

[Line to be added in final version of Code when laid before Parliament & publish: This is a statutory Code of Practice which has been produced following a public consultation and is based on cross-government best practice. It has been approved by the Minister for the Cabinet Office (“The Minister”) and was laid before Parliament by the Minister on [date to be included].

Public Authorities (Fraud, Error and Recovery) [Act 2025]

PSFA Civil Penalties Code of Practice

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Disclaimer

This Code of Practice gives general guidance only and should not be regarded as a complete and authoritative statement of the law. If you do not understand any of the contents of the Code, the law, or any obligations or responsibilities you may have, you should seek independent advice.

Please note: This is a draft code, provided to the House of Lords in May 2025 to assist Members in considering the Public Authorities (Fraud Error and Recovery) Bill (“the Bill”). It should not be used or reproduced for any other purpose and should not be relied on for any purpose.

This Code will be subject to public consultation. This is planned for Autumn 2025. The final version of this Code will be issued subsequently.

The information contained in this draft Code of Practice is subject to further engagement and changes which may be made to the Bill. Before final publication, in accordance with the Bill as currently before Parliament, there will be a public consultation on a draft Code after which further changes may be made.

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1. Introduction

1.1 About this code

- This Code of Practice ('CoP' or 'Code') is issued **following Royal Assent of the Public Authorities (Fraud, Error and Recovery) Act 2025** ("the Act") which introduces a new civil penalties regime for fraud against the public sector.
- This Code provides further detail about how the civil penalty powers in the Act will be used. This Code explains how the Public Sector Fraud Authority's (PSFA) Authorised Officers will operate and make decisions relating to their powers to issue civil penalties.
- **Section 51** of the Act permits the Minister for the Cabinet Office ("the Minister") to impose penalties on a person if satisfied, on the balance of probabilities, that the person has carried out, or conspired to carry out, fraud in order to:
 - receive or help another person to receive a payment that is or, if the payment was not made, would have been, a recoverable amount
 - or with the result that a public authority is entitled to claim any other recoverable amount.
- **Section 51** of the Act permits the Minister for the Cabinet Office to impose penalties on a person if satisfied, on the balance of probabilities, that the person has
 - without reasonable excuse, failed to comply with a requirement imposed under Chapter 2 (investigatory powers) or Chapter 4 (methods of recovery) in the Act.
- **Section 63** of the Act requires the Minister for the Cabinet Office to issue a Code about:
 - the administration of penalties, including how decisions to issue penalties will be made;
 - how penalty amounts will be determined;
 - circumstances in which, and the extent to which, the Minister considers that it would be appropriate to discount the amount of a penalty as a result of cooperative conduct by the person on whom the penalty is imposed.

- This Code includes information on the use and application of information sharing and gathering powers and debt recovery powers as set out in the Act insofar as it is relevant to the use and imposition of penalties. Additional information on these powers will be set out in guidance published separately.

2. Procedural Rights

2.1 Procedural Rights

- The Act sets out the procedural rights of an individual or organisation on whom a penalty is imposed. These are stacked rights, meaning they must be accessed in a specific order, as set out below. These include the right to:
 - make representations (see section 9 of this Code).
 - request an internal review (see section 10 of this Code).
 - make an appeal (see section 11 of this Code).
 - request an extension to the specified deadline by which an appeal must be submitted (see section 11 of this Code)

3. Oversight

3.1 Oversight Function

- To ensure powers within the Act are used appropriately and as intended, **Section 65** of the Act requires that an Independent Person is appointed to carry out reviews of how they are exercised.
- The PSFA has created the role of **Independent Reviewer of PSFA Enforcement** to fulfil this statutory obligation. The Act further requires the Independent Reviewer to create reports on the findings of their reviews, including any associated recommendations for improvement, and issue these to the Minister. The Minister must then lay the reports before Parliament.
- Further guidance will set out more detail about the Independent Reviewer and how they will be supported by the PSFA.
- Further guidance will also set out the additional independent oversight which will be provided by His Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS).

4. Scope

4.1 Territorial Extent

- Part 1 of the Act extends to England and Wales.

4.2 Who is in the scope of penalties

- Civil penalties may be issued for any offence of fraud against the public sector that meets the civil standard of proof. This could result in penalties for individuals as well as organisations with a separate legal identity, such as businesses, partnerships, charities, and other associations.
- Individuals and corporate bodies may not be issued with more than one penalty for the same offence. Where a director or other officer of a company or other body can be identified (on the balance of probabilities) as being responsible for an offence that the company etc has committed, then the officer may be penalised in addition to, or instead of, the company.

Dealing with young people and protected parties

- As set out in the guidance from the Crown Prosecution Service, included within the definition of an individual are persons under the age of 18 but over the age of civil and criminal responsibility. In the context of this Code, they can be issued with a civil penalty if they commit an offence of fraud against the public sector. Also included are 'protected parties', which means someone who lacks the capacity to conduct proceedings themselves. There are special rules in civil proceedings to ensure that people under the age of 18 and protected parties are dealt with appropriately.
- PSFA will ensure that it follows all appropriate rules when dealing with young people and protected parties, in common with practice across government.

4.3 Offences for which penalties may be issued

- Section 74 defines "fraud" for the purposes of Part 1 of the Act. The definition covers:
 - the offences in sections 1 and 11 of the **Fraud Act 2006** (fraud and obtaining services dishonestly)
 - the offences in sections 6 and 7 of the **Fraud Act 2006** (possessing, making or supplying articles for use in frauds)

the offence at common law of conspiracy to defraud.

