

Public Authorities (Fraud, Error and Recovery) Bill

Briefing Three – Part 2 and the DWP

Committee Stage, House of Lords

4 June 2025

1. JUSTICE is a cross-party law reform and human rights organisation working to strengthen the UK justice system. It is the UK section of the International Commission of Jurists. Our vision is of fair, accessible and efficient legal processes in which the individual's rights are protected and which reflect the country's international reputation for upholding and promoting the rule of law.
2. JUSTICE has given oral and written evidence to the House of Commons during the passage of the Public Authorities (Fraud, Error and Recovery) Bill ("**the Bill**").¹ For Committee Stage in the House of Lords, it is producing three briefings:
 - (a) Briefing One: Part 1 and the Public Sector Fraud Authority
 - (b) Briefing Two: "Reasonable grounds" for suspicion and a need for protection against fraud investigation based on stereotypes and generalisations. (Crosscutting issue)
 - (c) Briefing Three: Part 2 and the Department for Work and Pensions.
3. This is the third of these briefings and focuses on **Part 2 of the Bill only**, and focuses on Clauses 74, 75, 76, 77, 82, 83 and 88.
4. JUSTICE is not briefing on all the recovery methods in Part 2 Chapter 4, for example direct recovery from bank accounts and disqualification from driving provisions. However, our lack of briefing on those clauses should not be taken as support of them; rather, JUSTICE defers to other civil society organisations and frontline organisations briefing on those provisions and the impact they will have on individuals.

¹ See our written evidence, submitted at Committee Stage in the House of Commons, on the Bill page [here](#).

Summary

5. **Clause 74 and Schedule 3: Eligibility Verification Measures (“EVM”)** pose significant risks to human rights, equality and the rule of law. JUSTICE does not consider that the measures are necessary and proportionate. First and foremost, **JUSTICE therefore recommends that Clause 74 and Schedule 3 do not stand part of the Bill.** Should Clause 74 and Schedule 3 remain in the Bill, JUSTICE recommends that obligatory compliance with the Code of Practice be placed on a statutory footing, and recommends several amendments to improve the proportionality, transparency and accountability of the EVM.
6. **Clauses 76 and 77:** JUSTICE is extremely concerned by the power in the Bill for DWP authorised officers to use “reasonable force” in the execution of their entry, search and seizure powers. This issue has not received adequate scrutiny in the Bill thus far. The power is extremely broad in England and Wales (Clause 76), and only slightly narrower in Scotland (Clause 77). In neither jurisdiction is there an explicit restriction on the face of the Bill that reasonable force will be used against things, not people (despite it being suggested in the Explanatory Notes). **It is what is on the face of the Bill – not in the explanatory notes – that counts.** Allowing the use of force by State actors is an extremely serious draconian power, which permits state-inflicted physical damage to people and property. Justification for these powers is lacking, and JUSTICE does not consider the case for them has been made out. **JUSTICE recommends the use of reasonable force be taken out of the Bill.**
7. **JUSTICE therefore strongly urges Peers to table the following amendments:**

Clause 76, page 45, line 24, leave out subsection (i)

Explanatory statement: this amendment would remove the ability for DWP authorised investigators in England and Wales to use reasonable force when exercising their powers of entry, search or seizure under PACE 1984.

Clause 77, page 97, line 14, leave out subsection (6)

Explanatory statement: this amendment would remove the ability for authorised investigators in Scotland to use reasonable force when executing a Sheriff’s warrant for entry, search or seizure.
8. **Clauses 82 and 83:** JUSTICE is concerned the IOPC and PIRC will be unable to fulfil their vital role – to oversee complaints about DWP use of police powers – if their new expanded roles are not accompanied by further funding. **JUSTICE encourages Peers to call for the Government to commit to additional resources during the Committee debates.**

9. **Clauses 75 and 88:** JUSTICE supports the independent reviewer roles, in relation to the EVM (Clause 75) and in relation to the entry, search and seizure powers (Clause 88). However, the extent of the reviewer's duties should be improved. JUSTICE supports amendments which explicitly require the reviewer to report on equality impact, privacy impact, the impact on vulnerable people, and the use of reasonable force. The powers of the independent reviewer are also insufficient: the reviewer must be able to compel access to information they need from the Secretary of State, rather than rely on voluntary disclosure. Finally, the Government must be accountable to the reviewer, by being obliged to respond to a report's recommendations, providing reasons for those they reject.

