Public Authorities (Fraud, Error and Recovery) Bill

Briefing for MPs: Report Stage

April 2025

Summary

- The Public Authorities (Fraud, Error and Recovery) (PAFER) Bill will introduce an eligibility verification measure that will place low-income families with children under surveillance by banks, simply because they are benefit recipients. This undermines equality and fairness.
- The eligibility verification measure will result in more families with children who have done nothing wrong facing a DWP fraud investigation. Our evidence shows that when benefits are suspended, incorrectly reduced or terminated because of an investigation, it risks causing hardship and destitution.
- The Bill will enable the DWP to make direct deductions from individuals' bank accounts to recover overpayments, without having to apply to a court. We are concerned that these powers do not come with sufficient safeguards, meaning more risk of hardship and unfairness for families.
- Measures to allow the DWP to apply to the court to disqualify individuals owing overpayment debt of at least £1,000 from holding a driving licence are disproportionate and come without sufficient safeguards to guarantee procedural fairness.

Introduction

Child Poverty Action Group has serious concerns about the PAFER Bill's proposals for the eligibility verification measure, direct deduction orders and driving licence disqualifications.

Many children and families living in poverty could be adversely affected by the Bill's measures. 7.7 million people claim universal credit,[1] and by the time it is fully rolled out more than half of all children in the UK will live in a household receiving universal credit.[2] Measures in the Bill make it more likely that these families will face fraud and error investigations – and evidence from our work shows that these investigations can often result in lengthy benefit suspensions or incorrect decisions to reduce or

[1] https://stat-xplore.dwp.gov.uk/webapi/openinfopage?id=UC_Monthly

[2] Based on CPAG analysis.

terminate benefits. This can cause more hardship for families with children who are already struggling financially.

We are also concerned about the procedural fairness of the measures, and the lack of transparency around how they will work in practice. The Department for Work and Pensions' fraud and error processes are already difficult to scrutinise due to their lack of transparency, and the measures we are concerned about in the PAFER Bill perpetuate that issue. The Bill fails to provide crucial details about its operation that are needed to assess the seriousness and scale of risk its measures pose to low-income families.

The Bill would mean people face more unwarranted surveillance simply by virtue of being benefit recipients. We believe it is fundamentally unfair and potentially unlawful to subject these families to surveillance that the rest of the population does not face, simply because they are on a low income.

Unless additional assurances can be provided to ensure families will not be pushed into hardship or face unfairness in the implementation of the measures referenced in this briefing, we propose that MPs should table amendments to the Bill to remove them.

Benefit eligibility verification powers

The PAFER Bill will enable the DWP to issue speculative 'eligibility verification notices' to financial institutions like banks, which will compel them to provide information to help verify a claimant's entitlements to universal credit, pension credit, or employment and support allowance.

These notices will set out 'eligibility indicators', which are the criteria for information that the DWP will use to decide whether to investigate a benefit claim. On receipt of a notice banks will have to first identify accounts receiving a DWP payment, and then assess those accounts against the eligibility indicators. Where account information suggests the claimant may not meet eligibility requirements, banks will then pass on information about the account and account holder to the DWP so that it can decide whether to investigate.

CPAG's concerns

1. **The eligibility verification powers will mean more families with children being caught up in fraud investigations and, in cases where benefits are suspended, incorrectly reduced or terminated, this risks causing hardship and destitution.**

Our key concern with the eligibility verification measure is that it is likely to lead to increased hardship for a greater number of families who have done nothing wrong. Every claimant of universal credit, pension credit and employment and support allowance will face the possibility that information relating to their bank accounts triggers a fraud and error investigation. By casting the 'net' so wide, this feature of the PAFER Bill vastly increases the likelihood that low-income families with children will be caught up in investigations.

When an investigation takes place, claimants can be subject to benefit suspensions in order to prevent further potential overpayment debt from accruing. Families' payments are reduced or stopped for the duration of the investigation, taking already-low household incomes to levels that can cause significant hardship and even destitution while an investigation is carried out. In some cases, families have all or part of their award terminated, and experience months without payment before it is found after a mandatory reconsideration or appeal that the decision to terminate was incorrect.

The impact of this can be dire for families already struggling. The following case studies from our Early Warning System (EWS) highlight examples of claimants' experiences of benefit suspensions and incorrect reductions or terminations.

