁵⁵ This would have the effect of adding the Cabinet Office to the list of public authorities that can apply to the Investigatory Powers Commissioner's Office (IPCO) to obtain communications data, under [section 60A of the Investigatory Powers Act 2016](#).⁵⁶ Such data includes information about communications (for example, who sent certain emails or messages), but does not include the content of those messages itself.⁵⁷ A large range of other public bodies are listed under schedule 4, including several government departments and arms-length bodies.

1.4 Entry, search and seizure powers: PSFA

Clauses 7 and schedule 1 would extend certain powers to the PSFA to enter, search and seize property. Clause 8 would provide a legal framework for the Cabinet Office to dispose of property it has seized using its new powers.

Rationale

Currently, the PSFA has no statutory investigatory powers. The bill would give PSFA officers some powers to enter and search a premises, and seize any items in relation to an investigation of fraud against a public authority, such as documents and electronic devices. This does not include the power of arrest.

The government has said these powers will enable PSFA officers “to reduce the burdens on the police in the most serious criminal investigations”.⁵⁸ In the explanatory notes for the bill, the government states that “the powers are the minimum necessary to secure evidence in criminal investigations and bring the PSFA in line with other government departments, including the DWP in this bill and HMRC.”⁵⁹ Annex 5 of the impact assessment for the bill provides more

⁵⁵ [Schedule 4, Investigatory Powers Act 2016](#)

⁵⁶ [Section 60A, Investigatory Powers Act 2016](#)

⁵⁷ For more information on communications data, see: Home Office, [Investigatory Powers \(Amendment\) Bill: Communications Data and Internet Connection Records](#), April 2024

⁵⁸ DWP, [Biggest fraud crackdown in a generation](#), 22 January 2025

⁵⁹ UK Parliament, [Public Authorities \(Fraud, Error And Recovery\) Bill Explanatory Notes](#), 22 January 2025, paragraph 20

detailed information as to the government’s rationale for extending these powers.⁶⁰

New powers

[The Police and Criminal Evidence Act 1984](#) (PACE) provides the legal framework for how police officers in England and Wales can exercise a range of powers when investigating crimes, such as entering premises, searching people and premises, seizing items, making arrests, detaining and interviewing.

Clause 7 would extend some PACE powers to ‘authorised investigators’ at the PSFA to investigate offences of ‘fraud against a public authority’. An ‘authorised investigator’ is defined as a Cabinet Office civil servant, of at least high executive officer grade.⁶¹ The bill does not provide a definition of ‘fraud against a public authority’.

The extended PACE powers would allow for authorised investigators to apply to the courts for a warrant to enter and search any specified premises, on the basis that:

- there are reasonable grounds for believing that an indictable offence of fraud against a public authority has been committed,
- there is material on the premises that is likely to be relevant evidence of substantial value to the investigation, and
- it is not practicable to gain voluntary access to the premises⁶²

Once on the premises, the investigators can seize any material that might be evidence of an offence, or they believe has been obtained through a crime.⁶³ These provisions would not allow for PSFA officers to arrest individuals, search individuals or use force. Authorised investigators would also be required to have regard to PACE codes of practice.⁶⁴

A summary of these extended powers is listed under table 1 (see below).

Certain PACE powers are extended to other non-policing agencies investigating criminal offences, under [part XI of PACE](#) and supporting regulations.⁶⁵ These include the Armed Forces, HMRC, the Department for

⁶⁰ UK Parliament, [Public Authorities \(Fraud, Error and Recovery\) Bill – Impact Assessment](#) (PDF), Annex 5

⁶¹ For more information on civil service grades, see: Institute for Government, [Grade structures of the civil service](#), 23 November 2017

⁶² [Section 8, Police and Criminal Evidence Act 1984](#)

⁶³ [Section 19, Police and Criminal Evidence Act 1984](#)

⁶⁴ [Under section 66\(1\) of PACE](#), the government is required to issue [codes of practice, which provide further guidance to support police officers to exercise their statutory powers](#). Under [section 67\(9\) of the Police and Criminal Evidence Act 1984](#), all those who use PACE powers (including those other than police officers) should have regard to the PACE codes of practice.

⁶⁵ [Part XI, Police and Criminal Evidence Act 1984](#)

Business and Trade and the Gangmasters and Labour Abuse Authority. Immigration officers separately can use some PACE powers under [section 22 of the Borders, Citizenship and Immigration Act 2009](#).

Schedule 1 of this bill specifies how certain terms under PACE are to be interpreted in the context of their use by PSFA investigators. For example, it would mean that references to ‘constable’ are to be read as ‘authorised investigators’, and references to ‘offences’ are to be read as ‘offences of fraud against a public authority’.

Clause 8 details how the PSFA must dispose of any physical property it has seized in the exercise of its PACE powers.

Clause 76 of this bill also would extend the same powers to DWP officers investigating welfare fraud. However, under the bill DWP officers are given an additional power to use reasonable force, which is not afforded to the PSFA here (see section 2.3).

Table 1: extension of PACE powers to authorised PSFA investigators

General power	Provisions under PACE	Application to Cabinet Office investigators
Enter and search a premises	Sections 8 (1) to (5), 15, and 16,	<p>Section 8 – enables an investigator to apply to a court for a warrant to enter a premises to search for and seize relevant items.</p> <p>Section 15 – specifies information a warrant application under section 8 must include.</p> <p>Section 16 – specifies requirements for the execution of warrants.</p>
Seize, retain and dispose of material	Sections 19, 20, 21 and 22	<p>Section 19 – specifies what items can be seized when conducting a search.</p> <p>Section 20 – allows for electronic information to be provided in a form which can be taken away.</p> <p>Sections 21 and 22 – specifies processes for the handling and retention of seized material and the owner’s rights to access the material.</p>
Obtain sensitive material	Sections 9(1), and 10 to 14, and schedule 1	Section 9 and schedule 1 – enables an investigator to obtain ‘excluded’ or ‘special procedure’ material by applying to a court for a warrant or a production order.

Sections 10 to 14– define terms in relation to ‘excluded’ or ‘special procedure’ material.

IOPC oversight

Clause 9 would provide for the IOPC to oversee the PSFA’s use of PACE powers. The IOPC is the independent body that oversees the police complaints system.

To achieve this, the bill would extend the IOPC Director General’s functions to include oversight of the use of the PSFA’s powers under clause 7 of this bill.⁶⁶

The exact nature of this oversight is not specified in the bill. Instead, the clause gives the Minister for the Cabinet Office the ability to detail the arrangements in secondary legislation. The explanatory notes for the bill state that the intention is for the IOPC to “carry out the handling of the most serious of complaints” in relation to the use of PACE powers.⁶⁷

The capacity of the IOPC to take on additional functions has been questioned previously, with the expansion of the IOPC’s remit to provide oversight of the use of PACE powers by another non-policing agency, the Gangmasters and Labour Abuse Authority.⁶⁸ An independent review of the IOPC, conducted by Dr Gillian Fairfield under the Cabinet Office public bodies review programme, recommended in December 2023 that:

The Home Office should carefully consider the merits and drawbacks involved before extending the IOPC’s remit to cover an ever-wider range of organisations, in particular if its remit is extended without additional resource.⁶⁹

In response, the government stated that “ensuring that the IOPC receives appropriate resources for new undertakings is obviously key”.⁷⁰ The power to make regulations in this clause includes making provisions for the payment of the IOPC.

Clause 82 of this bill would establish the same regime for the IOPC to provide oversight of DWP officers investigating fraud (see section 2.3).

⁶⁶ This would be introduced via amendment to [part 2 of the Police Reform Act 2002](#)

⁶⁷ UK Parliament, [Public Authorities \(Fraud, Error And Recovery\) Bill Explanatory Notes](#), 22 January 2025, paragraph 32

⁶⁸ [The Police and Criminal Evidence Act 1984 \(Application to Labour Abuse Prevention Officers\) Regulations 2017](#)

⁶⁹ Home Office, [Independent review of the Independent Office for Police Conduct](#), 21 March 2024

⁷⁰ Home Office, [Response to the Public Body Review of the Independent Office for Police Conduct](#), 21 March 2024

1.5

Recovery of assets: clauses 10-14

Chapter 3 of part 1 sets out new powers to recover assets.

Under clause 10 the minister would be able to act on behalf of another public authority to recover the “recoverable amount”, as defined in clause 1. This would include initiating or continuing legal proceedings to recover what they reasonably believe to be a “recoverable amount”, and exercising the powers provided for by chapter 4 to recover the assets (recovery from bank accounts or earnings).

The recovered assets would then need to be returned to the relevant public authority, unless it agreed that the minister could retain an amount.

The explanatory notes say that where it is unclear who the assets should be returned to, they should be placed in the consolidated fund.⁷¹

The minister would be required to give a “recovery notice” to a person from whom they intended to recover an amount (the “liable person”) before initiating legal proceedings. This would state the amount sought, the minister’s reasons for believing it to be recoverable, and provide the recipient with an opportunity to settle the liability before proceedings are commenced.⁷²

The minister would only be able to exercise the chapter 4 recovery powers by agreement with the liable person or following a final determination by a court.⁷³

The chapter 4 recovery powers could also be used by the minister to recover penalties imposed under chapter 5, and costs incurred in the process,⁷⁴ provided there was no possibility of an appeal.⁷⁵

1.6

Methods of recovery

Chapter 4 sets out the methods for recovery of assets from bank accounts or deductions from earnings.

⁷¹ [Explanatory notes to the Public Authorities \(Fraud, Error and Recovery\) Bill 2024-25](#) (PDF), para 130.

⁷² Clause 11

⁷³ Clause 12

⁷⁴ Clause 13

⁷⁵ Clause 14

The “payable amount” for the purpose of exercising these powers is a “recoverable amount” as defined by section 1(3), or a civil penalty or relevant cost.⁷⁶

The minister would be able to apply to the county court for a “recovery order” for the payable amount, which would mean that it would be treated as equivalent to existing court orders for enforcement.⁷⁷

Recovery from bank accounts

Clauses 17 to 37 would allow the government to recover amounts owed by liable persons directly from their bank accounts.

The minister would be able to make a “direct deduction order” (DDO) to a bank requiring them to make a lump sum and/or regular payments from an individual’s bank account to the government.

Information gathering to establish whether a DDO should be made

Clause 19 would require the minister to obtain account statements before making a DDO, to determine what deductions, if any, should be made from an account. To this end it would give the minister powers to issue an “account information notice” to a bank for this information. It would also give the minister power to issue a “general information notice”, to obtain other specified information about an individual’s bank account, such as its balance and account number. Banks would be prohibited from informing the liable person they had received an information notice, to prevent the liable person emptying their bank account and so impeding any possible DDO.

Setting the terms of a DDO

If the minister decides to make a DDO, clause 22 would require the terms not to cause hardship to the liable person, people they share the bank account with, their cohabitants or financial dependants. It would also require that regular DDOs (as opposed to lump sum DDOs) do not set deductions exceeding 40% of the account’s income in cases of suspected fraud, and 20% in other cases (say, when the recoverable amount was received only through error).

Making a DDO

Clause 21 would require the minister to give a “first notice” when making a DDO to the bank and the liable person setting out the terms of the order. The liable person would then have 28 days to make any representations to the government. Clause 21 would allow the minister to give the notice to the bank first before the liable person. This is to give the bank opportunity to ensure the account is not closed and, in the case of lump sum deductions, to protect funds in the relevant account which it is required to do by clause 26. This

⁷⁶ Clause 15

⁷⁷ Clause 16

would prevent the liable person from emptying their bank account on receiving the first notice to prevent the deduction happening. Clause 27 would require the liable person not to do anything to frustrate the DDO.

After this first notice, clause 17 would then give the minister power to make the DDO itself requiring the bank to pay the government out of the liable person's bank account. Clause 23 would set requirements on the content of the DDO (including the details of the deductions planned, how they were calculated, and any penalties for failure to comply with the DDO). Clause 24 would allow the bank to also deduct and retain administrative expenses. Clause 25 would require banks not to make a deduction if there are insufficient funds in an account.

Changing the DDO

Clause 28 would allow the liable person or joint account holder to apply for the DDO to be varied, clause 29 would allow the minister to vary the order, clause 30 would allow them to revoke the order, and clause 32 would allow them to suspend the order.

Appealing a DDO

Clause 34 would allow for the liable person to request an internal review of the DDO when it is made, varied or the minister decides not to vary it after an application under clause 28. Clause 35 would allow them to appeal to a first-tier tribunal if unsatisfied with the outcome of the internal review under clause 34.

Further regulations

Clause 37 would allow the minister to make regulations on how notices and orders are given, how information is received from banks, how deductions are calculated, the duties of banks and the costs they can recover, all subject to the negative procedure. The clause would also allow the minister to issue DDOs to other types of financial service provider in future, subject to the affirmative procedure.

Deduction from earnings: clauses 38-49

Clauses 38-49 set out powers to recover funds from earnings.

Deduction from earnings order

The minister would be able to make a deduction from earnings order where an amount was recoverable from a person who was employed.