Background

10. Part 2 of the Bill gives the Department for Work and Pensions ("**DWP**") substantial powers to investigate and recover fraud. These powers include police powers to enter private premises, search them, and seize property, as well as powers to demand information, require banks to check eligibility for benefits without any suspicion of error or fraud, and powers to recover money and impose civil penalties. These powers will inevitably interfere with the rights of individuals, including the right to privacy, home and correspondence, and their right to the peaceful enjoyment of their property.²
11. These powers are undoubtedly in pursuit of a legitimate aim: to prevent crime and to protect the economic wellbeing of the country. However, whenever new state powers over the individual are created which will interfere with their rights a legitimate aim is just the starting point. In addition:
- (a) the legislation itself which creates such new powers must be tightly drawn to guard against arbitrariness;³
 - (b) the exercise of the powers must be limited to what is necessary and proportionate.
 - (c) there must be effective safeguards and oversight mechanisms, not just to incentivise such necessary and proportionate use, but also to ensure accountability and redress when things go wrong.⁴
12. If over-broad powers are included within the Bill, and/or the Bill lacks adequate safeguards, the Bill risks undermining the rule of law and breaching the human rights of individuals targeted by its measures.
13. Making sure these protections are in place does not undermine the policy objective of tackling fraud; it

² Article 8 and Article 1 Protocol 1 of the European Convention of Human Rights, respectively.

³ i.e. not be "so wide or indefinite as to permit interference with [rights] on an arbitrary or abusive basis." *R (Catt) v Commissioner of Police of the Metropolis* [2015] UKSC 9 [11] *per* Lord Sumption

⁴ See the right to an effective remedy Article 13 of the European Convention of Human Rights

supports it by ensuring that fraud is tackled lawfully in a democratic society.

Clause 74 and Schedule 3: Eligibility verification powers

14. Most of the investigatory powers in the Bill are exercisable only when there are “reasonable grounds” for suspicion, for example that fraud has been committed, or there are “reasonable grounds” for believing evidence is located at a particular property. This requirement for reasonable grounds is a well-known legal requirement in the context of state investigations: it is a safeguard to protect individuals from baseless state interference and fishing expeditions. It thereby upholds the rule of law, by preventing arbitrary state power.⁵
15. **The requirement for “reasonable grounds” for suspicion is however absent for the “eligibility verification” powers at Clause 74 and Schedule 3.**
16. Clause 74 and Schedule 3 create a new third-party data gathering power for the DWP, which will enable it to require information from banks and financial institutions about accounts linked to the receipt of benefits for the purpose of checking eligibility indicators. These provisions had been added late to the Data Protection Digital Information Bill (“**DPDI**”), which fell at the 2024 election.
17. The benefits in scope are (a) universal credit; (b) employment and support allowance; and (c) state pension credit.⁶ However the Bill contains a Henry VIII clause⁷ which permits regulations to edit this list in the primary legislation, thereby bringing further benefits into scope with limited scrutiny.
18. The eligibility verification measures (“**EVM**”) enable bulk data gathering by DWP from individuals’ bank accounts. Unlike the DWP’s existing information gathering powers in ss. 109B-109BA Social Security Administration Act 1992 (“**SSAA**”), the eligibility verification powers do not require a threshold of “reasonable grounds” for suspecting fraud or error.

Privacy concerns

⁵ For JUSTICE’s acute concerns regarding the interpretation of “reasonable grounds” within the context of incorporating machine learning into fraud detection processes, see our second briefing, accompanying amendments 75A and 79A.

⁶ See para 19(1) of Schedule 3B Social Security Administration Act 1992, inserted by Schedule 3, page 88 of the Bill.

⁷ Para 19(2) of Schedule 3B Social Security Administration Act 1992, inserted by Schedule 3, page 88 of the Bill.

