



Department
for Work &
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Viscount Younger of Leckie
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Dear Viscount Younger,

Public Authorities (Fraud, Error and Recovery) Bill – Volumes of potential court cases

During the fifth Committee debate on the Public Authorities (Fraud, Error and Recovery) Bill on the 18th June, I promised to write to you on a number of queries you raised in relation to the Bill. I set out my response to your queries below which I hope you will find helpful.

People who may find themselves destitute after committing benefit fraud including what support might be available from the Household Support Fund (HSF).

At Committee, in the context of Direct Deduction Orders, you asked about what support is available for someone who, owing money to DWP having committed fraud, now finds themselves destitute and in need of help. As you know, [the HSF](#) is a scheme for Local Authorities in England to provide discretionary support to vulnerable households in the most need.

The primary objective of the HSF is to provide crisis support to vulnerable households with the cost of essentials and we encourage Local Authorities to consider how this provision of crisis support could have a longer-term, sustainable impact. The secondary objective of the HSF is to provide preventative support to prevent vulnerable households from falling into, or falling further into, crisis.

The scheme covers a wide range of low-income households in need, including households with pensioners, children of all ages, unpaid carers, care leavers and disabled people, larger households, single-person households, and those struggling with one-off financial shocks or unforeseen events. Since October 2022, there has been no ring-fencing of funding for certain groups.

Local Authorities have the discretion to design their own local schemes within the parameters of the guidance and grant determination that the Department for Work and Pensions have set out for the HSF. This is because they have the experience and the relationships to determine how best to support those in their local areas. Local Authorities have the flexibility to design and deliver the scheme through a variety of routes, including offering vouchers to households, directly providing food, or issuing grants to third parties to deliver support on their behalf.

HSF is not limited to those in receipt of benefits. Authorities have the flexibility to identify recipients of support and apply their own discretion when identifying eligibility and how they may support those facing destitution in their local area.

Turning to the Direct Deduction Orders themselves, the Bill is clear that the direct deduction order must be fair in all the circumstances and must not cause hardship in meeting essential living needs to the account holder, their household or anyone financially dependent on them (see section 6 of the new Schedule 3ZA inserted into the Social Security Administration Act 1992, inserted by Schedule 5 of this Bill). The legislation contains several strong safeguards to ensure this.

Firstly, where a Direct Deduction Order is necessary, deduction amounts will be initially calculated following an affordability assessment based on bank statements in line with, where appropriate, the principles set out in the Standard Financial Statement. (This is a tool used in the UK debt advice sector to assess an individual's financial situation, including income, expenses and debts and that incorporates spending guidelines for categories of reasonable living expenses.) The debtor's essential living costs, such as housing and utilities, will be taken into consideration when determining the amount to be deducted. The debtor and, where appropriate any other account holders, will be notified of the proposed terms of the order before any deductions are taken and they are able to make representations to DWP on the proposed terms of the order including where they consider the amount proposed is not affordable. Should they still disagree with DWP's assessment, they can appeal the matter to the First-tier Tribunal. The Bill also sets out the maximum amounts that can be deducted for regular deduction orders, to protect individuals from excessive deductions.

In addition to affordability safeguards, checks on vulnerability will also be carried out at various stages of the debt recovery process and, where vulnerable individuals are identified, the necessary support and adjustments will be put in place. DWP Debt Management staff receive regular vulnerability training and have access to guidance and tools to help recognise signs of vulnerability to offer the appropriate support. DWP also has a specially trained Advanced Customer Support team with access to a range of tools and guidance to support our most vulnerable customers

All debt recovery notifications include a prominent referral to sources of independent debt advice, money guidance and organisations who can support the individual in their engagement with DWP. These communications also actively encourage those who are struggling with repayments to contact the Department's Debt Management team to discuss their circumstances.

Likely number of cases that could end up going to the courts if the Bill were amended, as proposed at Committee, to require court approval for a Direct Deduction Order.

In respect of the number of cases that could end up going through the courts if the Bill were amended to require court approval for Direct Deduction Orders, it is worth noting these orders are not new powers to government. They already exist in a similar form, albeit, used in different contexts, such as by HMRC (under Schedule 8 of The Finance (No. 2) Act 2015) and the Child Maintenance Service (under Part 3A of The Child Support (Collection and Enforcement) Regulations 1992). Deduction Orders under HMRC and CMS powers do not require court authorisation. We have sought to emulate these powers where possible and learn from best practices.