This would require the person's employer to make deductions from their earnings and pay them to the minister.⁷⁸ An order could include provision for an employer to deduct reasonably incurred administrative costs.⁷⁹

The order, which would be provided to the liable person and their employer, would set out the amount to be deducted, the timing and duration of the deductions, and penalties that could be imposed for failure to comply (under powers in chapter 5).⁸⁰

Before making an order, the minister would be required to give the liable person at least 28 days' notice of its terms and the opportunity to make representations. They would be required to consider these representations before deciding whether to make the order or vary its terms.⁸¹

Amount to be deducted

The minister would need to be satisfied that the terms of the order would not cause hardship in meeting ordinary living expenses to the liable person or to their dependents.⁸² The bill provides for a power to make regulations about the calculation of the amount to be deducted, including whether it would cause hardship.⁸³ The amount to be deducted could not exceed 40 per cent of net income in cases of fraud and 20 per cent in any other case.⁸⁴

Suspending, varying and revoking an order

The minister would have the power to suspend,⁸⁵ vary⁸⁶ or revoke⁸⁷ an order by giving notice to the employer and the liable person, and would be required to revoke the order once the payable amount was recovered.⁸⁸ The liable person would also be able to apply to the minister to vary the order.⁸⁹

Review and appeal

The Minister's decision to make, vary, or not vary an order would be subject to review within a period of 28 days on application from the liable person. The minister would be required to review the decision in question and could then uphold, vary or revoke the order. An application for review could not be

⁷⁸ Clause 38

⁷⁹ Clause 42

⁸⁰ Clause 39

⁸¹ Clause 40

⁸² Clause 41(1)-(2)

⁸³ Clause 41(6)-(7). This would be subject to the negative procedure: 41(9).

⁸⁴ Clause 41(3)-(4). Net earning is defined as earnings after the deduction of income tax, national insurance and pension contributions: clause 41(9).

⁸⁵ Clause 43

⁸⁶ Clause 46

⁸⁷ Clause 47

⁸⁸ Clause 47(2)

⁸⁹ Clause 45

brought in relation to the existence or amount of a payable amount, except on the basis that it was wrongly stated on the order.⁹⁰

Following a review, a liable person would be able to appeal to the First-tier Tribunal within 28 days against the making of an order, the variation of an order, or a decision not to vary an order following an application. The appeal could not be brought in relation to the existence or amount of a payable amount, except on the basis it was wrongly recorded on the order.⁹¹

During an appeal the First-tier Tribunal would be able to suspend the requirement on an employer to comply with the order, and following the appeal the Tribunal would be able to amend or revoke the order or dismiss the appeal.⁹²

1.7

Civil penalties: clauses 50-63

Chapter 5 sets out a regime of civil penalties relating to public sector fraud.

Penalty for fraud

The minister would be able to impose a penalty on a person if satisfied on the balance of probabilities that they had carried out fraud, or conspired to do so, in order to receive a recoverable amount or help someone else to do so, or that resulted in a loss to the public authority.⁹³

Where a body was liable to receive a penalty, a penalty could also be imposed on a “relevant individual” (or someone purporting to be one) if the fraud was carried out with their consent or connivance. The definition of “relevant individual” would vary according to the nature of the organisation, but generally includes those exercising management functions.⁹⁴

The penalty would be limited to 100% of:

- any payment made or sought, or
- any loss caused to the public authority by the fraud, or
- any benefit gained by the person, if higher.⁹⁵

⁹⁰ Clause 48

⁹¹ Clause 49(1)-(5)

⁹² Clause 49(6)-(7)

⁹³ Clause 50

⁹⁴ Clause 51

⁹⁵ Clause 52

Penalty for failing to comply with requirements

The minister would also be able to impose a penalty on someone who they considered had failed to comply with a requirement under chapters 2 or 4 without a reasonable excuse.⁹⁶

As with penalties for fraud, the minister would be able to impose these on both bodies and individuals, where a body had failed to comply and a “relevant individual” has failed to prevent the failure, without reasonable excuse.⁹⁷

The maximum penalty would be £300, unless the failure to comply related to the provision of information. In these circumstances the penalty would be calculated by reference to a daily rate of £300 for each day that the information was not provided. The minister would have a power to amend these amounts by regulation.⁹⁸

Procedural rights

Before imposing either form of penalty, the minister would be required to give the intended recipient a “notice of intent”. This would set out the amount proposed, the reasons, and the means and timeframe (of at least 28 days) within which to make representation.⁹⁹

If, having considered the representations, the minister decided to impose a penalty, they must give the person a penalty decision notice. This would set out the amount, the reasons, and the process for applying for a review of the decision. The recipient would have 28 days starting the following day to seek a review, after which the penalty notice would take effect.¹⁰⁰

If a review was requested, the penalty notice would not take effect until after it was carried out. The minister would be required to review the decision to impose a penalty, and then to either uphold the decision, cancel it, or change the amount. They would then need to notify the person of the decision and inform them of their right to appeal.¹⁰¹

If the minister’s decision was to impose a penalty, they would be required to give the person a penalty notice requiring them to pay a specified amount on or before a specified day.¹⁰² Only one penalty could be imposed in relation to an act or omission.¹⁰³

⁹⁶ Clause 53

⁹⁷ Clause 54

⁹⁸ Clause 55

⁹⁹ Clause 56

¹⁰⁰ Clause 57

¹⁰¹ Clause 58

¹⁰² Clause 61 provides for the accrual of interest on late payments.

¹⁰³ Clause 59

Appeals

The recipient of a penalty notice would have 28 days to appeal,¹⁰⁴ either to the First-tier Tribunal or to another court specified in regulations.¹⁰⁵ The court would be able to vary, revoke or amend the notice having considered the appeal.

In circumstances where a court had already made a final determination as to whether the appellant had carried out the fraud to which the penalty related, or had conspired to do so, this issue could not be considered by the court hearing the appeal against the penalty notice.¹⁰⁶

Code of practice

The minister would be required to issue a code of practice, to be laid before parliament, about the administration of penalties for fraud, including about how decisions are made and the imposition and calculation of penalties. This would also need to include information about the circumstances in which discounts may be offered for cooperation.¹⁰⁷

Criminal proceedings

The minister would not be able to impose a penalty for fraud on someone who had been found guilty in criminal proceedings in relation to the same act or omission, and criminal proceedings could not be brought against a person who had paid a penalty for fraud in relation to the same act or omission.¹⁰⁸

1.8

General provisions

Independent review

Clause 64 would compel the Minister for the Cabinet Office to appoint an independent person to conduct reviews of the PSFA's use of investigatory powers. The reviews would assess whether the powers of entry, search and seizure are compliant with the requirements of the act, plus any relevant codes of practice and guidance. The minister would be required to publish any review report and lay a copy before Parliament.

Clause 65 would allow for the minister to disclose information to the independent reviewer. It would also allow the minister to confer additional functions to the independent reviewer through regulations, if necessary for conducting their work.

¹⁰⁴ Clause 60(1)-(2)

¹⁰⁵ Clause 60(6)-(9)

¹⁰⁶ Clause 60(4)&(5)

¹⁰⁷ Clause 62

¹⁰⁸ Clause 63

The bill does not specify when the first review would be conducted after the relevant provisions have come into force, nor does it specify how frequently independent reviews would be carried out. It only requires that the minister consults with the independent reviewer when setting the periods to be covered by each review.

Delegation of powers

Clause 66 allows for the Minister for the Cabinet Office to authorise any civil servant employed in the Cabinet Office to utilise the following powers in this part:

- give an information notice (clause 3)
- give a recovery notice (clause 11)
- make or vary a direct deduction order or deduction from earnings order (clauses 17, 29, 38 and 46)
- give a notice of intent (clause 56)
- impose a civil penalty (clause 50 and 53)

The bill specifies in clause 7, that the minister can only authorise a civil servant of at least high executive officer grade to use powers of entry, search and seizure.¹⁰⁹ There is no such minimum grade stated for the other provisions in this part listed in clause 66.

Where the minister is required to review any of the above decisions made by an authorised officer, the clause states the minister can only authorise to conduct the review an officer of a higher grade than that who took the initial decision.

Disclosure of information

Clause 67 outlines the rules for how information related to PSFA investigations must be processed. It explicitly states that disclosures must not contravene data protection laws or the Investigatory Powers Act 2016, provides protection against self-incrimination, and ensures legal professional privilege is maintained (a legal right that protects confidential communications between clients and their lawyers).

Crown application

Clause 68 outlines the bill's application to the Crown. It states that part 1 of the bill binds the crown, except for clauses 16-37 (recovery orders and recovery from bank accounts) and chapter 5 (civil penalties). It also states

¹⁰⁹ For more information on civil service grades, see: Institute for Government, [Grade structures of the civil service](#), 23 November 2017

that power of entry cannot be exercised on private estates belonging to His Majesty or occupied by Parliament, and that the government can determine that the powers of entry should not be used in relation to Crown property if in the interest of national security.

Public sector fraud authority: clause 69 & schedule 2

The government established the [Public Sector Fraud Authority \(PSFA\)](#) on 3 August 2022. Its core tasks are to “improve the performance of departments in tackling fraud, expand the breadth and depth of counter fraud knowledge”. It acts as the centre of expertise and the Government Counter Fraud Function. The PSFA is currently within the Cabinet Office but reports to both the Cabinet Office and HM Treasury.¹¹⁰

This bill would allow the government to establish the PSFA as a statutory independent body. The government says that these powers would be commenced after a review of the effectiveness of the powers in part 1 of this bill.¹¹¹ It intends to test various approaches to addressing public sector fraud using the new powers.¹¹²

Clause 69 refers to schedule 2, which would enable the establishment of the PSFA. The schedule would also permit the Minister of the Cabinet Office to transfer certain functions to the PSFA.

Part 1 of schedule 2 would establish the PSFA.

Part 2 of schedule 2 outlines the constitution and operational framework of the PSFA. It addresses the appointment of a chair, several other non-executive members, a chief executive and other executive members of the body (paragraphs 1 to 8). There are provisions on staffing, the performance of the PSFA functions and the establishment of internal procedures (paragraphs 9 to 11). The PSFA would be required to submit an annual report to the minister, which would be laid before Parliament and published (paragraph 12).

Paragraph 6 would give the minister the power to make regulations that would set out criteria that would need to be met by people in order to be appointed as members of the PSFA. The government says that this power would enable the minister to decide what the criteria should be at the time it sets up the PSFA as a statutory body. Regulations would be made under the

¹¹⁰ [Public Sector Fraud Authority Annual Report 2022-2023](#), 13 November 2023; NAO, [An Overview of the impact of fraud and error for the new Parliament 2023-24](#) (PDF), November 2024, pp8-9; [Explanatory Notes to the Public Authorities \(Fraud, Error and Recovery\) Bill 167 2024-25](#), para 10

¹¹¹ [Explanatory Notes to the Public Authorities \(Fraud, Error and Recovery\) Bill 167 2024-25](#), para 355

¹¹² [Explanatory Notes to the Public Authorities \(Fraud, Error and Recovery\) Bill 167 2024-25](#), para 12

negative procedure.¹¹³ Part 3 of Schedule 2 would give the minister the power to make regulations to transfer functions and rename the PSFA.

Paragraph 21 would allow regulations to be made to transfer functions conferred by chapters 1 to 5 of part 1 of this bill, concerning the new investigatory, recovery and enforcement powers, to the PSFA. Regulations could also allow to make further provisions about the application of Part 1 to the new body and provide for the giving of directions by the minister.¹¹⁴

The regulations under this paragraph could amend Part 1 of this bill after it becomes an act or amend provision amended by Part 1 of this Act. This is a form of [Henry VIII power](#) (a power that enables ministers to amend or repeal provisions in an act using secondary legislation). The delegated powers memorandum explains that this is likely to be necessary in order to, for example, replace references to “the minister” with “the PSFA”, reflecting the change in responsibilities.¹¹⁵

Paragraph 22 would allow the PSFA to be renamed when it is established, using regulations under the negative procedure. This is a Henry VIII power that would allow amendment of this bill after it becomes an act.¹¹⁶

1.9

Commentary on public sector fraud powers

The financial industry has responded critically towards powers in part two of the bill which would require banks to deduct money from accounts to recover benefit debt and to provide information to the DWP about claimants of certain benefits to help verify eligibility and entitlement. (see sections 2.3 and 2.5).¹¹⁷ However, the industry hasn’t explicitly made the same criticisms of powers in part one of the bill which require banks to deduct money from accounts to recover other sorts of debt to the government.

A few press reports emphasize the increase of the time limit for civil claims against covid-19 related fraud increasing from six to 12 years, thus giving the PSFA more time to investigate complex cases and apply their new powers retrospectively, including the ability to enter property and retrieve money from bank accounts of those guilty of fraud.¹¹⁸

¹¹³ [Delegated Powers Memorandum to the Public Authorities \(Fraud, Error and Recovery\) Bill 167 2024-25](#), paras 41-43

¹¹⁴ [Explanatory Notes to the Public Authorities \(Fraud, Error and Recovery\) Bill 167 2024-25](#), para 578

¹¹⁵ [Delegated Powers Memorandum to the Public Authorities \(Fraud, Error and Recovery\) Bill 167 2024-25](#), paras 44-46

¹¹⁶ [Delegated Powers Memorandum to the Public Authorities \(Fraud, Error and Recovery\) Bill 167 2024-25](#), paras 47-49

¹¹⁷ BBC News, “[Banks raise concerns over benefit debt recovery powers](#)”, 23 January 2025

¹¹⁸ Credit Connect, [Government announces new measures to seize fraudsters’ money](#), 23 January 2025; “[Anti-fraud squad to target Covid crooks with powers to seize cash and raid properties](#)”, Mirror

2 Part 2: DWP fraud, error and debt recovery powers

2.1 Background

What is fraud and error in the benefits system?

There is no specific definition of social security benefit fraud set out in legislation. The [gov.uk page on benefit fraud](#) states:

You commit benefit fraud by claiming benefits you're not entitled to on purpose. For example by:

- not reporting a change in your circumstances
- providing false information

For there to have been fraud the person must intentionally have claimed a benefit they were not entitled to, for example, by deliberately providing false information or withholding information.

This is different from 'claimant error', where a person unintentionally claims a benefit they are not entitled to, but where it is decided they didn't do so with fraudulent intent.

People may also receive benefits they're not entitled to not because of an act or omission on their part but due to 'official error' – for example, because of a lack of action, delay, or mistaken assessment by a government official.

In July 2015 the National Audit Office (NAO) outlined the differences between fraud, claimant error, and official error:

1.8 Fraud and error occurs for different reasons. People can mistakenly put the wrong information in a claim (claimant error), or can deliberately put in false information or withhold information (fraud). Departmental staff can make mistakes when checking awards or not respond quickly in processing information (official error).

