

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

## Public Bill Committee

### PUBLIC AUTHORITIES (FRAUD, ERROR AND RECOVERY) BILL

*Third Sitting*

*Thursday 27 February 2025*

*(Morning)*

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CLAUSES 1 TO 4 agreed to.  
Adjourned till this day at Two o'clock.

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**not later than**

**Monday 3 March 2025**

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

*Chairs:* †MRS EMMA LEWELL-BUCK, SIR DESMOND SWAYNE, MATT WESTERN, SIR JEREMY WRIGHT

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

## Public Bill Committee

Thursday 27 February 2025

(Morning)

[MRS EMMA LEWELL-BUCK *in the Chair*]

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

11.30 am

**The Chair:** Before we begin, I have a few quick preliminary announcements. Members should send their speaking notes by email to [hansardnotes@parliament.uk](mailto:hansardnotes@parliament.uk). Please, everyone, switch mobile phones and electronic devices to silent. No matter how much we want tea or coffee, they are not allowed during our sittings.

Today, we will begin line-by-line consideration of the Bill. The selection and grouping list for today's sitting is available in the room. It shows how the clauses and selected amendments have been grouped together for debate. Amendments grouped together are generally on a similar issue. Please note that decisions on amendments do not take place in the order in which they are debated, but in the order in which they appear on the amendment paper. The selection and grouping list shows the order of debates. Decisions on each amendment, and on whether each clause should stand part of the Bill, are taken when we come to the relevant clause.

A Member who has put their name to the lead amendment in a group is called to speak first. Other Members are then free to catch my eye to speak to all or any of the amendments within that group. A Member may speak more than once in a single debate. At the end of a debate on a group of amendments, I shall call the Member who moved the lead amendment again. Before they sit down, they will need to indicate whether they wish to withdraw the amendment or seek a decision. If any Member wishes to press any other amendment in a group to a vote, they should let me know in advance.

#### Clause 1

CORE FUNCTIONS OF THE MINISTER FOR THE CABINET OFFICE

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

**The Chair:** With this it will be convenient to debate clause 2 stand part.

**The Parliamentary Secretary, Cabinet Office (Georgia Gould):** It is a pleasure to serve under your chairship, Mrs Lewell-Buck. I look forward to constructive dialogue with the Committee throughout the day.

As the Committee is well aware, fraud against the public sector takes money away from vital public services, enriches those who seek to attack the Government, damages the integrity of the state and erodes public trust. The Bill makes provision for the prevention of fraud against public authorities by the recovery of money paid by public authorities as a result of fraud or error, and for connected purposes. Under part 1, the Bill authorises

powers that will be used by the Public Sector Fraud Authority, part of the Cabinet Office, and under part 2, by the Department for Work and Pensions, on which the other Minister in Committee, the Parliamentary Under-Secretary of State for Work and Pensions, will lead.

I will now consider clauses 1 and 2 together. Clause 1 gives new core functions to the Minister for the Cabinet Office and sets out what can be recovered by the use of the powers under part 1 of the Bill. It describes what the Government want to achieve with part 1: to investigate more public sector fraud; to get back funds lost to the public purse through that fraud; to take enforcement action against fraudsters, whether through civil or criminal routes; and to support public authorities to prevent and address fraud against them.

The functions of the powers under part 1 will be used to deliver. As such, it is necessary that this clause stands part of the Bill. The functions are given to the Minister for the Cabinet Office, but it is important to stress that that is drafting convention, and the Minister will not use the powers personally; instead, in line with the Carltona principles, later clauses set out that the decisions may be taken and powers utilised by authorised officers and authorised investigators appointed by the Minister. Those officials will sit within the Public Sector Fraud Authority and will be experienced investigative professionals trained to Government counter-fraud profession expectations, sitting in a structure led by senior counter-fraud experts. As we heard from the witnesses, that will sit within a system of oversight, to be discussed later in the Bill.

The clause also sets out what “recoverable amounts” are. First, that means payments made as a result of fraud or error that have been identified during the course of a fraud investigation to be either fraudulent or erroneous, and which the affected public authority is entitled to recover. Later clauses cover how that entitlement is established. Error as well as fraud is included here, because if an investigation discovers that there has not been fraud, but none the less that a person has received money that they should not have, the debt powers in the Bill can, if necessary, be used to recover it. That is in line with the approach taken by others, including His Majesty's Revenue and Customs and the DWP, but it is important to stress that the core function of the powers is to investigate and recover losses from fraud. Recovery in that way will normally be when alternative voluntary routes have been exhausted, or a person or business can repay but is refusing to do so. All attempts will be made to engage.

Secondly, “recoverable amounts” covers any other amount that a public authority is entitled to recover in respect of that fraud. That covers frauds where no payment has been made, but the fraudster has benefited in some other way—for example, fraudulently not paying what they owe—and the value of that can be determined. Finally, it also includes any interests which would be collectable in those circumstances.

