

Public Authorities (Fraud, Error and Recovery) Bill

DWP and the use of force – Clauses 77, 78 and Sch 4

Report Stage, House of Lords

13 October 2025

1. JUSTICE is a cross-party law reform and human rights organisation, and the UK section of the International Commission of Jurists. Our vision is of a fair justice system in everyone's reach.
2. This briefing on the Public Authorities (Fraud, Error and Recovery) Bill ("**the Bill**") ahead of Report Stage in the Lords focuses on the power for DWP authorised officers to use "reasonable force" against benefits claimants when exercising their new entry, search and seizure powers.

Summary

3. One of the most draconian and rights-infringing things the law can do is to empower the State to inflict physical force on people and their property.
4. This is even truer when the force is to be used against a population of people – benefits recipients – many of whom experience vulnerabilities. A recent inquiry has found the DWP's safeguarding of such vulnerable people "deficient", yet this power will inevitably put them at risk of further harm.
5. There has been shockingly little justification for giving the DWP the power to use force, rather than leaving this serious power to the police. Nor has there been any explanation of why the power is not being given to the Public Sector Fraud Authority (PSFA) *at all*. The obvious question – *if the PSFA do not need to use force, why do the DWP?* – has not been answered.
6. This issue has not received adequate scrutiny in the Bill thus far. **JUSTICE considers it should be a priority matter for Report Stage, and we urge Peers to support amendments tabled by Lord Vaux of Harrowden, to i) restrict the use of force to things, not people, or ii) remove it from the Bill entirely.**

Background

7. The Bill gives Government officials from DWP and the new Public Sector Fraud Authority” (PSFA) substantial powers to investigate and recover fraud. These powers include giving DWP and PSFA officers police powers: the power to enter private premises, search them, and seize property.
8. Clauses 77 (England and Wales) and 78 (Scotland) however go one step further for DWP authorised officers: the power to use “reasonable force” when exercising their new powers.
9. **This power to use force is not given to PSFA authorised officers, only to DWP authorised officers.** The obvious question – *if the PSFA do not need to use force, why do the DWP?* – has not been answered by the Government.
10. In response, the Government has consistently reassured the powers will be used against “things, not people”. **However, this safeguard is not in the Bill.**

Problems

11. One of the most draconian and rights-infringing things the law can do is to empower the state to inflict physical force on people and their property. This engages the right to private life, bodily autonomy and dignity and the peaceful enjoyment of property,¹ and the use of physical force marks a far more serious infringement than the powers of search, entry and seizure alone.
12. The more serious the rights infringement, the more justification is required to show it is necessary and proportionate, i.e. it is really needed and less intrusive measures simply cannot achieve the policy intent. Unfortunately, there has been strikingly little justification for the need of the power to be broadened to DWP officers, as opposed to leaving the use of force to appropriately trained police officers.
13. Indeed, the fact that neither PSFA nor DWP are being given arrest powers alongside their entry, search and seizure 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 PSFA. Yet, this is undermined by giving DWP (not PSFA) officers the staggeringly broad and invasive power to use reasonable force.

1) “Reasonable force” can mean the inflicting serious harm

14. Use of reasonable force is highly discretionary in the circumstances of the case. The following uses of force by police under s.117 PACE 1984 – the section being carried over to DWP officers – have been deemed “reasonable” by the courts and therefore lawful:

¹ Part of Article 8 of the European Convention of Human Rights (ECHR), and Article 1 Protocol 1 of the ECHR, respectively.

- (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* [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).
15. These provisions expose the severity of harm which could be caused to individuals in the exercise of these powers on the ground.

