| | |
|---|---|
| **Title:** Fraud, Penalties and Sanctions: Social Security Penalty Notices and Loss of Benefit | **Impact Assessment (IA)** |
| | **Date: 22/02/2016** |
| **Lead department or agency:** Department for Work and Pensions | **Stage:** Final |
| | **Source of intervention:** Domestic |
| **Other departments or agencies:** Her Majesty's Treasury; Her Majesty's Revenue and Customs; Northern Ireland Office | **Type of measure:** Secondary legislation |
| | **Contact for enquiries:** devolution.commsandbriefing@dwp.gsi.gov.uk |

## Summary: Intervention and Options

**RPC Opinion:** Not Applicable

| Cost of Preferred (or more likely) Option | | | | |
|---|---|---|---|---|
| **Total Net Present Value** | **Business Net Present Value** | **Net cost to business per year** (EANCB on 2009 prices) | **In scope of One-In, Two-Out?** | **Measure qualifies as** |
| | N/A | N/A | No | N/A |

**What is the problem under consideration? Why is government intervention necessary?**

The government is concerned that the existing provisions for imposing sanctions on benefit claimants in Northern Ireland where there is benefit fraud are too lenient, do not have an appropriate level of consequence for offences and fail to deter repeated benefit fraud or adequately ensure that the incentives for compliance with the regime are strong enough. These provisions have been strengthened in GB by measures in the Welfare Reform Act. We agreed with the Northern Ireland Assembly that it was financially unsustainable for this more lenient regime to continue.

**What are the policy objectives and the intended effects?**

The policy objective is to increase the consequences of benefit fraud and reduce claimant error, which costs taxpayers money and undermines public confidence in the welfare system. This will strengthen the incentive to comply with the rules of the benefit regime.

Imposing tougher penalties for benefit fraud reduces expenditure whilst supporting those in need. Ensuring only those who are entitled to benefits receive them creates a fairer and affordable system. These changes also bring parity with changes that have previously been made in GB.

| | | | | | | |
|---|---|---|---|---|---|---|
| Does implementation go beyond minimum EU requirements? | | | N/A | | | |
| Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base. | **Micro** No | **< 20** No | **Small** No | **Medium** No | **Large** No | |
| What is the $CO_2$ equivalent change in greenhouse gas emissions? (Million tonnes $CO_2$ equivalent) | | | **Traded:** N/A | | **Non-traded:** N/A | |

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

The do nothing option was considered and rejected as the current policy does not adequately address the problem, and the current sanction regime needs reviewing and strengthening in light of claimant feedback. Therefore the options selected align to elements of the GB regime.

Financial Penalties of £350 rate was the most appropriate as this is the mid-point between existing administrative penalties of £15 minimum and £600 maximum and equates to the rules imposed in GB. It will be offered to claimants, not imposed, and the 28 day cooling off period will be retained. If it is refused, the Department may consider prosecution.

Attempted Fraud: The Department already has the necessary powers to prosecute claimants who attempt benefit fraud; however, improved /quicker access to intelligence will increase the number of attempted frauds detected, and the new administrative penalty of £350 will apply as an alternative to prosecution for such cases.

Loss of Benefit Extension: Longer and different combinations were considered as a way to increase the consequences of fraud. The periods of 13 weeks, 26 weeks and 3 years were determined to be most appropriate to achieve an appropriate strengthening of the sanction regime and consistency of approach with conditionality sanctions under Universal Credit and existing rules in GB. In recognition of the serious nature of organised attacks a higher 5 year loss of benefit was considered for such cases, but it was limited to 3 years to ensure proportionality and a consistent approach.

The Fresh Start Agreement set out that these regulations would be passed through Westminster to ensure swift implementation.