- When any of these offences are committed against a relevant England and Wales public authority, and can be proven to the civil standard, the offence can be penalised with a civil penalty.
- For section 6 and 7 offences, which may not by themselves have a financial value which may be used to calculate a penalty, the value will be that of any offence of fraud which takes place as a consequence of the section 6 or 7 offences being committed, either by the person or by another.
- For the conspiracy offence, a penalty may be imposed on any or all persons involved in the conspiracy. Penalties may be of different levels for each individual depending on the facts of the case as they pertain to the individual.
- It is not necessary for the fraud to have been successful for an offence to have been committed or for a civil penalty to be imposed. It is enough that the person or persons committed a guilty act intending that it would be successful (**see Section 51**). In such cases, a penalty may be imposed by reference to the amount which would have been defrauded. This amount may be estimated.

4.4 Distinguishing between fraud and error

- For an act to be fraud there needs to be a degree of dishonesty such that the false representation, omission or abuse of position is made knowingly and with the intention of defrauding a relevant public authority. Fraud can be asserted to the civil standard of having occurred on the 'balance of probabilities.' This is the standard of proof that has to be met in order to consider applying a civil penalty.
- Authorised Officers will distinguish between fraud and error:

Error occurs where inaccurate or incomplete information is provided, or incorrect processing of information is made that has a material outcome, such as the incorrect amount is paid, but where there is no suggestion of fraudulent intent.

Official error occurs where the correct information has been provided by the individual but this information has been incorrectly processed by an official.

Individual error occurs where an individual has provided inaccurate or incomplete information but there is no suggestion of fraudulent intent.

4.5 Categories of penalties which may be issued

- **Section 51** of the Act permits the Minister for the Cabinet Office to impose penalties on a person if satisfied, on the balance of probabilities, that the person has carried out, or conspired to carry out, fraud in order to:

receive or help another person to receive a payment that is or, if the payment was not made, would have been, a recoverable amount; or
with the result that a public authority is entitled to claim any other recoverable amount.

- Penalties may separately (Section 54) be issued for non compliance with a requirement imposed by or under:

Chapter 2 (investigatory powers) or

For example, a penalty may be issued for non-provision of information or for a failure to comply with an information notice.

Chapter 4 (methods of recovery)

For example, a penalty may be given to an employer if they fail to comply with a deduction from earnings order or to a bank if they fail to comply with a direct deduction order.

4.6 Applying penalties with retrospective effect

- Civil penalties may be issued for acts of fraud which occurred before this Act came into force but which were an offence contrary to the Fraud Act 2006, or the common law offence of conspiracy to defraud, at the time of the conduct. More detail is provided in Section 99 of the Act.

5. Authorised Officers

5.1 Authorised Officers

- Authorised Officers are designated individuals within the PSFA who are able to execute the powers given to them within this Act. Under **section 66** they are authorised by the Minister to:

decide to give a notice of intent under section 57(2)

decide to impose a penalty under section 51 or 60 (and to give a notice for that purpose under section 60).

5.2 Senior Authorised Officers

- When an internal review of an Authorised Officers decision is requested (**see Section 9** of this Code), this will be carried out by a Senior Authorised Officer. They are responsible for reviewing and approving the decision to give a notice of intent (section 57(2)) or to impose a civil penalty (section 51 or 54), including the amount. Senior Authorised Officers will 'review' by checking that the decision was made and executed correctly. Senior Authorised Officers will 'approve' by officially, and in writing, agreeing or accepting the decision as satisfactory.
- Assurance of this function is provided for by the **Independent Reviewer of PSFA Enforcement** (**see Section 64 and 65** of the Act). More information on this role will be provided in further, separate, guidance.

5.3 Professional Development

- Authorised Officers are required to undertake relevant counter fraud training and have the relevant qualifications to become members of the Government Counter Fraud Profession. Authorised Officers will be required to undertake continuous professional development and be held to a common ethical standard to maintain membership.
- This includes, but is not limited to, training on how to:
 - assess and impose a civil penalty reasonably and proportionately
 - how to protect the rights of anyone on whom a penalty is imposed
 - and how to ensure that vulnerable persons are treated fairly.
 - use of the debt recovery powers
- NB: the above training will not necessarily be delivered via the GCFP.
- Through being a member, Authorised Officers will have wider access to learning and development opportunities, and be able to take best practice from experts across the counter fraud community. You can read more about the Government Counter Fraud Profession [here](#).

5.4 When a case is referred to the PSFA

- The PSFA acts at the request of other public authorities via referrals. Allegations or suspicions of fraud may be referred to the PSFA by a public authority at any stage.
- The PSFA is not required to adopt every case. Each referral will go through a standardised case adoption process. This will be used as a support tool to inform decision making on whether to investigate or take enforcement or recovery action in the case.
- Factors which the PSFA will normally consider when adopting a potential case include (but are not restricted to):

the service required: including a review of relevance to the PSFA's Mandate and jurisdiction.

financial impact, case complexity, potential for asset recovery, and an initial assessment of the likelihood of a successful outcome.

impact on **public trust, frequency and spread** of the potential fraud, how **novel** the fraud mechanism is, **profile** of the fraudster (if known), **scalability**, suitability of the Enforcement Unit to adopt the case, **prevention of further harm**, contribution to a balanced portfolio of cases, and any other relevant factors or considerations.

