# PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

## Public Bill Committee

# PUBLIC AUTHORITIES (FRAUD, ERROR AND RECOVERY) BILL

*Eleventh Sitting*

*Thursday 13 March 2025*

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**not later than**

**Monday 17 March 2025**

**The Committee consisted of the following Members:**

*Chairs:* Mrs Emma Lewell-Buck, † Sir Desmond Swayne, Matt Western, Sir Jeremy Wright

† Baxter, Johanna *(Paisley and Renfrewshire South)* (Lab)
† Berry, Siân *(Brighton Pavilion)* (Green)
† Coyle, Neil *(Bermondsey and Old Southwark)* (Lab)
† Darling, Steve *(Torbay)* (LD)
† Dewhirst, Charlie *(Bridlington and The Wolds)* (Con)
† Egan, Damien *(Bristol North East)* (Lab)
† German, Gill *(Clwyd North)* (Lab)
† Gould, Georgia *(Parliamentary Secretary, Cabinet Office)*
† Jameson, Sally *(Doncaster Central)* (Lab/Co-op)
† Jones, Gerald *(Merthyr Tydfil and Aberdare)* (Lab)
† McKee, Gordon *(Glasgow South)* (Lab)
† Milne, John *(Horsham)* (LD)
† Payne, Michael *(Gedling)* (Lab)
† Smith, Rebecca *(South West Devon)* (Con)
† Welsh, Michelle *(Sherwood Forest)* (Lab)
† Western, Andrew *(Parliamentary Under-Secretary of State for Work and Pensions)*
† Wood, Mike *(Kingswinford and South Staffordshire)* (Con)

Kevin Maddison, Simon Armitage, Dominic Stockbridge, *Committee Clerks*

**† attended the Committee**

# Public Bill Committee

*Thursday 13 March 2025*

*(Morning)*

[Sir Desmond Swayne *in the Chair*]

## Public Authorities (Fraud, Error and Recovery) Bill

11.30 am

**The Chair:** I remind Members to send their speaking notes to hansardnotes@parliament.uk, to switch off electronic devices and to abstain from tea and coffee. It is Lent, after all.

*Ordered,*

That the Order of the Committee of 25 February be amended as follows—

In paragraph (1)(f) delete the words "and 2.00pm".—*(Gerald Jones.)*

### Clause 92

Code of practice

*Question proposed,* That the clause stand part of the Bill.

**The Parliamentary Under-Secretary of State for Work and Pensions (Andrew Western):** It is a pleasure to serve again under your chairship, Sir Desmond. After that remarkably collegiate agreement on the most controversial item of today's business—I hope—I turn to clause 92.

The clause provides a vital safeguard for the new debt recovery measures. It inserts new section 80D into the Social Security Administration Act 1992, making provision for a code of practice. In the clause, we have made it a requirement that the code sets out how and when the Department for Work and Pensions will exercise its functions under direct deduction and driving disqualification powers, as well as its approach to penalties for non-compliance by banks, and how any information obtained will be used and processed. The code will also include further information on how safeguards and other provisions in the Bill will be applied, such as those on reasonable opportunity to settle the debt, and how those struggling with debt can be signposted to independent debt advice and money guidance.

We recognise the importance of transparency in the use of the new debt recovery measures. That is why, before issuing the DWP's debt code of practice for the first time, as per our statutory obligations we will carry out a formal public consultation on a draft of the codes, to provide an opportunity for all interested parties to review them. Once finalised, all the relevant codes of practice will then be laid before both Houses of Parliament for 40 sitting days, before publication.

The clause is a key safeguard to ensure that the new DWP recovery powers are exercised proportionately, and it offers transparency for the public on their use. I commend it to the Committee.

**Rebecca Smith** (South West Devon) (Con): The clause requires the Secretary of State to issue a code of practice about the giving of notices to banks requiring the provision of information, the processing of information, the circumstances in which penalties may be issued to banks, and the circumstances in which the Secretary of State expects to exercise functions to disqualify a liable person from driving.