19. These powers interfere with millions of individuals' right to privacy.⁸ To be compliant with human rights law, a legitimate aim – the economic wellbeing of the country and the prevention of crime – is just a starting point. Any interferences also have to be tightly drawn to guard against arbitrariness,⁹ and be limited to what is necessary and proportionate.
20. Proportionality requires considering whether the measures are rationally connected to the objective, whether less intrusive measures could be adopted without unacceptably compromising the objective, and whether a fair balance has been struck between the rights of the individual and the interests of the community.¹⁰ JUSTICE is not persuaded by the DWP's analysis that the measures are proportionate to the privacy infringement they entail, for the following reasons:
- (a) **The powers are excessively broad:** Millions of individuals in receipt of benefits could be impacted. Although the initial benefits in scope are specified (universal credit; employment and support allowance; state pension credit)¹¹ the Bill incorporates a Henry VIII power to amend these benefits,¹² with the only type of benefit excluded from the remit of the powers in the future being state pension.¹³ Also in scope are linked accounts, for example those of appointees, and joint accounts. The measure will therefore impact several million known benefits recipients, in addition to unknown numbers of linked or joint account holders.
 - (b) **Other less intrusive measures are available – requiring reasonable suspicion of fraud:** There is no legal requirement that the Secretary of State have a reasonable suspicion or any other “reasonable grounds” to suspect fraud or error in order to exercise the power. Indeed, existing legislation already permits the DWP to request information from third parties, such as banks, on an individual basis where there is an existing suspicion of welfare fraud.¹⁴

Thresholds and tests, often requiring “reasonable suspicion” or “reasonable grounds to believe” an activity has taken place are commonplace legal requirements for good reason: they provide a safeguard to the individual against the arbitrary exercise of state power. The Social Bill recognises

⁸ Article 8 of the European Convention of Human Rights. Information retrieved from an individual's banking documents constitutes personal data, whether it is sensitive private information or information on the data subject's professional dealings. The copying of banking data and the subsequent storage by the authorities of such data, acts which fall under the notion of both “private life” and “correspondence”, amount to interference for the purposes of Article 8 (*M.N. and Others v. San Marino*, App no. 28005/12 7 July 2015, § 51-55).

⁹ i.e. not be “so wide or indefinite as to permit inference with [rights] on an arbitrary or abusive basis.” *R (Catt) v Commissioner of Police of the Metropolis* [2015] UKSC 9 [11] *per* Lord Sumption.

¹⁰ *Bank Mellat v HM Treasury (No 2)* [2013] UKSC 39 Lord Reed at §74.

¹¹ Draft Schedule 3B para 19(1) of the Social Security Administration Act 10 1992, to be inserted by Schedule 3 of the Bill.

¹² *Ibid*, para 19(2).

¹³ *Ibid*, para 22.

¹⁴ DWP, [Fighting Fraud in the Welfare System](#), Policy Paper May 2022 at §40.

this with respect to the entry, search and seizure powers, where the requirement for “reasonable grounds” is being preserved.

Invasive state powers should be drafted narrowly to restrict the potential for arbitrariness and abuse and protect people’s rights by law; they should not be drawn broadly, and leave proportionality and rights protection to the discretion and self-restraint of the executive. Indeed, to do so leaves the door wide open for future holders of those executive offices to easily exercise powers arbitrarily.

The Constitution Committee raised these concerns about the same powers that were included in Data Protection and Digital Information (“**DPDI**”) Bill and recommended that the power “should be limited to circumstances in which the Secretary of State has reasonable grounds for inquiry.”¹⁵ JUSTICE agrees.

- (c) **The intrusion to individuals risks being disproportionate to the benefits to the community:** according to the government’s own analysis, if the powers work as estimated, they are expected to generate approximately £2 billion in net revenue over 10 years, equating to £200 million in net annual revenue per year.¹⁶ This amount is just 2% of the estimated annual loss to fraud and error of £10 billion, and is a quarter of that lost to the DWP’s own official error, £780 million (even putting to one side the National Audit Office’s criticisms of the way in which DWP under records its own errors¹⁷).