Clause 2 sets out how the Minister for the Cabinet Office can carry out the functions in clause 1. The clause excludes HMRC and the DWP from the list of bodies that the PSFA will be able to take this action for as they both have significant resources and expertise in this area, as well as their own powers. Again, we will discuss that later.

Importantly, the clause does not remove or supersede responsibilities and functions that other public authorities may have in respect of fraud and the recovery of money. The powers in this part allow the Government to fill a gap and complement what already exists. The intention is that, in exercising these functions, the Minister, and the authorised officers and investigators who will use the powers on behalf of the Minister, are not simply moving investigations and recoveries that would happen anyway into the Cabinet Office. Instead, they will primarily use them in a way that is additive, to take on investigations, recover money and take enforcement action that would otherwise not have been done.

Subsection (3) says that the Minister may charge “a fee”. The PSFA does not currently charge for its investigative services, but that gives it authority to do so in the future, consistent with the cost-recovery approach set out in HM Treasury’s “Managing Public Money” guidance. “Public authority” has a broad definition set out in clause 70 and would include, for example, other Government Departments, arm’s length bodies and local authorities.

Clause 2(4) says that the Minister is included in the definition of public authority in clause 70 as far as that concerns fraud or suspected fraud against the Minister, or recovery of money for the Minister. That is to ensure that frauds against the wider Cabinet Office and its agencies and bodies can still be investigated by the PSFA. However, to ensure that there is no conflict of interest, it will be set out in guidance that the PSFA will not investigate alleged frauds within the PSFA or allegations against the Minister personally but will refer those to another agency as deemed appropriate on a case-by-case basis. That will help to ensure the integrity of PSFA investigations by keeping responsibility for investigating fraud in the PSFA, or by the Minister, external to that function, to preserve appropriate independence.

Finally, subsection (5) ensures that, in giving Ministers these functions, this part does not affect a public body’s entitlement to recover an amount or any functions it has in respect of fraud or recovery. That means existing functions and powers are not taken away from public authorities or superseded by the Ministers’ functions.

**Mike Wood** (Kingswinford and South Staffordshire) (Con): His Majesty’s Opposition agree with the Bill’s principles and support the Government in what they are seeking to do, but we will be using our best efforts to try to help them do it better where we can. As the Minister said, clause 1 sets out the functions. Those functions seem perfectly sensible and reasonable, as does the way in which the Minister for the Cabinet Office is to interact with other public authorities as set out in clause 2. One of the themes that runs throughout almost all clauses of the Bill is the issue raised by multiple witnesses on Tuesday about how the functions to be allocated to the Minister or their representatives are to be exercised within the various codes of practice provided for in the Bill.

On Tuesday, the Minister seemed to indicate that the Government intend for those codes of practice to be made available for the House of Lords to scrutinise, but not for the House of Commons. That obviously makes it much more difficult for the Committee to consider the appropriateness of those functions and the various powers in the Bill. I urge the Government again to reconsider and look at how the House of Commons can

be given those chances before our House completes its consideration. We recognise that that will not be possible in Committee.

In August 2022, the previous Conservative Government established the Public Sector Fraud Authority within the Cabinet Office. We welcome the Bill taking that work forward by establishing the PSFA as a separate body from the Cabinet Office, to which the Cabinet Office is able to transfer functions. We entirely support the Government’s efforts to tackle fraud and error.

The National Audit Office puts the amount lost by fraud and error in the range of £5 billion to £30 billion in 2023-24, so ensuring that the Bill works to tackle both error and fraud is crucial within the functions set out in clause 1, and we will come on to that with some of our amendments to later clauses. Equally, we wish to ensure that the functions assigned to the Minister for the Cabinet Office are proportionate and capable of independent review and oversight. We will return to these important issues with our amendments later on.

I would like to ask the Minister some questions on clauses 1 and 2, the first of which is about the definitions. The Bill does not provide definitions of “fraud against a public authority” or “error”. As we heard in evidence on Tuesday, Dr Kassem from Aston University stated that “the definition of fraud can be a bit limiting in the current Bill, because, first, it assumes that fraud is happening for financial reasons when that is not necessarily the case. There are non-financial motives. Let us consider insider fraud—fraud committed by insiders, people working for the public authorities—which is one of the most common threats not just in the public sector, but across other sectors. A disgruntled employee can be as dangerous as someone with a financial motive. So I would stick with the Fraud Act 2006 definition of fraud, because it mentions personal gain full stop. It can be financial and it can be non-financial. That has to be clarified.”—[*Official Report, Public Authorities (Fraud, Error and Recovery) Public Bill Committee, 25 February 2025; c. 6, Q3.*]

Really, it must be clarified within the functions set out for the Minister for the Cabinet Office. Why should that not be the case, and how does the Minister define these things for the Bill, if it is not in line with the Fraud Act 2006? Clause 2(3) also states:

“The Minister may charge another public authority a fee in relation to the exercise of functions under this Part on behalf of, or in relation to, the public authority.”

Can the Minister clarify what we would expect that fee to be? Is it arbitrary or a set amount? Does the Minister decide or is there a particular process?