1.9 The distinctions between claimant error, official error and fraud depend on benefit rules and can involve judgement. For example, defining fraud (as

opposed to claimant error) can depend on assessing the claimant's intent and what it is reasonable to expect them to know or do.¹¹⁹

The Department for Work and Pensions (DWP), which administers the benefits system in Great Britain, nearly always seeks to recover money it identifies as having been overpaid due to fraud or error.¹²⁰ Where a person is claiming benefits, the preferred recovery method is usually through deductions from ongoing payments. However, in cases where no ongoing benefit claim exists, the Department has a number of options for recovery, including 'direct earnings attachment' (DEA). These are usually only made where debtors do not agree voluntary repayments.¹²¹

Levels of fraud and error

An increase in fraud and error since the beginning of the covid-19 pandemic has prompted the government to place a new focus on tackling the problem.

During the early months of the pandemic, there was a huge surge in benefit claims. For a time, certain checks on identity, housing costs, and children were temporarily switched off in order to ensure that households received timely payments.¹²² However, loosening these checks contributed to an increased level of fraud and overpayment during the Spring and Summer of 2020.

The NAO explored this increase in fraud in its overview of the DWP in 2020/21. This noted the particular prevalence of identity fraud during the period, and that some victims had been asked to make repayments for money they did not receive:

The Department has had to deal with increased risk from serious organised crime during the pandemic, with fraudsters targeting Universal Credit in particular. These fraudsters sought to exploit control easements; for example, by hijacking people's identities to make claims in their name, with payments routed into the fraudsters' bank accounts.¹²³

The DWP estimates the level of overpayment due to fraud and error in Universal Credit claims increased from 9.4% of claims in 2019/20 to 14.5% in 2020/21 and 14.7 % in 2021/22. This has subsided subsequently, but at 12.4% of UC claims in 2023/24 it is still higher than before the pandemic.¹²⁴

¹¹⁹ National Audit Office, [Understanding fraud and error in benefits and tax credits: a primer](#), July 2015, pages 8-10 (PDF)

¹²⁰ Including, for certain benefits such as Universal Credit, official error.

¹²¹ DWP, [Benefit overpayment recovery guide](#), version 3.30, November 2024

¹²² Commons Library, [Coronavirus: Withdrawing crisis social security measures](#)

¹²³ National Audit Office, [Departmental Overview 2020-21: Department for Work & Pensions](#), 23 November 2021, page 26

¹²⁴ DWP, [Fraud and error in the benefit system: financial year 2023 to 2024 estimates](#), 16 May 2024

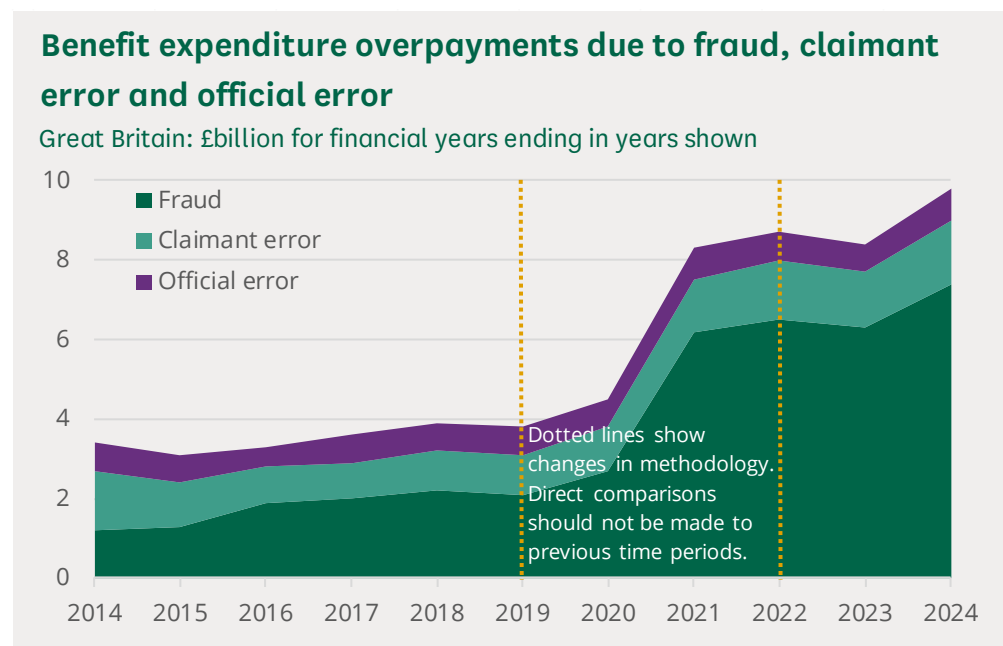
The DWP says that estimates of the level of fraud and error in the welfare system have exceeded £8 billion in each financial year from 2020-21 to 2023-24, with a combined total of £35 billion overpaid.¹²⁵

For the financial year 2023/24, the DWP's central estimate is that benefit overpayments totalled £9.7 billion, 3.7% of all benefit expenditure. Of these benefit overpayments:

- £7.4 billion was due to fraud (76%).
- £1.6 billion was due to claimant error (16%).
- £0.8 billion was due to official error (8%).

The chart below shows a time series of overpayments over the past ten years. While methodological changes mean that comparisons over different time periods are not strictly comparable, the overall pattern suggests that overpayments in 2023/24 were higher than any point in the past decade.

Overpayments increased substantially during the covid-19 pandemic, when verification checks were reduced, and have not yet returned to pre-pandemic levels.



Source: DWP [Fraud and error in the benefit system 2023/24, Table 1](#)

Separate details of overpayments for Universal Credit (UC) and Pension Credit (PC) are available. Estimates of Employment and Support Allowance (ESA) overpayments have not been made in recent years.

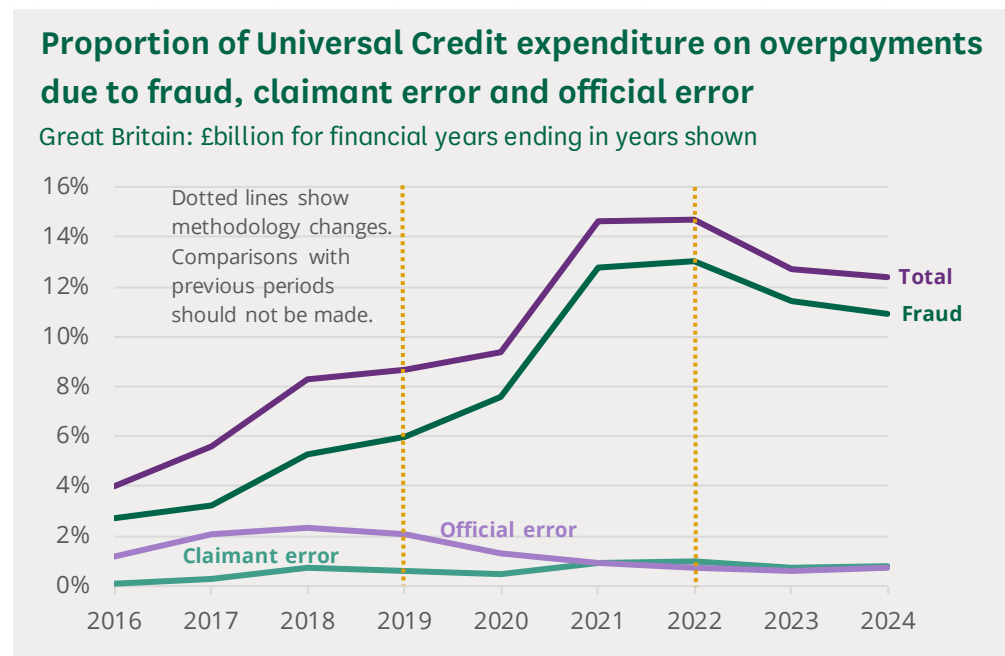
¹²⁵ DWP, [Public Authorities \(Fraud, Error and Recovery\) Bill – Impact Assessment](#), January 2025, para 18 (PDF)

Means-tested benefits accounted for most of the amount overpaid – notably Universal Credit. The DWP’s central estimate for 2023/24 is that UC overpayments totalled £6.5 billion, of which £5.6 billion was due to fraud, £410 million due to claimant error, and £380 million due to official error.¹²⁶

Since benefit claimants continue to migrate to UC from legacy benefits and tax credits, increases in the level of overpayments could be partly explained by increased claimant numbers. Hence it may be more meaningful to examine the proportion of UC expenditure that involves overpayment.

In 2023/24, a total of 12.4% of UC expenditure involved overpayments. Around 10.9% of UC overpayments were due to fraud, while 0.8% involved claimant error and 0.7% official error.

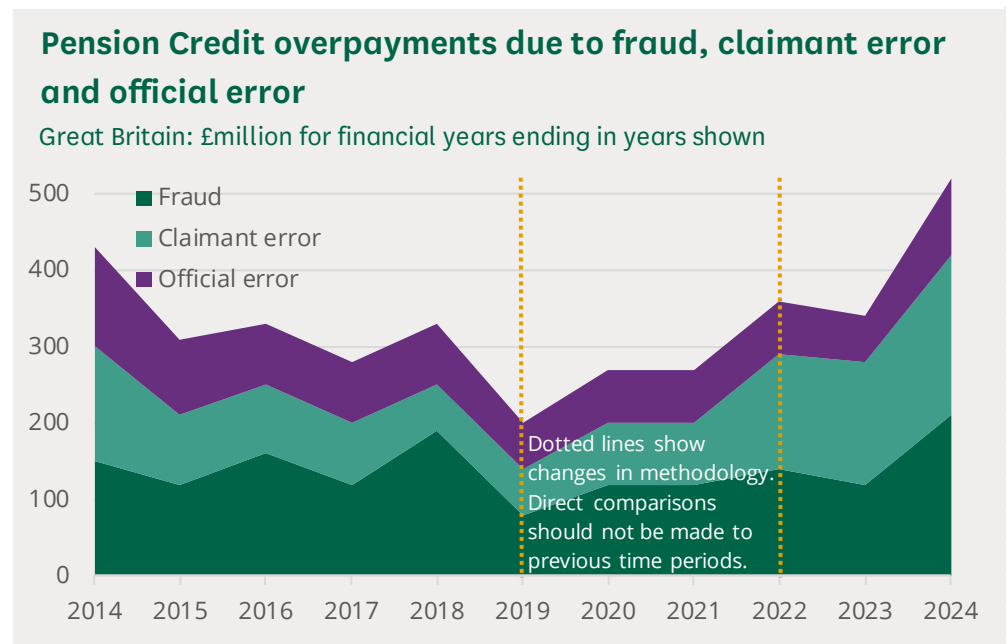
The percentage of UC overpayments showed an upward trend until 2022 but have since fallen.



Source: DWP [Fraud and error in the benefit system 2023/24, Table 1](#)

PC overpayments are more evenly distributed among error categories. In 2023/24, overpayments totalled £520 million of which £210 million (40%) was attributed to fraud and the same amount to claimant error. Around 20% of PC overpayments (£100 million) were due to official error.

¹²⁶ DWP, [Fraud and error in the benefit system: financial year 2023 to 2024 estimates](#), 16 May 2024



Source: DWP [Fraud and error in the benefit system 2023/24, Table 1](#)

The DWP outlines five key areas accounting for fraud and error in the benefits system:

- Abroad: Claimants remaining abroad longer than is allowed
- Capital: Under-declaration of financial assets
- Earnings/Employment: Under-declaration of income from work
- Household composition: inaccurate reporting of household members
- Housing costs: inaccurate reporting of housing costs.¹²⁷

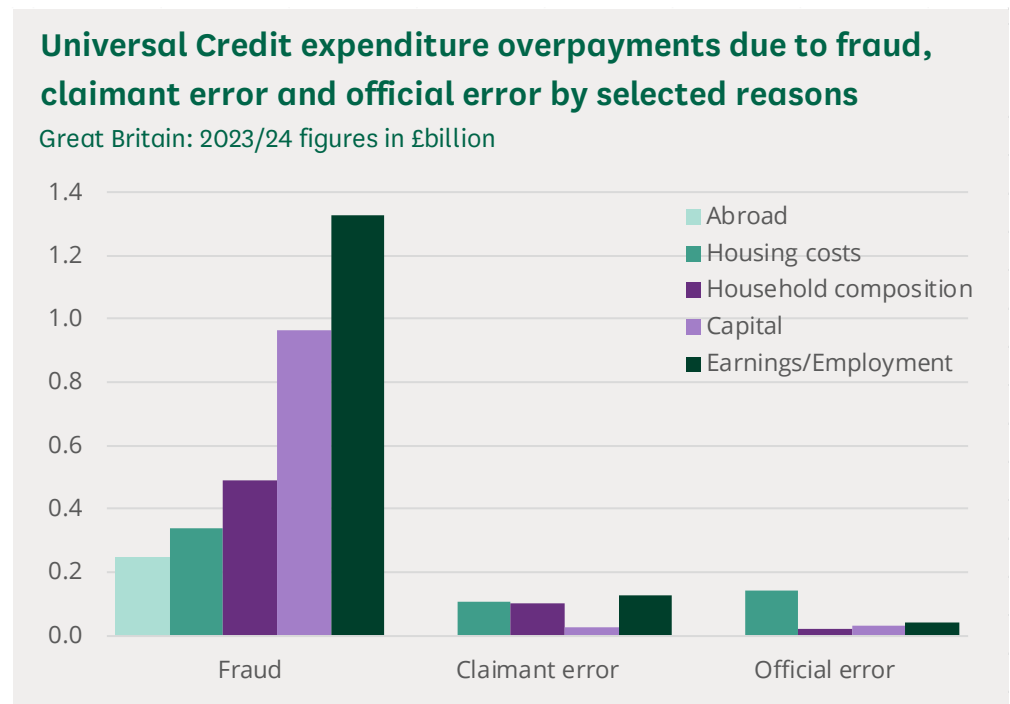
The reasons why overpayments were made are also published for UC and PC. The charts below give details of these five key reasons for overpayments.

