Annex 3: Responding to Fraud and Error as a Government Profession and in Practice

"Ahh, not a bear in sight! The bear patrol must be working like a charm..."

"That's specious reasoning, Dad."

Thank you, honey."

"By your logic, I could claim that this rock keeps tigers away.

"Well how does it work?"

"It *doesn't* work. It's just a stupid rock. But I don't see any tigers around here, do you?

"...Lisa, I want to buy your rock."

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Summary

Government asserts that the success rate of its current approach to fraud and error detection is around 0.25%.[1]

Considering the 'evidence base' provided (or rather, not provided) for such figures, even if the approach proposed in the 'thought paper' were to deliver £10 billion of fraud and/or error reductions – a 100x improvement over current performance – it is likely that HMG would continue to claim it loses between £30 billion and £50 billion a year, or thereabouts.

A counter-fraud project can be justified as 'saving'~ £10 million of~ £500 million potential fraud, and be successfully completed, ready for the next project to be justified as saving £10 million of £550 million potential fraud...

Meanwhile, a profession requires professional standards that have integrity and are testable; this is rarely done for fraud, which on this basis alone falls far short of the required 'objectivity' and 'impartiality'.[2]

Cabinet Office has created levers for it to measure what Departments are doing, but in so doing has chosen to focus on what is in the interests of Departments and professionals, not what is in the interests of citizens and the public. In its latest iteration, Cabinet Office added requirements around bribery and corruption – but failures around error are systemic. Fully two-thirds of the items in the Functional Standard fail to even mention error, and error is conspicuously absent when Cabinet Office requires "data on *fraud, bribery and corruption loss* in a manner that is conducive to quick reporting and analysis".[3] Whither error by Government?

The omission of error incentivises Government to repeatedly victimise the vulnerable for honest mistakes over trivial sums, rather than to pursue those who would lawyer up and therefore pose harder cases – even if successful resolutions would make fraud and error volumes go down.

Government may look for fraud, and may look for errors that benefit citizens – which it sometimes *calls* fraud – but it never looks for Government-benefitting errors, which cause the most vulnerable and least well off in society to lose out on things to which they are legitimately entitled.

Do the current structures and systems provide genuine incentives to minimise fraud and error? Or are they more consistent with a desire to promote 'ghost hunting' and 'unicorn farming',[4] for an industry plainly willing and eager to sell rocks to Homer Simpson?[5]

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[1] "Of an estimated "£31-£49 billion every year[1]" - first sentence, page 10, noting that *the footnote citing evidence of this range is missing*. The 'thought paper' goes on to report that the National Fraud Initiative managed to find only "over £300 million" between 2016 and 2019 (page 11, top of right column): https://www.gov.uk/government/publications/tackling-fraud-in-government-with-data-analytics

[2] https://www.gov.uk/government/publications/civil-service-code/the-civil-service-code

[3] Counter fraud functional standard, page 9, bottom right: https://www.gov.uk/government/publications/government-functional-standard-govs-013-counter-fraud

[4] https://medconfidential.org/wp-content/uploads/2020/01/2019-09-unicorn-farming-CO-fraud.pdf

[5] See cartoon on front cover of this report.

Background

This entire area of so-called 'data-driven Government' is riddled with prejudice, inconsistency and contradiction. "Fraud" is what citizens do, and is stamped on heavily; "error" is what government itself or companies do, and is treated entirely differently.

Government asserts that the success rate of its current approach to fraud and error detection is around 0.25%,[6] and that it loses up to £50 billion a year to fraud and error.[7] A large amount of that is due to tax fraud and error (up to £35 billion),[8] with an unknown balance in resourcing between HMRC and DWP.[9] Annex 2 to this report shows how DWP focusses 75% of benefit fraud resources on the 20% of claimants deemed 'high risk' – a categorisation that often equates to the most complex claims, not necessarily the most suspect ones – whereas HMRC may make a different assessment.[10]

Every headline figure regarding fraud and error should be footnoted with some variant of the line used in the Full Fact explainer, i.e. "the emphasis should be on the word *estimates*."[11]

Research from the University of Cambridge shows the only meaningful figures are those for types of fraud that are easy to detect, and therefore relatively rare – such as old age pension fraud – with figures for other types being far less reliable.[12] One of the government interviewees in that study said that what delivered cuts in welfare was hiring contractors to do "aggressive interviews" of claimants.

