

Single Fraud Investigation Service

Equality Impact Assessment

March 2011

Equality impact assessment for a single benefits and tax credit fraud investigation service

Introduction

1. To accompany the statement made by the Chancellor on 20 October 2010 on the Spending Review 2010, HM Treasury published “An overview of the impact of the Spending Review 2010 on equalities”¹. This set out HM Treasury’s approach to considering the equality impacts. For tax and welfare measures, HM Treasury undertook a screening exercise and the overview published high level impacts of the Spending Review on groups protected by equality legislation.
2. Where appropriate, therefore, the Department for Work and Pensions has assessed the impact on equality of the proposed changes which are now contained in the Welfare Reform Bill. Proposals have been assessed in line with the current public sector equality duties which require the Department to show due regard when developing new policies or processes to the impact of the proposals on race, disability and gender (including gender reassignment).
3. Wherever possible, we have also anticipated the new public sector duty being introduced by the Equality Act 2010 which comes into force from 6 April 2011. In some equality impact assessments, we have therefore considered the additional protected characteristics of age, sexual orientation, pregnancy and maternity and religion and belief.
4. If relevant, definitions have been amended to reflect the implementation of changes introduced by the Equality Act 2010 from 1 October 2010. This, for example, covers the definition of disability, where we use the definition contained in the Equality Act rather than the overtaken Disability Discrimination Acts 1995 and 2005.
5. The Department uses an equality impact assessment tool and processes which are designed to help to ensure that:
 - the Department’s strategies, policies and services are free from discrimination;
 - the Department complies with current equality legislation;

¹ See “An overview of the impact of the Spending Review 2010 on equalities” at http://cdn.hm-treasury.gov.uk/sr2010_equalities.pdf

- due regard is given to equality in decision making and subsequent processes; and
 - opportunities for promoting equality are identified.
6. In advance of the new public sector duty taking effect from 6 April 2011, the Department has not routinely collected certain data – for example on customers’ religion or beliefs or sexuality. The Department is currently exploring what information it can collect on the additional protected characteristics of age, gender reassignment, sexual orientation, religion or belief, marriage and civil partnership and pregnancy and maternity. Where these data have not been recorded by the Department, policy makers will look at using alternative sources of data as well as consultation and involvement to examine the potential and real impacts of its policies.

Brief outline of the policy or service

7. Currently HM Revenue and Customs (HMRC) has powers to investigate and prosecute tax credit fraud, while Department for Work and Pensions (DWP) and local authorities have powers to investigate and prosecute Social Security Benefits. A Single Fraud Investigation Service (SFIS) will be created to investigate social security benefits, Tax Credits and Universal Credit (when commenced). The Welfare Reform Bill will align powers so that a SFIS investigator can investigate and DWP can prosecute all benefits and tax credit offences.
8. SFIS will become responsible for all investigations and prosecutions for social security benefits, Tax Credits and, when commenced, Universal Credits in England and Wales. SFIS will also be responsible for investigating these offences in Scotland, but DWP will not have responsibility for prosecuting them because the Procurator Fiscal has responsibility for all prosecutions in Scotland. Social Security is devolved in Northern Ireland, meaning that the appropriate Northern Ireland Department would investigate social security benefit fraud. Similarly, DWP would have no responsibility for prosecutions in Northern Ireland.
9. Universal Credit will be introduced from 2013, however customers with existing awards of income-related benefits to be replaced by Universal Credit (including Income Support, Jobseekers Allowance (income-related) and Employment and Support Allowance (income-related)) and of tax credits can continue to receive those benefits until the full migration to Universal Credit is completed. During this transitional period claims for Social Security Benefits, Tax Credit and Universal Credits will exist and require investigation and sanction where fraud is suspected. Until Universal Credit is fully rolled out the Welfare Reform Bill allows for a certain amount of flexibility regarding roles and responsibilities for fraud investigation. Ultimately, however, this will lead to a cessation of local authorities’ autonomous powers to investigate benefit

fraud for housing benefit or council tax benefit once SFIS takes over this role entirely.

10. The flexibilities mentioned above include where:

- a local authority has already started an investigation into a suspected fraud.
- exceptional circumstances, for example where local authorities have particular expertise in relation to a complicated type of fraud involving housing benefit or council tax benefit;
- DWP wishes to take over prosecutions started by local authorities or to decide to discontinue them.

11. The flexibilities about who might undertake prosecutions do not apply to Scotland where the Procurator Fiscal will retain powers to prosecute benefit fraud. Nor do they apply to Northern Ireland, where social security is a devolved matter.

12. To align information gathering the Bill will ensure SFIS has powers to investigate and prosecute Tax Credit fraud including powers to compulsorily require information.