The majority of UC overpayments due to fraud involved an under-declaration of income from earnings and employment (£1.3 billion in overpayments). Under-declaring financial assets was the next largest reason (£1 billion in overpayments).

Under-declaration of income was also associated with the highest amount of overpayments due to claimant error (£130 million).

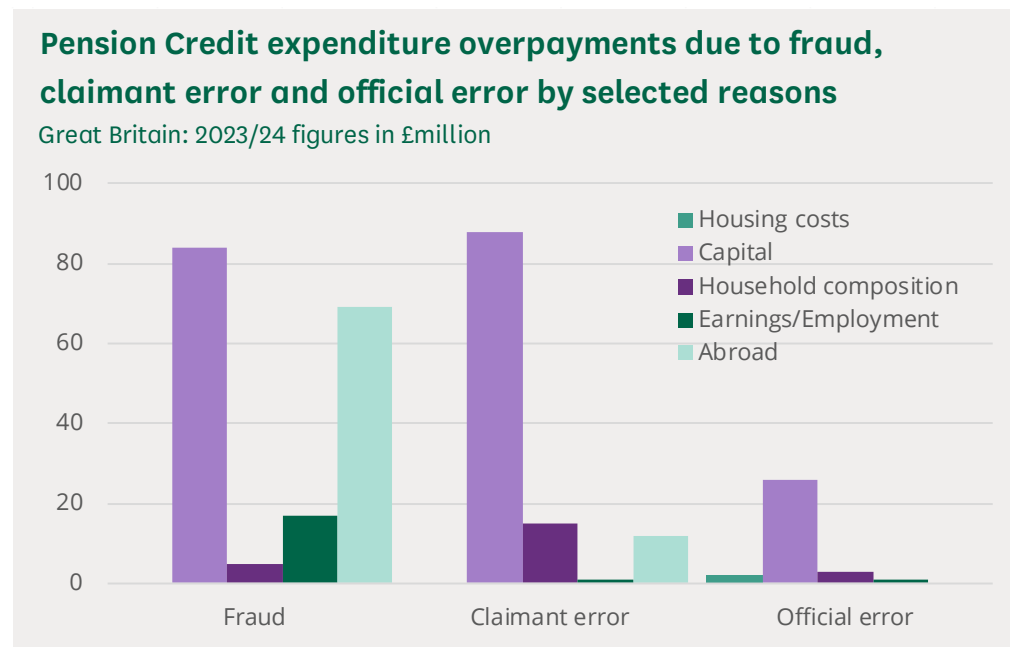
Inaccurate housing costs were associated with the largest expenditure on UC overpayments due to official error (£140 million).

¹²⁷ DWP, [Fighting Fraud in the Welfare System](#), updated 13 May 2024, para 23



Source: DWP [Fraud and error in the benefit system 2023/24, Table 3](#)

For PC, under-declaring financial assets was associated with the largest expenditure on overpayments for fraud as well as both claimant and official error.



Source: DWP [Fraud and error in the benefit system 2023/24, Table 3](#)

Conservative government's fraud and error plan

The previous Conservative government announced various measures to tackle this increased fraud activity, such as increased funding and resource for counter-fraud teams to conduct compliance interviews, investigations, and enhanced checks of high-risk claims before payments begin. Measures also included delivering 'targeted case reviews' of existing Universal Credit cases which were considered at risk of being incorrect.

Such reviews were conducted on more than one million claims made during the pandemic, generating savings of £500 million. The DWP planned to review over 2 million more over five years, saving an expected £2 billion.¹²⁸ Additionally, the DWP said it would use data and intelligence to detect fraud.

The DWP also said it would legislate for new powers as part of a package of measures to address the issue of increased levels of fraud and error following the pandemic.¹²⁹ See below for its initial attempt to do this under the Conservative government.

Its approach to tackle fraud was initially set out in a May 2022 DWP policy paper: [Fighting Fraud in the Welfare System](#), subsequently updated in May 2024. This outlined broad plans to legislate to give the DWP further powers to combat fraud and error, including:

- Introducing powers to boost access to third party data – particularly banks.
- Strengthening information-gathering powers – allowing information to be obtained from a wider range of organisations and information to be accessed as soon as suspicion arises.
- Giving DWP investigating officers the power to make arrests and conduct search and seizures.
- Introducing a new civil penalty – set as a percentage of the overpayment made and with a “civil burden of proof, sitting below criminal fraud, but above error.”

The measures the government wished to develop, as well as the issues they intended to address, were subsequently elaborated on and explained in further publications, including:

- DWP, [DWP annual report and accounts 2022 to 2023](#), 7 August 2023
- DWP, [Fighting Fraud in the Welfare System](#), updated 13 May 2024

¹²⁸ NAO, [Tackling fraud and corruption against government](#), 20 March 2023, para. 1.24 (PDF); DWP, [Fighting Fraud in the Welfare System](#), updated 13 May 2024, para 33

¹²⁹ DWP, [Fighting Fraud in the Welfare System](#), updated 13 May 2024, para 38

- DWP, [Fighting Fraud in the Welfare System: Going Further](#), updated 13 May 2024

These documents provided the following explanations for why the DWP required these powers.

Third party data gathering

The DWP says that around 90% of capital fraud cases identified relate to money held in high street banks or online accounts. But it noted it doesn't have the legal power to access information about this at scale because current powers mean it can only request information from third parties on an individual basis where it already suspects fraud. The DWP said it needed to be able to submit a request that can identify a specific individual to a bank so that it can check the individual's capital or whether they show signs of living abroad. It therefore proposed to legislate to require the transfer of data from third parties to enable the DWP proactively to identify potential fraud, such as where claimants have savings over the capital limit.¹³⁰

Information gathering

The DWP said current powers only allow it to obtain information from organisations named in primary legislation, such as financial institutions, childcare providers, utility companies, landlords, and credit reference providers. They can also only be used by trained and authorised DWP officers when the information being requested is part of an ongoing criminal investigation. It stated this wasn't a very "agile" way to disrupt criminality. It therefore needed to widen the range of organisations from which the DWP could obtain information and enable access to information as soon as suspicion arises, as well as extend information gathering powers to all DWP payments, such as grants.¹³¹

Powers of arrest, search and seizure

The DWP noted it has fewer powers relative to other organisations, such as HMRC or the Gangmasters and Labour Abuse Authority (GLAA), which are tasked with investigating economic crime. It does not have the power to arrest or conduct search and seizure, unlike these organisations. It said it is heavily reliant on police availability and prioritisation. It therefore required new powers to investigate and disrupt serious and organised fraud activity by giving a select number of DWP investigators the power to make arrests and apply to search and seize evidence in criminal investigations. This would allow them to deal with, for example, cases where Universal Credit claims are made using false identity documents. They would be required to make the same decisions and comply with the same requirements as the police.¹³²

¹³⁰ DWP, [Fighting Fraud in the Welfare System](#), updated 13 May 2024, paras 41-44

¹³¹ DWP, [Fighting Fraud in the Welfare System](#), updated 13 May 2024, paras 46-51

¹³² DWP, [Fighting Fraud in the Welfare System](#), updated 13 May 2024, paras 52-56

Penalties

The DWP noted that it has a penalties system in place which provides a range of options to ensure a proportionate punishment. These can range from a flat rate penalty for giving incorrect information, to criminal prosecution for the most serious case. The DWP said this system has not been updated in 10 years and that in 2019/20, 24% of confirmed cases of fraud or error received no penalty. It therefore wanted to expand this system to ensure fewer people escape punishment. It noted that cases must be investigated to the same criminal standard, as if they were going to prosecution, which means large number of cases receive no sanction.

It proposed to introduce a new type of civil penalty for cases of fraud, set as a percentage of the overpayment. It would be imposed on cases which are not prosecuted and would be based on meeting the civil burden of proof, below criminal fraud, but above error.

It would also expand the scope of the penalties system so that it covers those who receive other types of payment from the DWP or who perpetrate fraud, such as people or organisations who promote benefit fraud schemes online or suppliers of fake ID. This would help recoup money from third parties who do not receive benefit payments in the first place and respond to new types of welfare fraud which have emerged since existing legislation was passed.

A new penalties system would also apply to all types of payment, such as Universal Credit advances and grants.¹³³

Other counter-fraud measures

In addition to these new powers, other parts of the previous Conservative government's fraud and error plan included:

- Increased investment in DWP staffing and resources, including 1,400 more staff in counter-fraud teams, a team of 2,000 staff dedicated to targeted case reviews of existing Universal Credit claims, and enhanced data analytics to develop new ways to prevent and detect fraud.¹³⁴
- Working across government and with the private sector to counter fraud. This would include working with the Public Sector Fraud Authority to combat public sector fraud and creating a new Fraud Prevention Advisory Group to bring together government and external experts to identify and develop ways to combat fraud.¹³⁵

¹³³ DWP, [Fighting Fraud in the Welfare System](#), updated 13 May 2024, paras 57-70

¹³⁴ DWP, [Fighting Fraud in the Welfare System](#), updated 13 May 2024, paras 9 and 33

¹³⁵ DWP, [Fighting Fraud in the Welfare System](#), updated 13 May 2024, paras 71-80

Previous Conservative government’s legislative proposals

Legislation on third-party gathering powers

In late 2023, the Conservative government laid amendments to the [Data Protection and Digital Information Bill](#), which were subsequently agreed at Commons Report Stage on 29 November 2023. Schedule 11 of this bill would have given the DWP the power to compel designated third parties (initially, banks and building societies) to share with them information from claimants’ bank accounts, to determine whether fraud or error may have occurred. They would have addressed the DWP’s expressed need for further third-party data gathering powers as described above.

Powers in the Data Protection and Digital Information Bill

These powers would have required third parties to look at the data they held on the accounts of people claiming certain benefits and apply specified “risk criteria” to identify people who may not be meeting the eligibility criteria for the benefit they were claiming. Such cases could then be flagged up for the DWP to investigate further to see whether fraud or error had actually occurred.

The provisions in the bill would have required financial institutions, following receipt of award information notices (AINs) sent by the DWP, to undertake a scan of the data it holds to identify ‘matching accounts’ meeting specific risk criteria. This could have included looking across all linked accounts – that is, other accounts with the same financial institution held by the same person whose account is the one into which benefit is paid – to see if the risk criteria are met.¹³⁶

Initially, the focus would have been on detecting cases where people have not reported all the capital (savings and assets) they hold, and ‘abroad fraud’ (people spending more time out of the country than benefit rules allow for). The DWP’s impact assessment for the changes assumed that powers would only be applied to people claiming certain means-tested benefits, including Universal Credit, Employment and Support Allowance, and Pension Credit.¹³⁷

However, the powers could potentially have been used to detect other types of fraud and error, and have been applied to people receiving a much wider range of payments, including the State Pension, disability benefits such as Attendance Allowance, Carer’s Allowance, and bereavement benefits.¹³⁸ Responding to questions on why benefits where there are currently negligible levels of fraud – such as the State Pension – were within the scope of the

¹³⁶ [Data Protection and Digital Information Bill 2023-24, schedule 11](#) (as amended in the House of Lords Grand Committee).

¹³⁷ DWP, [Impact Assessment on Third Party Data Gathering \(PDF\)](#), September 2023

¹³⁸ Schedule 11, para 3 of the [Data Protection and Digital Information Bill 2023-24; sections 121DA\(1\) and \(7\) of the Social Security Administration Act 1992, as amended](#)

powers, the previous government said it wanted to have the necessary powers in place should patterns of fraud and error change in the future.¹³⁹

The DWP said these powers were proportionate and targeted and would help it tackle benefit fraud and error more effectively, generating savings of around £500 million over the period 2025/26 to 2028/29, and £500 million per year when fully rolled out (from 2030/31).¹⁴⁰ It said its intention would have been to use the powers to seek information only where there is clear evidence of fraud taking place on a significant scale. The DWP emphasised that the powers would not allow it to see what people are spending their money on, or give it direct access to information in millions of bank accounts. The powers would instead have required third parties to look at the data they hold and apply specified tests to identify people who may not be meeting the eligibility criteria for the benefit they are claiming. The DWP would then investigate further to see whether fraud or error had occurred.¹⁴¹

Limits to these powers

The DWP said this legislation would impose limits on the use of these powers. Such limitations included:

- That the powers could only be exercised to identify cases which merit further consideration to establish whether benefits are being or have been paid according to the law.
- The powers could only be used to obtain information relating to people holding accounts matching the criteria set out by the DWP in the ‘award information notice’ sent to the third-party organisation.
- The powers could not be used to obtain ‘historic’ data (that is, data relating to more than one year previously).
- Information provided by third-party organisations could only be used for purposes of, or purposes connected with, the exercise of “departmental functions”.¹⁴²

Further information on the powers can be found in:

- The DWP [Impact Assessment on Third Party Data Gathering \(PDF\)](#), dated September 2023.
- The [Data Protection and Digital Information Bill Explanatory Notes \(PDF\)](#) for the bill as introduced in the Lords on 6 December 2023.

¹³⁹ [HC Deb 29 November 2023 c912; Letter from Rt Hon Mel Stride MP to Rt Hon Sir Stephen Timms MP on the Data Protection and Digital Information Bill \(PDF\)](#), December 2023

¹⁴⁰ DWP, [Impact Assessment on Third Party Data Gathering \(PDF\)](#), para 41

¹⁴¹ [Letter from Rt Hon Mel Stride MP to Rt Hon Sir Stephen Timms MP on the Data Protection and Digital Information Bill \(PDF\)](#), December 2023

¹⁴² DWP, [Impact Assessment on Third Party Data Gathering \(PDF\)](#), page 4

Response to this legislation

The [Information Commissioner](#) – who is responsible for, amongst other things, upholding information rights in the public interest and promoting data privacy for individuals – said in a response to the Data Protection and Digital Information Bill, issued in December 2023, that he had not yet seen sufficient evidence for him to give his assurance to Parliament that the powers the DWP were seeking are “proportionate”, given the “significant intrusion” they allow.