- The PSFA will also undertake:

A vulnerability assessment: undertaken to assess whether vulnerable persons are involved in the case, and how they may be impacted by actions taken by PSFA during investigation, enforcement and debt recovery.

A risk assessment: undertaken to pinpoint risks or challenges that could impact the investigation or enforcement process.

A public interest assessment: Whether it is in the public interest to proceed with a case. There is no standard definition of 'the public interest' and this consideration may be different in each case.

- The PSFA will normally seek to decide whether to adopt a case within 28 days. If a case is not adopted, alternative action could include, but is not limited to:

Recommendations of **internal actions** that can be taken by the referring department.

Advice on fraud protection best practice.

Referral to another Government Department.

5.5 How will vulnerability be assessed?

The vulnerability of an individual will be taken into account throughout the case adoption, case assessment and investigation lifecycle, including decisions to pursue a criminal or civil justice outcome.

Authorised Officers will conduct vulnerability assessments at the start of all investigations. This will review any evidence of financial, social or personal vulnerability. The assessment will determine how best to engage with the person and impact subsequent enforcement action. Vulnerability will be kept under regular review as a case progresses and the vulnerability assessment will be regularly updated.

The PSFA has a strategy for dealing with vulnerable individuals. Staff will have access to the same central **Government Debt Management Function** training as all government departments and ALBs, ensuring staff are equipped to deal with vulnerable customers. The PSFA will adhere to cross government best practice in identifying, assessing and managing vulnerable individuals and align with existing government standards, including tools such as the **HMT Government Debt Management Function's (GDMF) Vulnerability Toolkit and the Economic Abuse Toolkit**, both of which were developed alongside the debt advice sector and local government. These products ensure staff are equipped to deal with challenging situations in the most appropriate manner.

Whilst the PSFA will use the information available to it to identify individuals who are vulnerable, an individual may not know they are under investigation. It will often be necessary to maintain this position in order to, for example, prevent the concealment or destruction of evidence. At whatever stage an individual is made or becomes aware they are under investigation by the PSFA, they will be invited to submit information related to their vulnerability, if applicable, including any complex needs or required additional support. PSFA will maintain procedures for receipt of disclosures (including via third parties).

Authorised Officers will be trained to recognise 'cues' that indicate individuals may need support, including:

individual factors: for example, passing mentions or reference to illness, disability or impairment, contact with the health sector or social care sector, reference to the receipt of specific benefits.

behavioural cues: for example, signs of anxiety, frustration, or confusion, requests for information to be repeated.

wider circumstances: for example, life events (such as time in hospital, bereavement, income shocks), unstable housing situations, signs of physical, verbal, mental or economic abuse. For more information on economic abuse

please see the [GDMF Public Sector Economic Abuse Toolkit](#)

organisational actions: reference by the customer to things that have or haven't been done that have caused difficulty.

Section 16.2 of this guidance sets out further detail specific to addressing vulnerability during the debt recovery process.

5.6 Vulnerability in interviewees

- PSFA Authorised Investigators may undertake investigative interviews with persons suspected of fraud. These may be voluntary interviews or interviews under caution. [PACE Code of Practice C](#) sets out a definition of 'vulnerable person' for the purposes of such activity and provides guidance on safeguarding the rights, entitlements and welfare of such persons. The definitions are provided below. PSFA will follow this approach in the circumstances where it is appropriate to do so.
- <https://www.gov.uk/government/publications/pace-code-c-2019>
 - 'vulnerable' applies to any person who, because of a mental health condition or mental disorder
 - A person may be vulnerable as a result of having a mental health condition or mental disorder. Similarly, simply because an individual does not have, or is not known to have, any such condition or disorder, does not mean that they are not vulnerable for the purposes of this Code. It is therefore important that the custody officer in the case of a detained person or the officer investigating the offence in the case of a person who has not been arrested or detained, as appropriate, considers on a case by case basis, whether any of the factors described in paragraph 1.13(d) might apply to the person in question. In doing so, the officer must take into account the particular circumstances of the individual and how the nature of the investigation might affect them and bear in mind that juveniles, by virtue of their age will always require an appropriate adult.

6. Information Powers

- Chapter 2 of the Act sets out the information which the PSFA may collect, obtain and share. It also sets out a series of requirements for individuals to follow. If individuals subject to the powers within Chapter 2 do not comply with these requirements, then a non-compliance penalty may be issued.

7. Penalties for Fraud

- The PSFA will treat each case of suspected fraud on its own merits, assessing the facts to decide on an outcome that is fair, proportionate and best enforces the law.