> *A man in receipt of UC had travelled abroad to visit his unwell father, who later passed away, on two separate occasions spanning several months across 2023 and 2024. His UC award was suspended pending investigation, because he erroneously did not inform the DWP of his travel. Despite it being understood by the claimant that he was not entitled to UC for the periods he spent abroad, delays in the DWP concluding their investigation meant his benefits remained suspended even once he was back in the UK and entitled to UC again. Repeated attempts were made to get a decision from the DWP, but these were unsuccessful. At the time of CPAG receiving the case in May 2024, he had received no income for 7 months and had become street homeless.*
>
> *A lone parent with terminal cancer had her UC award suspended in March 2024 due to suspicion she was not in the country. The claimant was, however, in the UK and had not been abroad at the time in question. The claimant complied with multiple requests for information but struggled to comply further due to a language barrier. She continued to engage and asked numerous times why her award was still suspended. A decision was made in May 2024 that the claimant was not entitled from December 2023 and an overpayment debt was issued. This was despite known vulnerabilities; the claimant had informed the DWP of her late-stage cancer as early as September 2023 and the department was seemingly aware of the claimant's language barrier, having provided interpreters for her in the past.*

With more claimants pulled into the pool for potential fraud and error investigations, the eligibility verification powers proposed in the PAFER Bill will make it more likely that families and children will experience these kinds of challenges.

While we welcome the provision of independent oversight and annual reviews of the DWP's use of the eligibility verification powers, we are concerned that these safeguards hinge on the contents of an as-yet unpublished code of practice and will not be robust enough to prevent the measure increasing the level of hardship experienced by families who rely on benefits to get by. In addition, the Bill has not specified what the government can include as an eligibility indicator, which means we have no way of knowing the level and nature of suspicion that will have to be demonstrated by the checks in order to trigger an investigation.

We are also concerned that the person appointed to independently review the functioning of the eligibility verification measure does not have powers set out in the Bill, and that the DWP is ultimately able to determine what the person is able to investigate. There is risk here that this independent oversight lacks the statutory powers necessary to be effective.

2. **Low-income families claiming social security benefits will be subject to surveillance that the rest of the population is not subject to, which undermines equality and fairness.**

CPAG is concerned with the potentially discriminatory nature of the eligibility verification proposals. Individuals will be subject to surveillance by virtue of being a recipient of a benefit, rather than because of any suspicion of criminality, wrongdoing or error. In the cases of universal credit and pension credit, this effectively means that having a low income will entail surveillance. In the case of employment and support allowance, claiming a benefit that is intended to replace income lost due to ill health or a disability will entail surveillance. And, because the Bill gives the government the power to amend the specified benefits to add others without new primary legislation, additional groups which include children could easily be made to be subject to surveillance simply because of their status as benefit claimants.

Recipients of the specified benefits are more likely to belong to groups with protected characteristics. For example, women are more likely to receive universal credit than men,[3] and disabled people will account for a higher proportion of UC and ESA claimants than the general population. **MPs should ask ministers to clarify whether the measures will have disproportionate effects on people with protected characteristics.**

There is a shared interest in ensuring that social security claims are lawful and correct. But introducing wide, suspicionless and intrusive powers that risk triggering investigations with dire and prolonged consequences for families seems certain to do more harm than good. There are many other ways in which DWP decision-making and communication with claimants could be improved to secure more accurate entitlement outcomes. As a result of these concerns, **CPAG recommends that MPs table an amendment to remove the eligibility verification measure from the PAFER Bill.**

Direct deduction orders and driving licence disqualification powers

Overpayment debt recovery powers will be expanded to enable the DWP to recover debt directly from individuals' bank accounts either via a lump sum deduction or through regular deductions. Currently, the DWP has to apply to a court if it wants to do this.

This will give the DWP the means to more easily recover overpayments where they cannot be recovered via benefit deductions (because the individual is no longer receiving benefits) or via PAYE deductions (because they are not in PAYE employment).

In addition, the PAFER Bill will enable the DWP to apply to the court to disqualify individuals owing overpayment debt of at least £1,000 from holding a driving licence. The DWP claims that this power will only be used as a last resort, when all other attempts at recovery have failed.

CPAG's concerns

3. **Direct deduction orders do not come with sufficient safeguards, meaning more risk of hardship and unfairness for families.**

We are concerned that the power for the DWP to take debt repayments directly from bank accounts comes with insufficient safeguards, risking plunging families into further hardship. While the Bill provides for an 'affordability assessment' to be made before recoveries take place, the Bill does not specify what conditions would need to be met for the DWP to be satisfied that direct deductions would be affordable for families.