One context in which claims are rarely subject to aggressive interview or follow-up is Government announcements of fraud projects. Such projects are commonly announced in the Budget, as 'new money' for new headlines – and then are seemingly forgotten.

New Opportunities for Scrutiny and Accountability inside Government

Over the last 18 months, the Cabinet Office has set up a series of entities in an attempt to make improvements across Government. Insufficient scrutiny of Departmental fraud programmes *should* therefore be a temporary phenomenon. That Cabinet Office now has this scrutiny role, and related powers, provides civil society with levers over Government as a whole that have never before existed.

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[6] See first sentence, page 10:
https://www.gov.uk/government/publications/tackling-fraud-in-government-with-data-analytics. The paper later reports (page 11, top of right column) that the National Fraud Initiative only managed to find "over £300 million" in fraud in the 3 years between between 2016 and 2019.
[7] Ibid.
[8] https://fullfact.org/economy/tax-avoidance-evasion-uk/ - it is unclear which of the three figures given by Full Fact that the Government used in their paper.
[9] https://fullfact.org/online/comparing-benefit-and-tax-fraud/
[10] How HMRC assesses fraud and error is outside the scope of this paper.
[11] https://fullfact.org/economy/tax-avoidance-evasion-uk/
[12] https://www.lightbluetouchpaper.org/2012/06/18/debunking-cybercrime-myths/

Government hides Government's mistakes

When people are accused of fraud they did not commit, what happens to them? And what happens to the Department and officials?

Quite simply, *nothing* substantive happens to the Department and their decision makers – but, as CPAG states, "Claimants are being left without any income while the DWP investigates cases of fraud"[13] and lives are being ruined.

Here are just a few examples.

> "A grandmother, mother and children live together in a three-bedroom property; all the bedrooms are occupied. The grandmother claimed UC, but the housing costs element was very low. She did not know why and she did not obtain a full breakdown of the calculation until six months later. This showed that she had been wrongly subject to both the bedroom tax (on the basis that she was not entitled to the third bedroom) and a non-dependant deduction, causing her to have been underpaid for months on end."[14]

> "A working mother with two part-time jobs claimed UC, but the award was much lower than she was expecting. Her UC statement showed the standard allowance, housing costs element and her earnings, plus the earnings taper, but she could not see anything wrong with them. When she saw a welfare rights adviser, she picked up that there was no child element included for her daughter, and there was no work allowance included because she was a working parent. This meant that the woman and her daughter were approximately £400 worse off each month as a result of the errors."[15]

> "The mother of three children accidentally told the DWP that she was a guardian for one of her children, not realising that this term has a particular legal meaning. As a consequence, the 'bedroom tax' was not applied (as it would have been if the DWP had counted her as the child's parent). In her UC statement, an amount was listed for the housing costs element, but there was nothing to indicate whether or not a reduction because of the bedroom tax had been applied or the number of bedrooms permitted in the calculation. The claimant was oblivious to the fact that she was being overpaid, but the overpayment will nonetheless be recoverable, leaving her in significant debt."[16]

The presumption that claimants commit fraud, but officials and DWP systems are at worst only in error (the burden of which most often claimants must bear) is both hypocritical and unaccountable. As a system, UC manifests an official presumption that claimants are guilty until proven innocent – while absolving itself and its officials of all consequences.

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[13] page 4, https://cpag.org.uk/policy-and-campaigns/briefing/mind-gaps-briefing-7
[14] page 12,
https://cpag.org.uk/sites/default/files/files/policypost/Computer%20says%20%27no%21%27%20Stage%20one%20-%20information%20provision.pdf
[15] page 13, ibid.
[16] page 14, ibid.

The Practices of DWP and their Consequences

In a world run on paper, when DWP wanted different information from different people, they had to be given different forms. Managing the proliferation of forms represented a significant administrative burden (to the Department, which it cares about and tries to avoid) and so, over time, more questions were simply added to existing forms – and all of them were asked of everyone (the Department not caring about the burdens it puts on others).