13. The Bill will also align the way similar levels of social security benefit and Tax Credit fraud offending can be dealt with. Presently lower value Tax Credit fraud offences are triable either way, allowing them to be tried in either a Crown or Magistrates' Court depending on the defendant's election. The Bill introduces a summary only mode of trial (meaning it can only be heard before the Magistrates) for Tax Credit offences involving payments of up to £20,000, which provides a similar approach to that taken for mode of trial for benefit fraud prosecutions (as well as retaining the triable either way element and therefore the Crown Court route for higher value frauds in relation to tax credits).

14. DWP has carried out an equality impact assessment on the proposal to:

- align fraud investigation services that currently reside in the DWP, local authorities, and HMRC
- amend the Tax Credit Act to introduce a summary only version of tax credit fraud.

15. This process will help to ensure that:

- the Department's strategies, policies and services are free from discrimination;
- the Department complies with current equality legislation;
- due regard is given to equality in decision making and subsequent processes; and opportunities for promoting equality are identified.

16. Under current legislation it is not possible for DWP officials to autonomously prosecute claimants for tax credit offences. Legal powers do already exist for local

authorities that administer Housing Benefit or Council Tax Benefit to prosecute on DWP benefits. But in many cases this does not occur because they are administered by different organisations, and are subject to different processes and management structures.

17. The change in policy by bringing together the service operating in the three organisations into one service will enable greater efficiencies and value for money for the taxpayer. These will be achieved through: i) being able to newly prosecute on tax credits, ii) providing a single tier of management to ensure compliance where powers already exist, iii) removing duplication of work where cases are currently being worked on jointly and (iv) ensuring consistency of policy and its application for investigations into and prosecutions of offences against social security benefits or tax credits.

Consultation and involvement

18. These reforms represent the realignment of existing services following an internal review and the intention to create a single fraud investigation service was announced in the published strategy document *Tackling Fraud and Error in the Tax Credit and Benefit Systems*, published on 18th October 2010. There has therefore been a period of time after the Strategy was published before the Welfare Reform Bill 2011 was introduced on 16th February 2011, during which comments could be received informally. The Department publicised correspondence details and has been following up, and responding to each comment from stakeholders.
19. The Department has well-established mechanisms for engaging with organisations that work with and represent its customers. Briefly, these comprise:
 - the quarterly DWP Policy & Strategy Forum, which is used as a vehicle for consulting with policy officers of key national organisations that work with and represent our customers, as we develop our thinking and our policies; organisations represented include Citizens Advice, Local Government Association, Age UK, and a wide variety of disability organisations and those that work with our most disadvantaged customers;
 - the Equality Schemes Customer Reference Group which helps the Department involve customers specifically on equality matters and acts as a consultation group for the Department's Equality Schemes. The Group usually meets twice a year and has representatives from each of the equality areas;
 - our Customer Representative Forum programme – three larger-scale events (the Annual Forum in London, Welsh Annual Forum in Cardiff and Scottish Annual Forum in Edinburgh/Glasgow) that are designed to allow engagement with representatives of the frontline organisations that work with our customers at regional and local level; these include a wide variety of advice and support organisations from the voluntary sector, as well as health and social services.

- In addition to these standing consultation arrangements the Department regularly holds discussions with key stakeholders about current issues and new initiatives.
- In advance of the Chancellor's statement on 20 October 2010 on the Spending Review, the Department published a consultation paper "21st Century Welfare" seeking views on the future of the benefit and tax credit system "21st Century Welfare"². Full details of public consultation papers are given at www.dwp.gov.uk/consultations.

20. Further engagement with both internal and external stakeholders about the measures proposed in the Bill has also taken place since 20 October. For example, the Policy & Strategy Forum on 16 November 2010 considered a number of Spending Review measures. The Fraud and Error Steering Group made up of local Authority representatives has also been regularly engaged since October 2010.

Impact of the introduction of a new single fraud service

General

21. The introduction of a single fraud investigation service with the powers to investigate Tax Credits and all social security benefits will not affect any single group more than another. Nor will the decision that DWP would prosecute tax credit fraud cases in addition to prosecuting all social security benefit fraud cases.
22. The key reason for joining services in this way is in order to deliver services more efficiently and more effectively. It will enable staff resources to be freed up to focus on additional cases.
23. We target our investigations on those persons that we suspect may be committing fraud based on the information we receive that fraud is taking place. This information is not based on any particular group.
24. In taking on sole responsibility for all social security fraud and in dealing with tax credit fraud, DWP will need to increase the number of investigators it has available to undertake this work. Present thinking is that this would be done by funding a minimum of an extra 200 investigators. This is a brand new service, but we aim to ensure we learn from the expertise of the best investigators operating at present. Options for integrating local authority investigators, for example, will therefore be discussed with the Local Authority Associations. It is too early to assess the potential impact on different equality groups within

² See "21st Century Welfare" at <http://www.dwp.gov.uk/consultations/2010/21st-century-welfare/>

existing or future staff members; however we will produce an updated equality impact assessment when more detail is known.