2) Scotland inexplicably has greater protections than England and Wales

16. In Clause 78, the Scottish provisions do restrict the use of force against people. Force cannot be used to “require any person on the premises to provide information or assistance” for the purpose of for the purpose of i) enabling or facilitating entering, searching, seizing, examination and retention powers, or ii) allowing anything seized, inspected or recorded to be better understood.² Therefore the Scottish provisions in Clause 78 reflect the stated intention to restrict force to things not people, unlike the England and Wales provision in Clause 77.
17. 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. The power to cause physical damage to people or property should not be so willingly given to those outside the police without clear justification, and far more information about the training and safeguards to accompany the powers.
18. However, **JUSTICE’s concerns are more acute for the England and Wales powers, which have been drafted broader than the Scottish powers, since the England and Wales powers do not exclude use of force against people.**

3) The use of force will be used against a vulnerable population

19. The power to use force is being sought over benefits recipients *only* – as explained above, it is not to be used against those subject to PSFA investigations. The benefits-receiving population are a section of the population recognised to experience several intersecting vulnerabilities and to live with disabilities at a higher rate than the population at large.
20. As recently as May 2025, the DWP’s approach to safeguarding vulnerable claimants was found by the

² Para 3(6) of new Schedule 3ZD of SSAA92 to be inserted by Schedule 4 of this Bill

Work and Pensions Committee to be “deficient” and lacking “coherence and direction”.³ The inquiry was convened “*in response to concerns that inadequate safeguarding practices in DWP had contributed to claimants experiencing serious harm, including death by suicide and starvation*”. The Committee heard evidence during their inquiry:

*... that some DWP policies can unintentionally create and exacerbate existing vulnerabilities. For example, where sanctions and the threat of sanctions can lead to material deprivation, stress, and the deterioration of physical and mental health. Or, where the experience of engaging with the system and processes has been so difficult and distressing, that it has contributed to claimants deciding to take their own life.*⁴

21. The vulnerability of the individuals to be affected, and the deficient safeguards currently afforded to them, are all relevant factors to Parliament’s analysis of whether giving DWP the power to use force is necessary and proportionate.
22. Against this background, giving the DWP the power to use physical force is extremely concerning, and JUSTICE therefore cannot conclude the use of force is necessary and proportionate. In fact, JUSTICE observes it is likely to put vulnerable benefits recipients at further risk of harm.

4) The safeguards are likely to be inadequate

23. Clauses 83 (England and Wales) and 84 (Scotland) establish that the Independent Office of Police Conduct (“**IOPC**”) will handle complaints and misconduct in relation to the new powers.⁵ The extent of this oversight is delegated to regulations, including Henry VIII powers to modify how the IOPC duties and oversight provisions in PACE will apply.⁶ Such delegated powers make it difficult for Parliament to be clear about the adequacy of the oversight which will be secured by the IOPC.
24. Furthermore, the capacity of the IOPC to take on a wider remit is also of significant concern. An independent review of the IOPC in 2023 found it was facing significant (and growing) financial pressures, resulting in an ever-increasing number of complaints in fact resulting in 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. In response it expressly cautioned that “The Home Office should carefully

³ Work and Pensions Committee, [*Safeguarding Vulnerable Claimants*](#), First report of Session 2024-25 (May 2025)

⁴ *ibid*

⁵ Clause 9 does the same with respect to the powers being extended to PSFA officers.

⁶ See Clause 83(3). Similar provisions have extended the IOPC to the National Food Crime Unit and the National Crime Agency, so these delegated powers are not unprecedented.

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.”⁷

25. **Peers may wish to seek assurances that the IOPC will receive increased financial support.**

5) The Government's stated policy intention is not what is written in the Bill

26. The Government has said that force will be used “against things not people.”⁸
27. This is an unsatisfactory reassurance because that caveat is **not** specified in the Bill itself.⁹ In fact, the Bill allows *all* reasonable force – against things and people – by simply copying over section 117 of PACE 1984 to DWP authorised officers in England and Wales.
28. Suggested reassurances by the Government that the power will not be used in this way are entirely inadequate: **it is what is in statute, not explanatory notes, that counts. And it is what is in the statute, not explanatory notes, which will empower future Governments.**
29. This is a significant power which did not receive adequate attention in the Commons.¹⁰ When asked on 18 June 2025 about the breadth of the power by Viscount Younger and Lord Vaux, Baroness Sherlock provided new rationale which was not in the explanatory notes:¹¹