I would also like to ask the Minister about the amounts that the Government expect to recover under the Bill. According to its impact assessment, the powers in part 1 are estimated to lead to around £54 million—the best estimate for net present benefits—being recovered from public sector fraud over 10 years. Can the Minister reassure the Committee how robust that estimate is, what it is based on and how confident the Government are that the full amount of money will be recovered?

The reason I ask that is because, for the Government across the 10 years, the best estimate for fraud recovered minus costs is £23 million. Different numbers of cases could mean a loss or a slightly higher return, which could be between minus £1.5 million and £24 million. How will the Government ensure that the Bill recovers more money than is paid out in costs in administering its functions? As clauses 1 and 2 are the foundation for establishing the PSFA, the Opposition are content for them to stand part of the Bill.

**The Chair:** I call the shadow Minister—sorry, the Lib Dem spokesperson.

**Steve Darling** (Torbay) (LD): It is a pleasure to serve under your chairmanship, Mrs Lewell-Buck. I am pleased that you already see that we will become the official Opposition by the next general election, as long as the right hon. Member for North West Essex (Mrs Badenoch) continues.

The Liberal Democrats would like to state clearly that fraud is wrong and, as the Minister rightly stated, it robs the state of the ability to support people and drive the change in our communities that we all thirst for. Our concern is that this legislation is being rushed through Parliament at breakneck speed, and rushed legislation can result in dangerous consequences for those who get caught up in it eventually. I share this concern with the Minister: we legislate at haste and repent at leisure when things go wrong.

11.45 am

While my hon. Friend the Member for Horsham and I were sadly unable to attend the oral evidence session due to being abroad on a parliamentary delegation, I think it important to put on the record that we have reviewed it. We will come back to some of that really useful feedback. One of the pieces of evidence that came from that session was about the cost-benefit analysis, with one academic saying that it is not black and white that the money being spent will deliver the goods in bringing back the money from fraud that has occurred. I look forward to debating that as we continue to consider the proposals before us over the next few weeks.

I also reflect on what we saw during the covid pandemic. One business in Torbay said to me that it was as if the Government had filled up carrier bags with crisp £50 notes, put them at strategic points on the high street and asked people to pick them up, with limited checks occurring. I am pleased that we are looking to draw that back, but again, we come back to our grave concerns about the hasty approach being taken throughout the Bill, when we need to get this right first time. Taking our time means better legislation.

**Georgia Gould:** I thank both hon. Members for their constructive comments. This dialogue will be really important in scrutinising the Bill. I also welcome the support for action on fraud, and the acknowledgment that it is a significant issue.

On timing, I reassure the hon. Member for Torbay that the powers in the Bill that the PSFA is asking for are all powers that exist elsewhere in government. They have been used and tested; they are just being brought into a new context. At the moment, there are few powers to investigate or recover fraud that happens to the wider public sector, but this part of the Bill seeks to rectify that. There has been a great deal of consultation led by me, the Under-Secretary of State for Work and Pensions and our teams to get us to this point, but we will engage constructively with scrutiny as we move forward.

On the cost-benefit analysis, the overwhelming message from witnesses was that these new powers are necessary because there is a gap in investigating and recovering fraud against the wider public sector, and that the Bill will make a difference.

On the question of the £54 million and whether that is robust, that is a modest amount given we know that at least £3 billion of fraud happens against the wider public sector. It has come about through a great deal of work from the PSFA in modelling forward the current size of the enforcement team and how the powers are used elsewhere. We can therefore be confident in that figure, but if the powers work well we could grow the capacity and potentially recover more fraud.

At the moment, we know that there is fraud going on that the Government cannot investigate. A big part of this will be the deterrent and making it clear that if there is fraud in procurement or grants, there will be real powers to investigate and recover that money. That is really important both for the concrete recovery of money and for trust in how public funds are spent.

On the wider points about the importance of oversight, including of the Bill, that has been incredibly important to the Government. We thought deeply about the measures in the Bill and we will discuss that as we go through it. As for the development of the codes of practice, as I hope the Committee will see today, I will refer to the measures that are to be put in the code of practice as we go through the clauses, so that we can have some discussion about that.

I reassure the Committee that the definition of fraud in clause 70 is as it is defined in the Fraud Act 2006. That includes the main fraud offences, which are false representation, fraud by failure to disclose information when there is a legal duty to do so, and fraud by abuse of position. Hopefully that provides reassurance on that question, and I look forward to answering any other questions.

*Question put and agreed to.*

*Clause 1 accordingly ordered to stand part of the Bill.*

*Clause 2 ordered to stand part of the Bill.*

### Clause 3

#### INFORMATION NOTICES

**Mike Wood:** I beg to move amendment 11, in clause 3, page 2, line 36, at end insert—

- “(c) the information is likely to relate to the suspected fraud, and  
(d) the cost involved in recovering the required information is likely to be reasonable and proportionate.”