7.1 Determining if a case meets the civil standard of proof

- If a case is adopted, it will be assessed and actioned by the PSFA. All investigations will start with the presumption that they may have a criminal justice outcome. Any case which remains a criminal case will be developed to the criminal standard of proof. The PSFA may investigate these or other Fraud Act offences with a view to seeking criminal prosecution. To prove fraud to a criminal standard there needs to be a high degree of proof, such that an act or omission is proved 'beyond reasonable doubt'.
- PSFA is one of a number of government departments and agencies which issues monetary penalties to the civil standard.
- The PSFA may decide to seek a prosecution or impose a civil penalty, but it may not do both. Civil penalties may be issued where a case cannot be proved 'beyond reasonable doubt' but instead reaches the civil standard of proof, i.e. 'on the balance of probabilities' it is more likely than not that an event occurred. It is the responsibility of the Authorised Officer to develop evidence which meets the civil standard of proof in order to issue a penalty.
- The civil standard of proof is tested by assessing the evidence developed during the investigation. This is an ongoing process. Every case is different, and there is no 'standard test'. Assessment of whether a case meets the required civil standard of proof is informed by the professional experience, expertise, judgement and objectivity of an investigator, based in law, which will be tested by senior officers and legal advisers.
- A case meeting the required standard of proof will not immediately or automatically lead to action. Other factors may be considered in the decision on what action to take, including public interest, the vulnerability of the person, and resourcing requirements.
- The PSFA will follow the below general principles when assessing the standard of proof:
- each case will be considered on its own facts and on its own merits.

the investigation and the investigators must be fair and objective, not influenced by personal views or outside considerations, and even handed in the approach to every case.

Authorised Officers will seek advice as appropriate from subject matter experts, legal advisers, and specialists to ensure they understand the

evidence, and be sure that the required civil standard of proof has been met.

Authorised Officers will protect the rights of anyone involved in a case.

This includes the right of a person not to incriminate themselves.

- When assessing evidence to determine whether the civil standard is met, PSFA will consider a number specific factors, including, but not limited to:

the strength and persuasiveness of the evidence

whether all the elements of the offence are present

the credibility of witnesses

whether the evidence is legally permissible and relevant to the issue

the qualifications, methodology, and reliability of expert witnesses.

7.2 Establishing the loss or benefit

- As a penalty amount for fraud is determined by the loss to the public authority or the benefit gained by the fraudster, the PSFA will establish this amount (which may be estimated) before beginning a penalty calculation.
- There are several methods by which an amount can be established, including:
 - **voluntarily**, by accepting PSFA's determination of an amount
 - through a settlement or dispute resolution agreement, in which an amount is agreed
 - through **insolvency** proceedings
 - by bringing or continuing **proceedings in a court or tribunal** to establish an amount
 - further to proceedings brought by others, where an amount has been established
- In any discussion or proceedings to establish an amount, the PSFA acts on behalf of the public authority which has been defrauded.

7.3 How fraud penalty levels will be calculated

- Penalties for fraud are determined by reference to the financial loss suffered by the public authority or the benefit gained by the person or persons committing or involved in the fraud offence (**see section 8**). The maximum penalty allowed for a fraud offence is 100% of the value of the loss caused to a public authority or, if higher, the **benefit** gained by the person, as a result of the

fraud in question. A penalty can be any amount up to and including that percentage. Further information on how the level of penalty will be determined is set out below. An example of the latter is interest accrued from money fraudulently obtained from a public authority which has since been invested. This 'interest' is distinct to the interest that will be applied by the PSFA, as set out in section 13.3 below, which includes, but is not limited to, interest applied to late payments.

- As the PSFA tackles a range of fraud types carried out against public authorities, each case will be different. Each penalty imposed will therefore be bespoke to the case and PSFA will seek to impose a penalty level which is a reasonable and proportionate response to the circumstances of the case. The way that a penalty is calculated will be the same for all penalties imposed.
- In this Code:
 - **'reasonable'** means an ordinary reasonable person would regard the proposed penalty as appropriate to the offence
 - **'proportionate'** means there is a relationship between the value of the proposed penalty and a holistic assessment of all the other factors present in the case. It does not mean a proportion of the value of the defrauded amount.
- The level of penalty will be decided by reference to a variety of factors observed in the case, including
 - Total amount of loss
 - Length of offence
 - Impact on public authorities, including the targeting of emergency funding
 - Impact on funding streams
 - Offender behaviour, including enabling others to commit fraud and holding a position of trust
- Any other relevant factor, including mitigating and aggravating factors
 - These factors will be weighted into low, medium and high ranges depending on the facts, which may militate toward a lower or higher penalty. The PSFA will take a balanced view to determine a position on the case overall.
 - An example of how one of the above factors may be assessed is provided below. Further guidance will be developed to support Authorised Officers in their assessment of a reasonable and proportionate penalty level. **This is indicative only and will be dependent on all the circumstances of the case.**

Factors to be taken into consideration when determining the penalty level	'Low' penalty 0-25%	'Medium' penalty 25- 50%	'High' penalty 50-75%	'Maximum' penalty 75%- 100%
<p>2. Offence assessment (length of offence):</p> <p><i>how long did the offence go on for? Was it a one off attack on public funds or have multiple attacks occurred?</i></p>	E.g. one off grant or loan taken by individual	E.g. one off procurement fraud, invoice inflation by an individual/company for a short time period	E.g. multiple frauds e.g. against the NHS for a sustained period of time	E.g. multiple previous complex offences for fraud, significant evidence of sustained intent to defraud multiple public sector organisations

- Once all factors have been assessed, Authorised Officers will identify the prevailing penalty category. For example, if a case scored 6 'maximum', 1 'high' and 0 'medium' gradings, it could be categorised as suitable to receive a maximum penalty (75-100% of the fraud). Whereas if a case scored 2 low, 4 medium and 1 high, it may be classed a medium. Cases which do not have an easily identifiable prevailing category will be put to the Enforcement Unit's Senior Leadership team for discussion and additional guidance.