21. JUSTICE therefore is concerned that the infringement on the privacy of millions of individuals is disproportionate to the benefit to be gained by the community, even if taken at its highest estimation.
22. JUSTICE further observes that the DWP often presumes “fraud” when there is a lack of engagement from the Claimant, rather than there being any clear evidence of dishonest intent which would amount to criminal fraud.¹⁸ It admits that “the Department holds very little evidence of their current circumstances and their reasons for failing to engage.”¹⁹ While the ideal scenario may be the recuperation of all overpayments of public sector funds, with limited resources available JUSTICE observes there being a greater benefit to the community at large of focussing on the most culpable, that is those committing criminal fraud in organised crime, rather than targeting individuals *en masse* who may have varying

¹⁵ Select Committee on the Constitution, ‘[Data Protection and Digital Information Bill](#)’, 2nd Report of Session 2023-2024, HL Paper 53 at §18.

¹⁶ DWP, [Public Authorities \(Fraud, Error and Recovery\) Bill Impact Assessment Summary of Impacts](#), (2025) p.37.

¹⁷ NAO, [Report on Accounts: Department for Work and Pensions \(Session 2024-25\)](#) para 15.

¹⁸ NAO, [Report on Accounts: Department for Work and Pensions \(Session 2024-25\)](#) para 17.

¹⁹ DWP, [Background Information: Fraud and error in the benefit system statistics, 2023 to 2024 estimates](#) (2024).

reasons for failure to engage, including various vulnerability factors.

Equality concerns

23. With respect to the Equality Act 2010, the most obvious concern is that the population of benefits recipients disproportionately includes people with disabilities. The Equality Impact Assessment released alongside the DPDI Bill (after an FOI) stated that 50% of the benefit population was disabled compared to 28% of the adult UK population.²⁰ Having a disability is a protected characteristic in the Equality Act 2010,²¹ however of course other protected characteristics may also be relevant, such as age, sex and ethnicity.
24. The Government has failed to publish an equality impact assessment with the Bill. JUSTICE is therefore extremely concerned that insufficient analysis has been undertaken to understand whether the provisions will discriminate against those with protected characteristics under the Equality Act 2010 – the proactive consideration of which is required by the Public Sector Equality Duty.²² **If this analysis has been undertaken, it should be made publicly available for Parliament and wider society to scrutinise.**
25. Given the previous equality impact assessment's finding that the benefits-receiving community does disproportionately include people with disabilities, it is reasonable to assume they will be put at a particular disadvantage by the powers when compared with persons without that protected characteristic. This will amount to indirect discrimination under both the Equality Act 2010 and Article 8 taken with Article 14 ECHR. The only way this can be lawful is if the indirect discrimination is justified by being a proportionate means of achieving a legitimate aim.²³
26. All the above concerns in relation to the proportionality of the privacy impact are again relevant here, in terms of the proportionality and justifiability of the indirect discrimination of people with disabilities.
27. We further note that only banks and financial institutions – not the individuals who are benefits recipients or bank account holders – are the focus of the Bill's impact assessment. Despite the legal requirement to assess the proportionality of the impact, therefore, there has been no apparent attempt to engage or consult proactively with those in receipt of benefits who will be impacted the most.

²⁰ Available following an FOI at: <https://www.parkinsons.org.uk/sites/default/files/2024-05/Clean%20copy%20of%2020231130%20DWP%20Third%20Party%20Data%20EA%20v2%20%28redacted%29.pdf>

²¹ Section 6 of the Equality Act 2010, listing disability as a protected characteristic.

²² Section 149 of the Equality Act 2010.

²³ Section 19(2)(d) Equality Act 2010.

28. While the Government failed to do so in its impact assessments, the House of Commons Committee stage of the Bill heard evidence from representative individuals, Geoff Fimister, (Campaign for Disability Justice) and Rick Burgess, (Greater Manchester Coalition of Disabled People). These witnesses explained the impact of the EVM on disabled community as follows:²⁴

The life of a disabled person is to be constantly tested and examined and having to produce proof, and this is another step in that. (Rick Burgess)

There is a really raw feeling among disabled people that they are being targeted. (Geoff Fimister)

There are particular worries about how this affects people living with mental distress, particularly those with diagnoses of paranoia, schizophrenia, depression or anxiety. This adds to the feeling of being monitored, followed and surveilled, because you literally are being surveilled by your bank on behalf of the Government. So it will necessarily reduce the wellbeing of disabled people who are claiming benefits that are monitored by the system. There is no getting away from that. (Rick Burgess)

29. JUSTICE considers such serious impacts are highly relevant to the proportionality analysis, of the costs of the measures to those impacted and to society at large.