The Commissioner said that the law must give people a clear indication of the situations where authorities can exercise powers which affect their rights, and that any powers must be subject to adequate safeguards to protect against arbitrary interference with those rights. He was “concerned that the bill is not currently sufficiently tightly drafted to satisfy these requirements.” He suggested several changes to the provisions in the bill including:

- Limiting the scope of the power to obtaining only information that would permit the identification of accounts and individuals warranting further investigation.
- Clarifying which third-party organisations come within the scope of the power.
- Specifying that information provided to the DWP can be used only to determine whether benefits have been paid in accordance with the law, rather than for “departmental functions”, which covers wider purposes.¹⁴³

The progress of this legislation

The bill was introduced to the House of Lords on 6 December 2023 and reached its Lords committee stage on 20 March 2024. It fell when parliament was dissolved in May 2024 ahead of the 2024 general election.

The Labour government’s plans to combat fraud and error in the benefits system

A new Fraud, Error and Debt Bill

The [DWP issued a press release on 24 September 2024](#) announcing plans to introduce a Fraud, Error and Debt Bill to tackle fraud in the social security system. It said this legislation would give the DWP powers to:

- Better investigate suspected fraud and new powers of search and seizure so DWP can take greater control investigations into criminal gangs defrauding the taxpayer.

¹⁴³ Information Commissioner’s Office, [The Information Commissioner’s Further Response to the Data Protection and Digital Information Bill](#), December 2023 (PDF)

- Allow DWP to recover debts from individuals who can pay money back but have avoided doing so, bringing greater fairness to debt recoveries.
- Require banks and financial institutions to share data that may show indications of potential benefit overpayments.

It stated that the bill would include safeguarding measures to protect vulnerable people and would be accompanied by a code of practice to be consulted on during the passage of the bill. It noted that further details on the scope of this legislation would be set out when the bill is introduced.¹⁴⁴

Autumn Budget 2024

The [Autumn Budget 2024 announced a package measures](#) to tackle fraud and error in the social security system.

This reiterated that a forthcoming Fraud, Error and Debt Bill would introduce new powers to:

- Check benefits are being paid correctly using data shared by banks and financial institutions
- Recover debt.

These measures combined are expected to save £1.5 billion cumulatively over five years between 2024/25 and 2029/30.

The package also included:

- 3,180 additional fraud and error staff across DWP and HMRC.
- Investment to verify changes in Universal Credit claims.
- An extension of the targeted case reviews to help spot incorrect Universal Credit claims.

The whole package together is expected to save a total of £9.2 billion cumulatively over five years between 2024/25 and 2029/30.¹⁴⁵

Public Authorities (Fraud, Error and Recovery) Bill

The government introduced the [Public Authorities \(Fraud, Error and Recovery\) Bill 2024-25](#) to the House of Commons on 22 January 2025.

The DWP also issued a press release to accompany the bill: [Biggest fraud crackdown in a generation](#), 22 January 2025.

¹⁴⁴ DWP, [New laws to be introduced to crack down on fraud](#), 24 September 2024

¹⁴⁵ These savings figures include both welfare savings and savings from debt recovery: HM Treasury, [Autumn Budget 2024](#), HC 295, 30 October 2024, paras 2.13-2.15 ‘[Tackling fraud and error in the welfare system](#)’

The rest of this section outlines the provisions of this bill as they relate to DWP powers to combat fraud, error and debt in the benefits system.

2.2 Information gathering powers

Clauses 72 and 73 of the bill and accompanying policy changes would reform existing information gathering powers the DWP has to:

- expand the range of information holders who can be compelled to provide information in the course of criminal investigations
- improve efficiency by combining roles of different types of DWP investigators
- allow information requests to be made digitally
- extend powers to include grants and other DWP payments

The department expects the powers to come into force in 2026. The digital system is expected to be set up between 2025 and 2027, with savings expected from the 2027/28 financial year onwards.¹⁴⁶

Existing powers

Benefit authorities have wide-ranging powers of investigation under [Part VI of the Social Security Administration Act 1992](#) as amended by the Social Security Fraud Act 2001. ‘Authorised officers’ can carry out investigations, enter premises and obtain information and documents for the purpose of, among other things:

- ascertaining if a benefit is or was payable in a certain case under relevant social security legislation
- ascertaining whether provisions of the relevant social security legislation are being, have been or are likely to be contravened (whether by particular persons or more generally)
- preventing, detecting and securing evidence of the commission (whether by particular persons or more generally) of ‘benefit offences’¹⁴⁷

An ‘authorised officer’ may require a wide range of third party information holders to provide them with information relating to individuals. Third party data holders include banks and building societies, credit reference agencies,

¹⁴⁶ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, Annex 3, p85 and paras 44-55

¹⁴⁷ Section [109A\(2\) of the Social Security Administration Act 1992](#)

money transfer companies, insurers, educational establishments, student loan companies and utility companies.¹⁴⁸

Officers may only require information when it appears to the authorised officer that there are reasonable grounds for believing that a person has committed, is committing, or is intending to commit a benefit offence, or is a family member of such a person.¹⁴⁹

In exercising their powers under Part VI of the 1992 Act as amended by the 2001 Act, authorised officers must have regard to a code of practice on obtaining information.¹⁵⁰ The DWP calls these officers ‘Intelligence Gathering Officers’.¹⁵¹

Separately to the powers in the 1992 Act as amended by the 2001 Act, a different set of authorised officers¹⁵² are permitted to use other information gathering powers in the 1992 Act to obtain information from a different set of bodies, such as employers, occupational pension providers, licence holders, childcare providers, landlords and local authorities for council reductions schemes.¹⁵³

The powers of these authorised officers, which the DWP calls ‘Regional Investigators’,¹⁵⁴ are set out in DWP statutory guidance.¹⁵⁵

Rationale for change

Annex 3 of the DWP’s impact assessment provides detailed background and rationale for reforming information gathering powers.¹⁵⁶ The key problems this identifies are that:

- The lists of third-party information holders DWP authorised officers can compel information from¹⁵⁷ are “prescriptive”, excluding providers such as “challenger banks, gambling firms and airlines”. Providers not on the list can be sent information requests, but there is no obligation for them to respond.

¹⁴⁸ listed in [section 109B\(2A\) of the social Security Administration Act 1992](#)

¹⁴⁹ [Section 109B\(2C\) of the Social Security Administration Act 1992](#)

¹⁵⁰ [Section 3 of the Social Security Fraud Act 2001](#); For further information see the DWP guidance, [Social security fraud: code of practice on obtaining information](#), 8 November 2016

¹⁵¹ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, Annex 3, para 7

¹⁵² See DWP, [Authorised Officers appointed by DWP: a guide to their powers](#), 1 May 2008, para 5

¹⁵³ Under [section 109B\(2\) of the Social Security Administration Act 1992](#)

¹⁵⁴ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, Annex 3, para 7

¹⁵⁵ DWP, [Authorised Officers appointed by DWP: a guide to their powers](#), 8 November 2008

¹⁵⁶ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, paras 1-7

¹⁵⁷ In [section 109B\(2A\) of the social Security Administration Act 1992](#)

- Current powers mean the DWP has two distinct sets of authorised officers, able to obtain information from different sets of information holders. This can cause administrative delays.
- Requests for information can only be made in writing or by visit, which is “inefficient and not fit for purpose, either for DWP or organisations providing information.”
- Legislation only applies to fraud in benefit claims, not other DWP support such as grant payments, and powers to investigate grant related fraud are limited.¹⁵⁸

New powers

Clause 72 would amend section 109B of the Social Security Administration Act 1992 and inserts a new section 109BZA in the 1992 Act, setting out new process for obtaining data from information holders.

Similar to existing powers, the new section 109BZA requires that information notices can only be issued when there are reasonable grounds to suspect fraud. It also stipulates that information notices may only be issued where it is necessary, proportionate and relevant to the investigation.¹⁵⁹ The impact assessment explains:

This will not change the existing principles of how DWP operates. Information will continue to be compelled only where the enquiry relates to an identifiable individual (by name or description) and will only be exercised by an authorised officer when there is a suspicion of fraud and when it is necessary and proportionate.¹⁶⁰

Key changes allowed by the new powers and accompanying policy changes are explained in Annex 3 to the impact assessment.¹⁶¹

Expanding the range of information holders in scope

The proposed powers remove the prescriptive lists of information holders that can be required to provide information in sections 109B(2) and (2A) of the 1992 Act. This will allow authorised officers to compel all information holders to provide information, unless the information is exempted.¹⁶²

Exemptions are:

¹⁵⁸ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, Annex 3, para 7

¹⁵⁹ Clause 72(1) of the bill

¹⁶⁰ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, Annex 3, para 10

¹⁶¹ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, Annex 3, paras 9-16

¹⁶² [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, Annex 3, para 9-11

- Those already included in the 1992 Act preventing people from being required to provide information that tends to incriminate themselves or their spouses or civil partners, and protecting legally privileged information.¹⁶³
- Journalistic material and “Very confidential information such as medical or social security records, or very sensitive business documents such as contract negotiations, staff discipline or human tissue”. The impact assessment states that the DWP will “continue to establish whether this is a sufficient list or if more exempted bodies are required”.¹⁶⁴

Combining authorised officers functions

Policy changes made possible by the bill would combine Regional Investigator and Intelligence Gathering Officer functions into a single role. The impact assessment states this “will result in a smoother process and the ability to respond more effectively and quickly to demand to prove or disprove fraud.”¹⁶⁵

Introducing a digital process for requesting information

The new information notice process outlined in subsections (2) to (6) of the new section 109BZA¹⁶⁶ would create a “single approach” to requesting information from all information holders, and will be “digital by default”.¹⁶⁷ The DWP believes this will allow information holders to comply more easily with requests.

Existing provision to request and receive information by writing or visit would remain as “an important contingency method”.¹⁶⁸

Extending information gathering powers to all DWP payments

Clause 84 would establish a definition of a ‘DWP offence’. This would allow any offence relating to a benefit, payment, credit or grant the DWP administers to be included in the new information gathering powers. The impact assessment cites fraud related to [Access to Work](#) grants and [Kickstart](#) as examples of grants which would be brought into scope, and adds:

Extending this power to be used for all DWP administered or issued payments would allow investigators to gather vital evidence to prosecute all types of fraud perpetrated against DWP including [National Insurance number] application frauds. This means that all types of social security related criminal

¹⁶³ Section [109B\(6\) of the Social Security Administration Act 1992](#)

¹⁶⁴ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, Annex 3c

¹⁶⁵ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, Annex 3, para 12

¹⁶⁶ to be inserted by clause 72

¹⁶⁷ [Explanatory notes for the Public Authorities \(Fraud, Error and Recovery\) Bill 167 EN 2024-25](#), 22 January 2025, para 38

¹⁶⁸ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, Annex 3, para 14

investigations undertaken by DWP will have a clear and statutory power to compel information.¹⁶⁹

Improving turnaround times

The DWP states that the new digital system should also “enable information holders to service these requests more quickly and efficiently” than under the old processes, which often faced delays.¹⁷⁰

Subsection (4)(b) of the new section 109BZA¹⁷¹ would give the DWP power to specify in information notices the period within which information must be given. The department says its intention is to “consult stakeholders to ensure that the digital approach and any timeframes are practical and reasonable”. Timeframes and other obligations for information providers would then be set out in a new code of practice.¹⁷²

Code of Practice

Clause 73 would amend section 3 of the Social Security Fraud Act 2001 and require a new code of practice to be laid before both Houses of Parliament in relation to the powers in the proposed new section 109BZA. This code of practice will be consulted on.¹⁷³

Impact

Once fully rolled out, the changes to information gathering in counter-fraud investigations are expected to save the government around £4 million a year. Ongoing costs to government have been modelled at £530,000 per year from 2027/28 onwards.

The DWP estimates that the changes will result in a “small increase in the number of requests for information that the private sector is required to fulfil”, of around 2,040 a year. In financial terms, the Equivalent Annual Net Direct Cost to Business¹⁷⁴ is estimated to be £56,000 per year once changes are fully rolled out.

More detailed information on the expected impact of the new information gathering powers can be found in Annex 3 of the impact assessment.¹⁷⁵

¹⁶⁹ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, Annex 3, para 15

¹⁷⁰ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, para 16

¹⁷¹ Inserted by clause 72 of the bill

¹⁷² [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, para 16

¹⁷³ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, para 13

¹⁷⁴ This is a measure of the direct impact of a regulatory decision on business

¹⁷⁵ Paras 17-108

2.3

Powers to verify eligibility with financial institutions

Clause 74 and schedule 3 of the bill would insert a new section 121DB and Schedule 3B into the Social Security Administration Act 1992.

These would allow the DWP to require banks and other financial institutions to provide information about claimants of certain benefits to help verify eligibility and entitlement. These powers are not limited to individual cases where there are already reasonable grounds to suspect fraud, so could be used at scale to identify potential fraud or error.

Clause 75 of the bill would insert new sections 121DC and 212DD to the 1992 Act, to establish a requirement for independent oversight of these eligibility verification powers.

The department expects the eligibility verification measure to be rolled out starting from 2026/27 and to reach full scale by 2029/30.¹⁷⁶

Existing powers

The DWP has powers to require information from banks under the existing information gathering powers discussed above.¹⁷⁷

However, this is limited to cases where there are reasonable grounds to suspect fraud against the benefit system, preventing large scale requests for information that could help identify cases where incorrect payments may be being made.