Universal Credit is the automated equivalent of giving different people different forms, and – as both a 'hyper-means-tested' benefit, and as a method of 'social norming' and control – UC systematically continues not to care about minimising the burden on the individual.

Indeed, as per Richard Pope's report,[17] those parts of UC that have been automated first confirm that DWP continues to favour its own needs over those of the citizens it is supposed to serve.

Until you can prove you meet UC's internalised definition of a deserving person – legally an 'entitled' claimant[18'] – i.e. not work shy, not breeding too much, of the right ethnicity, etc. – the system treats everyone as suspicious, i.e. as a (potential) fraudster, a (potential) liar, utterly incompetent, or as someone who owes the Government money. It is not faulty coding but rather this institutional, systematised contempt that explains why DWP is content to put so many into debt in the process of applying for UC – and why it will claw back every penny it can from people who, by definition and circumstance, can least afford it.

While some see the database state incorporating technologies like automated facial recognition as the 21st century panopticon, Universal Credit is constructed not so much as a true digital welfare state but rather as a digital poor house – or debtors' jail.

Australia's "robodebts" – consequences of overconfidence in administrative databases

UC is not alone in either its culture or in its impacts. 'Robodebts'[19] were an algorithmic weapon of calculated political cruelty,[20] used by the Australian Government since 2016, in which internal process and budgetary bickering took priority over the human impact of welfare policy.

The Australian government has for years been addressing welfare / benefit "fraud" by very poorly miscalculating people's "fraud",[21] then subjecting them to a process with no actual due process,[22] natural justice safeguards,[23] and then garnishing their tax returns.[24]

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[17] https://pt2.works/blog/2020/04/02/universal-credit-report/

[18] https://www.legislation.gov.uk/ukpga/2012/5/part/1/chapter/1/crossheading/entitlement

[19] Officially, the Centrelink Debt Program within the Australian Department of Human Services, managed via DHS' Online Compliance Intervention system.

[20] https://www.canberratimes.com.au/story/6775350/robodebt-was-an-algorithmic-weapon-of-calculated-political-cruelty/

[21] https://www.notmydebt.com.au

[22] https://www.theguardian.com/australia-news/2019/aug/23/robodebt-target-pensioners-sensitive-groups-leaked-documents

[23] https://www.theguardian.com/australia-news/2019/jun/12/centrelink-robodebt-scheme-faces-second-legal-challenge

[24] https://www.abc.net.au/news/2019-08-27/centrelink-seizes-tax-return-of-robodebt-recipient/11450196

Referencing various retained records from several Departments, such as annual tax returns – and mirroring the UK Government's institutional belief in the integrity and completeness of its own records[25] – under the robodebt programme, the Australian Government used averages to calculate whether people might have been 'overpaid' benefits, and then tried to take that money 'back'.

To reframe this in UK terms, consider someone who entirely legitimately received Universal Credit for the first six months of the tax year, as their only income – and then got a higher-rate tax paying job for the second six months. The robodebt calculation would average their salary over the year and thus 'calculate' that their benefits must have been 'overpaid'. (The vicious tweak being that a decade or more may have passed between the tax year in question and when the robodebt process was applied.)

As with Universal Credit historic debt clawback in the UK,[26] one of the reasons the Australian Government targeted pensioners and other "sensitive" welfare recipients for robodebt recovery was that it had included estimates of how much it would recoup in the national budget.Thus if it did not achieve the projected $2.1 billion of savings, that would significantly impact the public finances in terms of budget surplus, etc. – toxic financial schemes are not solely the preserve of the private sector!

Compounding the damage, shortly after the decision that those who had paid the robodebts were due refunds, the digital service that told people what they owed and had paid simply stopped telling them for a while,[27] and then they didn't commit to sending letters.[28] This made requesting refunds far more complicated – and gave the appearance of a deliberate cover-up, even if it was simply down to bureaucratic inertia.

All public bodies have an institutional belief in the accuracy and completeness of their own records and plans; a belief that any individual who has ever had to deal with those institutions knows to be unrealistic at best – and brutally harmful at worst, e.g. 'Windrush',[29] the 'EU Settled Status Scheme',[30] or Universal Credit,[31] or any areas covered by fraud or error remits.