Based on data from CMS and HMRC, if our experience of using the powers proves analogous, we would expect to make between 5,000 and 20,000 Direct Deduction Orders annually. Each of these would require court approval, were Amendment 102 debated in Grand Committee made. The number of proceedings could be higher if any amendment required court approval of other functions, such as varying or resuming a Direct Deduction Order.

Operational Process for Eligibility Verification Measure and Information Gathering

Eligibility Verification Measure

With regard to the operational processes for the Eligibility Verification Measure (EVM), as outlined in Committee, the Department will adopt a Test and Learn approach to the implementation of EVM. This approach will commence once the relevant powers in the Bill have come into force and is expected to run for approximately 12 months.

During this period, we will work in close partnership with a smaller number of banks and other financial institutions initially. This phased approach will ensure the delivery model is refined, help identify processes that can be improved and allow these improvements to be addressed and resolved as quickly as possible. Following this initial phase, the measure will be gradually rolled out across all relevant financial institutions, ensuring the safe and effective implementation of the new processes.

The EVM will require banks, and other financial institutions to examine their own datasets and provide data to help DWP identify where someone may not be meeting the specific eligibility criteria of a benefit through issuing Eligibility Verification Notices (EVNs).

EVNs will include the eligibility indicators which are the criteria that can help identify whether a specified benefit is/was paid incorrectly. For example, an individual cannot hold £16,000 in savings (capital) and remain eligible for Universal Credit (unless the capital is a result of a specified exception). The legislation makes clear that DWP will receive limited data from the financial institution if an account/accounts meet an eligibility indicator. Financial institutions will be required to provide:

- Information about the accounts that have been identified, for example, the sort code and account number;
- Information about the account holder, e.g. name and date of birth, to enable identification within DWP's systems;
- Details about how the account(s) meet the eligibility indicators.

A significant number of safeguards have been built into the Bill to ensure these powers are used proportionately and effectively. This includes potential penalties for banks and other financial institutions for oversharing of information, such as providing transaction data. Where further inquiry is warranted, DWP will use its existing business as usual processes and systems to confirm a person's benefit eligibility and, in cases of fraud and error, a human will make any decision affecting benefit entitlement.

Importantly, DWP will not any receive information on an account(s) unless the eligibility indicators are met, and the power can only be used in relation to accounts receiving a specified DWP benefit, or accounts linked to them. No decisions on benefit entitlement will be made based solely on information received as a result of an EVN.

Information Gathering

As someone who served in the previous administration, you will be familiar with DWP's current information gathering powers. In respect of fraud investigations, the Bill is not introducing new information powers for DWP; it is simply modernising our existing powers to allow us to keep pace with offenders who exploit the social security system and improve access to information for the purpose of investigating fraud.

Strengthening our existing powers will allow DWP's fraud investigators to compel relevant information from any information holder when conducting a criminal investigation into cases of suspected fraud on an identifiable individual. For example, DWP may compel information from airlines, as part of an investigation into suspected abroad fraud, to gain further information about someone's travel history. It will bring DWP into the modern age and allow for requests and responses to be received digitally.

In order for DWP to compel information from any information holder, the person must be an Authorised Officer who, as is currently the case, has been trained and accredited to investigate criminal matters. The Department already has well-established training and guidance in place to ensure requests are used appropriately and in line with the existing legislative framework. Existing guidance makes clear that officers must consider all facts, justify their decisions and record their reasoning. This will apply in the same way to the new expanded powers as it does for the current powers.

Following the summer recess, I would be pleased to invite you to a session where I will provide a high-level overview of the proposed operational processes for Eligibility Verification Measure and our Information Gathering powers.

In the meantime, I would encourage you to review the additional information provided in our published [factsheets](#), which summarise how the measures in the Bill will work and include information on how safeguards, reporting mechanisms and oversight will work, as well as the Bill's [explanatory notes](#), which as you will be aware, provide further information on how the Bill will affect existing legislation in this area.

I hope you find this letter helpful. A copy will be placed in the House library.

Yours ever,

A handwritten signature in dark ink, appearing to be 'M L e', written in a cursive style.

Baroness Sherlock OBE
Minister of State for Work and Pensions