As we have said several times in Committee, it has been extremely difficult to scrutinise the Bill without the code of practice. Will the Minister confirm when it will be published? I believe he just did, but we will get it on record again. He said that it will be before the Bill is finalised, but it would be useful to know what sight we will have of it beforehand. What can the Minister say about how the code of practice will regulate the giving of information notices to banks?

We clearly agree that the Secretary of State should consult on the draft code, and the Minister has just implied that it will be a public consultation. It would be useful to know what form that consultation will take, and how it will be publicised to ensure that it can be seen by as many people as possible. Will it include a consultation on the impact of bank costs and what those should be, and give banks an opportunity to feed back at that point in time?

The Secretary of State must consult before the first code of practice is issued, which is welcome, but there is no suggestion that further revisions will be subject to any scrutiny. Will the Minister confirm whether that is the case? What oversight mechanisms exist to ensure that the code of practice is not changed for the worse in the future, and to ensure that Parliament remains informed?

When does Minister envisage that the powers in the Bill will first be used, given the delay that the code of practice consultation will necessitate? What might trigger a revision and reissue of the code, and who might be able to alert the Secretary of State to the need for that? The clause implies that the Secretary of State could revise the code, but what would be the trigger and who might be involved? Will there be a non-statutory review after a certain period of time as an initial check and balance?

**Steve Darling** (Torbay) (LD): It is a pleasure to serve under your chairmanship, Sir Desmond. I thank the Minister for his introduction to the clause and for his assurance that there will be a consultation; it would be helpful if he could explain the likely consultees. Also—Opposition Members have repeatedly raised this question—what are the key principles within that consultation and what areas is he keen to address with the code of practice? The Minister has alluded to that already, but a bit more flesh on the bones would be extremely helpful.

Often, people who commit fraud use other peoples' accounts and abuse them, and are often financial abusers. Will the Minister flesh out how the code of practice will take that into account? Finally, I would be grateful if the Minister could expand on how the code of practice will take account of people with learning disabilities, covering both those who are able to operate the accounts themselves and those who may need a proxy to manage the account.

**Andrew Western:** Members have asked a number of questions, which I will do my best to cover. On the broader context and content of the code of practice, I outlined a range of areas such as a reasonable opportunity to settle debt, the exercise of functions under direct deduction, driver disqualification powers, penalties for noncompliance by banks, the use and processing of information and ensuring that that is compliant with the Data Protection Act 2018 and GDPR, as one would expect.

On the broader question of how we would work with people with vulnerabilities—the hon. Member for Torbay mentioned financial abuse and learning disabilities—there are a range of existing practices through which the Department supports people, as I set out in some detail on Tuesday afternoon. We have a vulnerability management framework and assessments of an individual's vulnerabilities at all points throughout the process are built into our existing debt recovery practices, including a specialist team who work with customers who we know to be vulnerable. I think that the Department has sufficient infrastructure in place to deal with and support people who find themselves in those circumstances, either as victims of financial abuse or because of some of the disabilities that the hon. Gentleman mentioned.

The hon. Member for South West Devon asked about the issuing of notices. The code of practice will give guidance on when notices are given and further guidance on how banks should comply. On the subject of consultees, it is important to say that we are in ongoing dialogue with banks and organisations such as the Money and Pensions Service about support for people who find themselves in debt. The public consultation will invite those who are already closely engaged with the subject to correspond with us further. That will include some of the stakeholders I have just mentioned, but we will accept evidence from anybody who wants to feed into that process.

I would not want to second-guess the cause of any future revision, but were it to become apparent that there were issues that we needed to contend with, grapple with and get right—whether they came out in discussion with stakeholders or in the practical application of the code—I imagine that that would be a sensible stage at which to do so.

I was asked about delay and when the code would be in place. We are looking at laying it before both Houses of Parliament for 40 days, so I am confident that delay will not be a particular challenge for us in recovering some of the figures that are scored against this measure. We anticipate that the draft code of practice will be available to Members before Committee stage in the House of Lords.

*Question put and agreed to.*

*Clause 92 accordingly ordered to stand part of the Bill.*

## Clause 93

RIGHTS OF AUDIENCE

*Question proposed,* That the clause stand part of the Bill.

