



## Factsheet: DWP's Information Gathering powers in the Public Authorities (Fraud, Error and Recovery) Bill

### What is the current policy?

DWP can compel information from a prescribed list of third parties in order to progress its investigations into suspected benefit fraud on an identifiable individual. Currently, DWP can only request information from a limited number of third parties. Where DWP does request information, this can be done by 'writing' or by 'visit' with little ability to enforce an electronic response. In addition, DWP can request information under the Data Protection Act 2018, but it is a choice for organisations to provide that information. As the nature of fraud has become more sophisticated, DWP cannot properly keep pace with the changing nature of fraud using this outdated framework.

This leads to the following issues:

- 1 Organisations often have to navigate multiple pieces of legislation, with the onus on them to work out how and whether to comply.
- 2 Variable responses as DWP is unable to compel evidence from some information holders that might assist DWP in proving or disproving suspected fraud.
- 3 DWP is reliant on outdated communication methods when conducting benefit fraud investigation making it harder for organisations to comply.
- 4 DWP is unable to compel evidence to support investigations into fraud on non-benefits payments made by DWP, such as grants.

### Policy intent

DWP wants modern information gathering powers – aligned with those held by other government departments and public bodies – to keep pace with offenders who exploit the social security system and improve access to information.

The updated information gathering powers seek to create a single, clear legal gateway so that DWP can compel information from third parties, making it more straightforward to respond, and enable that information to be provided digitally. This will create efficiencies for DWP and for business and help DWP to prove or disprove allegations of fraud quickly.



## How will it work?

This Bill will modernise and strengthen existing information gathering powers held by DWP to allow DWP's fraud investigators to compel relevant information from any third party when conducting a criminal investigation into a case of suspected fraud on an identifiable individual. For example, DWP may compel information from airlines to gain further information about someone's travel history as a part of investigations into suspected abroad fraud.

The Bill will create a single approach for gathering information from all information holders, unless that type of information is exempted, and allow for requests and responses to be received digitally.

The Bill also allows for these powers to be extended to any payment, credit, or grant administered and investigated by DWP, where fraud is suspected.

DWP's fraud investigators must only compel information that is relevant to the investigation from third parties who might reasonably be expected to hold the information. When a third-party information holder does not have the information requested, they should explain this and that they cannot comply with the information notice in their response.

To compel this information, DWP's fraud investigators must be Authorised Officers who (as is the case now) have been trained and accredited to investigate criminal matters.

It will create a single, legal framework to compel information from all information holders when a request is sent and ensure consistency in response amongst all information holders.

## Oversight and safeguards

DWP is committed to ensure these powers are used proportionally and effectively. The following safeguards are included in this measure:

- **Exemptions** - Information that is legally privileged or could lead to self-incrimination of the subject of the request, or their spouse or partner, is exempt from this obligation. Further exemptions will also apply in relation to very sensitive information such as medical records, and information that could cause potential endangerment to the subject of those requests.
- **Non-compliance with an information notice** - For DWP information notices, if an information holder does not have, or cannot provide the information requested, they must provide an explanation to the department. If the explanation is reasonable, no further action will be taken. However, in cases where an information provider fails to comply with their obligations without good reason, DWP will consider prosecution as a last resort.



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- **Independent inspections** - DWP will commission His Majesty's Inspectorate of Constabulary Fire & Rescue Services (HMICFRS) and His Majesty's Inspectorate of Constabulary in Scotland, to inspect the use of these powers which can include DWP's end-to-end investigation process. These bodies will carry out reviews and report on whether the use of powers is in keeping with the legislation, codes of practice and relevant guidance, as well as being effective. Ministers will publish that report and lay it in Parliament.
- **Investigatory Powers Act** - The DWP will continue to be required to follow the rules and regulations contained in the Investigatory Powers Act 2016 when processing any communication data, which includes all requests for the collection of communications data to be authorised by the Investigatory Powers Commissioner's Office (IPCO). Any incorrect use can be reported to the investigatory Powers Commissioner's Office, who will also carry out inspections of the use of the powers.
- **Code of Practice** - A new Code of Practice will be published which will be consulted upon before being laid in Parliament. This will govern DWP's updated information gathering powers and appropriate training will be provided for Authorised Officers who will be accredited to use them.
- **Digital Portal** - DWP will establish a digital portal for information holders to use to share information with DWP. The digital portal will make it simpler and safer for information providers to comply with their obligations. It will provide a route for making and receiving responses, allowing governance and audit of information notices issued.

### Key statistics

- In the UK in 2023/24, around 23,000 investigation outcomes were recorded, with 14,000 cases being referred to DWP investigators which could be supported by the information gathering powers<sup>1</sup>.

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<sup>1</sup> This data is sourced from internal DWP management information which is intended to help the Department manage its business. It has not been subject to the same quality assurance checks applied to published Official Statistics.

Investigations teams within DWP tackle fraud by delivering criminal sanctions against suspected benefit fraud on an identifiable individual.

The number of investigations opened in a specific year may not always be closed in the same year.

Cases are triaged before being referred to DWP investigators for an investigation. This triage process removes cases which would be unsuitable for a criminal investigation and targets work towards the highest potential savings.



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- In 2023/24, approximately 20,000 requests for information were made by Information Gathering Officers under DWP's existing powers in the Social Security Administration Act 1992<sup>2</sup>.
- As a result of this legislation, it is estimated that an additional 2,000 requests for information will be fulfilled each year. Obtaining more evidence will assist the Department with criminal investigations to prove or disprove fraud<sup>3</sup>.

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<sup>2</sup> <https://publications.parliament.uk/pa/bills/cbill/59-01/0167/ImpactAssessment.pdf>

<sup>3</sup> <https://publications.parliament.uk/pa/bills/cbill/59-01/0167/ImpactAssessment.pdf>