**Will the policy be reviewed?** It will not be reviewed. **If applicable, set review date:**

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible Minister: Priti Patel Date: 22/02/16

# Summary: Analysis & Evidence

Policy Option 1

**Description:**

**FULL ECONOMIC ASSESSMENT**

| Price Base Year | PV Base Year | Time Period Years | Net Benefit (Present Value (PV)) (£m) | | |
|---|---|---|---|---|---|
| | | | **Low:** Optional | **High:** Optional | **Best Estimate:** |

| **COSTS (£m)** | **Total Transition** (Constant Price) | Years | **Average Annual** (excl. Transition) (Constant Price) | **Total Cost** (Present Value) |
|---|---|---|---|---|
| **Low** | Optional | | Optional | **Optional** |
| **High** | Optional | | Optional | **Optional** |
| **Best Estimate** | | | | |

**Description and scale of key monetised costs by 'main affected groups'**

There are no additional IT costs to enable this change as it will be enabled by shared DWP IT and so the necessary changes have already been made. Likewise there will not be additional staffing costs as NI will not be implementing the civil penalty which was part of the GB reforms.

**Other key non-monetised costs by 'main affected groups'**

The main costs will be to individuals who fraudulently claim benefits that they are not entitled to. These individuals have a strengthened incentive to comply with eligibility rules rather than misrepresenting their circumstances to fraudulently claim benefits..

| **BENEFITS (£m)** | **Total Transition** (Constant Price) | Years | **Average Annual** (excl. Transition) (Constant Price) | **Total Benefit** (Present Value) |
|---|---|---|---|---|
| **Low** | Optional | | Optional | **Optional** |
| **High** | Optional | | Optional | **Optional** |
| **Best Estimate** | | | | |

**Description and scale of key monetised benefits by 'main affected groups'**

Claimants who commit benefit fraud offences will be offered an alternative to prosecution of a higher financial penalty which will result in a saving to the exchequer. Alongside this the strengthened incentives to comply with the regime eligibility will also result in savings.

Detailed information on total estimated savings arising from extended loss of benefit provisions are not available. It is uncertain to what extent this reduction will be as a result of behavioural change reducing fraud being committed and what from increased penalties imposed.

Claimants who commit serious organised fraud will now face a longer loss of benefit.

**Other key non-monetised benefits by 'main affected groups'**

Overall strengthened enforcement may result in increased compliance with the regime and conditionality attached may subsequently result in an increased movement into work in the longer term.

**Key assumptions/sensitivities/risks** **Discount rate (%)**

It is assumed that overpayments will be recovered from claimants and the ratio of those who remain on a sanctionable benefit is comparable to present numbers.
A higher number of attempted fraud cases will be detected and increase in overall sanctions achieved.
Additional penalty/convictions reduce from existing levels.

**BUSINESS ASSESSMENT (Option 1)**

| **Direct impact on business (Equivalent Annual) £m:** | | | **In scope of OITO?** | **Measure qualifies as** |
|---|---|---|---|---|
| **Costs:** | **Benefits:** | **Net:** | No | N/A |

## Introduction

The suite of policy changes are designed to improve work incentives and enhance fairness, whilst ensuring support for the most vulnerable. These were implemented in Great Britain in 2012 and many have proved to be successful in increasing moves into employment by those affected.

Welfare Reform and Social Security remain devolved in Northern Ireland; however the Northern Ireland (Welfare Reform) Act 2015 enables the UK Government to legislate for welfare reform in NI for a specified period of time. This impact assessment accompanies the subsequent Order in Council which broadly mirrors the policies in the Welfare Reform Act 2012, with NI specific flexibilities agreed in the Fresh Start Agreement. Both the Northern Ireland (Welfare Reform) Bill and the Order in Council were consented to by the NI Assembly.

Alongside this mitigations have been assessed and will be put in place by the NI Assembly following the Evason report, published in January 2016. Funding will be provided to support those who are not able to move into work.

## The current policy

The existing provisions for imposing benefit sanctions or penalties on benefit claimants who commit fraud in Northern Ireland, are more lenient than the ones across GB. These do not represent parity across the UK. The system in GB has strengthened incentives to comply with the regime and delivers fiscal savings.

## Policy objective

The policy intention is to prevent benefit fraud, deter individuals from benefit fraud and increase the consequences thereof. Benefit fraud costs taxpayers money and undermines public confidence in the welfare system, so further steps are needed to reduce this. As a result, the government by imposing tougher penalties for benefit fraud aim to deter fraud and drive positive behaviours.

## Exchequer Impact

As a result of not mirroring the measures contained in the Welfare Reform Act 2012 in Northern Ireland the Executive has had to pay HM Treasury £2m per week to cover additional welfare payments. This is unsustainable and parity with GB needs to be restored.