**Andrew Western:** The clause inserts proposed new section 80E into the Social Security Administration Act 1992. That provision gives DWP officials right of audience and allows them to conduct litigation in the magistrates, county and Crown courts in England and Wales. New section 80E has been introduced to enable lay DWP officials to oversee civil claims and applications and appear in related court hearings on behalf of the Secretary of State in debt recovery matters. That is similar to the rights already provided to other Government Departments, such as His Majesty's Revenue and Customs and the Child Maintenance Service, as well as local authorities.

The disqualification from driving power in clause 91 and schedule 6 of the Bill will be exercised by the court only on application from DWP, and there are other civil recovery mechanisms already available to DWP involving the courts. Those are generally routine proceedings, but, without the clause, DWP is required to instruct a solicitor in every case. However, the clause does not prevent DWP from instructing a solicitor for debt recovery proceedings where it would be appropriate to do so. That ensures that DWP can recover public money in the most efficient and effective way from those who evade repayments, thereby reducing costs for the taxpayer.

**Rebecca Smith:** As the Minister has just set out, clause 93 grants rights of audience and rights to conduct litigation in the magistrates court, county court and Crown court in England and Wales for, or in connection with, debt recovery proceedings to designated officers of the Secretary of State. That will allow DWP officials to be able to pursue the enforcement of debts via the court without the need to instruct solicitors, thereby ensuring cost efficiency in the recovery of public funds.

This is not particularly complicated clause, so I have just a few questions. We would like confirmation of the level of seniority of the officials signing off the decisions to bring litigation, and will the DWP officials bringing the cases have appropriate training to do so? Where court appearances are required, does the Minister anticipate a slowing down of recovery proceedings? I know he has talked about cost efficiency, but will this mean that it will take slightly longer? Will costs increase as a result, either in terms of what is owed by the person that the action has being taken against or the costs that might be necessary through the courts?

Finally, what consultation has there been with the Ministry of Justice around these new provisions in terms of capacity, the costs and the court backlogs? Will this measure create a problematic situation, or is the Minister confident that it will be okay going forward?

**Andrew Western:** I may have missed a question about costs, so will the hon. Lady please ask me that again if needed? The team members taking forward cases for us in the court will be HEO, or higher executive officer, level. That is the existing process, and that is the required level of authorisation for those using similar powers. This is not particularly new for us; it is just new for us in this space. A specialised DWP team will receive training in conducting litigation and appearing in court in addition to training on the new recovery powers. We already have the right to conduct and appear in similar tribunal proceedings, so we will share best practice when developing that training.

On the question of MOJ consultation and court pressures, whether we use solicitors or take them forward ourselves, the pressure on the courts will be the same, so there will not be a material impact on the court backlog.

*[Andrew Western]*

Clearly, the MOJ is aware of our intentions in this regard, but this is more about our ability to do that while minimising costs.

**Rebecca Smith:** My final question was about whether court appearances, regardless of whether that is with a solicitor or through DWP officers, will effectively slow down recovery proceedings. As a result, will there be some knock-on costs either for the person who the action has been taken against, if interest is being charged or anything like that, or for the Department in terms of staff and that sort of thing? I assume it will be a last resort, but it would be interesting to have an answer.

11.45 am

**Andrew Western:** It is very much the case that the power is a last resort. Where there are additional costs, we will be able to recover them. It is important to recognise the steps, as I outlined on Tuesday afternoon, that will have been gone through before the point at which we reach this process. If we were to go through a more traditional route outside these powers, it would add considerable time to the process. I remind Members that by the point at which we take somebody to court, we have reached out to them multiple times through debt management and at least four further times through debt enforcement, and we have offered at every break in the process the opportunity to agree an affordable repayment plan. That would be the case right up until this stage, so I can reassure Members that it would be a power of last resort.

*Question put and agreed to.*

*Clause 93 accordingly ordered to stand part of the Bill.*

**Clause 94**

RECOVERY OF COSTS

*Question proposed*, That the clause stand part of the Bill.