Solutions for Clause 74 and Schedule 3

30. Parliament cannot be satisfied that the powers are human rights or equality law compliant. **JUSTICE therefore supports that Clause 74 and Schedule 3 do not stand part of the Bill, and supports Baroness Kramer’s notice to oppose them.**
31. Notwithstanding the above, JUSTICE also supports further measures which would improve transparency, accountability, and legality of the powers, as follows:
- (a) Robust recruitment and training requirements of authorised officers,
 - (b) Publication of the frequency and scale of use of the EVM,
 - (c) Publication of the eligibility indicators used – **JUSTICE supports amendment 82 (Baroness Fox) to this effect,**
 - (d) Notification of benefits recipients, such that the legal requirements of foreseeability and transparency²⁵ are met – **JUSTICE supports amendment 89ZA (Lord Vaux) to this effect**

²⁴ Public Authorities (Fraud, Error and Recovery) Bill, HC, [Public Bill Committee Second sitting \(25 February 2025\)](#) columns 68-71.

²⁵ as acknowledged in the human rights memorandum, para 79

- (e) Ensuring senior review of the outputs of the EVM before measures taken – **JUSTICE supports** amendment 85 (Lord Vaux) to this effect
- (f) Removing the Henry VIII power to add more benefit types without adequate oversight – **JUSTICE supports** amendment 89 (Lord Palmer) to this effect
- (g) An evaluation and monitoring strategy, including:
 - (i) when the measure will be evaluated;
 - (ii) the data collection responsibilities of banks and of the DWP for the purposes of evaluation;
 - (iii) the publication of evaluation;
 - (iv) the criteria for evaluation, which should include at a minimum:
 - (A) the equalities impact;
 - (B) the privacy impact on i) benefits recipients; ii) non-benefits recipients;
 - (C) a cost benefit analysis;
 - (D) the rate of false negatives, i.e. the number of known cases in which ineligibility has been identified through alternative means, but was missed by the EVM;
 - (E) the rate of false positives, i.e. the number of cases in which the EVM flagged risk of ineligibility but upon investigation the benefit recipient was in fact eligible;
 - (F) any interim measures taken against those investigated due to a false positive, for example paused benefits, information notices, entry search and seizure powers;
 - (G) how much ineligibility was a result of fraud, how much Claimant error, and how much Official DWP error, taking on board the National Audit Office’s criticisms of the way in which DWP under-records its own errors.²⁶
 - (v) Those who will be consulted, including:
 - (A) the independent reviewer;
 - (B) banks;
 - (C) benefits recipients impacted and their representatives.

32. JUSTICE seeks the above safeguards to be included on the face of the Bill. If they are instead included in the Code of Practice, the primary concern is that the safeguards are not binding. **Therefore JUSTICE recommends the Bill requires the Secretary of State comply with the code of practice when exercising the power in clause 74.**

²⁶ NAO, [*Report on Accounts: Department for Work and Pensions \(Session 2024-25\)*](#) para 15.

At Schedule 3, page 87, line 23, at end insert –

“ (6) The Secretary of State must comply with the code of practice from the date of the first issue of an eligibility verification notice.”