7.4 Notices of intent

- Before imposing a monetary penalty on a person for fraud the PSFA will inform the person of its intention to do so via a written '**notice of intent**' (see **Section 59** of the Act) which will:
 - explain the **reasons** for imposing the penalty
 - specify the **penalty amount** and how it has been calculated
 - explain that the person is entitled to make **representations**, and specify how long they have to do so
- The notice will explain the reasons for the monetary penalty by summarising the case in enough detail to explain why a penalty is appropriate and allow the

person to make meaningful representations. The statutory minimum period in which representations can be made is 28 days but PSFA may in certain circumstances allow more time.

8. Representations for fraud civil penalties

8.1 Procedural rights

- **Section 57 of the Public Authorities (Fraud, Error and Debt) Act 2025** creates procedural rights for any person on whom a penalty is imposed. This includes the right to make representations to the PSFA before a penalty is imposed.
- A person or organisation may make representations about **any relevant matters** before a penalty is imposed. These may include, for example, matters of law, the facts of the case, interpretation of the facts, how the Enforcement Unit has followed its processes, and whether the penalty is reasonable and proportionate.
- The PSFA may consider but disregard representations that are irrelevant. If a representation is disregarded, the PSFA will explain why in the response returned to the individual or business within 5 working days from the date the representation is received.
- Representations must be in writing and should seek to summarise all points that the person wishes to be taken into account, explain why these points are relevant and how the person expects these points to affect a case decision or penalty level. Representations should also include evidence for any assertions of fact and provide copies of supporting documents as required, with relevant sections highlighted as appropriate. Representations must be made via email to enforcementinvestigations@cabinetoffice.gov.uk
- In-person representations will not normally be allowed but may be considered. It is entirely PSFA's decision whether to agree to in-person representations. If a party feels that they are disadvantaged by being unable to make representations in person they may communicate this to the Enforcement Unit, including any vulnerability declarations and considerations as set out in sections 5.5 and 5.6. PSFA will document any in-person representations, which may include recording any conversation, and require the person to agree that the record is accurate and reflects their intentions before accepting them.
- Representations may be made by the person penalised or a representative or agent. Written evidence is required that a representative or agent has been

properly appointed before communicating with them about the person's affairs. The PSFA will not normally consider representations by a third party unless they form part of the representations made by the person penalised or their agent or an appropriate person in the case of a vulnerable individual. Individual vulnerability will be considered on a case by case basis in accordance with public sector duties under the Equality Act 2010. This ensures the PSFA only takes into account representations that the person or organisation facing the penalty wants to be considered.

- If representations are made, the Enforcement Unit will consider them and review both the case assessment and the monetary penalty level in light of them. Potential outcomes include:
 - reaffirming the decision to impose a penalty,
 - imposing a penalty but changing the proposed penalty amount
 - deciding not to impose a penalty
- The PSFA will write to the person or their representative with a final assessment, taking into account the representations.
- If the assessment means a penalty will still be imposed the decision letter will include advice on the person's right to seek an administrative review. If no representations are made within the specified period, the penalty is finalised via the issue of a penalty decision notice. If an internal review is not requested upon receipt of this notice during the specified time period, then the penalty becomes payable as specified in the final penalty notice.

8.2 Time periods for representations

- A recipient has a minimum of 28 calendar days to make written representations beginning with the day after the day on which the notice is given. The PSFA will not normally accept late representations. Persons or their representatives may ask for an extension and must provide evidence to support that request.
- The PSFA will normally consider and respond to representations after the final date of the period for making representations. It will normally aim to do this within 28 calendar days, however the period may be extended if this is necessary to ensure a fair assessment of the representations. PSFA will inform the person of any extension and will respond as soon as they are able.
- The PSFA will ensure that timeframes are commensurate with the circumstances of the individual case and strike a balance between affording an individual or business sufficient time to make a representation and preventing fraudsters from deliberately prolonging and frustrating investigations.

8.3 Penalty decision notices

- If no representations are made within the minimum period of 28 days following a notice of intent, a penalty decision notice will be issued. This will:
 - inform the recipient that a penalty will be imposed
 - confirm the amount of the penalty
 - explain the reasons for the penalty being that amount
 - explain that the recipient may apply for an internal review of the decision within 28 days, beginning with the day on which the decision notice is given
- If an internal review of the decision is requested, the penalty may not be imposed until after a review has been carried out. If no such review is requested within the specified time period, the penalty may be imposed and becomes payable within the time frame specified in the final penalty notice. **See section 9** of this Code on how to request an internal review.

9. Internal Reviews of fraud civil penalty decisions

9.1 Process

- This is the first line of appeal against a civil penalty once representations have been made. In order to access the later right of appeal to the appropriate court or Tribunal, the person must first access this right of review. If they do not do so within the available time scale they cannot then appeal directly to the relevant court.
- The internal review will be conducted by an Authorised Officer of a higher grade than the Authorised Officer who made the decision, or by the Minister personally. The review is not a reinvestigation of the case. It is to assess whether, based on the information available at the time, including any representations received, the decision to impose a penalty was reasonable.
- A person has 28 days to request a review, beginning with the day after the day on which the decision notice is given. They can request an extension to the timeframe in exceptional circumstances, and the PSFA will consider such requests on a case-by-case basis.
- The request must include:

- a statement that the person wishes to use their right to seek an administrative review
- a summary of why they seek the review
- The review will not normally be a way of introducing new material, and no further material is required from the person. It reviews the decisions the PSFA has taken based on the material that has been used to assess the case, after the person has had an opportunity to introduce any material they wish to at the representations stage.

