

# Single Fraud Investigation Service

Equality impact assessment

October 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' [http://cdn.hm-treasury.gov.uk/sr2010\\_equalities.pdf](http://cdn.hm-treasury.gov.uk/sr2010_equalities.pdf). 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 age, disability, gender, gender reassignment, sexual orientation, marriage and civil partnership, religion and belief and race.
3. 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;
  - due regard is given to equality in decision making and subsequent processes; and
  - opportunities for promoting equality are identified.

## Brief outline of the policy or service

4. 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 set up under DWP 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 all benefits and tax credit offences.

5. SFIS will become responsible for all investigations 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.
6. Universal Credit will be introduced from 2013, however claimants 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 awards for Social Security Benefits, tax credit and Universal Credits will exist along side one another and require investigation where fraud is suspected and sanction where fraud is proven. Until Universal Credit is fully rolled out the Welfare Reform Bill allows for a certain amount of flexibility regarding roles and responsibilities for fraud investigations and sanctions. Ultimately, however, there will be a cessation of Local Authorities' autonomous powers to investigate benefit fraud for housing benefit or council tax benefit once SFIS becomes responsible for this role entirely. The Bill provides for flexibilities in dealing with the prosecution of offences relating to benefits administered by Local Authorities.
7. 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 wants prosecutions started by Local Authorities to be discontinued;
  - where DWP's preference, for business needs, is for a LA to continue investigating and prosecuting cases.
8. 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.
9. To align information gathering, the Bill will ensure SFIS has powers to investigate tax credit fraud, including powers to compulsorily require information about tax credits.
10. 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).

11. 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 2002 to introduce a summary only version of tax credit fraud.

12. 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.

13. Under current legislation it is not possible for DWP to autonomously investigate tax credit offences. Legal powers, with some limitations, do already exist for Local Authorities that administer Housing Benefit or Council Tax Benefit to prosecute DWP benefit fraud offences. However Local Authority practices for tackling fraud vary because many Local Authorities have adopted different processes and management structures for tackling fraud. Currently HMRC are responsible for the investigation of tax credits, however the number of cases investigated are low due to the HMRC policy to focus on high value tax fraud.

14. 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 prosecute on tax credits on a summary only basis
- ii. removing duplication of work where cases are currently being worked on jointly and
- iii. ensuring consistency of policy and its application wherever possible, for investigations into and prosecutions of offences against social security benefits or tax credits.

## Consultation and involvement

15. 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 18 October 2010. There has therefore been a period of time after the Strategy was published before the Welfare Reform Bill 2011 was introduced on 16 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.

16. The Department has well-established mechanisms for engaging with organisations that work with and represent its claimants. 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 claimants, 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 claimants;
- the Equality Schemes Customer Reference Group which helps the Department involve claimants 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 claimants 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 '21<sup>st</sup> Century Welfare' seeking views on the future of the benefit and tax credit system [21st Century Welfare - DWP](#). Full details of public consultation papers are given at [Consultations - DWP](#).

17. Further engagement with both internal and external stakeholders about the measures proposed in the Bill has also taken place since 20 October and this continues on a regular basis as a planned continuous activity. For example; the Policy & Strategy Forum on 16 November 2010 which considered a number of Spending Review measures, the various regular meeting with Local Authority representatives (consulting with Local Authority steering groups, holding Local Authority Investigation Officers Group and Institute Revenues Rating and Valuation events in England, Scotland and Wales as well as publishing Housing Benefit Direct articles), the DWP and HMRC joint steering group meetings, the Fraud and Error council meetings and the SFIS board meetings (which are attended by key stakeholders). DWP is also working closely with the Department for Communities and Local Government.

# Impact of the introduction of a new single fraud service

## General

18. The introduction of a Single Fraud Investigation Service with the powers to investigate tax credits and all social security benefits will not lead to the disproportionate impact on any single group. We will monitor the impact of the changes caused by introducing the Single Fraud Investigation Service as well as the introduction of the summary only version of the tax credit offence by collecting the necessary information, ensuring this is built into the design of the organisation and supporting systems.
19. 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.
20. 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.
21. 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, are being discussed with the Local Authority Associations. It is too early to assess the potential impact on different equality groups within existing or future staff members; however we will include this information in an updated EIA when more detail is known.
22. Equality impact issues are discussed in more detail in the Equality Impact Assessment for proposed policy changes to Fraud Sanctions which were also included in the published strategy document Tackling Fraud and Error in the tax credits and Benefit systems.

## Monitoring and evaluation

23. 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. As part of this, we will monitor the impact of these changes in relation to the investigation and prosecution process, including for tax credits.

24. 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.

25. DWP did not previously capture information regarding benefit fraud in terms of age, disability, gender, gender reassignment, sexual orientation, marriage and civil partnership, religion and belief or race; 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.

26. 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 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, with the most recent phase only being implemented in September 2011, there is still 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). This data will also help monitor and evaluate the impact of the proposed changes to investigating and dealing with social security and tax credits fraud.

27. With the exception of gender and age the Department has not routinely collected certain data on groups covered by the new public sector duty taking effect from 5 April 2011. As a result we cannot use existing administrative data to identify the impacts of individual bill measures on some of these groups. Sexual orientation, religion and belief will not be captured in the Departmental administrative information as this is not required as part of the benefit claim. Since 2011, however, DWP have collected information on religion and sexual identity in the Family Resources Survey and, when the data becomes available, we plan to use this to assess the impact of policies on these groups. 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.
28. 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.
29. The material in this Equality Impact Assessment covers the equality groups currently covered by the equality legislation, i.e. age, disability, gender, gender reassignment, religion or belief, sexual orientation, marriage and civil partnership and race. For the age, gender, gender reassignment and marriage and civil partnership strands we have good quality information generally about benefit claimants from both the administrative and survey data, while for race, disability, sexual orientation and religion and belief we have reasonable information from the survey data. Where survey data is available, it is not possible to attribute it to individuals investigated or prosecuted.
30. 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 the introduction of the Single Fraud Investigation Service in 2013. These amendments will cover existing Benefits. Further development is needed to monitor the impact of the change to tax credit fraud investigations and prosecutions. This will be incorporated into the project design and included in future updates of the Equalities Impact assessment.

## Next steps

31. The Single Fraud Investigation Service will be introduced in 2013.
32. 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.

33. We plan to produce an updated equality impact assessment, which will include staffing, by December 2011 and review the overall policy by twelve months after introduction of the Single Fraud Investigation Service, namely 2014.

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