**The Chair:** With this it will be convenient to discuss the following:

Amendment 10, in clause 3, page 2, line 36, at end insert—

- “(1A) The Minister has reasonable grounds to suspect a person has committed fraud against a public authority if—  
(a) there is an objective basis for the Minister’s suspicion based on facts, verifiable information or intelligence, and  
(b) a reasonable person would be entitled to reach same conclusion based on the same facts, information or intelligence.  
(1B) The Minister does not have reasonable grounds to suspect a person has committed fraud against a public authority if the Minister’s suspicion—

- (a) is based in any way on—
  - (i) the person’s physical appearance,
  - (ii) any protected characteristic under the Equality Act 2010 that a person may have or appear to the Minister to have, or
- (b) is based solely on any generalisation or stereotype giving rise to a belief that certain groups or categories of people are more likely to be involved in criminal activity.”

Amendment 14, in clause 3, page 3, line 10, delete “10” and insert “28”.

Amendment 9, in clause 3, page 3, line 30, at end insert—

“‘reasonable’ means the Minister must have formed a genuine suspicion in their own mind, and the suspicion that fraudulent activity has taken place must be reasonable. This means that there must be an objective basis for that suspicion based on facts, verifiable information and or intelligence which indicate that fraudulent activity will be found, so that a reasonable person would be entitled to reach the same conclusion based on the same facts and information, and or intelligence.”

**Mike Wood:** Clause 3 would give the PSFA the power to issue information notices to a third party, compelling them to provide information within a deadline. The amendments set out the circumstances in which that would be done and set what we think is a perfectly reasonable test of reasonableness, as well as exploring the time provided for the recipients of notices to respond. Our amendments are designed to probe some areas of this process. The powers given to the Minister for the Cabinet Office in clause 3 are wide-ranging, so we wish to ensure that these are used reasonably and proportionately, and solely in connection with the explicit purpose of the Bill. We have tabled amendments 11, 10, 14, and 9 to that end.

We have to remember that the powers can be used against individuals and small businesses. While we might expect most of the notices to be issued against multinational companies, particularly financial institutions, we also need to consider those who do not have the capacity of larger organisations. The powers must be used reasonably and effectively in all circumstances.

Amendment 11 sets a reasonableness test relating to whether the information being requested is likely to relate to the fraud in question—for example, in private text messages—and therefore whether it is reasonable to ask for that information, and whether the cost involved in recovering the required information is likely to be reasonable and proportionate. The Minister referred to equivalent powers that are available in other forms of investigation that the Government and their agencies and bodies carry out. We see the reasonableness test as equivalent to that which HMRC must meet in its notices.

We also wish to ensure that the powers are not misused, and amendments 9 and 10 are directed towards that purpose. Although clause 3 states that the Minister can use the powers only against someone

“whom the Minister has reasonable grounds to suspect has committed fraud against a public authority”

the Bill provides no definition of “reasonable”, so amendments 9 and 10 are designed to fill some of that gap.

Amendment 10 specifies that the Minister for the Cabinet Office

“has reasonable grounds to suspect a person has committed fraud against a public authority if...there is an objective basis for the Minister’s suspicion based on facts, verifiable information or

intelligence, and...a reasonable person would be entitled to reach same conclusion based on the same facts, information or intelligence.”

We want to be clear about what we do not think are reasonable grounds. These would include, for example, if the Minister’s suspicions were based in any way on a person’s physical appearance—protected characteristics under the Equality Act 2010 that the person may have, or appear to the Minister to have—or were based solely on any generalisation or stereotype giving rise to a belief that certain groups or categories of people are more likely to be involved in criminal activity. We want to ensure that the powers are exercised responsibly and appropriately.

Amendment 9 gives the definition of “reasonable” as meaning that

“the Minister must have formed a genuine suspicion in their own mind, and the suspicion that fraudulent activity has taken place must be reasonable. This means that there must be an objective basis for that suspicion based on facts, verifiable information and or intelligence which indicate that fraudulent activity will be found, so that a reasonable person would be entitled to reach the same conclusion based on the same facts and information, and or intelligence.”

Amendments 9 and 10 are based on the reasonable grounds for suspicion that are contained in the PACE—the Police and Criminal Evidence Act 1984—code A.

Bearing in mind that these powers will be exercised against individuals, some of whom might struggle to provide information, we want to probe the choice of 10 days as the timeframe in which to provide information. Amendment 14 increases the minimum notice period from 10 working days to 28, which is similar to the standard minimum time that people would expect to be given to respond to written requests for information from HMRC. Given the scope of the information that might be requested, appropriate time must be given to organisations and individuals to comply. External circumstances should also be taken into account when considering the time periods. If an individual is on annual leave or off sick for a few days, they may have less than a week to provide the information or they will face significant fines. That does not seem reasonable.

We are not necessarily saying that 28 days is a better time period than seven, but I would be grateful if the Minister explained why the Government set the minimum time that they did. That is particularly pertinent, as failure to provide the information required would carry a civil penalty of £300 a day, which, for an individual, can amount to a considerable sum of money very quickly.