**The Chair:** With this it will be convenient to discuss clause 95 stand part.

**Andrew Western:** Clause 94 inserts proposed new section 80F into the Social Security Administration Act 1992 and relates to the recovery of costs from debtors. The clause simplifies existing legislation to ensure that the costs of court enforcement that DWP is already entitled to reclaim from debtors can be effectively recovered from the debtor, together with any costs incurred by DWP under the new direct deduction and disqualification from driving powers. The clause enables DWP to recover these costs from the debtor using any of the available recovery methods, to make sure that, as debtors' circumstances change, the money can still be recovered. The clause ensures that the taxpayer does not pick up the burden for costs associated with pursuing debtors who refuse to repay public money, and that DWP can recover these costs from the debtor in the most effective way.

Clause 95 inserts new section 80G into the Social Security Administration Act 1992, providing technical interpretative provisions for the new debt recovery powers contained in part 2 of the Bill. First, it confirms that debt recovery provisions should always be read in a way that is consistent with data protection legislation. This is a relatively standard provision that deals with any unintended and unforeseen ambiguity or apparent conflict with normal data protection principles. Secondly, it confirms that references to "giving notice" can include, among other methods, service by post, as defined in the Interpretation Act 1978. That avoids ambiguity about how, for example, proposed deduction orders can be given to account holders for their consideration, which is a key safeguard under the new direct deduction order power.

**Rebecca Smith:** Clause 94 states that any costs incurred by the Secretary of State in recovering an amount under clauses 71 to 80 or schedules 3ZA or 3ZB of the Social Security Administration Act 1992 may be recovered as though they were recoverable under the same methods as the debt itself. Will it be done separately, and what might the cost to the Department be in putting that forward? Is there any limit to the costs that the Secretary of State can recoup in this way?

Clause 95 clarifies that provision does not require or authorise processing of information that contravenes data protection legislation, or the Investigatory Powers Act 2016. The final line states,

"references to giving a notice or other document…include sending the notice or document by post."

This also came up in the debate on Tuesday, so I would like to get it on the record. I assume I know the answer, but can the Minister clarify whether this includes electronic methods of communication also, such as email? If I may ask this, as I am intrigued, then why does sending by post need separate legislation? We have debated the subject twice now, and the answer is probably really straightforward, but as it is set out on its own line, it might be a nice idea to find out why it has to be legislated for. I ask that purely because I am nosy and would like to know.

**John Milne** (Horsham) (LD): It is a pleasure to serve under your chairmanship, Sir Desmond. Clause 84 states that costs incurred by the Secretary of State in taking recovery actions can be themselves recovered. Will the Minister clarify what happens in a case where the claimant is found to be not guilty? What happens to the costs then? Are they borne by the bank, the DWP or the claimant? Will he also clarify how the cost of the general trawl through all the accounts is apportioned?

Secondly, to go back to the issue of fraud versus error, and how they seem to be treated as pretty much the same throughout the Bill, will the Minister clarify whether, where it is the DWP's error, a claimant would still end up paying the administrative charge? If that is the case, it seems quite unreasonable, so it would be great if the Minister could clarify those points.

**Andrew Western:** I am a little perplexed by the suggestion that somebody would be found not guilty or be charged. We are talking about debt recovery, so it is a slightly separate matter. It is not a criminal issue; it is a question of how, through civil powers, we can reclaim funding, so I am not sure that those questions arise. But if the hon. Member for Horsham wants to intervene on that, he is welcome to.

On the question of whether fraud and error are distinguishable in the reclamation of debt, the answer is no. They are treated in the same way, because this is

about situations in which it has already been established that somebody owes us a recoverable amount and they have repeatedly refused to engage. I refer to my earlier comments about the number of times we would have reached out to somebody to get them to engage with the process. Parliament has previously resolved that overpayments of certain types of benefits are recoverable, and the Bill does not change that.

On the question about savings and so on, we would be able to recover all reasonable costs. There is no particular limit on what we can recover, and it is treated on the same terms as debt.

On the question of why we need to make a distinction for email, this is one of those situations in which I am grateful that I can sometimes reach out for answers. It goes back to the Interpretation Act 1978; we did not have email back then, so we need to set out separately, on a legal and technical basis, that post is specifically allowed, given provisions elsewhere. Yes, digital is still permissible, but we need to state specifically that post is acceptable as well.

