Equality Analysis

Third Party Data (TPD) Gathering measure

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Document Control

Key Personnel

Title	Equality Analysis, Third Party Data Gathering Measure
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Version History

Version	Date	Summary of changes	Changes marked
2	30/11/23	Additional narrative provided to the religious section around religious financial institutions, and slight change of language to conclusion	
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Abbreviations

BAU	Business As Usual
DWP	Department for Work and Pensions
EA	Equality Analysis
GLD	Government Legal Department
LGBO	Lesbian, Gay, Bisexual, Other
PC	Protected Characteristics

PSED	Public Sector Equality Duty
TPD	Third Party Data
UC	Universal Credit
FRS	Family Resources Survey
MVFE	Monetary Value of Fraud and Error
PCP	Provision, Criterion or Practice

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Introduction

1. This records the analysis undertaken to enable DWP to consider the needs of individuals in their day-to-day work - in shaping policies, making secondary legislation, delivering services, and in relation to their own employees to fulfil the requirements placed on them by the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010.

2. The PSED requires a public authority to have due regard to the need to:

    - eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
    - advance equality of opportunity between people who share a protected characteristic and those who do not; and
    - foster good relations between people who share a protected characteristic and those who do not.

3. The above requirements apply to eight of the nine protected characteristics – age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The protected characteristic of marriage and civil partnerships are slightly different in that the requirement is only in respect to have due regard to the need to eliminate discrimination.

Brief outline of policy or service and main aims and outcomes

Introduction

4. The current Monetary Value of Fraud and Error (MVFE) has risen significantly to £8.3bn in FYE 2022-23. We need a range of approaches to enable us to more proactively identify where it may be occurring and take appropriate action. A key part of this approach is better access to data.

5. We aim to legislate to require data from third party information holders, and in the first instance banks, where the data is signalling potential benefit fraud or error for any person receiving benefits. These 'signals' would be determined by DWP developed criteria. This would identify potential fraudsters who are currently unknown to us and support the earlier correction of errors, minimising overpayments.

6. Currently we are only able to request information on an individual basis where fraud is suspected, but by requesting data which matches specific criteria designed to identify a feature of potential fraud or error this will enable us to identify and investigate fraud and error more proactively.

7. The first main data holder we plan to work with will be banks and financial institutions. To future proof the measure the Secretary of State will be able to add new data holders via affirmative regulations.

8. We published this proposal in the Fighting Fraud in the Welfare System[1] plan, May 2022.

Policy Proposal

9. Some third parties, such as banks, hold a rich set of data which could help the Department to identify and stop significant losses due to fraud and error, following first payment of a claim to

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[1] Available at: Fighting Fraud in the Welfare System - GOV.UK (www.gov.uk)

benefit and during the lifetime of the claim. However, we can currently only access this on an individual basis where fraudulent activity is suspected.

10. We therefore want to introduce new primary legislation to:

- require data from information holders which is signalling potential benefit fraud or error on persons unknown e.g. holding savings above the capital rules; account being regularly used abroad for more than four weeks. This data will then be used in DWP to determine whether fraud or error has occurred, and if so, take appropriate action.

- require data from information holders to support early detection of fraud and error in order to prevent fraud from bedding into the system and picking up error much earlier, preventing people from inadvertently getting into significant amounts of debt.

- apply to all types of fraud and error relating to all DWP benefit payments to claimants.

11. We must keep the power suitably broad to ensure it is future-proofed so that we can respond to new and emerging trends and frauds. This will be done by enabling the Secretary of State to add data holders via affirmative regulations.

12. However, we believe an initial key use will be to allow identification of potential capital and abroad fraud and error, as potential breaches in entitlement can be easily identified using data held by banks and other financial institutions. ████████████████████████████
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13. When conducting the equality impact of the TPD measure, it is not possible to accurately identify those affected by this measure due to the nature of how fraud and error is carried out. Within the framework of our equality evaluation, we have elected to use DWP debtors as our designated proxy group. We believe this is the most representative cohort that will be subject to the Third Party Data measure.

14. Capital fraud and error has been increasing and is consistently in the four highest causes of benefit fraud and error. For example, capital overpayments in FYE 2022-23 were £1.4bn across all benefits and £894m for Universal Credit (UC) alone and is a key area where increased data could help.

15. Abroad fraud and error was responsible for UC overpayments of £187m in 2022-23.

16. Latest figures indicate around 64% of claimants across DWP have their benefit paid into an account with the top 5 banks, while the top 15 banks cover 98% of claimants across the department (figures acquired through internal analysis). However, we are aware that the banking landscape is changing, ████████████████████████████ therefore, we need to ensure the power is future proofed to ensure we are able to adapt to current and emerging trends in customer banking habits.