Clause 75: Independent Reviewer of EVM

33. The role of an independent reviewer is established by Clause 75 to review the exercise of the EVM, a role which was not included in the DPDI Bill. Overarching oversight is vital if the systemic impact of the measure is going to be understood. Therefore JUSTICE fully supports the creation of an Independent Reviewer role in principle as an important safeguard.
34. However, the current provisions lack clarity as to the role of the independent reviewer, their powers and the level of scrutiny they will actually be able to provide in practice. While the effectiveness of the EVM is specified as a feature of the review, this alone does not include enough detail to assure Parliament that the independent reviewer role provides adequate scrutiny.
35. JUSTICE suggests the following additional requirements:
- (a) **Reporting duties:** explicit requirements for the independent reviewer to report on specified areas of impact including the equality impact, privacy impact, the impact on vulnerable people, and the competence of the DWP to exercise their powers proportionately. **JUSTICE supports amendment 91A to this effect, which would specifically require the impact on vulnerable people to be reported upon.**
 - (b) **Power to access to information:** Clause 75 provides that the Secretary of State “may” disclose information to the independent person for the review. JUSTICE is not clear why this is “may” and not “must”. A power to require information from the Secretary of State in the exercise of the independent review would ensure full transparency and therefore effectiveness of the review, rather than relying on the DWP’s voluntary provision of relevant information. **JUSTICE therefore supports amendment 91B to this effect.**
 - (a) **Accountability:** Clause 75 stipulates the independent reviewer’s report must contain recommendations, however it is silent as to what the Government must do in receipt of them. To ensure the Minister and PFSA are accountable to the oversight of the independent review, **JUSTICE seeks support from a Peer to table an amendment as follows:**

At Clause 75, page 44, line 13, at end insert –

(8) Within [3 months] of having received a report, the Minister must:

- (a) publish a response to the report;*
- (b) provide reasons in the response for why any recommendations are being rejected;*
- and*
- (c) lay a copy of the response before Parliament.*

Clauses 76 and 77: the reasonable use of force during entry, search and seizure

36. JUSTICE is extremely concerned that the Bill seeks to give DWP authorised officers not only the police powers to enter, search and seize property, but also – quite shockingly – the power to use reasonable force to facilitate such entry, search and seizure. This is included in Clause 76²⁷ in relation to DWP officers in England and Wales (by applying the police power to do so found at section 117 of PACE 1984) and to those in Scotland by Clause 77.²⁸ It is not to be given to PFSA officers, just to the DWP.
37. **This is a significant power which has not received adequate attention thus far.**²⁹
38. In the explanatory notes, the Government suggests that this “will be limited to using reasonable force against things not people.”³⁰ However, that caveat is **not** specified in the Bill itself.
39. In fact, section 117 of PACE 1984, which is applied by Clause 76 to DWP authorised officers, allows all reasonable force – against things and people. In case law, reasonable force has been found to be highly discretionary in the circumstances of the case. The following uses of force have been deemed “reasonable” and therefore lawful:
- (a) Tackling to the ground – *McDonnell v Commissioner of Police of the Metropolis* [2015] EWCA Civ 573.
 - (b) Eye and ankle injuries to someone who was not under arrest during entry and search – *Alleyne v Commissioner of Police of the Metropolis Queen's Bench Division* [2012] EWHC 3955 (QB).
 - (c) A dislocated hip – *Adorian v Commissioner of Police for the Metropolis Queen's Bench Division*

²⁷ Page 45, line 24 of the Bill as brought from the Commons.

²⁸ Page 97, lines 14-16 of the Bill as brought from the Commons.

²⁹ It was only referred to once in the Commons, by Rebecca Smith MP in Committee, who asked about the provisions, seeking an explanation as to why the power to use force was to be given to DWP, and the adequacy of safeguards, but the reasoning for giving the power to the DWP was not given in the Government response. Public Authorities (Fraud, Error and Recovery) Bill, HC, [Public Bill Committee 11 March 2025](#), Columns 261-262.

³⁰ [Public Authorities \(Fraud, Error And Recovery\) Bill Explanatory Notes](#), Bill 167-EN, 22 January 2025, paragraph 409.

[2010] EWHC 3861 (QB).

- (d) Not allowing those in occupation of the premises (who were not under arrest) to leave a room while those premises were being searched – *DPP v Meadon* [2003] EWHC 3005 (Admin).