**John Milne:** I used the word guilt, but can we forget that? I am referring to a case in which a claimant was investigated, so costs were incurred, but they were found not to be at fault, rather than guilty.

**Andrew Western:** I think the hon. Gentleman is referring to situations in which the court determines that the debt is not recoverable. I imagine that at that point we would bear the cost ourselves; it would not be recoverable from the individual. There is clearly some risk for us in that, as is perfectly usual, but by the point at which we decided to take somebody to court we would be able to demonstrate that a significant amount of effort had gone into attempting, through other mechanisms, to make them pay back what they owed the Department, so I hope we would have a very high success rate in that regard.

*Question put and agreed to.*

*Clause 94 accordingly ordered to stand part of the Bill.*

*Clause 95 ordered to stand part of the Bill.*

## Clause 96

### Offences: non-benefit payments

*Question proposed,* That the clause stand part of the Bill.

**Andrew Western:** The clause amends sections 111A and 112 of the Social Security Administration Act 1992 to include non-benefit payments. This will enable the DWP to charge a person with an offence under either of those sections where it relates to a non-benefit payment. This is a key clause that, in conjunction with clause 97, will enable the Department to offer an administrative penalty where there are appropriate grounds to do so.

The Government take a fair and proportional approach to tackling fraud and error. We will always be tough on serious fraud, but for less serious first-time offences it is appropriate and fair that we have the opportunity to offer an alternative to prosecution. The person will always have the choice to accept or reject an administrative penalty, should they wish to do so. I commend the clause to the Committee.

**Rebecca Smith:** The clause makes it an offence for a person to fraudulently claim a non-benefit payment for themselves or another person by making false representations or providing false documentation. Generally, we support this provision.

A non-benefit payment is a prescribed payment that is not a relevant social security benefit and that is made by the Secretary of State to provide financial assistance. Will the Minister provide for the record some examples of the types of payment that would fall within scope of the Bill as a result of this measure? Will he reassure us that it will cover all payments, unlike the provisions on social security benefits, which apply only to the three benefits included in the legislation? The flip question is: does the Minister anticipate any exceptions that will not be covered? If any new non-benefit payments were introduced in the future, would they automatically fall within scope of this legislation? Earlier in Committee we had a similar debate about enabling new benefits to come into scope; would the same apply to new non-benefit payments?

**Steve Darling:** The Minister alluded to proportionality and not wanting to criminalise people in undertaking an administrative charge. As my hon. Friend the Member for Horsham alluded to, it would be helpful if the Minister unpacked a little more for the Committee where that proportionality kicks in.

**Andrew Western:** Where proportionality kicks in is already established in the Department. We have trained investigators who ascertain whether we are looking at deliberate fraud, its severity, and what is therefore the appropriate mechanism to seek recourse. We are talking about administrative penalties for situations in which we consider there to be a clear case of fraud, not error, so proportionality will not really be changed by the Bill. What will change is our ability to extend the existing processes to non-benefit payments.

The example of a non-benefit payment that we use most routinely is a payment from the kickstart scheme, which came about at the end of the pandemic and which I think it is fair to say was open to abuse. We saw some particularly egregious examples of that, so we want to make sure that any similar grant schemes—as opposed to benefit schemes—are within scope of these powers.

On the point that the hon. Member for South West Devon made about only three benefits being in scope of the Bill, that is only as it pertains to the eligibility verification measure. All benefits are in scope of the Bill more broadly.

12 noon

On the question about grants coming in and out of scope of the Bill, we will be able to prescribe in regulations which non-benefit payments will be within scope of the power. Access to Work will be one of the first programmes to be included, and we will consider others on a case-by-case basis, as new payments are introduced. We need to retain some flexibility over it. To support decisions on a

case-by-case basis, the Department will always conduct a fraud impact assessment—a process that has recently been introduced—to assess the fraud and error risk in respect of any such non-benefit payment. There will always be a structure in place to see whether non-benefit payments would be suitable for the power.