17. Access to this intelligence will support early detection of fraud and error, stopping fraud from bedding into the system and debt building up which is challenging for the Government to recover.

Implementation

18. Our policy and delivery intent is to take an iterative approach to using the new power, as we build and expand from a test and learn phase, then scale up towards live running.

19. We need to be sure that banks, are easily able to provide the data we need, without placing unnecessary burdens on them.

20. We must also ensure DWP has the resources needed to receive, process and action data matches timeously.

21. A test and learn approach, will enable us to evaluate the resource which will be required and ensure it is in place before scaling up our use of the power, extending to a more frequent feed of data from third parties and using the power to identify more types of potential fraud and error.

22. We propose to start the test and learn phase from 2025, once the legislation (including Secondary) is in place. There are options on how a test and learn approach could be delivered but we anticipate it would involve a small number of banks and similar institutions (such as retail banks, fintech banks, building societies, and electronic money institutes) of varying sizes to get a good understanding of how the power can be rolled out and scaled up across the industry.

23. , As the test and learn phase progresses, we will scale up the delivery with the aim to be delivering at full scale by 2030.. Throughout, we will continue to evaluate and adapt to where the power may be used most effectively, while continuing to demonstrate that its use is limited to what is necessary and proportionate to deliver the aim of reducing losses due to fraud and error.

Using the power proportionately

24. We want to ensure that requirements for data are proportionate and necessary for the detection of fraud and error in the benefit system. When focussing on detection, we will therefore obtain information only where there is a clear signal of potential fraud and error

25. To ensure that only relevant information is required from data holders we will develop a set of typologies to identify the specific risk group. Affirmative secondary legislation will be used to define data holders and other supporting detail.

26. We will introduce a new statutory Code of Practice to set out how the power will be used including the details of Disputes, Appeals and Penalties procedures.

27. We are committed to working with data holders and other relevant organisations to shape how we will use this power (informing secondary legislation and Codes of Practice) to ensure that the measure remains proportionate, effective and that has no unintended adverse consequences.

Considering United Nations Conventions

28. We have taken into account the guidelines and recommendations outlined in the United Nations Convention on the Rights of Persons with Disabilities, in particular Sections 6 and 19 EA 2010, which refer to indirect discrimination which occurs when a provision, criterion or practice (PCP) is applied generally but put those with a disability at a disadvantage compared to those without a disability and the PCP cannot be objectively justified.

29. These considerations are observed/reflected in Section 2 above. In addition, to mitigate against any potential adverse impacts on groups with protected characteristics, a human decision will be made on the route through which a data match may be referred e.g., fraud investigation; compliance; benefit correction / overpayment recovery; no further action.

30. The decision on which route a match indicating potential fraud/error may be referred will be based on the evidential threshold which must be met by the available evidence for each case in line with business as usual processes..

31. We have and will continue to consider the Equality Duty during design of this policy and throughout the design and implementation of detailed processes and procedures.

32. We will ensure any potential impact is closely monitored during the Test & Learn phase, through scaling-up and into live running.

33. Each new Risk Criteria will be subject to independent scrutiny (via affirmative secondary legislation and Codes of Practice that will be consulted on and presented to Parliament) prior to approval and use. Should this scrutiny identify any equality issues, a new Equality Analysis will be completed if required.

Evidence and Analysis Impacts

34. Our current equality analysis draws upon the following sources:
    - Data from debt administrative data for March 2023,
    - Published benefit combinations statistics for February 2023.
    - 2021-2022 Family Resources Survey (FRS) data (ethnicity and disability and adult UK population data).

35. The FRS data has been matched to debt admin data where information on debtors is given. The FRS dataset is a sample of the UK adult population, which has had grossing factors applied to give estimates for the whole UK adult population, however as this is a sample so when matched to the debt admin data sizes may be small and hence there may be limitations in interpretation.

36. We hypothesise impacts on certain groups by drawing on conversations with operational, analytical, and legal colleagues. We are aware this form of analysis is limited, but it is the most robust analysis we can offer given the lack of supporting quantitative data for some protected characteristics.