*[In case anyone in Treasury, DWP or Home Office[32] has read this far in this document, and to prevent any confusion: **this section is <u>not</u> a policy suggestion, but a cautionary tale!**]*

So what <u>is</u> the UK Government doing?

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[25] https://www.channel4.com/news/factcheck/factcheck-who-destroyed-the-windrush-landing-cards
[26] Iain Duncan Smith, Work and Pensions Select Committee, 1st July 2020.
[27] https://twitter.com/k_westyyy/status/1287945138736517123
[28] https://twitter.com/Centrelink/status/1292672965595652096
[29] https://www.theguardian.com/uk-news/2018/apr/17/home-office-destroyed-windrush-landing-cards-says-ex-staffer
[30] http://www.infiniteideasmachine.com/2019/01/settled-status/
[31] Hence the report of which this Annex forms one part.
[32] Not an exhaustive list of bodies capable of such idiocy. A current list is available at https://www.gov.uk/government/organisations

The 'Counter Fraud Functional Standard' (GovS 013)

The Counter Fraud Functional Standard was published in June 2020,[33] after a Freedom of Information Act request made for this report.

*"In October 2018, the government launched the **Counter Fraud Functional Standard (GovS 013)** to set the expectations for the management of fraud, bribery and corruption risk in government organisations. The 11 Functional Standard(s) for Counter Fraud were first introduced in 2017, and GovS 013 builds upon that existing approach to reinforce what is expected of organisations."* – p29, Cross-Government Fraud Landscape Annual Report 2019 [34]

(The government added the twelfth item in 2019 / 2020)

[33] https://www.gov.uk/government/publications/government-functional-standard-govs-013-counter-fraud
[34] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/864268/Cross-Government_Fraud_Landscape_Annual_Report_2019_WA__1_.pdf

The counter-fraud standard has changed over time, and currently states [comparing the 2018 text with the 2019 text, *additions marked thus* and ~~removals marked thus~~]:

"All organisations that spend over £100m[35] will:

1. Have an accountable individual at board level who is responsible for counter fraud, *bribery and corruption*

2. Have a counter fraud*, bribery and corruption* strategy that is submitted to the centre

3. Have a fraud*, bribery and corruption* risk assessment that is submitted to the centre

4. Have a ~~fraud~~ policy and response plan *for dealing with potential instances of fraud, bribery and corruption* ~~detailing where accountability for fraud lies within the organisation, its delivery chain and how the organisation reacts to potential instances of fraud~~

5. Have an annual action plan that summarises key actions to improve capability, activity and resilience in that year

6. Have outcome based metrics summarising what outcomes they are seeking to achieve that year. For organisations with 'significant investment' in counter fraud or 'significant estimated' fraud loss, these will include metrics with a financial impact

7. Have well established and documented reporting routes for staff, contractors and members of the public to report *suspicions of* fraud*, bribery and corruption* and a mechanism for recording these referrals and allegations

8. Will report identified loss from fraud*, bribery, corruption* and error, and associated recoveries, to the centre in line with the agreed government definitions

9. Have agreed access to trained investigators that meet the agreed public sector skill standard

10. Undertake activity to try and detect fraud in high-risk areas where little or nothing is known of fraud*, bribery and corruption* levels, including using loss measurement activity where suitable ~~*(i.e. using the FMA programme)*~~

11. Ensure all staff have access to and undertake fraud awareness*, bribery and corruption* training *as appropriate to their role*

12. *Have policies and registers for gifts and hospitality and conflicts of interest*"

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[35] The £100m threshold is taken from the 2018 description of the functional standard on page 27 of https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/764832/Cross-GovernmentFraudLandscapeAnnualReport2018.pdf

The Counter Fraud Functional Standard is *dys*functional

The failure to address errors by Departments and government make the counter-fraud standard dysfunctional. Indeed, given its impact, error is barely mentioned.