In its current form, without being more specific about what it means to be “reasonable” or expanding the timeframes, we are a little concerned that the powers that clause 3 gives the Minister may not include the necessary checks and balances, so I would appreciate her reassurances on that point.

**Steve Darling:** Perhaps the word that the shadow Minister used most was “reasonableness”. In our strange political world in recent months, the question of what is reasonable in our society has changed significantly following the change of President in the United States. What normal society would expect is “reasonable” of an elected official, both here and in America, gives me, as a Liberal Democrat, cause for concern in relation to how we can make sure

[Steve Darling]

that a Bill like this, which gives very significant powers to the state, sets safeguards in stone to protect our communities. We will come to that later, but I would welcome reassurance from the Minister. Although I am sure that we are all reasonable people in this room, others who are unreasonable might take power at a later stage of our lives. With this legislation, how can we put safeguards in place? I hope that we will cover that later, but the Minister's early thoughts would be welcome.

12 noon

**Georgia Gould:** I welcome those probing amendments, because they give me an opportunity to provide some clarity and reassurance on those important points. I will respond to them in a second, but on the question of safeguards, as I said in my introduction, we have thought very deeply about them and we are really mindful of the responsibility of these powers, so a broad range of safeguards has been built into both sides of the Bill.

On the PSFA measures, all the use of powers will be overseen by a separate team that will be accountable to an independent chair who will transparently report their findings annually to Parliament. The use of the wider powers will be overseen and reviewed by His Majesty's inspectorate of constabulary and fire and rescue services, which has a lot of experience in this. There are various routes of appeal and review built into the powers, as well as times when applications to court are needed, and we will deal with those in some depth as we go through the clauses. Oversight is absolutely critical, and that is why we have put such a robust oversight system in place.

On clause 3, currently any information needed from first parties or connected third parties can be asked for only if they refuse to provide it, and there is no way for the PSFA to compel the information to be produced without having to go through the civil court. The clause enables authorised officers in the PSFA to compel information to be produced that is not excluded, where it is necessary, proportionate and in line with the data protection legislation, from individuals and businesses as part of a civil fraud investigation. As we discussed on Tuesday, those authorised officers will all be highly trained and subject to professional standards and a code of conduct.

In particular, clause 3 extends the Minister's powers to include taking copies of information and requiring the individuals to provide information in a specified form. The power includes imposing duties on an individual to retain information that they already hold for longer than they would normally be required to. For example, that might apply where the PSFA requests contractual notes as part of an investigation that a person may retain for only three years. Where the request is made just before the end of that period, the information notice would also explain that any failure to supply the specified information might result in a civil penalty being imposed.

The clause details the requirements of the information notice, including the format, the timeline for compliance and the location for submission. A similar approach is used by HMRC. In practice, authorised officers would engage, where possible, on a voluntary basis before issuing an information notice. The clause also ensures

that there are restrictions on the information notice from demanding "excluded material" or "special procedure material", as defined under the Police and Criminal Evidence Act.

I will turn to the amendments, and as I said, I am very grateful for the opportunity to explain how this clause works, which I hope will provide some reassurance. Clause 3(1)(a) and (b) set out a test for issuing an information notice. An authorised officer will have the power to compel information only when it is necessary and proportionate to do so, and only when the information being requested relates to a person whom the authorised officer has reasonable grounds to suspect has committed fraud. On that basis, PSFA authorised officers will request the information only when there are reasonable grounds to do so.

The question that amendment 10 raises is, "What is meant by 'reasonable grounds'?" It must be objectively reasonable for them to suspect fraud, given the information available to them. An authorised officer must genuinely suspect that the fraud has been carried out by the individual, and that belief will be based on facts, information and/or intelligence. Reasonable grounds cannot be supported on the basis of personal factors such as those listed in the amendment, or a hunch. It is critical to set out that authorised officers will be using those facts and will be bound by the public sector equality duty and the Equality Act.

The reasonable grounds test is a standard, widely accepted test used by various organisations, including the DWP, the Serious Fraud Office and the police. Further to that, to ensure that the reasonableness test is applied properly in practice, the PSFA will have built in place safeguards. For example, authorised officers must consider all the facts of a case known to them at that time when they decide what is reasonable. Authorised officers must ensure that each decision made relating to the use of the powers is documented and available for checking. Management checks will ensure that those procedures are followed correctly. Information holders can also request a review of a decision to issue an information notice if they feel that there were no reasonable grounds.

As I said, there will also be independent oversight of the use of powers by an independent body such as HMICFRS or the new independent chair. I am setting out this detail on the record now, but we will also be transparent about this for those who do not leaf through *Hansard*. The code of practice envisioned by this legislation for the PSFA elements of the Bill relates to civil penalties. As civil penalties are the mechanism for ensuring compliance with the information gathering powers, we will also set out in the code of practice, and in further published guidance if necessary, how the information gathering powers will be used in practice, as I am doing today. We will also fulfil the commitment that we made on Tuesday to talk about what will be in the codes of practice as we reach the relevant parts of the Bill.