9.2 How internal reviews will be conducted

- Internal reviews will be conducted by an Authorised Officer who is more senior than the Authorised Officer who issued the penalty notice. The senior Authorised Officer will have access to all material used to investigate the case and determine the penalty. The senior Authorised Officer may require clarification on existing materials or information related to the case.
- The PSFA will aim for most reviews to be concluded within 2 months. However, this period may be extended if required.
- After reviewing the case, the senior Authorised Officer will make a decision. This may be that:
 - the decision to impose the penalty and its amount is upheld
 - the decision to impose the penalty is upheld, but a different amount is substituted
 - the decision to impose the penalty is cancelled.
- This decision will be communicated in writing to the person. If the penalty is upheld, at the original or a different amount, **the penalty is finalised and becomes payable within the specified time frame.**

10. Appeals for Fraud Penalties

10.1 How to appeal a penalty notice

- Once an administrative review has concluded, the penalty can be appealed to the Tribunals. An appeal must normally be made in writing and received by the appropriate court or First Tier Tribunal no later than 28 days after a penalty notice was given beginning with the day after the day on which the Minister complies with section 59(3) of the Act. However the Tribunal retains

its existing right to extend this timeframe.

- The Tribunal Procedure Rules, as amended following the passage of this Act, set out what must be stated in the notice of appeal, and what must be provided with the notice of appeal:

<https://www.gov.uk/government/publications/general-regulatory-chamber-tribunal-procedure-rules>

- The PSFA does not control the process of the appeal, which is a matter for the Tribunal.
- The court or appropriate Tribunal may:
 - uphold the penalty notice
 - revoke the penalty notice
 - vary the amount of the penalty notice

11. When penalties for fraud may not be applied

11.1 Process

- Penalties will **not** be issued in the below circumstances, this is not an exhaustive list:
 - in response to cases of administrative error - for example where a payment is incorrectly sent because of a system or human error within a public authority
 - in response to cases of individual error - for example an individual made an honest mistake when completing a form or application for a grant they were entitled to
 - as an alternative to criminal prosecution - meaning that a person cannot avoid being prosecuted by agreeing to accept a penalty. PSFA cannot use the threat of prosecution to pressure acceptance of a penalty.
 - in cases where an Authorised Officer determines it is not appropriate to issue a penalty for fraud or non compliance based on all contributing factors of an individual case, including ongoing assessment of vulnerability, and in accordance with the Public Sector Equality Duty.
- An error made by any public authority in an individual or organisation's favour does not entitle them to retain any amount paid in error. They should take

steps to redress any error as soon as they become aware of it. Any erroneously paid amount may be reclaimed either by the public authority that made the error or by the PSFA acting on their behalf, or through other means.

12. Penalty Reduction

12.1 How penalty reductions will be applied

- Co-operation is a sign of good faith and makes enforcing the law simpler, easier, quicker and more effective. The outcome of co-operating with an investigation and admitting wrong-doing is likely to be significantly better for the individual or organisation than not doing so.
- A person who fully co-operates with an investigation into their fraudulent behaviour may receive a reduced penalty. This is entirely within the PSFA's discretion and dependent on all the circumstances of a case. A decision to offer a reduction for co-operation will be taken after the PSFA has decided not to seek criminal prosecution, but otherwise can be taken at any stage of the investigative process.
- Penalty reductions may be set at any level and will be applied after a penalty is calculated as set out above, but will normally be no more than 50% of the calculated penalty.
- A reduction is subject to the individual or business completing the following steps:
 - **providing full disclosure** of any and all fraudulent activity against the public sector
 - **accepting** the facts as presented
 - **repaying** the sums defrauded
 - **accepting** a penalty
- The person will be required to sign a certificate of full disclosure certifying that they have fully completed this process. If a person is subsequently found not to have fully disclosed all fraudulent activity, the certificate may be used as evidence in any subsequent investigation.
- The PSFA will ask a person who is co-operating with an investigation to provide information and documents that are needed for the investigation. The person will be given a reasonable amount of time to provide this and all disclosures are made on a voluntary basis.
- The PSFA expects the individual or business to ensure that any information

and answers provided are correct. If at any point they are uncertain about the process or what is being asked then the individual or organisation can contact the PSFA for further guidance. It is important that all the relevant facts and information are provided upon request to assist the PSFA in concluding the investigation.

- If a co-operating person withdraws co-operation at any stage, the PSFA may exercise its discretion as to whether any reduction should be applied to any subsequent penalty. Information provided may be used by the PSFA for the purposes of continuing the investigation.

13. Penalties for non-compliance

13.1 When non-compliance penalties will be applied

- Unlike penalties for fraud offences, which are related to the financial value of the fraud, penalties for non-compliance with requirements under **Chapters 2 and 4** of this Act are fixed financial values:
 - non-compliance with a requirement to provide information imposed under Chapter 2 or 4: a **daily rate of £300**
 - non-compliance with any other requirement imposed under Chapter 2 or 4: **fixed penalty of £300**

13.2 Procedural Rights

- For non-compliance civil penalties, the same procedural rights apply as set out in **sections 9, 10 and 11**.