Rationale for change

Benefit claimants are required to provide accurate information to the DWP about household circumstances that might affect eligibility or entitlement to benefits and to inform the department when their circumstances change.¹⁷⁸

The bill's explanatory notes explain that there are tools the DWP uses to independently verify information relevant to claims, such as Real Time Information (RTI) from HMRC.¹⁷⁹ This provides monthly earnings data for employees on the Pay As You Earn (PAYE) system who claim Universal

¹⁷⁶ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), Annex 1, paras 33 and 44

¹⁷⁷ Banks are one of the types of organisations listed in [section 109\(2A\) of the Social Security Administration Act 1992](#) which authorised officers can compel to provide information

¹⁷⁸ See [Benefits: report a change in your circumstances](#) on gov.uk for a list of the circumstances claimants are expected to report.

¹⁷⁹ [Explanatory notes for the Public Authorities \(Fraud, Error and Recovery\) Bill 167 EN 2024-25](#), 22 January 2025, para 39

Credit.¹⁸⁰ The department says this has “virtually eradicated earnings-related fraud and error” for these employees.¹⁸¹

There is no equivalent independent means of verifying other types of information, such as whether claimants are declaring capital correctly or not spending longer abroad than they are supposed to. These are two of the “biggest areas of loss” due to overpayments in the social security system,¹⁸² but “current powers DWP have are limited and leave the Department unable to address the problem of imperfect information at scale or in a timely manner.”¹⁸³

Pilot ‘proof of concept’ exercises conducted with two financial institutions from 2017 found significant levels of suspicious activity detection, and a strong potential for the use of banking data to identify possible capital and abroad fraud.¹⁸⁴

Improved access to data, the impact assessment for the bill argues:

...will allow more eligibility criteria for key benefits to be independently verified and help DWP identify any incorrect payments. This will mean more people are paid accurately, more errors are found and resolved, individual debt is minimised, and any suspected fraud can be identified by DWP and separately investigated.¹⁸⁵

New powers

Scope of the powers

Powers to require information from financial institutions would only be used in respect of ‘relevant benefits’, currently defined in the bill as:¹⁸⁶

- Universal Credit
- Employment and Support Allowance (ESA)¹⁸⁷
- Pension Credit

¹⁸⁰ See RevenueBenefits, [Universal credit: RTI and Universal Credit](#), updated 23 May 2023

¹⁸¹ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, para 25

¹⁸² [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, Annex 1, para 2

¹⁸³ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), Annex 1, para 7

¹⁸⁴ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), Annex 1, paras 19-22

¹⁸⁵ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), Annex 1, para 24

¹⁸⁶ Paragraph 19 of new schedule 3B, in schedule 3 of the [Public Authorities \(Fraud, Error and Recovery\) Bill](#)

¹⁸⁷ The policy is intended to begin rollout, following an earlier test and learn phase, in 2027/28, so in practice the benefit will be contributory New Style ESA as income-related ESA is planned to have been wholly replaced by Universal Credit by then.

The explanatory notes explain that these have been identified as having the highest levels of fraud and error.¹⁸⁸

The bill would provide for benefits to be added, or removed, from the list of relevant benefits through the [affirmative procedure](#) (with active approval of both Houses of Parliament).¹⁸⁹ This is a [Henry VIII power](#), allowing amendments to the Act through secondary legislation.

Benefits which could be added include any listed in [section 121DA of the Social Security Administration Act 1992](#), as well as grants or loans made under section 2(2)(d) of the Employment and Training Act 1973.¹⁹⁰ This accounts for almost all regular DWP-administered payments, including extra-costs disability benefits such as Personal Independence Payment and Attendance Allowance, Carer's Allowance, bereavement benefits, and industrial injuries benefits.

However, the State Pension is explicitly excluded, and benefits can only be added if they are administered by, or on behalf of, the Secretary of State for Work and Pensions. This prevents benefits administered by other agencies, such as Child Benefit, from being brought into scope.

The explanatory notes explain that State Pensions are excluded because of their “near universality” and relatively low rates of fraud – the estimated overpayment rate was 0.1% in the financial year ending 2024.¹⁹¹

The scope of the eligibility verification powers differs from that of the third-party data gathering powers proposed by the previous Conservative government (see section 2.1 above). All benefits listed in section 121DA of the Social Security Administration Act 1992 were in scope of the powers proposed then, although the initial focus was intended to be on means-tested benefits such as Universal Credit, Pension Credit and Employment and Support Allowance.¹⁹²

How the ‘eligibility verification’ process will work

The process is set out in the proposed new schedule 3B to the Social Security Administration Act.¹⁹³

¹⁸⁸ [Explanatory notes for the Public Authorities \(Fraud, Error and Recovery\) Bill 167 EN 2024-25](#), para 648; see section 2.1 for discussion of fraud and error rates.

¹⁸⁹ [Memorandum from the Department for Work and Pensions to the Delegated Powers and Regulatory Reform Committee](#), 22 January 2024, pp 19-22

¹⁹⁰ These includes programmes for unemployed people such as job creation schemes, employment subsidies, training allowances, and other measures. See [Explanatory notes for the Public Authorities \(Fraud, Error and Recovery\) Bill 167 EN 2024-25](#), para 659

¹⁹¹ [Explanatory notes for the Public Authorities \(Fraud, Error and Recovery\) Bill 167 EN 2024-25](#), paras 42 and 659

¹⁹² Department for Work and Pensions, [Impact Assessment: Third Party Data Gathering](#) (PDF), September 2023, para 41

¹⁹³ To be inserted by schedule 3, part 1 of the Public Authorities (Fraud, Error and Recovery) Bill

Using the new powers, the DWP would be able to give a bank or other financial institution¹⁹⁴ an ‘eligibility verification notice’, which will include ‘eligibility indicators’, which are criteria that may show that a specified relevant benefit may have been, or may be, incorrectly paid when compared with information the financial institution holds.

For example, an eligibility indicator “could be set such as to require [financial institutions] to provide the Secretary of State with information about benefit-receiving accounts (and any linked accounts) which have a total capital balance over the threshold of £16,000, which in the majority of cases is the maximum permitted under Universal Credit eligibility rules.”¹⁹⁵

When a financial institution receives an eligibility verification notice, it will be required to identify ‘relevant accounts’ it holds, which are those receiving a relevant DWP payment, or other accounts held by the person receiving the DWP benefit. If specified criteria are met indicating that the person may be breaching the conditions for the benefit they receive, financial institutions must then give the DWP information about relevant accounts and account holders¹⁹⁶ and provide details about how the account holder meets eligibility criteria. For example, “this may be whether the total capital held across accounts is greater than allowed by benefit eligibility rules”.¹⁹⁷

The DWP stresses that the powers would not give the DWP direct access to bank accounts, or any transaction data, or information relating to a person’s health, ethnic origin or political opinion.¹⁹⁸

How eligibility verification data is to be used

The information given to the DWP may be used to help identify incorrect payments, or in criminal proceedings relating to payments, but not for any other purpose.¹⁹⁹

No automatic decisions will be made based on eligibility verification data alone. Where potential fraud is identified against eligibility indicators, cases will be referred to DWP’s counter fraud and compliance teams for further consideration and, if necessary, investigation. The impact assessment says that “a final decision will always involve a human agent.”²⁰⁰

¹⁹⁴ As defined in paragraph 2 to schedule 3B; under paragraph 2(1)(b) the Secretary of State will have power to add to the definition of financial institutions through regulations made by affirmative procedure – see [Memorandum from the Department for Work and Pensions to the Delegated Powers and Regulatory Reform Committee](#), 22 January 2024, p 20

¹⁹⁵ [Explanatory notes for the Public Authorities \(Fraud, Error and Recovery\) Bill 167 EN 2024-25](#), paras 598-600

¹⁹⁶ Such as account numbers, sort codes, names and dates of birth

¹⁹⁷ [Explanatory notes for the Public Authorities \(Fraud, Error and Recovery\) Bill 167 EN 2024-25](#), para 587

¹⁹⁸ As above, para 588 and 46

¹⁹⁹ Paragraph 5 of new schedule 3B (in schedule 3 of the bill)

²⁰⁰ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2024, p37

The initial intended purposes for the eligibility verification measure are to identify fraud and error related to:

- Claimants traveling or living abroad – all the benefits currently in scope are affected where claimants go abroad for more than specified periods.
- Capital rules – Pension Credit and Universal Credit²⁰¹ are affected by capital, such as savings and investments, households have.

Over the longer term, however, the powers could help “identify potential incorrect payments due to failure to meet a broad range of benefit eligibility criteria”.²⁰²

Penalties and appeals

The new powers in part 1 of the new schedule 3B would place obligations on relevant financial institutions to comply with eligibility verification notices within specified periods. Part 2 sets out penalties, which could be applied where there is a failure to comply, or where inaccurate information is provided.

The maximum penalty for failure to comply is £1,000,²⁰³ and there would be provision on top of this to apply a ‘daily rate penalty’ of up to £40 per day where financial institutions continue to fail to comply without reasonable excuse.²⁰⁴ After 30 days following the first application of a daily rate penalty, the DWP would be able to make an application to the First Tier Tribunal to impose an increased daily rate penalty of up to £1,000 per day.²⁰⁵

The maximum penalty for providing inaccurate or prohibited information, deliberately or negligently, and without reasonable excuse, would be £3,000.²⁰⁶

Paragraph 12 of new schedule 3B would give the Secretary of State powers to change any of the penalty rates above through regulations made under the [negative procedure](#) “to reflect future changes in the value of money.” This is a Henry VII power.²⁰⁷

Part 3 of new schedule 3B would provide for financial institutions to request a review of the decision to give them an eligibility verification notice. The

²⁰¹ And income-related ESA

²⁰² See [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2024, p43

²⁰³ Paragraph 7 of new schedule 3B

²⁰⁴ Paragraph 8 of new schedule 3B

²⁰⁵ [Explanatory notes for the Public Authorities \(Fraud, Error and Recovery\) Bill 167 EN 2024-25](#), paras 625-626; and Paragraph 9 to new schedule 3B

²⁰⁶ Paragraph 10 of new schedule 3B

²⁰⁷ See [Memorandum from the Department for Work and Pensions to the Delegated Powers and Regulatory Reform Committee](#), 22 January 2024, pp 20-21

explanatory notes explain this “provides a quicker and more cost-effective alternative to the formal appeals process and the Tribunal.”²⁰⁸

Part 4 of new schedule 3B would provide for financial institutions to appeal against eligibility verification notices or penalty notices.²⁰⁹

Code of practice

In addition to rules and limitations outlined in part 1 to schedule 3B, part 5 would also require the DWP to issue a ‘code of practice’, which must be established in regulations before the first eligibility verification notice is sent.

The code of practice would outline in more detail how the power would be used, and how safeguards would apply. It will also explain the detail of disputes, appeals and fines procedures. A draft of the code of practice will be published for consultation.²¹⁰

Independent oversight

Clause 75 of the bill would establish a requirement for independent oversight of the eligibility verification powers. An ‘independent person’ will be appointed to undertake annual reviews of the DWP’s use of eligibility verification powers, actions taken by financial institutions, and the effectiveness of the eligibility verification process. These annual reviews will be submitted to the Secretary of State and presented to Parliament.²¹¹ The impact assessment for the bill provides an overview of the role of the independent body:

An independent body will provide an inspection and reporting function in relation to the DWP’s discharge of the power. This would provide the independent overseer full access to the operation of the designated measures with a clear requirement to report independently on the use and effectiveness and make statements on the compliance with legislation and Government’s intent.²¹²

This independent oversight process was not a feature of the Conservative government’s legislative proposals for third party data gathering powers discussed in section 2.1 above.

Impact

The detailed impact assessment for the eligibility verification powers is in Annex 1 of the [Impact assessment for the bill \(PDF\)](#).

²⁰⁸ [Explanatory notes for the Public Authorities \(Fraud, Error and Recovery\) Bill 167 EN 2024-25](#), paras 634

²⁰⁹ Paragraphs 14-16 of schedule 3B

²¹⁰ See [Explanatory notes for the Public Authorities \(Fraud, Error and Recovery\) Bill 167 EN 2024-25](#), paras 642-647

²¹¹ [Explanatory notes for the Public Authorities \(Fraud, Error and Recovery\) Bill 167 EN 2024-25](#), para 393

²¹² [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2024, P45

Impact on government

Of the estimated £1.5 billion in savings to the government the bill is expected to deliver over the next five years to 2029/30,²¹³ the DWP expects £940 million will be due to the eligibility verification powers. By the time it is fully rolled out, the new powers are expected to save around £500 million a year in Annually Managed Expenditure (AME).²¹⁴

Over the ten financial years from 2024/25, the eligibility verification measure is expected to cost around £420 million in additional staffing and other administrative costs.²¹⁵

Impact on individuals

The impact assessment notes potential positive impacts for claimants. It says cases with incorrect payments can be identified more quickly, preventing large overpayments debts accruing in cases of claimant error. The powers will also help the DWP to identify possible fraud “and will enable the department to investigate suspected fraud further, if necessary, through separate processes.”²¹⁶

The department also notes the potential for positive behavioural responses due to the increased risk of detection deterring fraud, although it acknowledges some claimants may respond by seeking to evade the measure.²¹⁷

The DWP says it will handle the additional information on claimants shared by financial institutions in accordance with data protection laws, and points to the code of practice to be brought forward, providing further detail on how data will be handled, processed and disposed of.²¹⁸

Potential issues associated with the impact on access to banking and the privacy of individual claimants are explored in paragraphs 94-99 of the impact assessment for the bill.

Impact on business

There will be some set-up costs and ongoing costs for banks and other financial institutions.