Let me turn to the period of compliance. Our approach in the Bill accommodates the variation in size and type of fraud investigations that the PSFA is likely to take on. As such, the Bill allows information providers a minimum, critically, of 10 working days to comply. However, in practice, the information notices will be tailored on a case-by-case basis, with each being judged on its merits and with the time period applied appropriately. Similar



approaches are used in HMRC. That, in turn, protects the information holder from being asked to produce information in an unreasonable timescale.

On Tuesday, we heard from John Smart, who said:

“Some of the smaller organisations might struggle to meet that 10-day requirement”.

That is why we will be tailoring the requirement. But, he also said,

“I still think it is a reasonable starting point. If you do not start with a reasonable starting point, for the larger organisations you end up deferring decision making and action being taken. I think 10 days is reasonable.”—[*Official Report, Public Authorities (Fraud, Error and Recovery) Public Bill Committee, 25 February 2025; c. 46, Q81.*]

As I said before, that is the minimum.

Again, we will set out the commitment to tailoring to ensure that we are proportionate and reflect the different types of organisations and individuals who might be asked for information in the code of practice or published guidance. Alongside the time period for compliance, an information provider will have the opportunity to request a review, which would include the ability to vary the time period for compliance if it was considered that a longer timeframe was needed. The current drafting outlines a five-layered process for information holders to request a review of an information notice that they have received. I can go through that detail if Committee members want me to, but I hope that that provides some reassurance on hon. Members’ points.

**Rebecca Smith** (South West Devon) (Con): I thank the Minister for those points, but I seek a bit more clarification. There are references to “the Minister” in clause 3, and I want to be clear about this, because we talked a lot about the code of practice during the evidence session on Tuesday. Is the Minister saying that the code of practice will have reference to the authorised officers? So, for *Hansard*, where clause 3 refers to “the Minister”, it is actually more likely, through the code of practice, to be referring to the day-to-day operation of those investigators. The Minister also mentioned that the definition of reasonableness is as per other departmental records and is widely available. Just to clarify, will that also be in the code of practice so that it is easily accessible for anybody in the public to look at what that might include? I seek more clarification on those two points.

**Georgia Gould:** Yes, the code of practice will be much more operational guidance that will be targeted at the authorised officers and their day-to-day operational practice. It will include the information that I have set out.

**Mike Wood:** I think we will come back to this issue at a later stage. I want to see some action on amendment 11 going forward, but, for now, I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

**The Chair:** Does the shadow Minister wish to press amendments 10, 14 or 9, which were just debated, to a vote?

**Mike Wood:** As I stated, those are largely probing amendments in areas that we would like to see the Government work on during the passage of the Bill. However, for now, we do not intend to push them to a vote.

*Clause 3 ordered to stand part of the Bill.*

## Clause 4

### REVIEWS

**Mike Wood:** I beg to move amendment 15, in clause 4, page 3, line 33, leave out “Minister” and insert “First Tier Tribunal”.

**The Chair:** With this it will be convenient to discuss the following:

Amendment 16, in clause 4, page 3, line 36, leave out “Minister” and insert “First Tier Tribunal”.

Amendment 17, in clause 4, page 3, line 38, leave out “Minister” and insert “First Tier Tribunal”.

Amendment 18, in clause 4, page 4, line 3, leave out “Minister” and insert “First Tier Tribunal”.

**Mike Wood:** The amendments are all about ensuring that there is not just independent oversight but an effective independent channel of appeal against information notices that does not just go back to the same organisation that issued the original notice. Clause 4 will allow for the person to whom the information notice is given to appeal the notice up to seven days after it is issued, but that appeal will go back to the Minister for the Cabinet Office—or, in practice, the PSFA—to review it and decide whether to revoke, amend or uphold the notice. As drafted, it gives the Minister significant power, as really the only responsible person who can review the decision to give the notice.

There therefore appears to be a significant lack of independent oversight. I would be grateful if the Minister could explain why there is no ability to have an independent appeal of the kind that would generally take place against HMRC decisions and notices, through the first-tier tribunal. That is why we tabled amendments 15, 16, 17 and 18: to change the appeal body from the Minister for the Cabinet Office to the first-tier tribunal. We are concerned that, given it is the Minister who has been given the power to investigate fraud, it is then a case of allowing the Minister to mark their own homework if they—or the people acting on their behalf—review the decisions themselves.

I would like to understand the Minister’s view on whether that is an effective use of ministerial time and capacity. Does she envisage that any such appeal decisions would be delegated? In the amendments, we propose to replace the Minister with the first-tier tribunal in that process, which would be equivalent to the processes that would be expected when a decision of HMRC is reviewed. Our amendments would ensure that an independent third party is involved with the review process.

I would be grateful if the Minister could explain why there should be no ability for such an appeal to be made, whether it is made immediately against the notice for information or perhaps as a second appeal stage. We need to be satisfied that there is a good reason why people who are the subject of those notices, which may be quite onerous, particularly for individuals and smaller organisations, should not have the ability to appeal to an independent body. Normally, natural justice would assume that to be the case.