Our authorised investigators in DWP will not use reasonable force against people, although they may use it against property, such as breaking open a locked filing cabinet to retrieve a laptop or other evidence. However, the reason it [s.117 use of force power] has to be here is that, when the DWP applies for a warrant, that warrant must cover any activities that may need to be undertaken by either the DWP or the police, so although our investigators will not use reasonable force against people, it may be necessary for the police to do so when they are accompanying the DWP. That is why the legislation is drafted that way. If it were not, police out there on our warrant would not be able to use reasonable force and there may be occasions on which they need to do so. I hope that that clarifies matters for the noble Lord.”

30. Again, this explanation is unsatisfactory as again it is inconsistent with the way the Bill is drafted. The Bill could simply be drafted to reflect this position, by explicitly providing for the use of force against things only, not people, but an explicit caveat that this does not affect police powers.

⁷ Dr Gillian Fairfield, [Independent review of the Independent Office for Police Conduct](#) (December 2023)

⁸ [Public Authorities \(Fraud, Error And Recovery\) Bill Explanatory Notes](#), Bill 167-EN, 22 January 2025, paragraph 409.

⁹ This issue was picked up by the House of Commons library briefing: “The government states in its explanatory notes that ‘this power will be limited to using reasonable force against things not people.’ However, this is not specified in the legislation itself.”

¹⁰ It was only referred to once in the Commons, by Rebecca Smith MP in Committee, who sought an explanation as to why the power was to be given to DWP, not the PSFA, but no reason was given in the Government response. Public Authorities (Fraud, Error and Recovery) Bill, HC, [Public Bill Committee 11 March 2025](#), Columns 261-262.

¹¹ [House of Lords, Public Authorities \(Fraud Error and Recovery\) Bill 2025, Committee Stage, 18 June 2025, Column 435GC](#)

Solutions

31. In conclusion, JUSTICE considers there has been no satisfactory explanation for why the power to use force against benefits recipients subject to investigation is needed (but is not needed for PSFA investigations); and secondly, if it is needed for things, why it has to be so broadly written so as to permit physical force against people. If this is not the Government's intent, it should not be written into the Bill so broadly.
32. **JUSTICE therefore urges Peers to support amendments 75, 76 and 77 at Report Stage**, tabled by Lord Vaux of Harrowden, which offer two options: i) restrict the use of force to things, not people, or ii) remove the use of force from the Bill entirely.

Option 1: restrict the use of force to things, not people (aligning DWP England and Wales with DWP Scotland, and with stated policy intent)

Amendment 76: Schedule 4, page 94, line 11, at end insert—

“(4A) Section 117 (reasonable use of force) is to be read as if at the end there were inserted—

“(2) Authorised investigators exercising powers under section 109D may only use reasonable force, if necessary, against items and property, not against persons.

(3) Nothing in subsection (2) restricts the power of a police constable to use reasonable force, if necessary, when exercising powers under section 109D Social Security Administration Act 1992.””

Member's explanatory statement: *This amendment would prohibit DWP authorised officers from using force against people during the exercise of their entry, search and seizure powers, reflecting the policy intention in the Explanatory notes to the Bill. It preserves their power to use force against things – such as locked filing cabinets – and preserves police use of force, if necessary, under a DWP warrant.*

Option 2: remove the power to use force from the Bill entirely (aligning DWP with PSFA)

Amendment 75: Clause 77, page 46, leave out line 6

Member's 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. If reasonable force is needed, it remains a matter for the police.*

Amendment 77: Schedule 4, page 97, leave out lines 11 to 13

Member's 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. If reasonable force is needed, it remains a matter for the police.*