The standard requires that "Organisations should report identified loss from fraud, bribery, corruption and error, alongside associated recoveries and prevented losses, to the counter fraud centre of expertise in line with the agreed government definitions",[36] and yet of the eleven standards for 2019, eight of them (1, 2, 3, 4, 6, 7, 10 and 11) do not mention error at all. Only standard 8 includes error alongside fraud, and standards 5 and 9 say nothing about the areas they cover. Given this lack of scrutiny, it is unsurprising that error – by and large, the mistakes of government – is concealed behind institutional denial.

The standard *could* include error: the update in 2019 to add "bribery and corruption" alongside fraud throughout the standards clearly indicates what Cabinet Office considered to be lacking – plainly, error was not deemed important enough.

The standard provides a methodology for independent assessment – the Fraud Measurement and Assurance (FMA) programme – that could be applied to error as well as to fraud, yet it does not apply it.

The standard is also dysfunctional in the way it inherits (and ignores) the bias and potential institutional racism[37] of many government Departments.

Richard Pope argues[38] that government uses digital tools primarily *to maximise benefits to government*, treating citizens as a side-effect. Nowhere is that more clear than in the way government approaches error, and nowhere is more affected by this than Universal Credit.

Not only is it the case that government interests commonly prevail over public interests, but there is also no evidence of an ability – nor even the willingness – to learn from others about systemic mistakes in 'fraud and error' which harm citizens.

Annex 2 of this report shows how 'risk based verification' is not value for money, yet DWP insists on it anyway. Annex 4b shows how the Government insists on credit reference agency checks in order for citizens to book a COVID test – despite there being equally effective ways to limit the issuance of duplicate tests, without the discrimination and exclusion created by requiring someone to have a credit reference file. Even when money was no object to implementing a scheme, the Government still screwed it up in the name of 'counter-fraud'.

The culture and assumptions of the 'counter-fraud profession' are *that* broken.

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[36] page 9, Counter Fraud Functional Standard
[37] https://twitter.com/DannyShawBBC/status/1240603775133515776 vs
https://www.instituteforgovernment.org.uk/blog/boris-johnson-race-review
[38] https://pt2.works/blog/2020/04/02/universal-credit-report/

Cabinet Office hides Government Error *by design*

Page 9 of the Counter Fraud Functional Standard states:

> *"Organisations should store their data on fraud, bribery and corruption loss in a manner that is conducive to quick reporting and analysis."*

While we welcome data being stored for quick reporting and analysis – and would expect this to underpin greater transparency – for what reason is error not covered by this requirement?

It is clearly a substantial failure that error is not covered. It is an even more clear and substantive failure by the Cabinet Office that such a failure could and has occurred – and not just once, but in over *two thirds* of the standards themselves.

The Functional Standard states it is *"underpinned by the Professional Standards and Guidance which form part of the Government Counter Fraud Profession"*. So what are those standards, and exactly what is that "profession"?

The 'Profession': Ghost Hunters and Unicorn Farmers

The Government Counter Fraud Profession[39] encourages the promotion of its members based on mistakes and harms done to the public. The 'hunting' of someone is deemed entirely justified, no matter what the collateral damage – and doing so may lead to professional advancement.

Universal Credit is the 'canary in the coal mine' for large scale professional failure. DWP refuses to tell civil society what it does with data on individuals, and how it discriminates – but such obfuscations do not work when Cabinet Office and Treasury are the ones asking the questions.

By contrast to counter-fraud, the Statistics Profession and the UK Statistics Authority manifest clear professionalism and have the institutional 'teeth' to ensure the profession's long term integrity,[40] asking complex and 'politically hard' questions in the best interests of their Profession.

The counter-fraud 'profession' has chosen that the standards it upholds are so weak and ineffectual that the Cabinet Office cannot ask meaningful questions about Departmental error.

While the Cabinet Office and Departments may not be willing to follow up on the integrity of their own standards, then the formalisation of the 'profession' and a formal Government standard allows external actors in civil society to assess the (Cabinet Office's) assessors against both the Government's own tests and the far simpler question: do these so-called 'professionals' make a better decision than Homer Simpson?[41]

Is the 'Government Counter Fraud Profession' professional?

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[39] https://www.gov.uk/government/groups/counter-fraud-standards-and-profession
[40] https://www.statisticsauthority.gov.uk/correspondence-list/
[41] See the front cover of this Annex.