13.3 Calculating and applying interest to civil penalties

- Interest may be applied to late payment of civil penalties, including for penalties for non-compliance with requirements under **Chapters 2 and 4** of the Act. Compound interest will not apply. Upon receiving a notice of intent and/or penalty notice, individuals will be made aware of the application of interest rates for late payments. Interest will be applied from the day after the day on which a penalty notice was due for payment.
- Interest is charged on a daily basis. The late payment interest rate applicable to a day in the interest period is the percentage per year found by adding 2.5 to the Bank of England rate applicable to the day. This means, for example, if the Bank rate of interest is 3.5%, the interest charged will be 6%.

- The PSFA will build in safeguards to ensure that interest is not allowed to accrue to disproportionate levels and that penalties are paid promptly. This may include the powers in **Chapter 4** of the Act to recover debts.

13.4 How we will contact individual or organisations if we issue a penalty

- The PSFA acts as an agent for other public authorities. The PSFA will only issue letters to individuals and organisations to request further information, engage in legal process, and to collect monies owed to His Majesty's Government.
- Information about our contact with you may be found at the PSFA website <https://www.gov.uk/government/organisations/public-sector-fraud-authority>. Anyone who receives a letter about a penalty will be able to verify its authenticity. Individuals or organisations should check if their letter is real using the information on our website.
- Letters are available in accessible formats. If an individual requires an alternative format because they are, for example, visually impaired or have any other condition which makes standard print difficult they can email us at enforcementinvestigations@cabinetoffice.gov.uk and outline their requirements.
- When a letter is received, the recipient should email the following address, enforcementinvestigations@cabinetoffice.gov.uk. The subject heading of the letter should read as their name stated on the letter followed by the reference number in the top right hand corner of the letter. (Example subject line: Joe Bloggs 12346). The team will confirm receipt, following which they will respond to the email.

14. What if an individual or organisation thinks there's an error or mistake

14.1 Safeguards

- The PSFA has robust safeguards and processes in place to prevent error and mistakes. If an individual or organisation believes an error or mistake has been made, they must inform the PSFA straight away in writing, detailing the error or mistake and providing any evidence necessary to enable us to rectify the situation.
- Further information regarding the safeguards in place for this power can be found within Chapter 7 (Penalties for Fraud), Chapter 8 (representations for fraud civil penalties), Chapter 9 (internal reviews of fraud civil penalty decisions) and Chapter 10 (Appeals for Fraud Penalties).

14.2 Data - How to make a complaint

- If an individual considers that their personal data has been misused or mishandled, they may make a complaint to the Information Commissioner, who is an independent regulator. The Information Commissioner can be contacted at:

Information Commissioner's Office	Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF Telephone: 0303 123 1113 Email: icocasework@ico.org.uk
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- Any complaint to the Information Commissioner is without prejudice to the right to seek redress through the courts. The data controller for personal data is:

Data controller for personal data	Cabinet Office 1 Horse Guards Road London SW1A 2HQ
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- The contact details for the Data Protection Officer (DPO) at the Cabinet Office are: dpo@cabinetoffice.gov.uk. The Data Protection Officer provides independent advice and monitoring of the Cabinet Office's use of personal information.

15. Payment of penalties

15.1 How to pay a penalty

- Details of how to pay a penalty will be provided to an individual within correspondence issued by the PSFA.

15.2 Payment of recoverable costs incurred

- The Act enables the PSFA to recover costs incurred as part of recovering debts, including the recovery of the civil penalty and late payment interest. PSFA will normally seek to recover reasonable costs - this might include, where relevant, any costs involved in establishing a debt through the courts, and may include other reasonable costs. These may be consequent to a costs order made by a court. It will not include the day to day running costs of the PSFA, including the costs of conducting the investigation.
- The PSFA will seek the payment of any reasonable costs at an appropriate point in the case. This will normally be at the end of the case. To ensure that an individual or organisation understands what they are being asked to pay and why, any demand to pay relevant costs will be made separately from or alongside any penalty notice, not as a total payment.
- As with all penalties and payments, PSFA will consider the vulnerability of the individual before seeking to recover (**see section 16.2**).

16. Unpaid penalties

16.1 Payment Periods

- Individuals and organisations have 28 days to comply with penalty notices for fraud and non-compliance. If the individual or organisation requests a review and/ or makes an appeal, as set out in the legislation and this guidance, once these timeframes have elapsed, and depending on the outcomes, payment is due.
- Unpaid civil penalties are liable to accrue interest, as detailed in **section 13.3**

of this guidance. Unpaid civil penalties will not result in custodial sentences. If payment is not made, the PSFA will use its debt recovery powers to recover unpaid penalties and interest, or take alternative debt recovery action.

16.2 How civil penalty debts will be recovered

- A civil penalty becomes a debt owed to government once:
 - the deadline for payment has passed, and
 - the time for appealing against the penalty has passed without an appeal being brought, or
 - an appeal against the penalty has been finally determined.
- In these circumstances, the PSFA can use the debt recovery powers in Chapter 4 of the Act to recover the debt. These powers are:
 - **Deduction from Earnings Orders** (DEOs) for individuals in PAYE employment;
 - **Direct Deduction Orders** (DDOs) will be issued to banks to recover money from bank accounts.

