

In-house Report 149

A REVIEW OF THE DWP BENEFIT FRAUD SANCTIONS SCHEME

© Crown copyright 2004. Published with permission of the Department for Work and Pensions on behalf of the Controller of Her Majesty's Stationery Office.

The text in this report (excluding the Royal Arms and Departmental logos) may be reproduced free of charge in any format or medium provided that it is reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the report specified. The DWP would appreciate receiving copies of any publication that includes material taken from this report.

Any queries relating to the content of this report and copies of publications that include material from this report should be sent to: Paul Noakes, Social Research Division, Room 4-26 Adelphi, 1-11 John Adam Street, London WC2N 6HT

For information about Crown copyright you should visit the Her Majesty's Stationery Office (HMSO) website at: www.hmso.gov.uk

First Published 2004

ISBN 1 84388 342 2

ISSN 1 368 244X



SOCIALPOLICYANALYSISRESEARCHKNOWLEDGE

A review of the DWP benefit fraud sanctions regime

A report for the

Department for Work and Pensions

Contents

Summary	4
1. INTRODUCTION	10
1.1 The sanctions regime	10
1.2 The incidence of benefit fraud sanctions	12
1.3 Research method	18
1.4 The structure of the report	22
2. REVIEW OF LITERATURE ON BENEFIT FRAUD, GENERAL FRAUD AND SANCTIONS	23
2.1 Aims of the literature review	23
2.2. Crime and punishment key issues: Ignorance of penalties	24
2.3. Why do people commit benefit fraud?	25
2.4. Victimless crime	27
2.5. The current sanctions	28
2.6. Attitudes on Fraud deterrence	29
3. ATTITUDES OF THE GENERAL PUBLIC TOWARDS BENEFIT FRAUD	31
3.1. What is fraud?	31
3.2. Types and seriousness of fraudulent behaviour	32
3.3. Relative crimes – seriousness and understanding	35
3.4. Specific fraud cases – current available punishments?	39
3.5. The hierarchy of benefit fraud	41
3.6. Social responsibility or state reliance?	45
3.7. What sanctions should be available: the citizen's jury decides	47
3.8. Current Sanctions	56
3.9. Putting sanctions into context	60
3.10. Deterrents	61

3.11. Deterrent effectiveness	65
4. WHO COMMITS FRAUD AND WHAT ARE THEIR MOTIVATIONS?	66
4.1. Characteristics of the sample	66
4.2. The hierarchy of fraud	71
4.3. The fear of getting caught	72
5. RECEIVING A SANCTION	75
5.1. A question of intent	75
5.2. The hierarchy of sanctions	76
5.3. Overall	81
6. CONCLUSION	83

Appendix 1: Discussion guides for focus groups

Appendix 2: Texts consulted for literature review

Appendix 3: Recruitment letter sent to sample

Appendix 4: Two strikes warning letters

Summary

Introduction

This report evaluates the effectiveness of the sanctions regime imposed on benefit claimants that commit fraud. The evaluation has been undertaken through focus groups of the general public and depth interviews with claimants who had committed a fraud. The current sanctions regime comprises:

- Prosecutions for the most serious or persistent fraudsters
- Administrative Penalties used as an alternative to prosecution for less serious cases
- Cautions where the offence is admitted and the overpayment is valued at less than £400

The research also looked at the 'two strikes' provision. This is where a person is convicted of one or more benefit offences in two separate sets of proceedings within a period of three years they may be disqualified from receiving benefit or reduced by 20 or 40 percent for up to 13 weeks. However, there had been very few two strikes sanctions imposed at the time of the research and so observations on this sanction are limited.

Conclusions and recommendations

The research concluded that:

- Fraudsters that are caught believe the sanction they receive to be effective in that they are unlikely to repeat the offence.
- Motivations for committing fraud range from being in need to committing benefit fraud as part of a criminal lifestyle. There are, however, a group of people defined in the report as 'incognisant fraudsters' who do not believe that they have deliberately undertaken a fraud but did so because of what they perceive to be their lack of understanding of the system.
- There is a perceived hierarchy of fraud both in the minds of the general public

and of fraudsters themselves. There is more sympathy for those in greatest need who commit fraud as opposed to those who do it for greed reasons. Older people and hard up families are given understanding while single people and the workshy are given little tolerance.