Does it *act* like a profession? And where and what is the evidence base for the answer to that question?

A profession has to address failures and consequences for failure

A true profession is defined by the boundary of who it includes, and who it excludes. It has defined standards for entry, and for continuing conduct; Harold Shipman was cast out of the medical profession. Are there equivalent actions in the counter-fraud 'profession'? Are, for example, those individuals professionally responsible (in their 'fraud' department) for the Windrush scandal still employed within the profession?

Genuine professions have both measures of success, and definitions of unacceptable failure. And the Government is never in a position to learn anything meaningful about what works – or what doesn't – because 'counter-fraud' projects are *never* failures in their own terms.

Mindless, even racist, cruelty is entirely ignored – as the Inquiry into the Windrush scandal clearly evidenced. The Home Office assumed that every application from the Windrush Generation was fraudulent, with consequences that are now well known. And the only reason the Home Office was not declared institutionally racist was because the Terms of Reference of the Inquiry did not allow it to apply that standard.[42]

This assumption of criminal intent has also taken hold within DWP's culture, and is widely manifested in the systems, processes and policies of UC.

Failure also occurs in terms of waste and ineffectiveness. Before any new 'counter-fraud' project may be announced with an existing supplier, the final results of previous completed projects should be published – with the Treasury, or Office of Budgetary Responsibility (or, failing that, the Institute for Government) providing the 'before' and 'after' fraud estimates, i.e. a measure of how much it helped financially.

It would not necessarily matter that any one project does not achieve (projected) savings; not everything has financial value on a Treasury balance sheet. And that the Government is trying new projects should be welcome – so long as it is honest with itself and the public about what works and what doesn't, and what the externalities are for members of the public.

Without being willing and open to proactively addressing failures – and furthermore, being *seen* to address them – mere designation of something as 'a profession' is meaningless, dysfunctional, and likely counterproductive.

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[42] https://twitter.com/DannyShawBBC/status/1240603775133515776 and
https://www.instituteforgovernment.org.uk/events/wendy-williams-windrush-review

# Two thought experiments on Citizen Error and Official Fraud

Item 8 of the Counter Fraud Functional Standard checklist is the only one that explicitly refers to error, and it requires organisations to "report identified loss... and associated recoveries" to the Cabinet Office. This being the case, one can pose two questions:

1) **If this "loss" was systemic fraud by DWP against citizens, what would the official reporting and "recoveries" be?**

2) **If this "loss" was systemic fraud by citizens against DWP, what would the official reporting and "recoveries" be?**

DWP acts as if <u>all</u> mistakes by citizens are fraud, and as if officially it never makes mistakes. The 'counter-fraud' reports that the Cabinet Office now holds will show a material difference.

When DWP makes a decision that is adverse to a claimant, there is a claimant-initiated process of "mandatory reconsideration". When a denial of benefit is upheld, i.e. where there have been two identical administrative decisions, the claimant can then take the decision to a tribunal. Despite two supposedly 'independent' steps of assessment, DWP routinely has its decisions overturned in well over 50% of cases that go to Tribunal.[43] (DWP claims that only "5%" of its decisions are overturned, and while that may be true of the total number of decisions that it makes, the proportion of successful *appeals* is well over 50%, and rising.)

Disability, sickness and incapacity benefits appeals
Percentage of tribunal decisions in appellants' favour
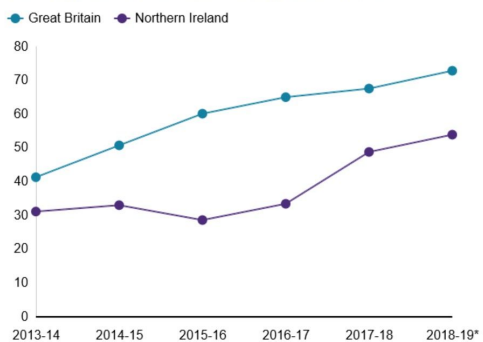
*Great Britain data for 2018-19 is only from 2018-December 2018
Source: HMCTS and Department for Communities FOI responses — BBC

Of course, not all error is fraud – and not all fraud is error. HMG routinely ignores the effects of error, ignoring legitimate citizen error to reap the political benefits from punishing the honest for 'fraud', while also hiding official error. In effect, at this point, Government cannot tell the difference.