37. We have set out the theorised impacts of our policy on groups with protected characteristics below.

Age

38. The below table shows the distribution of ages in the adult populations of debtors, benefit claimants and the UK.

Age Band	Debtor population	Adult benefit population	Adult UK population
16-19	2%	1%	2%
20-29	20%	7%	16%
30-39	27%	10%	17%
40-49	21%	9%	16%
50-59	16%	9%	18%
60-69	7%	18%	14%
70+	5%	46%	17%

39. The benefit population has an overrepresentation of those in the 70+ age band, which is a result of almost everyone at this age receiving state pension. These benefit claimants are less likely to be debtors to DWP, as most overpayments occur on Universal Credit, and reflecting that there is very little fraud and error found within the State Pension.

40. However, it is possible that older people may be more targeted by this policy as older individuals are likely to have more savings/capital accumulation. They are more likely to have saved or come into an inheritance which may push that individual above capital limits for means-tested benefits with the relevant eligibility rules.

41. Research suggests that older individuals/pensioners are more likely to be in breach of capital limits due to capital accumulation and withdrawing lump sums from their pension. Furthermore, abroad fraud is most likely to occur with individuals claiming Pension Credit and as such over State Pension age.

Sex

Gender	Debtor population	Benefit population	Adult UK population
Female	50%	55%	51%
Male	50%	45%	49%

42. Women are slightly overrepresented in the benefit population compared to the adult UK population, however they are equally likely to have a debt to DWP. As women are more likely to be on benefits, therefore if fraud does reflect demographics of claimants they will be impacted disproportionately.

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Disability

Disabled?	Debtor population	Benefit population	Adult UK population
Yes	43%	50%	28%
No	57%	50%	72%

44. Based on the Equality Act 2010 core definition of disability, benefit claimants are much more likely to reply that they meet this definition than the UK population. However, those in debt to DWP are less likely than benefit claimants to be disabled.

45. Individuals with disabilities are sometimes vulnerable individuals with mental health conditions who may be targeted by criminals or may not be able to manage their finances effectively causing them to go over their capital limits – evidence suggesting customers claiming DLA may leave this money to accumulate in their account[23].

Race

Ethnicity	Debtor population	Benefit population	Working age benefit population	Adult UK population
White	83%	90%	82%	87%
Mixed / Multiple ethnic groups	3%	1%	2%	1%
Asian - Indian	1%	1%	2%	3%
Asian - Pakistani	2%	2%	5%	2%
Asian - Bangladeshi	1%	1%	1%	1%
Asian - Chinese	0%	0%	0%	0%
Asian - Other	1%	1%	1%	1%

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[2] Financial Abuse of Individuals with Disabilities

[3] Victim Support Sight report

Black/ African/ Caribbean/ Black British	7%	3%	5%	3%
Arab	0%	0%	0%	0%
Other ethnic group	1%	1%	2%	1%

46. In the group of DWP debtors, there is a greater proportion of people from ethnic minorities than in the group of benefit claimants as a whole. Specifically, debtors are more likely to be black or from mixed/multiple ethnic groups than benefit claimants. Other ethnic groups have similar break down between populations. However, this difference becomes much smaller when looking at those under 66, who are much more likely to incur debts as shown above ("Age" section). In this case, benefit claimants are 82% white, 5% black and 2% mixed/multiple ethnic groups. Whilst there are some differences between the ethnic breakdown of debtors and benefit claimants of a similar age, they are fairly small.

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Marriage and Civil Partnership

49. For individuals that are going through divorce there are questions over capital accumulation which may be flagged throughout the proceedings or sale of a home. Data on the breakdown of benefit claimants' and debtors' relationship status is not easily available.

Religion or Belief

50. We are not aware of any evidence suggesting this amendment will lead to direct discrimination against people in this group, although as some banks operate based on religious principles and mainly offer financial products to customers of that religion ███████████████ ███████████████ this could result in indirect impacts on the religious groups related to those institutions. For example, individuals with the characteristics which allow them to take out products with these banks or financial institutions make up a larger proportion of their customer bases than individuals without those characteristics, and hence these institutions are more likely to flag these individuals. In addition, the range of banks available for individuals who wish to use banks with religious principles is more limited so they would be less able to move to another institution, if they chose to. However, as the measure is still only likely to pick up individuals who breach the risk rules and does not specifically target a group of people based on protected characteristics. This will need to be taken into account during the human decision-

making process. Data on the breakdown of benefit claimants' and debtors' religion or belief is not easily available.

Gender reassignment

51. ██ Data on the breakdown of benefit claimants' and debtors' gender reassignment status is not available.

Sexual orientation

52. ██ Data on the breakdown of benefit claimants' and debtors' sexual orientation is not easily available.