*Question put and agreed to.*

*Clause 96 accordingly ordered to stand part of the Bill.*

## Clause 97

PENALTY AS ALTERNATIVE TO PROSECUTION: EXTENSION TO NON-BENEFIT PAYMENTS

*Question proposed*, That the clause stand part of the Bill.

**Andrew Western:** The clause amends the Social Security Administration Act 1992 to expand the types of overpayments that can be considered for an administrative penalty under sections 115A and 115B to include non-benefit payments, such as the grants that were paid through the kickstart scheme. Currently, the option to offer an administrative penalty as an alternative to prosecution is not available for non-benefit payments, so the DWP is required to refer all such cases for prosecution. Extending the scope to include non-benefit payments will enable the DWP to offer those who receive a non-benefit payment an administrative penalty as an alternative to prosecution, in appropriate circumstances.

The measure gives individuals or colluding employers the choice to accept the administrative penalty or have the evidence reviewed before the courts. The change is really about fairness. It will bring equity and parity to the way the Department tackles and addresses fraud and it will offer first-time offenders or those who commit low-value fraud an alternative to prosecution. It will provide the individual or colluding employer with a choice, allow the courts to focus on the most serious crimes, and enable the Department to resolve cases more quickly where appropriate.

**Rebecca Smith:** The clause makes provision to allow for a penalty to be issued, instead of prosecution, if an overpayment notice has been issued in relation to a non-benefit payment. This can occur only after the review period has passed and, if a review was sought, after a decision has been made and any subsequent appeals have concluded.

We support efforts to be tough on those who have taken advantage through fraudulent methods and gained from benefits they were not entitled to receive. Will the Minister explain in what circumstances a penalty would be deemed more appropriate than prosecution, and why? That said, we also do not want to unfairly hit those who have made a genuine error, so in what circumstances would a penalty be seen as appropriate, assuming the claimant engages with the process?

Has any consideration been given to the likely timescales for the repayment of moneys obtained following erroneous claims? How long does the person have? Would a repayment be allowed before a penalty was applied? From what the Minister just outlined, the answer is likely to be yes, because an entire process would have taken place first; I seek clarification on the timetable or the process involved, particularly for those who have made a genuine error, and on how they will be able to stop the train and settle what they need to without any penalties.

**Andrew Western:** On when a penalty will be considered more appropriate, there are clearly thresholds for our investigators' interpretation of when somebody has committed fraud and at what level we consider that fraud to be.

On the hon. Lady's point about genuine error, the clause is for situations where we consider that somebody has committed fraud, not error. The administrative penalty does not arise in cases of what we consider to be error. It may be that it is a first-time offence. It would certainly need to be a low-value offence, because an administrative penalty is capped at £5,000. It is worked out as 50% of the value of the overpayment, so the amount would always need to be below £10,000. For anything beyond that we would be looking at prosecution. How long a person has to pay back will depend on a range of factors. It is clearly dependent on their ability to pay the money back, and what their means of production is and so on. That would always be considered on a case-by-case basis.

*Question put and agreed to.*

*Clause 97 accordingly ordered to stand part of the Bill.*

## Clause 98

AMENDMENTS TO THE SOCIAL SECURITY FRAUD ACT 2001: LOSS OF BENEFITS FOLLOWING PENALTY

**Andrew Western:** I beg to move amendment 36, in clause 98, page 61, line 21, leave out from "(a)" to end of line and insert "—

(i) omit the words from 'section 115A' to 'or', and

(ii) for the words 'the corresponding provision for Northern Ireland' substitute 'penalty as alternative to prosecution in Northern Ireland', and".

*This amendment updates a parenthetical description in section 6B(2)(a) of the Social Security Fraud Act 2001.*

**The Chair:** With this it will be convenient to discuss clause stand part.

**Andrew Western:** This straightforward amendment is a minor and technical change that looks to update section 6B of the Social Security Fraud Act 2001 by removing the phrase "the corresponding provision", which will no longer be needed once clause 98 is agreed, and substituting in appropriate wording.