The same effects are seen in high profile Home Office immigration decisions,[44] and they are clearly evidenced by the numbers of tribunals which overturn other official decisions, especially the disability tribunal.

An extreme case would be Australian robodebt – although, in a UK context, the processes laid down in law by Digital Economy Act exclude error detection. (The DEA processes focus solely on fraud and debt; any 'error' has to be categorised as 'fraud' to get through, which means the ability to pursue DWP and HMG-wide work on this issue necessitates error being designated as 'official fraud'.)

The Spending Round will invoke a new set of decisions about budgetary priorities, and another wave of searching for fraud. At what point will the costs of obvious failures in decision-making, plus the costs of decision-making itself, become greater than the projected benefits?

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[43] https://www.bbc.co.uk/news/uk-49891159
[44] https://www.freemovement.org.uk/home-office-sets-up-team-to-deal-with-high-profile-immigration-cases/

Continuous Professional Development: what DWP (and others) must learn

DWP takes no account of when or whether 'fraud' decisions cause demonstrable harm, even when it is clearly the fault of the Department. (For example, in cases of 'identity fraud' where the individual still has their identity, but the government incorrectly paid some money and so blames an innocent victim.)

Civil society does not dispute that frauds against the Department take place but in many cases, where there are frauds of impersonation, DWP penalises the individual who has been impersonated – even in cases after DWP has confirmed they were impersonated:

> *"A couple with five children had their ESA, tax credits and housing benefit stopped without warning when a third party claimed UC in their name. The DWP quickly flagged the claim as fraudulent but the couple were **unable to reclaim tax credits, or have the original claim put back into payment for some weeks**. They didn't have enough to live on."* [45]

> *"A lone parent of four children was receiving ESA, child tax credit and housing benefit. She received a letter saying her ESA had ended due to a UC claim which she had never made. The DWP fraud team has said it will take 12 weeks to resolve, which will cause severe financial hardship to the family. HMRC and the local authority are **unable to reinstate her tax credits or housing benefit until such time as the DWP has decided the UC claim was not valid**."* [46]

> *"The attempted UC claim [by someone other than the claimant] was flagged up by DWP as fraudulent, **but the UC stop notice was nonetheless issued which stopped the claimants' housing benefit**."* [47]

That frauds against the Department result in harsh, unfair and erroneous actions against entirely blameless citizens, suggest DWP's fraud assessment process is fundamentally flawed. That it takes officials *twelve weeks* to resolve a problem, even after they have confirmed that the claimant did nothing to cause the situation is an extraordinary level of bureaucratic inertia for a system that (in parts) claims to be 'agile'. If such a thing could happen to a new Minister's first Government payroll entry, it would certainly be fixed somewhat more quickly.

DWP repeatedly states that its fraud and error rate is small, yet provides only cherry-picked statistics to make the case DWP wishes to make – without any substantive response to public and civil society questions. (One might note that such a response is more characteristic of a temporary political flunky[48] than a long-term responsible professional.)

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[45] page 3 https://cpag.org.uk/policy-and-campaigns/briefing/mind-gaps-briefing-7
[46] Ibid
[47] Ibid
[48] Of which there are, entirely legitimately, many in Government.

The Government frequently argues that the people who 'pay the price' for fraud are taxpayers alone. In practice, it is the most vulnerable and 'complex' claimants who pay a proportionally far higher price. Indeed, it could be argued that 'fraud and error' measures are the most regressive tax at HMG's disposal...

A number of things should happen in order to make the counter-fraud 'profession' one which, at the very least, learns from its failures.

Available next steps for Government and the Profession

We see three available steps that Cabinet Office and the 'profession' could take, to improve the delivery of their stated mission:[49]

1) Measure the processes of independent administrative review

Errors by Government are measurable in those processes which end up in a Tribunal, or any similar quasi-judicial body that follows the principles of open justice. Therefore, as part of the annual budgetary process, Cabinet Office should consolidate the error and fraud figures it receives from Departments in their annual reporting with statistics from HMCTS / Ministry of Justice – to provide a "public purse" assessment of errors by Government.