DDOs can either be:

- **Lump Sum Direct Deduction Orders** (LSDDO) for specified amounts from bank accounts;
 - **Regular Direct Deduction Orders** (RDDOs) for regular deductions from the liable person's accounts.
 - **Recovery order** via the county court.
- The PSFA will choose the method of recovery most appropriate in the circumstances of each case and efforts to secure voluntary repayments will be sought before the debt recovery powers are used. Throughout the debt recovery process, the PSFA will provide ample opportunity for individuals to voluntarily engage in affordable repayments.
 - The PSFA will ensure that the vulnerable or those in hardship are protected as set out previously in **section 5.5 of this guidance**.
 - For further information on the debt recovery process, including:
 - rights to representations, internal reviews and appeals
 - safeguards, vulnerability and affordability considerations
 - please refer to the specific debt recovery guidance published separately.

16.3 Additional Costs

- In line with existing approaches across government, an individual may be charged by their bank or employer for complying with a recovery order. This is to cover the bank or employer's reasonable administrative costs. The amounts will be set out in regulations and further information will be provided in the separate debt recovery guidance.

17. Managing overpayments

17.1 Overpayments

- There are robust safeguards and processes in place to prevent overpayments of civil penalties and debts owed. All incoming payments will be monitored on a regular basis. However, should an overpayment occur, it will be detected, assessed and rectified. A liable person must also inform the PSFA that they have made an overpayment, and the situation will be assessed. If a liable person has made an overpayment, they will be contacted to rectify the situation as soon as possible.

18. Information & Record Management

18.1 How data will be processed

- The PSFA complies with the [Data Protection Act 2018](#). This sets out the principles for the fair and lawful obtaining, recording, use and security of personal information. The act works in two ways:
 - it gives individuals certain rights
 - it ensures that the PSFA is open about how information is stored and used.
- A copy of the PSFA Enforcement Unit's Privacy Notice can be found [here](#). This notice sets out how the Unit, which is part of the Cabinet Office, will use personal data, and an individual's rights in relation to that data.

18.2 Complaints

- The Cabinet Office has an established process that enables individuals who have a grievance about the conduct of PSFA staff or their treatment to raise a complaint. Information on how to make a complaint can be found [here](#). A complaint can be made using the [online contact form](#) or by post using the address provided. The right to make a complaint is separate to, and does not impact, an individual or organisation's rights to representation, review and appeal in respect of civil penalties as laid down in the Act and detailed in this Code of Practice.
- Should a complainant remain dissatisfied following the outcome of the Cabinet Office complaints procedures they may raise this with their Member of Parliament. The Member of Parliament may then raise this with the Parliamentary and Health Service Ombudsman, who considers complaints where someone believes there has been injustice or hardship because an organisation has not acted properly or has given a poor service and not put things right. The Ombudsman's [website](#) explains how they may be contacted.
- The Act also provides for the Independent Office of Police Conduct to be appointed to deal with serious complaints in respect of PSFA's use of PACE powers. PSFA will refer themselves to the IOPC should there be a serious incident during the course of an investigation. IOPC defines a serious incident as something which causes serious injury or death to a member of the public. However, any law enforcement agency within the scope of the IOPC, or members of the public, can make a report via the IOPC if they have concerns regarding investigators conduct. This can be done [here](#).

19. Glossary of Terms

Arm's-length bodies (ALBs)	A specific category of central government public bodies that are administratively classified by the Cabinet Office. There are three types of ALB: An executive agency, a non-departmental public body and a non-ministerial department.
Authorised Officer (AO)	A designated individual within the PSFA who is empowered to execute specific duties such as information gathering and fraud investigation
Civil Penalty	A financial penalty imposed administratively by the government or a public authority, or in civil proceedings by a court, to punish misconduct or as restitution for wrong doing. A civil penalty does not result in or follow conviction for a crime.
Civil Standard of Proof	A standard of proof used in civil cases which requires that the evidence shows something is, on the balance of probabilities, more likely than not to have occurred.
Debt Recovery	The process of pursuing payments of debts owed by individuals or businesses.
Deduction from Earnings Order (DEO)	An order used to recover debts directly from an individual's earnings through their employer.
Direct Deduction Order (DDO)	An order used to recover debts directly from an individual's bank account through their bank
Fraud Act 2006	Legislation in England and Wales that defines the statutory offences of Fraud.
Legal and Natural persons	Under this legislation 'a person' is both a legal and natural person and therefore includes individuals and businesses. A natural person is an individual human being. Legal systems can attach rights and duties to natural persons without their consent. A legal person is an entity that is treated as a person for legal purposes. Legal persons can be private, such as a business entity or non-governmental organisation, or public, such as a government.

Liable Person	An individual or entity determined to be responsible for a debt or penalty, such as those arising from fraud or misclaimed funds.
Lump Sum Direct Deduction Orders (LSDDO)	A type of Direct Deduction Order that allows for the deduction of a specified amount from a debtor's bank account.
Overpayment	An amount of money received by a person or entity that exceeds what they are entitled to.
Regular Direct Deduction Orders (RDDO)	A type of Direct Deduction Order that allows for regular deductions from a debtor's account to recover debts.
Subject Access Requests (SARs)	A legal right that allows an individual to ask an organization for a copy of their personal data that the organization holds, including details about how that data is being used and who it is being shared with
Tribunal	A type of court that has the authority to adjudicate legal disputes and administer justice in specific areas such as employment, immigration, and civil penalties.
Information Holder	A person or organisation who holds information relevant to progressing an investigation.
Information notice	A notice compelling a first and/or third party to provide information relevant to an investigation.
Legal Professional Privilege	Protection given to confidential communications between a legal advisor and their client.
Public Authority	A body that performs public functions