**Steve Darling:** I concur about the safeguarding of individuals. While there may be an independent reviewer or chair, the challenge, for me, is who appoints them.

[*Steve Darling*]

If it ends up being the Minister who appoints the chair, how independent will they be? Given what we are seeing elsewhere in the world, how do we ensure that we build a structure of independence into the Bill that we may not previously have thought was needed? I am somewhat supportive of the proposals from colleagues, but equally, I look forward to hearing what the Minister has to say on the challenge.

12.15 pm

**Georgia Gould:** Some points of clarity: the hon. Member for Kingswinford and South Staffordshire asked who would do the reviewing. A more senior officer from within the PSFA would complete that review, not the Minister themselves. The entire process would be overseen by a separate team who are accountable to an independent chair, and critically, who will report into Parliament to provide that level of independence.

The other important context is that the Bill also—we will come to this later—provides for the PSFA to become a statutory body, fully independent from the Minister. In the meantime, it is incredibly important that we have this process of oversight and the independent chair, as we discussed. All these issues are important for balance. We have to avoid giving fraudsters the ability to abuse the review process and frustrate investigations. As John Smart told the Committee on Tuesday, months is far too long, and adding a further route to appeal to the tribunal at that very early stage would add months, if not years, to our investigations into suspected frauds. We have tried to balance this very carefully to ensure that there are appropriate routes to review that sit within a system that is independently overseen.

I believe that we have found the right balance in the Bill, and I have explained those layers of review. They include internal review, which is the appropriate route that strikes the right balance between fairness and avoiding fraudsters frustrating the process. As I said, the internal reviewer will be a separate authorised officer, who will be—this is a requirement in clause 66—an authorised officer of a higher grade than the original decision maker. The way that these reviews are performed will be subject to oversight/ We will talk later in more detail about the oversight in the Bill, but it will include the inspections by HMICFRS and the day-to-day oversight by an independent chair, which could include live cases.

I explained in the previous debate—I did not go through the detail, but I can do so—the stages of an information notice going through if someone still does not agree that they should provide the information. Ultimately, it is really important that if a penalty is issued for non-compliance, the information provider can appeal to the relevant court against that penalty, so there is a formal appeal to a court at the end of the information-gathering process if it gets to that place. However, the intention of the powers—as I said, this will be written into the code of practice—is very much to work alongside those organisations that are gathering information, and to be proportionate to their size and the requests put forward, so I believe we have found the right balance.

**Mike Wood:** I thank the Minister for those responses, but I think that the first-tier tribunal is perfectly capable of dismissing applications that are without merit, without

significantly extending the time. Given the importance of an independent appeal mechanism, I wish to push the amendment to a vote.

*Question put,* That the amendment be made.

*The Committee divided:* Ayes 6, Noes 10.

#### Division No. 1]

#### AYES

Berry, Siân	Milne, John
Darling, Steve	Smith, Rebecca
Dewhurst, Charlie	Wood, Mike

#### NOES

Coyle, Neil	Jones, Gerald
Egan, Damien	McKee, Gordon
German, Gill	Payne, Michael
Gould, Georgia	Welsh, Michelle
Jameson, Sally	Western, Andrew

*Question accordingly negatived.*

**Mike Wood** (Kingswinford and South Staffordshire) (Con): I beg to move amendment 12, in clause 4, page 3, line 33, at end insert—

“or of the duration of the period mentioned in section 3(4)(a)”.

**The Chair:** With this it will be convenient to discuss amendment 13, in clause 4, page 4, line 2, at end insert—

“, including by extending the duration of the period mentioned in section 3(4)(a) where satisfied that the person is reasonably unable to comply with the requirement to provide the information within the time required by the notice”.

**Mike Wood:** Amendments 12 and 13 are in a similar vein to amendment 14—they allow the individual or organisation issued with an information notice to apply to the independent body or board for an extension to the 10 working days within which they are currently required to provide information requested in the notice, if they are reasonably unable to comply. Sorry, have I skipped ahead a section?

**The Chair:** We are discussing amendment 12, grouped with amendment 13.

**Neil Coyle** (Bermondsey and Old Southwark) (Lab): Feel free to skip ahead to the conclusion.

**Mike Wood:** Sorry, it has been a while since I have been on a Bill Committee.

The amendments would allow the individual or organisation to apply for an extension to the 10 working days within which they are currently required to provide information requested in an information notice, if they are reasonably unable to comply. This is a common sense approach to support people who are engaging with the process and prevent them from being hit with penalties, which was never the intention of the legislation. This is also important because we do not know precisely what information the Minister will be able to ask individuals to provide, other than that an information notice cannot require the giving of particularly sensitive—such as excluded or special procedure—material, as defined in sections 11 to 14 of the Police and Criminal Evidence Act 1984. This includes confidential business records or journalistic material.