40. In relation to Clause 77, the Scottish provisions do include a slight limitation: force cannot be used to “require any person on the premises to provide information or assistance”. However, it can be used to enable entry, search, and seizure, and there is no absolute requirement to use force only against things, not people. For example, one could see how force used against a person to prevent obstruction and facilitate the search could be found to be outside the prohibition on force requiring a person to “provide information or assistance”.
41. These provisions expose the severity of harm which could be caused to individuals in the exercise of these powers on the ground. The fact that neither PFSA nor DWP are being given arrest powers suggests that the Government acknowledges that interference with individuals’ bodily autonomy and liberty are extremely serious powers which it would be inappropriate to give to fraud investigators in DWP and PFSA. Yet, giving DWP (not PFSA) officers the wide remit of using “reasonable force if necessary to exercise a power” is a staggeringly broad and invasive power, which undermines that policy decision.
42. **JUSTICE stresses there is no clear limitation on the face of the Bill that force should not be used against people.** Suggested reassurances by the Government that the power will not be used in this way are entirely inadequate: **it is what is in statue, not explanatory notes, that counts.**
43. Furthermore, JUSTICE does not consider the need of a power to use force against *things* has been made out either. The use of force against property will clearly cause financial damage to those targeted by investigatory powers, for example should their door be broken down. JUSTICE is firmly of the position that, if such extreme force is required by the State, then it is a matter for the police. The power to cause physical damage to people or property should not be so willingly given to those outside the police.
44. **JUSTICE therefore seeks Peers’ support to table the below amendments:**

Clause 76, page 45, line 24, leave out subsection (i)

Explanatory statement: this amendment would remove the ability for DWP authorised investigators in England and Wales to use reasonable force when exercising their powers of entry, search or seizure under PACE 1984.

Clause 77, page 97, line 14, leave out subsection (6)

Explanatory statement: this amendment would remove the ability for authorised investigators in Scotland to use reasonable force when executing a Sheriff’s warrant for entry, search or seizure.

Clause 82 and 83: oversight of complaints about DWP use of police powers

45. To ensure accountability for individuals and to protect public trust, there must be adequate oversight of DWP officers' use of their new investigatory police powers, as there is with police currently exercising these powers. Clause 82 establishes that the Independent Office of Police Conduct ("**IOPC**") will handle complaints and misconduct allegations in relation to the search, entry and seizure powers which are being extended to DWP investigators.³¹ Clause 83 does the same for complaints in Scotland to go to the Police Investigation and Review Commissioner ("**PIRC**").
46. The practicality of the IOPC and PIRC taking on such an expanded remit is of significant concern. Only in December 2023, an independent review of the IOPC found it was facing significant (and growing) financial pressures, resulting in an ever-increasing number of complaints, but fewer and fewer investigations actually being carried out. The review had notice of the proposed extension of the IOPC's oversight to DWP and PSFA officers. It cautioned that "The Home Office should carefully consider the merits and drawbacks involved before extending the IOPC's remit to cover an ever-wider range of organisations, in particular if its remit is extended without additional resource."³²
47. The Government have failed to commit to providing the IOPC and the PIRC with additional resources alongside this Bill. **JUSTICE encourages Peers to call for the Government to commit to additional resources during the Committee debates.**
48. The capacity of the IOPC to handle complaints is all the more important if "reasonable force" will be used by DWP officers.

Clause 88: Independent Reviewer of DWP use of police powers

49. Clause 88 provides for an independent reviewer to be appointed, to report on the use of investigative powers by DWP. This includes entry, search and seizure powers and information powers.
50. For all the reasons above in relation to the independent reviewer for EVM, JUSTICE supports the role. It is an essential accountability mechanism, and ensures the measures are objectively assessed for their impact and effectiveness, rather than the DWP marking its own homework.

³¹ Clause 9 does the same with respect to the powers being extended to DWP investigators in Part 2 of the Bill – see JUSTICE's briefing on Part 2 of the Bill to follow.

³² Dr Gillian Fairfield, [*Independent review of the Independent Office for Police Conduct*](#) (December 2023)

51. JUSTICE repeats all its observations above in relation to Clause 75:
- (a) the role would provide a stronger check on the Government if the independent reviewer has the power to require information from the DWP. **JUSTICE therefore supports amendment 99B to this effect.**
 - (b) the Government must answer to the report's recommendations; and specific reporting duties are laid out. These specific reporting duties for the DWP investigatory police powers should include the impact on vulnerable people, the equality impact, and the proportionality of the impact on people's privacy.
52. Notwithstanding that JUSTICE considers the use of reasonable force be removed from the Bill, JUSTICE strongly recommends the use of reasonable force should also be an additional specific reporting duty under Clause 88 if it is not.