It would be wrong to assume that direct deductions will be affordable for families just because they are not benefit recipients. A household that is not in receipt of benefits may still be in poverty or struggling – for example, because they are on a low income but not aware of the benefits they are eligible for, or because they have had a benefit award terminated, or because they once were but are no longer eligible for a given benefit (e.g. claimants who become full-time students). This measure risks dragging these families into further hardship by giving the DWP more capacity to deduct whatever income or capital they do have from a bank account.

In addition, there is a lack of clarity about how various aspects of direct deduction orders would work in practice. For instance, it is unclear whether a direct deduction can be made while it is still possible for the

[3] https://www.gov.uk/government/statistics/universal-credit-statistics-29-april-2013-to-9-january-2025/universal-credit-statistics-29-april-2013-to-9-january-2025#people-on-universal-credit

original benefit decision that resulted in an overpayment to be challenged or changed via mandatory reconsideration (MR) or appeal.

MPs should seek clarity from ministers on whether the full MR and appeal process must conclude before a direct deduction can be taken. MPs should also ask ministers whether a regular direct deduction would be immediately stopped and repaid if an appeal outcome shows that there never was an overpayment because the DWP made an incorrect decision.

Finally, we are concerned about the processes that will be used to contact individuals to verify that they are in fact refusing to engage with the DWP or repay overpayment debt. It is possible that the DWP will hold old addresses or contact details, since there is no obligation for former claimants to update the department if they are no longer receiving benefits. **MPs should ask ministers how the DWP will know if their letters or phone calls have been received, or if the former claimant is even aware of the debt if the overpayment arose from a revision after they stopped receiving a benefit.**

If it is not possible to obtain certainty of a robust affordability assessment and other safeguards to protect families from hardship and unfair procedures, we would recommend that MPs table an amendment to remove the direct deduction order powers from the Bill. This recommendation is made in the context of the DWP already having the power to deduct overpayment debt from individuals' accounts with appropriate safeguards, by applying to do so via the courts.

4. **Driving licence disqualifications are disproportionate and carry the risk of unfairness for claimants.**

Disqualifying people who owe overpayment debt from holding driving licences will in many cases be a disproportionate and unfair course of action. The £1,000 threshold is low in the context of the value of benefit payments – the average monthly UC payment amount in November 2024 was £1,000[4] – and so it will not take a particularly serious instance of overpayment to meet this threshold. In addition, driving licence disqualifications will be able to be used for *all* overpayment types – not just fraud, but overpayment debt accrued because of claimant or DWP error too.

Evidence shared with CPAG suggests the DWP can make incorrect or unfair judgements that do not reasonably account for claimants' barriers to engaging with the department. A clear risk with the driving licence disqualification measure is that a claimant is deemed to have refused to engage or frustrated the process of overpayment debt recovery, when in fact another problem relating to their circumstances has prevented repayment.

Language barriers are one such potential barrier to engagement. The EWS case study below highlights how a lack of English language skills can result in grave consequences for a claimant.

> *After 4 years on UC, a single parent had her award suspended and then terminated for failing to provide proof of ID as part of a review. The claimant does not speak English and was unable to engage with the letter from the DWP requesting the proof. The claimant had a telephone only claim and no decision letter regarding the termination was issued; a welfare rights adviser was informed of the termination reason via an email from the DWP.*

[4] https://www.gov.uk/government/statistics/universal-credit-statistics-29-april-2013-to-9-january-2025/universal-credit-statistics-29-april-2013-to-9-january-2025#households-on-universal-credit

We are concerned that, in the absence of the DWP systematically resolving problems of this nature, the driving licence disqualification measure risks being used as punishment in cases where an individual is not purposefully refusing to repay debt.

As with direct deduction orders, **MPs should seek clarity from ministers on whether the full manadatory reconsideration and appeal process must conclude before a driving licence disqualification can be applied for.**

Because of the concerns outlined, and without satisfactory assurance of procedural fairness, we would recommend that MPs table an amendment the Bill to remove the driving licence disqualification measure.

About CPAG

Child Poverty Action Group works on behalf of the more than one in four children in the UK growing up in poverty. It doesn't have to be like this. We use our understanding of what causes poverty and the impact it has on children's lives to campaign for policies that will prevent and solve poverty – for good. We provide training, advice and information to make sure hard-up families get the financial support they need. We also carry out high profile legal work to establish and protect families' rights.

We have particular expertise in the functioning of the social security system, through our welfare rights, training and policy work. CPAG's *Early Warning System* collects case study evidence from advisers across the UK on the impacts of welfare reform, and has collected thousands of cases to date.

Child Poverty Action Group is a registered charity in England and Wales (294841) and Scotland (SC039339). cpag.org.uk