There is some indicative discussion on the costs to business in paras 75-93 of the impact assessment. However, the impact assessment states that the department is “unable to provide a robust assessment of business costs for

²¹³ HCWS383 [[Public Authorities \(Fraud, Error and Recovery\) Bill](#)], 22 January 2025

²¹⁴ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), Annex 1, para 2754

²¹⁵ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), Annex 1, paras 52-54

²¹⁶ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), p15

²¹⁷ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), Annex 1, paras 58-61

²¹⁸ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), p15

validation. This is because the operational solution for the measure is currently being developed, alongside further engagement with banks.”²¹⁹

The DWP says it will provide a “robust estimate” of costs to business in a subsequent impact assessment once this work is done.²²⁰

Commentary

The independent [Regulatory Policy Committee \(RPC\)](#) – which assesses the quality of evidence and analysis used to inform government regulatory proposals – published its opinion on the DWP’s impact assessment for the Public Authorities (Fraud, Error and Recovery) Bill on 22 January 2025.²²¹ In relation to the eligibility verification measures in the bill the RPC rated the DWP’s consideration of the rationale for the measure as ‘good’, saying that the individual impact assessment “clearly identifies the problem under consideration and rationale for intervention”. However, it noted the DWP’s consideration of wider impacts, while ‘good’, would benefit from “explicit discussions of mental health impacts from debt”.²²²

Big Brother Watch – a civil liberties campaign group – responded to the bill, describing the eligibility verification powers as “turning British welfare into a digital surveillance system” by introducing “a mass bank spying of the population”.²²³

The BBC has also reported the banking industry has concerns over these measures, as well as the powers on debt recovery (see section 2.5).²²⁴

Policy in Practice – a social policy consultancy – described the eligibility verification powers as “potentially concerning” and warned against fuelling “deeply ingrained beliefs about ‘benefit cheats’”.²²⁵

2.4

Entry, search and seizure powers

Clause 76 and schedule 4 would extend certain powers to DWP investigators to enter and search a premises with a warrant in England and Wales, and

²¹⁹ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), p16

²²⁰ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), para 86

²²¹ [Public Authorities \(Fraud, Error and Recovery\) Bill: impact assessment - RPC opinion \(green-rated\)](#), 22 January 2025

²²² [Public Authorities \(Fraud, Error and Recovery\) Bill: impact assessment - RPC opinion \(green-rated\)](#), 22 January 2025

²²³ Big Brother Watch, [Big Brother Watch Response to Intrusive Powers in the Public Authorities \(Fraud, Error & Recovery\) Bill](#), 22 January 2025

²²⁴ BBC News, [Banks raise concerns over benefit debt recovery powers](#), 23 January 2025

²²⁵ Policy in Practice, [The Fraud, Error and Recovery Bill: A fresh approach to fraud or fuel for stigma](#), 27 January 2025

seize relevant material. Clause 77 and schedule 4 extends similar powers in Scotland.

Clause 79 would make it a criminal offence to obstruct a DWP officer when exercising any of these powers. Clause 80 would provide a legal framework for the DWP to dispose of property it has seized using its new powers.

Clauses 82 and 83 would provide give the Independent Office for Police Conduct (IOPC) (in England and Wales) and the Police Investigations and Review Commissioner (PIRC) (in Scotland) a role in providing oversight of the use of these powers.

Rationale

This bill would extend some powers of entry, search and seizure to DWP investigators in England and Wales, and in Scotland.

The government has previously committed to giving DWP investigators the power to conduct searches and seizures, in both its May 2022 paper: [Fighting Fraud in the Welfare System](#), and its May 2024 paper: [Fighting Fraud in the Welfare System: Going Further](#).

In these papers, the DWP noted it did not have the power to conduct search and seizure and was therefore heavily reliant on police availability and prioritisation. The impact assessment for this bill further explains the government's view on the challenges of being reliant on police capacity:

DWP is not in full control of their investigations. DWP depends on the police to apply for search warrants and to conduct the operations. This means a search operation can only be conducted once the police have conducted their administrative duties and have organised a time where there is a suitable level of staffing. Competing demands for local police forces can make it difficult for the police to do this quickly, meaning DWP is often left waiting, and fraud allowed to continue, despite deciding that a search is necessary for an investigation to progress. Secondly, this arrangement acts as a drain on police resources. When a search is conducted, police are required to conduct all elements of the operation, with DWP investigators often observing and directing the search. This use of police time constitutes an opportunity cost for the taxpayer who could benefit if the police were preventing or tackling crime elsewhere, or a resource cost for the taxpayer who must fund additional police resource to support these operations.²²⁶

The government therefore believes it requires new powers to investigate and disrupt serious and organised fraud activity by giving DWP investigators the power to apply to search and seize evidence in criminal investigations.

²²⁶ [Public Authorities \(Fraud, Error and Recovery\) Bill – Impact Assessment](#) (PDF), Annex 4, paragraph 9

New powers

England and Wales

[The Police and Criminal Evidence Act 1984](#) (PACE) provides the legal framework for how police officers in England and Wales can exercise a range of powers when investigating crimes, such as entering premises, searching people and premises, seizing items, making arrests, detaining and interviewing.

Clause 76 would extend some powers under PACE to authorised investigators at the DWP who are investigating DWP offences in England and Wales.²²⁷

An ‘authorised investigator’ is defined as an official of grade at least higher executive officer.²²⁸ The bill defines a ‘DWP offence’ under clause 84, as any offence relating to a benefit, payment, credit or grant in relation to which the DWP is responsible, or an offence relating to the allocation or use of a national insurance number.²²⁹

The extended PACE powers would allow for authorised investigators to apply to the courts for a warrant to enter and search any specified premises, on the basis that:

- there are reasonable grounds for believing that an indictable DWP offence has been committed,
- there is material on the premises that is likely to be relevant evidence of substantial value to the investigation, and
- it is not practicable to gain voluntary access to the premises²³⁰

Once on the premises, the investigators can seize any material that might be evidence of an offence, or they believe has been obtained through a crime.²³¹ Authorised investigators would be required to have regard to PACE codes of practice.²³²

Clause 80 details how DWP investigators must dispose of any physical property it has seized in the exercise of its PACE powers.

²²⁷ This would be introduced via amendment to the [Social Security Administration Act 1992](#).

²²⁸ For more information on civil service grades, see: Institute for Government, [Grade structures of the civil service](#), 23 November 2017

²²⁹ Clause 84, [Public Authorities \(Fraud, Error and Recovery\) Bill](#). This includes any attempt or conspiracy to commit an offence.

²³⁰ [Section 8, Police and Criminal Evidence Act 1984](#)

²³¹ [Section 19, Police and Criminal Evidence Act 1984](#)

²³² [Under section 66\(1\) of PACE](#), the government is required to issue [codes of practice, which provide further guidance to support police officers to exercise their statutory powers](#). Under [section 67\(9\) of PACE](#), all those who use PACE powers (including those other than police officers) should have regard to the codes of practice.

Through this bill, the government intends to introduce similar powers for the Public Sector Fraud Authority (PSFA) (see section 1.4, Entry, search and seizure powers: PSFA). However, unlike powers granted to PSFA, DWP investigators are given an additional power to use reasonable force if necessary to exercise a power, as provided for under [section 117 of PACE](#).²³³

The government states in its explanatory notes that ‘this power will be limited to using reasonable force against things not people.’ However, this is not specified in the legislation itself.²³⁴

A summary of these extended powers is listed under table 2 (see below).

Table 2: extension of PACE powers to authorised DWP investigators

General power	Provisions under PACE	Application to DWP investigators
Enter and search a premises	Sections 8 (1) to (5), 15, and 16	<p>Section 8 – enables an investigator to apply to a court for a warrant to enter a premises to search for and seize relevant items.</p> <p>Section 15 – specifies information a warrant application under section 8 must include.</p> <p>Section 16 – specifies requirements for the execution of warrants.</p>
Seize, retain and dispose of material	Sections 19, 20, 21 and 22	<p>Section 19 – specifies what items can be seized when conducting a search.</p> <p>Section 20 – allows for electronic information to be provided in a form which can be taken away.</p> <p>Sections 21 and 22 – specifies processes for the handling and retention of seized material and the owner’s rights to access the material.</p>
Obtain sensitive material	Sections 9(1), and 10 to 14, and schedule 1	<p>Section 9 and schedule 1 – enables an investigator to obtain ‘excluded’ or ‘special procedure’ material by applying to a court for a warrant or a production order.</p> <p>Sections 10 to 14 – define terms in relation to ‘excluded’ or ‘special procedure’ material.</p>

²³³ [Section 117, Police and Criminal Evidence Act 1984](#)

²³⁴ [Public Authorities \(Fraud, Error And Recovery\) Bill Explanatory Notes](#), Bill 167-EN, 22 January 2025, paragraph 409

Use reasonable force	Section 117	Allows for an investigator to use reasonable force if necessary to exercise a power.
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Paragraph 1, schedule 4 of this bill specifies how certain terms under PACE are to be interpreted in the context of their use by authorised investigators. For example, it would mean that references to ‘constable’ in PACE are to be read as ‘authorised investigators’, and references to ‘offences’ are to be read as ‘DWP offences’.

Scotland

Clause 77 would extend the same police powers to DWP investigators in Scotland. Paragraph 2, schedule 4 sets out these powers in full, amending provisions in PACE to reflect the terminology and structures of the Scottish justice system.

Obstructing offence

Clause 79 would make it a criminal offence to obstruct a DWP investigator when exercising any of these powers.

It is already an offence under section 111 of the Social Security Administration Act 1992 to intentionally delay or obstruct an authorised officer. This clause would mean it is also an offence to intentionally delay or obstruct a DWP investigator. The offence would carry a fine of up to £1,000.

Oversight

Clause 82 would provide for the Independent Office for Police Conduct (IOPC) to provide oversight of the DWP’s use of PACE powers in England and Wales.

To provide oversight of the use of these powers, the bill would bring the DWP within the remit of the Independent Office for Police Conduct (IOPC), the independent body that oversees the police complaints system. It would do this by extending the IOPC Director General’s general functions to include oversight of the use of the DWP’s powers under clause 76 of this bill.²³⁵ The clause gives the government the ability to introduce secondary legislation, to further detail the role of the IOPC in providing oversight of DWP powers.

This has the same effect as clause 9 in the bill, which would also extend the IOPC’s oversight role to the PSFA’s use of PACE powers.

As detailed in section 1.4 of this briefing, an independent review of the IOPC, commissioned by the Cabinet Office, recommended in December 2023 that the government should “carefully consider the merits and drawbacks involved before extending the IOPC’s remit to cover an ever-wider range of

²³⁵ This would be introduced via amendment to [part 2 of the Police Reform Act 2002](#)

organisations, in particular if its remit is extended without additional resource”.²³⁶

Clause 83 would extend an oversight role to the Police Investigations and Review Commissioner (PIRC), which provides oversight of the police complaints system in Scotland. This would amend the [Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013](#), to allow for the Secretary of State to request that the PIRC investigates and reports on serious incidents involving DWP investigators in Scotland.

2.5 Overpayment debt recovery and enforcement

Clauses 88-95 and schedule 5 of the bill would give the DWP powers to recover overpayment debts from individuals no longer receiving benefits and not in Pay As You Earn (PAYE) employment. The DWP would be able to recover debts from such individuals directly from their bank accounts, without having to go to court. The DWP would also be able to apply to the court to disqualify a debtor from holding a driving licence, where all other attempts at recovery have failed.

The department expects to be able to begin rollout of these powers in Autumn 2026, with a ‘test and learn’ approach.²³⁷

This part of the bill would also extend debt recovery powers to include ‘non-benefit payments’ administered by the DWP.

Existing powers

An overpayment occurs when a person receives a benefit they are not entitled to, or more benefit than they are entitled to. Where a person who has been overpaid is still receiving benefits and the overpayment is recoverable, the DWP will normally recover the debt via ongoing deductions from the person’s benefits.

For those no longer receiving benefits, the DWP will seek to negotiate a repayment plan with the person. If a plan cannot be negotiated, the DWP’s recovery powers are limited to Direct Earnings Attachments (DEAs), which instruct employers to take deductions directly from earnings. DEAs can only be applied to people in PAYE employment.²³⁸

²³⁶ Home Office, [Independent review of the Independent Office for Police Conduct](#), 21 March 2024

²³⁷ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, Table 3, p17; and Annex 2

²³⁸ For further information see the DWP [Benefit overpayment recovery guide](#), updated 20 December 2024, chapter 5

The DWP's only other option to recover overpayments from people no longer receiving benefits is enforcement proceedings in the County Court (in England and Wales) or the Sheriff Court (in Scotland).

The DWP says that the existing arrangements are unfair since overpayment debts can be recovered without court action from those receiving benefits or in PAYE employment, but not from others who refuse to engage with the department, even if they can afford to repay their debt. It estimates that around £1.7 billion of debt is owed by individuals with other incomes who are able to avoid repayment, and that without further action the debt stock will grow.²³⁹

The DWP's impact assessment states that a court-based approach to recovering overpayment debt was trialled but proved "too inefficient to tackle the issue at scale and is inflexible as it does not allow for regular deductions." The department also says that enforcement action to recover amounts from all its debtors in a fair and equitable manner would place an "immense burden" on the court system, which is already experiencing backlogs and delays.²⁴⁰

The bill

Part 2, chapter 4 of the bill (clauses 88-95) would amend the Social Security Administration Act 1992. Existing debt recovery powers would be extended to enable the DWP to recover overpayments directly from people's bank accounts via 'Lump Sum Direct Deduction Orders' (LDDOs), or 'Regular Direct Deduction Orders' (RDDOs) for regular deduction, without having to apply via the courts. The department emphasises that these powers will be used as a last resort where attempts to engage with the debtor have failed. Recoveries would only happen following affordability and vulnerability checks.²⁴¹

This part of the bill would also allow the DWP to apply to the court for a 'Suspended DWP Disqualification Order' to disqualify a debtor from holding a driving licence. A debtor would be able to avoid actual disqualification by making repayments. If a debtor fails to comply with a suspended order, the DWP would then be able to apply for an 'Immediate DWP Disqualification Order.' These powers could only be exercised where it is not reasonably possible for the DWP to recover the amount via deductions from benefits, from earnings, or from the person's bank account. A court may not make a disqualification order if it considers the person needs a driving licence to earn a living, or has another essential need for a driving licence.