Pregnancy and maternity

53. Some individuals may wish to take unpaid maternity/paternity leave so want to put money aside. ██ Data on the breakdown of benefit claimants' and debtors' pregnancy or maternity status is not available.

Summary of analysis

54. **The policy is unchanged despite *potential* negative impact.** Despite having identified some potential for adverse impacts, the measure does not targeting any specific characteristics as we are solely focusing on fraud and error, and we are unable to evaluate whether this potential will be realised, until the legislation is in place and the 'Test and Learn' phase.

55. Only from that point will it be possible to build a firm evidence base of the effect of the measure on any protected group, ██

56. Should any adverse impacts be identified, mitigating actions will be considered and decisions made on their potential success and how they may be implemented.

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[4] Prevalence and Risk Correlates of Intimate Partner Violence Among a Multisite Cohort of Young Transgender Women - PMC (nih.gov)

[5] LGBT+ people's experiences of domestic abuse: Galop
[6] Domestic Violence and the LGBTQ Community (ncadv.org)

[7] LGBT+ people's experiences of domestic abuse: Galop
[8] Acknowledging a persistent truth: domestic violence in pregnancy - PMC (nih.gov)

[9] Domestic Violence and the LGBTQ Community
[10] Women's aid- Supporting women and babies after domestic abuse

57. We will monitor outcomes to assess whether the measure affects any groups more or less than others, to test that the above assumption remains true, during the Test and Learn phase, scaling-up and into live running.

58. Our intention is to include a human triage point within the process for assessing whether a data match should lead to a fraud investigation, compliance intervention, benefit correction, or no further action.

59. Cases will need to meet an evidential threshold for each of those potential outcome routes in line with business as usual processes – we will monitor to ensure the threshold is being applied equally to all claimant groups.

Plans to monitor and evaluate the equality decision

60. We will commission analysts to evaluate the use and effectiveness of the measure throughout the Test and Learn phase and onwards as we scale up its use towards live running.

61. This may take the form of:

- Quantitative evaluation – e.g. volume flow, whether data requests are pitched at the right level (capital over £16,000) for banks to deliver and DWP to process timeously. Also, what is the 'hit rate' once matches have been examined and routed?

- Qualitative evaluation – talking to banks and DWP staff.

62. Evaluation of emerging evidence from the Test and Learn will help inform whether any specific groups are being affected more or less than others by the Third-Party Data Gathering measure, and review whether further mitigations or processes may be required prior to scaling up and moving towards and into live running.

63. The detail of monitoring and evaluation will be worked on during the detailed design phase, which is not expected to commence until Primary legislation is in place.

64. There is no specific selection process, individuals will be flagged if their accounts are in breach of DWP risk criteria that is pre-set.

65. We currently expect cases to go through the BAU triage we ensure that all disregards and exemptions are considered.

66. In terms of acting on overpayments made, a decision will be made based on the evidence whether action was either error or fraud and would be pursued accordingly, as now. There are safeguards built into these existing processes, including applying a public interest test in when to seek prosecution.

67. As above, the process is BAU. We will want to use early delivery as an opportunity to explore whether data matches are affecting any groups and whether that is still appropriate or whether we should take action in the triage phase.

68. Internal reviews and monitoring are a normal part of any policy delivery and controls will be in place to review the measure and its impacts. We are considering how the power can be evaluated regarding its performance in achieving its policy objectives. This work is ongoing to establish a way of evaluating the performance of the policy.

Outcome of the evaluation

69. DWP have conducted an Equality Analysis to identify any direct or indirect impacts on groups with protected characteristics. Despite having identified some potential for adverse impacts, the measure does not target individuals with any specific characteristics as we are solely focusing on fraud and error. As such, DWP are confident that this proposal meets our obligations to eliminate discrimination in that we have not identified any groups with protected characteristics who would be unfairly impacted.

70. Similarly, DWP would be advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not. The proposed provisions would, of course, apply universally across DWP claimants with any protected characteristics (as well as those without any). Additionally, many of DWP's administered benefits directly promote equality of opportunity by helping those with various protected characteristics. Given the volume of public money lost to fraud and error, reducing this amount should enable DWP to better deliver these services to claimants who need them.

71. Finally, DWP has not identified any relevant way in which the proposed legislation could better tackle prejudice or promote understanding in line with s.149(5) of the Equality Act, but is content that there have not been opportunities to do so that we have missed (and therefore the prospects of any successful legal challenge being brought on this point is low).

Please use space below to document outcomes when information is available

72. If the Test & Learn phase identifies any unidentified or unexpected adverse impacts on people with protected characteristics, a new Equality Analysis will be completed.