Otherwise, the Minister for the Cabinet Office has a very open-ended power to require different types of information. It would be helpful if the Minister could explain whether the Government would consider allowing those issued with information notices to apply specifically for an extension if they cannot reasonably provide the information within the time period requested.

**Steve Darling:** I can add very little to what the shadow Minister said. Again, I am broadly sympathetic on the need to have these safeguards in the legislation, and on not knowing what the practice notes are. We are very much in the dark, so that does give us cause for concern.

**Georgia Gould:** The critical thing to note here is that we have been very clear in the Bill that 10 days is a minimum. As we heard in evidence, some organisations will find it very easy to provide the information within 10 days; others will find it harder. As I have already set out, we will ensure that responding to different kinds of organisations proportionately is referenced in the code of practice.

I previously explained why we believe that the time limits in the Bill for information requests are appropriate, and why we believe that internal review strikes the right balance in preventing fraudsters from frustrating the process. The current drafting includes powers for authorised officers to vary the duration of an information notice in clause 4. The clause allows an information notice to be varied subject to the outcome of an internal review. A variation of a notice can include amending the timeframe to comply with a request if it is found that a longer timeframe is required.

We have discussed how the Bill allows information-providers a minimum of 10 working days to comply, which in practice will be tailored on a case-by-case basis, with each case judged on its own merits and the time period applied appropriately. This is a similar approach to that taken by HMRC, for example: an authorised officer would take account of the nature of the information or documents required and how easy it will be for the person to provide or produce them. That, in turn, protects the information-holder from not being asked to produce information within an unreasonable timescale. In response to the amendment, I ran through what the reasonable grounds test will be and the kinds of thinking that authorised officers will have to go through to determine what information they will gather. That includes writing it down so that their thought processes in requiring information can be reviewed.

**Steve Darling:** I welcome that reassurance from the Minister, which we will take onboard.

**Mike Wood:** I thank the Minister for her response, which offered some moderate reassurance. We would be comfortable if either it was included in the Bill or we at least had sight of the code of practice, which will actually define that decision-making process. A fundamental flaw of this Bill Committee is that we are being asked to make decisions on something that may be produced in the future, of which we have no advanced sight. For now, I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

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

**Georgia Gould:** Clause 3 introduces a civil power that allows authorised officers to compel information from first and third parties, similar to that used by HMRC. Clause 4 introduces a right to request a review of a decision to issue an information notice within seven days of a notice being issued. The policy intention is that this provides adequate time for an individual or business to request a review of a decision to issue an information notice, and sets a time limit for a review that will balance any attempts that might be made to aggravate the information collection process by slowing down the fraud investigation unnecessarily. During the review process, authorised officers will work with information-holders to give them every opportunity to comply.

**Steve Darling:** The Minister referred to a review process; it would be really helpful if the Committee could be aware of how long that process is likely to take.

**Mike Wood:** Clause 4 gives the Minister a considerable amount of power to compel individuals, as well as organisations, to provide an unspecified range of information within what could be very tight timescales, on pain of a fine of £300 a day if they fail to comply. The only route to appeal these powers is going back to the person or organisation that is exercising them, and we are concerned about the natural justice of this approach.

The legislation, as drafted, involves no impartial third party in the review process on a case-by-case basis, so it leaves individuals with nowhere else to go if they disagree with what is being asked for, or cannot practically comply with the request in the specified timeframe. Our amendments aim to balance these powers, and I am naturally disappointed that the Minister was unable to consider accepting at least some of them.

**Georgia Gould:** First, it is important to set out that these powers will be used by authorised officers who sit within a professional standard. They are highly trained and have a code of ethics that they apply. It is a deliberately limited group of people to ensure that we have full oversight. The kind of decisions that they make will have to be written down, so they can be overseen by the team within the Cabinet Office, which is answerable to the independent chair and to another independent body, and that is likely to be HMICFRS. I think I have already set out, and it is in the Bill, that the reviews on a case-by-case basis will have to be done by another authorised officer who is of a higher grade than the one who made the decision. There will be no set time, but we will set out a range within the wider guidance.

The intention of the Bill is to ensure that we prevent and recover fraud against the public sector. We want to be reasonable and proportionate, and as I have said, we will set out further information about the size and scale of organisations and timeframes within the code of practice. What we really need to avoid is organisations that have committed fraud using appeals to frustrate the process and keep this going for ages, so that money is moved and we lose the ability to recover critical public funds. We think that a huge amount of oversight has been put into this overarching package, but we have to ensure that we allow authorised officers to get the information they need and recover fraud. Finally, it is important to remember that, if we go through a process where somebody does not provide that information,

[Georgia Gould]

and a fine is levied, they are able to apply to the courts at that point. There is that fundamental backstop to the system.

*Question put and agreed to.*

*Clause 4 accordingly ordered to stand part of the Bill.*  
*Ordered, That further consideration be now adjourned.*  
*—(Gerald Jones.)*

12.31 pm

*Adjourned till this day at Two o'clock.*