The detailed rules on debt recovery directly from bank accounts would be in new schedule 3ZA of the 1992 Act, inserted by clause 90(2) of the bill. The

²³⁹ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, Annex 2

²⁴⁰ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, Annex 2

²⁴¹ New schedule 3ZA (in schedule 5 of the bill), para 6(1); [Explanatory notes to the Public Authorities \(Fraud, Error and Recovery\) Bill](#), Bill 167-EN, 22 January 2025, para 52

detailed rules on disqualification from driving would be in new schedule 3ZB of the 1992 Act, inserted by clause 91(2) of the Bill. New schedule 3ZA is in Schedule 5 of the bill, and new schedule 3ZB is in schedule 6 of the bill.

Clause 92 of the bill would require the Secretary of State to lay before parliament a code of practice for the new direct deduction order and driving disqualification powers. The DWP says this will be “an additional safeguard to ensure the recovery methods are applied fairly and proportionately.”²⁴² The bill’s provisions would require the Secretary of State to undertake a public consultation on the code of practice before it is first published. If there are any subsequent revisions, the code of practice must be reissued and laid before Parliament.

In addition to the new direct deduction order and driving disqualification powers, the bill would also extend the DWP’s debt recovery powers to ‘non-benefit payments.’²⁴³ This would mean that any payment, credit or grant administered by the DWP could be recovered under existing debt recovery powers, or under the new powers in the bill, where the DWP has determined there was an overpayment as a result of fraud, and either the individual has been convicted or has accepted a penalty in lieu of prosecution.

Commentary

The government states that the new powers on debt recovery and enforcement will bring the DWP more closely into line with other areas of government, including HMRC and the Child Maintenance Service, which it says are able to recover debts more fairly and effectively across different cohorts. It adds:

These areas of Government are able to make deductions directly from individuals’ bank accounts where they refuse to engage and arrange terms of repayment. They also have powers to suspend driving licences, which they use primarily to encourage repayment, and are rarely used suggesting an effective deterrent. These tools allow them to recover from evasive debtors far more effectively than DWP at present. Where claimants set up a payment arrangement they will be able to set up repayment at a rate that takes into account any vulnerability or financial hardship they will encounter, as is already the case for debtors who repay through deductions from benefits or by direct earnings attachments.²⁴⁴

The department emphasises that the measures are proportionate, will only be applied as a last resort, and will be subject to additional safeguards. It

²⁴² [Explanatory notes to the Public Authorities \(Fraud, Error and Recovery\) Bill](#), Bill 167-EN, 22 January 2025, para 519

²⁴³ Clause 88. For the definition of ‘non-benefit payment’, see clause 96(4) of the bill.

²⁴⁴ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, Annex 2, para 10

estimates that the proposed powers could generate debt recoveries with a net present value of around £1.9 billion over the period up to 2034/25.²⁴⁵

At the time of writing, third party organisations such as welfare rights bodies and pressure groups have not yet published detailed responses to the bill.

UK Finance – a banking and finance industry body – is reported to have told the BBC it is concerned the powers to recover overpayments directly from bank account could create risks for vulnerable customers, or conflict with financial institutions’ existing regulatory and legal obligations. The reports highlight the Financial Conduct Authority’s (FCA) consumer duty, introduced in 2023, which gave banks a specific obligation to protect customers who are vulnerable due to their financial situation.²⁴⁶

The independent [Regulatory Policy Committee \(RPC\)](#) gave a ‘green’ rating to the impact assessment overall and to the DWP’s assessment of the impacts of the debt recovery measure, meaning that it had no significant concerns about the quality of the analysis. Nevertheless, the RPC noted that the DWP does not expect there to be any wider impacts of the debt recovery, adding:

However, the [DWP] statement does not sufficiently take into consideration the potential impact on the poorest members of society of reclaiming overpayments due to error.²⁴⁷

2.6

Changes to Administrative Penalties

Clauses 96 and 97 of the bill would extend the scope of Administrative Penalties to include fraud involving a wider range of DWP payments, not just benefits. Clause 98 would remove the additional ‘loss of benefit’ claimants can face when they accept an Administrative Penalty.

Extending Administrative Penalties to non-benefit payments

Existing powers

The DWP’s Counter Fraud, Compliance and Debt Directorate (CFCD) may offer a person the option of paying an Administrative Penalty (‘Ad Pen’) as an alternative to being prosecuted for a benefit offence under criminal law. The explanatory notes for the bill explain that an Administrative Penalty–

...is intended to provide a proportionate and timely consequence for benefit fraud where the pursuit of prosecution in the courts may not be cost or time

²⁴⁵ [Impact assessment for the Public Authorities \(Fraud, Error and Recovery\) Bill](#), 22 January 2025, paras 32-33

²⁴⁶ [“Banks raise concerns over benefit debt recovery powers”](#), BBC News, 23 January 2025

²⁴⁷ [Public Authorities \(Fraud, Error and Recovery\) Bill: impact assessment - RPC opinion \(green-rated\)](#), 22 January 2025, p8

effective. If the Administrative Penalty is not accepted, DWP will pursue a prosecution through the courts. The Administrative Penalty is 50% of the overpayment value, up to a maximum of £5,000.²⁴⁸

Administrative Penalties can currently only be offered in cases involving benefit fraud. Individuals committing fraud involving non-benefit payments, such as grants, cannot be offered an Ad Pen.

Clauses 96-97 of the bill would extend the scope of Administrative Penalties to include fraud involving ‘non-benefit payments.’ This would mean that people found to have committed fraud involving any payment, credit, or grant (such as Access to Work) that is administered by the DWP could be offered an Ad Pen as an alternative to prosecution.

The DWP says this would mean that anyone found to have committed fraud against the social security system could be “subject to proportionate and timely consequence – bringing parity in approach with benefit fraud.”²⁴⁹

Changes to loss of benefit provisions

Currently, when a person accepts an Administrative Penalty, they are also subject to a sanction under the ‘loss of benefit’ (LOB) rules. This means that they lose their entitlement to any benefits they continue to be eligible for, for a four-week period. The loss of benefit penalty is intended to be “a deterrent against the abuse of the benefit system by applying a benefit penalty against those who commit benefit fraud.”²⁵⁰

Clause 98 of the bill would abolish the loss of benefit provisions for people who accept an Administrative Penalty. The explanatory notes for the bill explain that the current rules mean that, in lower value fraud cases, some claimants can find themselves facing a financial penalty and a loss of benefit sanction alongside repaying the benefit overpayment. The explanatory notes add:

This may put them at risk of hardship. Furthermore, if deductions from benefit are the only way to recover the debt, the LOB has the effect of making the debt unrecoverable for the period benefit is suspended. Therefore, the LOB will be reserved for the most serious cases of fraud taken to prosecution, so the most serious consequences apply to the most severe crimes.²⁵¹

2.7

Inspection and oversight

Clause 87 of the bill would require the Secretary of State to appoint an ‘independent person’ to inspect and report on the DWP’s use of its

²⁴⁸ [Explanatory notes to the Public Authorities \(Fraud, Error and Recovery\) Bill](#), Bill 167-EN, para 55

²⁴⁹ [Explanatory notes to the Public Authorities \(Fraud, Error and Recovery\) Bill](#), Bill 167-EN, para 57

²⁵⁰ DWP, [Penalties policy: in respect of social security fraud and error](#), 14 August 2017

²⁵¹ [Explanatory notes to the Public Authorities \(Fraud, Error and Recovery\) Bill](#), Bill 167-EN, para 58

investigative powers. The explanatory notes state: “As DWP take additional investigation powers it is necessary that there is appropriate inspection of these functions and their investigations.”²⁵²

The independent person would be able to inspect the exercise of all investigation powers under sections 109A to 109H of the Social Security Administration Act 1992. This includes the new powers conferred by the bill in relation to information gathering and the new powers of entry, search and seizure (see sections 2.2 and 2.4 of this briefing). Different independent persons may be appointed for England and Wales and for Scotland.

The clause inserts new sections 109I and 109J in the Social Security Administration Act 1992. These require the independent person to conduct reviews of the extent to which the investigative functions have been exercised in compliance with the relevant legislation, codes of practice and guidance; and their effectiveness in ensuring benefits are paid in accordance with legislation. The person must prepare a report for the Secretary of State following each review, which must be published and laid before Parliament. Each report must contain recommendations based on the information gathered at the review.

The bill does not state how often reviews would have to be conducted. The Secretary of State would give ‘directions’ as to the period to be covered by each review, having first consulted the independent person.²⁵³

As outlined further in section 2.4 of this briefing, the bill also makes provision for the Independent Office for Police Conduct (in England and Wales) and the Police Investigations and Review Commissioner (in Scotland) to conduct investigations of the most serious complaints about the DWP in relation to activities when undertaken by a warrant.

²⁵² [Explanatory notes to the Public Authorities \(Fraud, Error and Recovery\) Bill](#), Bill 167-EN, 22 January 2025, para 59

²⁵³ New section 109J subsections (1) and (2)

3

How bills go through Parliament

Bills can be introduced in either the House of Commons or the House of Lords. They can be amended but the entire text has to be agreed by both Houses before they can receive Royal Assent and become law. In both Houses, bills go through the same stages although there are slight differences in the practices of the two Houses.

3.1

Commons stages

A bill that is introduced in the House of Commons will go through the following stages.

- First reading sees the formal introduction of a bill, when a clerk reads out the name of the bill in the Commons chamber. The [Public Authorities \(Fraud, Error and Recovery\) Bill 2024-25](#) received its first reading on 22 January 2025. There is no debate at this stage. Bills cannot be published before their introduction. Government bills are usually published immediately after introduction.
- Second reading debate is the first time MPs debate a bill. They discuss the purpose of the bill. Debates are usually scheduled to take a full day (five to six hours). The [Public Authorities \(Fraud, Error and Recovery\) Bill 2024-25](#) is scheduled to receive its second reading on Monday 3 February 2025. At the end of the debate, MPs decide whether it should pass to the next stage. Sometimes a ‘reasoned amendment’, which sets out the reasons to reject a bill, is tabled. If this is agreed to, or if the bill is simply voted down, the bill cannot make any further progress. No amendments are made to the bill itself at this stage.
- Committee stage is usually conducted by a small number of MPs (usually 17) in a public bill committee but sometimes bills can be considered in detail in the Commons Chamber by all MPs in a Committee of the whole House. The committee debates and decides whether amendments should be made to the bill and whether each clause and schedule should be included.
- Report stage takes place in the Commons Chamber and involves MPs considering the bill as agreed at committee stage. MPs can also propose further amendments which can be voted on.
- Amendments at committee and report stage can leave out words, substitute words and add words, including whole clauses and schedules.

They can be proposed by backbench and frontbench MPs. The Speaker or the chair of the committee selects and groups amendments to debate.

- Third reading, usually on the same day as report stage, is the final chance for MPs to debate the contents of a bill before it goes to the House of Lords. It's usually a short debate and changes cannot be made at this stage in the Commons. At the end of the debate, the House decides whether to approve the bill and therefore pass it onto the House of Lords.

3.2 Lords stages

Bills introduced in the Lords go through the same process, completing all stages in the Lords before being sent to the Commons.

The House of Lords respects the Commons' primacy on financial matters and does not usually amend Finance Bills (those that implement the Budget) or money bills.

Members of the House of Lords debate the bill, going through the same stages as in the Commons. Key differences between the two Houses are that in the Lords, committee stage usually takes place on the floor of the House and a bill can be amended at third reading.

Most bills are considered by a committee of the whole House in the House of Lords. Some are referred to the Lords Grand Committee – which all members can attend. However, divisions (votes) are not permitted in the Grand Committee and any amendments made have to be agreed to without a division.

The Lords can also make amendments to a bill. Major points of difference should have been resolved before third reading but amendments to “tidy-up” a bill are permitted.

No party has a majority in the House of Lords and government defeats are not uncommon. For bills that have started in the House of Commons, the Lords is essentially asking MPs to think again about the subject of the amendment.

3.3 ‘Ping pong’

If the Lords amend a bill that was sent from the Commons, the amendments are returned to the Commons and MPs debate the amendments proposed by the Lords. This is potentially the start of “ping-pong”, a process whereby amendments and messages about the amendments are sent backwards and forwards between the two Houses until agreement is reached.

Once agreement has been reached, the Bill receives Royal Assent, becoming law when both Houses have been notified that Royal Assent has been granted.

3.4 Amendments

MPs can submit amendments, via the Public Bill Office (PBO), at three different stages of a bill: committee stage, report stage, and when a bill is returned from the Lords. Once the PBO accepts the amendment, it has been 'tabled'. If an MP wants to amend a bill during committee stage but is not a member of the committee, they will need a committee member to 'move' it for debate on their behalf.

In order to be debated, the amendment must be selected by the chair. Similar amendments may be grouped for debate to avoid repetition. For committee stage, selection and grouping is carried out by MPs from the panel of chairs chosen to chair the committee. If there is a Committee of the Whole House, the chair is the Chairman of Ways and Means (the principal Deputy Speaker). For report stage, it is the Speaker.

Amendments might not be selected for debate if they are, for example, outside the scope of a bill, vague, or tabled to the wrong part of a bill. The PBO can advise on whether an amendment is likely to be selected.

3.5 Further information on bill procedure

The [MPs' Guide to Procedure](#) has a [section on bills](#).

MPs who have questions about the procedure for bills or want advice on how to amend them should contact the [Public Bill Office](#).

The Library can provide information on the background and potential impact of a bill and of amendments but cannot help MPs with drafting amendments.

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