It is notable that DWP 'outsources' much of its process failure; those costs are paid by MoJ and the Tribunal system, and that should be accounted for.

For Tribunals where judgments are already routinely published in some form, e.g. Immigration[50] and Employment,[51] those statistics can be derived automatically – and then compared with the Cabinet Office figures, to assess systemic accuracy and efficacy.

2) Inform promotions within the 'profession'

Just as advancement in the medical and other professions are informed by meaningful, outcome-oriented performance assessments and published statistics, so should promotions within any counter-fraud 'profession'.

In order to be meaningful, only those processes which end in Tribunal should be deemed valid to inform promotions or league tables. Systematic assessment of fraud processes involving individuals (not business entities, or various other non-natural persons) and the success / failure rate of such cases, and estimates of the effects of the process on the human beings who were subject to it should become standard.

It may be that misery is the point of the process – but, if that is the case, the 'professionals' who cause it should have to justify their decisions.

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[49] While their vision has some problematic exclusions, there are consensus areas where delivering their mission *well* is in everyone's interests; civil society, public bodies, and HM Treasury.
[50] https://tribunalsdecisions.service.gov.uk/utiac/
[51] https://www.gov.uk/employment-tribunal-decisions

3) Investigate the underlying causes of high levels of negative outcomes

Following the model set out in the Investigatory Powers Commissioner's annual report, there should be independent investigations into areas with high levels of failures at Tribunal.

If the mistakes under an Investigatory Powers Act that deals with matters of national security can be this transparent, counter-fraud and error mistakes certainly must be. Co-operative joint investigations should seek to understand why such systems have disproportionately negative outcomes at Tribunal, and to identify ways to resolve systemic issues.

Where systemic issues remain unaddressed, this would suggest a clear lack of professionalism within relevant Departments. And, as with IPCO, this should be part of annual reports.

We suggest civil society also take such an approach – based on systems such as CPAG's Early Warning System – even and especially if HMG refuses to engage. While it is beyond our remit (and ability) to give guidance on the more legalistic aspects of cases in particular areas, we can certainly advise on a "whole of Government" review approach that can be taken irrespective of the individual actions of DWP, the Cabinet Office and other Departments.

Measuring Progress of Government: Towards an Annual Assessment from Civil Society

That Government has chosen to formalise its cross-government fraud and counter-fraud processes provides civil society a new opportunity to engage with the outputs of that formalisation, and related cross-government discussion and review.

Just as the counter-fraud 'profession' is (purportedly) designed to enforce citizen honesty, and the Annual Report is for the Cabinet Office to keep the Departments honest, so should civil society keep the counter-fraud profession itself honest *by scrutinising the most harmful of 'fraud and error' processes*.

The steady grind of the bureaucracy, promotions of staff, evolutions of standards, and annual reports all create new points of ongoing engagement for civil society.

Possible areas of focus, depending on wider interests, would include:

- Enforce the same standards for domestic counter-fraud as we do for international aid projects:
  - Stop Departments from picking the easy and/or vulnerable to target;
  - Government may get to decide what standard it is held to, but civil society can hold its counter-fraud officials to the same level as the 'mistakes' they allow the public.
- Measure how much programmes and processes are targeting the vulnerable, and how much they are making a meaningful impact on fraud.

- Encourage the prioritisation of issues that generate large costs *of all kinds*.

- Tie together the anti-corruption and fraud narratives in civil society.

- While counter-fraud 'professionals' may move on before their failures fully emerge, failures of practice should follow them throughout their 'career':

    - In particular, watch the 'revolving door' from companies to government and back again.

- Systematically measure Government fraud figures (and definitions) over time, each time comparing what they said *this* year to what they said *last* year.[52]

- Given the prioritisation of service design across government, especially around digital, demand evidence of how services are taking design steps to minimise error?

- And a proposed Parliamentary Question (oral or written) for the next time Fraud is discussed: ***"If the Minister removed £10 billion of fraud, what would HMG's new estimates be?"***

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[52] c.f https://www.theguardian.com/world/2020/jun/19/over-1000-deaths-day-uk-ministers-accused-downplaying-covid-19-peak