Section 6B, as enacted, references two Acts in which a penalty is defined in legislation and which would attract the loss-of-benefit penalty. The first is the Social Security Administration Act and the second is the equivalent legislation for Northern Ireland. Clause 98 will remove reference to one of those Acts—the Social Security Administration Act 1992—to ensure that the loss-of-benefit sanction is no longer applied if an administrative penalty has been offered by the DWP and accepted by a benefit claimant. Doing so will mean there will no longer be corresponding legislation in section 6B(2)(a) of the Social Security Fraud Act 2001, as it will reference only Northern Ireland legislation. I assure the Committee that the amendment is minor and technical and will have no operational impact on the remaining provisions in the 2001 Act.

Clause 98 removes the loss-of-benefit provisions in cases where an administrative penalty has been offered and accepted as an alternative to prosecution. As it stands, the acceptance of an administrative penalty is compounded by a further four-week suspension of certain benefit payments. The suspension of benefits is made in addition to the acceptance of the administrative penalty and alongside the obligation to repay the overpayment. By removing the four-week loss of benefit in these cases, the clause allows for a more proportionate approach to less serious, lower-value fraud and to first-time offenders.

However, the loss-of-benefit penalty is not being removed in its entirety: it will still apply in cases that are convicted in court, with a potential loss of benefit of up to three years. Limiting the loss-of-benefit penalty to convicted cases will ensure that only the most serious cases of fraud face the harshest consequences, without imposing unnecessarily harsh sanctions on lower-level offenders. On that basis, I commend the clause to the Committee.

**Rebecca Smith:** The clause amends the Social Security Fraud Act so that if an administration penalty is accepted instead of prosecution, the individual does not lose their benefit provisions. From what the Minister said, it sounds like different scenarios are affected.

I appreciate what the Minister said about the different situations—for example, for a lower-level or first-time offence, someone might not lose their benefits—but the challenge is that this perhaps seems like a soft touch, depending on the situation. Does there not need to be a bit more discretion than just a threshold depending on each case being dealt with? What are the expected values of the penalties, and how do they compare with the typical benefits? Although we need to ensure that safeguards on affordability remain in place and that claimants can meet their essential living costs—that goes without saying—it is not clear why a penalty should automatically prevent the loss of benefits. Ultimately in these situations, there has to be a deterrent in addition to the penalty.

Government amendment 36 will update the Social Security Fraud Act 2001 to allow a penalty to be an alternative to prosecution in Northern Ireland. Our questions on that are the same as those for clause 98. I have nothing further to add.

**Siân Berry** (Brighton Pavilion) (Green): It is a pleasure to speak to this minor amendment. I just wanted to point something out about the wording of amendment 36. In clause 98(2) there are two instances of the letter (a). I know which (a) the Government intend the amendment to refer to, but I wondered whether the wording could be clarified.

**Andrew Western:** I thank the hon. Lady for pointing that out. I will take advice on whether a further amendment may be required but, as she says, it does appear obvious what I mean when I refer to that measure.

On the comments from the hon. Member for South West Devon, we want to make a change so that only the most serious cases fall foul of the loss-of-benefit penalty. That increases hardship for people but, when it comes to our ability to reclaim money, in practical terms it means we would have to wait four weeks before we could start deducting from a person's benefits.

To to give some reassurance about thresholds, were we to consider that somebody's fraud, even in a lower-value case, was particularly outrageous—of course, that is a judgment for our investigators based on the sorts of things they see each and every day—we do retain the ability to go straight to prosecution, particularly if we think the fraud is part of something more serious or organised.

The value of the penalty is £65, but if someone loses four weeks' benefit, as at the moment, the impact is clearly more significant. I accept that, but I think there is a strong question of proportionality here, and of the need to prevent somebody from falling into further poverty—and potentially as a consequence of that being pushed into wider activity that may be, shall we say, unhelpful.

*Amendment 36 agreed to.*

*Clause 98, as amended, ordered to stand part of the Bill.*

*Ordered,*

That further consideration be now adjourned.—*(Gerald Jones.)*

12.12 pm

*Adjourned till Tuesday 18 March at twenty-five minutes past Nine o'clock.*

## Written evidence reported to the House

PAB13 Big Brother Watch