## Impact on Households

The new proposals strengthen the deterrents and penalties that currently exist in the Department's criminal sanction regime to deter more people from committing benefit fraud in the first place. Those who comply with the benefit eligibility relevant to their situation will be unaffected by these changes. However they will provide additional deterrents for claimants. Affected claimants fall into the categories

1. All of those who commit fraud and there is sufficient evidence for prosecution will face: recovery of payment; offer of a penalty (£350 or 50% up to £2000); 4 week loss in benefit

2. Those who commit fraud and have been convicted will face: recovery of payment; a loss of benefit of either 13 week, 26 week or 3 years dependant of previous offences, though 3 years will apply for serious fraud. Also if appropriate recovery of assets under the proceeds of crime act.

In cases of prosecution all cases are subject to consideration under the Code for Prosecutors by the Public Prosecution Services for Northern Ireland which has overall responsibility for deciding whether a case should proceed to prosecution through the courts. Mitigation factors such as serious illness or disability will be considered under the public interest test, but the decision whether to prosecute depends on the individual circumstances of each case.

## Impact on Income for Protected Groups

Households that include someone with a protected characteristic (as defined by the Equality Act 2010) will be affected by this policy if they receive one or more of the affected benefits. Overall, those groups who are more likely to be in receipt of affected benefits are more likely to be affected by this policy change, though these groups will not see a change in benefits if they comply with current benefit rules. The protected groups according to the Equality Act 2010 are:

- Age
- Disability
- Gender
- Ethnicity
- Gender reassignment
- Pregnancy and maternity
- Sexual orientation
- Religion or belief
- Marriage and civil partnership

This policy will apply equally to all claimants who commit an offence of benefit fraud which results in acceptance of the new administrative penalty; caution conviction or loss of benefit sanction for customer error regardless of any of all protected characteristics.

The proposals apply equally to all claimants whatever their age, both in terms of whether a sanction applies and also the possibility of mitigating the effects of sanctions. Vulnerable households will be able to access hardship payments at a reduced rate. These groups include those of pensionable age; those with children; where there is a pregnant household member; seriously ill or disabled household members. The hardship payments may be recoverable from future benefit payments.

### Age

Specifically for those pension age customers a loss of benefit sanction is a reduction in State Pension Credit rather than total withdrawal of the benefit. Other vulnerable groups such as the seriously ill and disabled and those who would be left in hardship if they did not receive any benefit payment would be able to access hardship payments at a reduced rate. In relation to pension age customers, State Pension is not a sanctionable benefit.

### Gender

A person of either gender might fall within the vulnerable group. Following the introduction of Universal Credit and associated changes to income-based Jobseeker's Allowance where a person is not in a vulnerable group but would be left in hardship if no payment were made a hardship payment may be applicable. Such a payment may be recoverable from future benefit payments.

### Disability

The proposals apply equally to all claimants, both in terms of whether a sanction applies and also the possibility of mitigating the effects of sanctions. Specifically for those vulnerable groups such as the seriously ill and disabled and those who would be left in hardship if they did not receive any benefit payment would be able to access hardship payments at a reduced rate.

Benefits that are paid as a contribution towards the extra costs of disability, for example Disability Living Allowance and Attendance Allowance are not sanctionable although they are disqualifying benefits (meaning a benefit fraud offence against either of these benefits would trigger a loss of benefit sanction on any sanctionable benefit).

We do not, as a matter of course monitor religious belief, political opinion, racial background or sexual orientation for the purpose of administering the social security system in Northern Ireland. However we would not expect claimants to be adversely affected on these grounds.

**Life Chances**

The new Life Chances legislation (incorporated into the Welfare Reform and Work Bill) proposes to remove a number of the legal duties and measures set out in the Child Poverty Act 2010 and to place a new duty on the Secretary of State to report annually on children in workless households and the educational attainment of children. This is because evidence shows these to be the two main factors leading to child poverty now and in the future (respectively).

This policy change supports life chances as it reinforces the incentives to comply with the eligibility rules and incentives of the regime. The strengthened incentives to present a true picture of personal circumstances will ensure that individuals take responsibility for their actions and may improve the chance of moving into work through the conditionality regime.