25. Equality impact issues are discussed in more detail in the Equality Impact Assessment for proposed policy changes to Fraud Sanctions³ which were also included in the published strategy document Tackling Fraud and Error in the Tax Credits and Benefit systems.

Monitoring and evaluation

26. The operational process has not yet been finalised and therefore the monitoring and evaluation system still needs to be determined. However, the Department is seeking to understand differences and where appropriate harmonise measurement systems across the three organisations.
27. Fraud investigation is a key part of the drive to reduce fraud and error, and as such will be measured as an integral part of the measurement of the effectiveness of fraud and error policies.
28. DWP is committed to monitoring the impacts of its policies and we will use evidence from a number of sources on the experiences and outcomes of the protected groups.
- We will use administrative datasets to monitor trends in the benefit caseloads for the protected groups and in the level and distribution of benefit entitlements. The administrative data will provide robust material for age and gender although not, as a rule, for the other protected groups.
 - We will use qualitative research and feedback from stakeholder groups to assess whether there are unintended consequences for the protected groups, and whether the policy is resulting in adverse consequences for particular groups.
 - We will utilise feedback from Departmental employee networks and internal management information. For example we will monitor the level of appeals and complaints in order to assess the broader impact of the policy.
 - We will draw on broader DWP research where appropriate, as well as any research commissioned specifically as part of the evaluation of the measure.
29. FRAIMS (DWP's fraud referral system) currently holds information investigations. This will be the mainstay of future reporting – or its successor.
30. DWP has not previously captured information regarding benefit fraud in terms of age, disability or gender, this is because the National Insurance number is not captured as part of the operational system used by the fraud investigation service and fraud sanctions are recorded under offence type rather than by benefit. Following the introduction of the one strike loss of benefit sanction for benefit fraud from April 2010, we have updated the legacy benefit systems for

³ See "Fraud penalties and sanctions equality impact assessment" at www.dwp.gov.uk/docs/eia-fraud-penalties-and-sanctions-wr2011.pdf

Jobseeker's Allowance; Income Support; Pension Credit and Employment Support Allowance to record loss of benefit sanction applied against those benefits. For other benefits the sanction is applied and recorded clerically. However, as one strike sanctions can only be applied to offences committed on or after 1 April 2010 and the IT enhancements were staggered there is insufficient evidence to inform this Equality Impact Assessment. The intention is to enhance this to allow for the recording of the new loss of benefit sanctions, which will be applied where benefit fraud has been committed (and thereby record that benefit fraud has been committed in individual cases), allowing for better overall evaluation of its impact against the different categories of age or gender and to provide some evaluation of impact on disability (administrative data on disability being more limited than for age or gender).

31. The Department does not hold administrative data about the race of individual claimants. Claimants are encouraged to complete an equal opportunities form when making a claim for benefit, however, this is not required as part of the benefit claim and is therefore voluntary. Data obtained is survey data and anonymous, meaning it cannot be identified in relation to individual benefit claimants. The Department therefore does not hold data about the race of individual claimants who have committed benefit fraud.
32. From 2011 sexual orientation, religion and pregnancy/maternity will also be covered by the equality legislation; with the exception of maternity, these groups will not be captured in the Departmental administrative information. We have requested that information on religion and sexual orientation be included in the main survey used for low income and poverty analysis from April 2011. Also, as part of our actions in the context of the data requirements under the Equality Act, we are looking across DWP activities to identify and address further gaps in data provision wherever reasonable.
33. The material in this Equality Impact Assessment covers the equality groups currently covered by the equality legislation, i.e. age, disability, gender (transgender), and race. For the age and gender strands we have good quality information generally about benefit claimants from both the administrative and survey data, while for race and disability we have reasonable information from the survey data. As set out at paragraph 31 above, we have not in the past captured information about fraud sanctions in relation to age, disability or gender although the intention is to allow for the recording of information about age or gender in future and to provide, where possible, for recording of administrative data about disability. Where survey data is available, it is not possible to attribute it to individuals investigated or prosecuted.
34. The Department plans to modify its investigations IT system to monitor the equality impact on fraud policy covered in this assessment in 2012, in readiness for its implementation in April 2013. These amendments will cover existing Benefits. Further development is needed to monitor the impact of the change to Tax Credit fraud investigations. This will be incorporated into the project design and included in the updated Equalities Impact assessment in April 2014.

Next steps

35. The policy will be introduced in April 2013.
36. A strategy implementation team has been set up to lead the scoping work required to deliver this organisational change. This team reports to DWP's Fraud and Error Council which is a director level forum with responsibility for delivery of the fraud and error work programme. There is also a joint DWP/HMRC programme board which oversees the elements of the strategy where there is a joint interest.
37. We plan to produce an updated equality impact assessment on staffing by October 2011 and review the overall policy by twelve months after implementation, namely April 2014.

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