- The general public's view is that the personal circumstances of the fraudster have to be taken into account on a case-by-case basis and differential punishments should be imposed depending on these circumstances. There is little point in imposing harsh financial penalties on already poor people. In these cases cautions rather than administrative penalties are favoured by the public.
- The public believe that fraudsters should be compelled to put something back into society, especially if they have a skill or expertise that could benefit the community. In this respect community service orders are favoured.

Recommendations

- The DWP should raise awareness of the sanctions regime among benefit claimants so its deterrent effects can be more widely appreciated.
- Work needs to be undertaken to counter the widespread myths about how much claimants can earn before it has to be declared.
- There should be greater use made of community service orders especially as an alternative to financial penalties on low income families.
- The DWP should review its guidance to benefit staff on which sanction is imposed to make sure that there is consistency in which sanction is used.
- The DWP should review the process by which fraud officers prove intent to defraud to that procedures are transparent and accountable

The study method

The study was undertaken using qualitative methods. Eight focus groups were held

with the general public in England, Scotland and Wales concerning their views on fraud and what sanctions ought to be applied to fraudsters. Alongside these were a small number of depth interviews with benefit claimants who had received either a caution, administrative penalty or had been prosecuted or had been subject to the two strikes provision. In total 21 claimants who had been through the sanctions regime were interviewed.

In addition the research undertook a review of relevant literature and analysed DWP datasets on the incidence of fraud.

The public's view of fraud

The focus groups revealed that there is a deeply entrenched impression that fraud is commonplace in society. The public believe that insurance fraud is the most prevalent but benefit fraud is not too far behind. The first reaction of many people in the focus groups to the phrase 'benefit fraud' was to think of unemployed people who are claiming benefit but working cash-in-hand on the side.

How serious is benefit fraud considered to be?

Few focus group participants consider benefit fraud to be as serious as any kind of crime against a person. Drink driving is seen to be the most serious crime, largely because victims can be killed. Burglary is only slightly less serious, but is thought to involve emotional scars in terms of an infringement of personal space as well as the obvious theft of property.

Benefit fraud ranks third most serious, considered to be slightly more serious a crime than tax evasion and shop lifting, but much more serious than insurance fraud or TV license fee evasion.

Within the overall heading of benefit fraud there is a hierarchy of seriousness among the public. Housing benefit is thought as the most serious because it is a deliberate and systematic fraud. Ranked second is Incapacity Benefit fraud. Ranked third is Job Seekers Allowance fraud, if only because everybody appears to know someone else who has worked cash in hand. Finally, any kind of fraudulent claim for state pension is seen as the least serious.

Public's view on sanctions

The general public believe that prosecutions (automatic in cases where the gross overpayment in benefit is over £1,500) should be reserved for the most severe or persistent cases of fraud.

Views on administrative penalties were mixed. For some, they are a very good idea because they would sort those people who had perhaps unwittingly perpetrated an offence (and who are perhaps unlikely to repeat it) from those who are – or planning to be - serial offenders. In this sense the person who gets an administrative penalty knows that a repeat offence will incur a considerably more severe punishment. As such administrative penalties are thought to be most appropriate for first time offenders, but for serial offenders they are likely to achieve little.

The majority of focus group participants think that cautions are far too lenient and they are seen to be effectively letting people off although the views of those that had received a caution contradicted this.

The views of claimants who have had a sanction applied

The motivations for committing fraud varied among the research participants. The sample included many people who took part time jobs to make ends meet or to help them financially through Christmas and other times of high expenditure. There were some whose fraudulent claims were deliberate and could be seen in the context of a lifestyle of other offending activities. There were also people whose defence for their actions was that they were unaware that they were doing wrong or that somehow they had been caught up in the inefficiencies of a complex system. Another set of people were defined as 'incognisant fraudsters' and it was this set of fraudsters who believed that they had been most harshly treated.

The hierarchy of fraud

As with the general public there was a clear hierarchy of fraudulent activities that was classified not so much by the nature of the fraud but on the circumstances of the person committing it. A single person who is working and claiming was felt to be committing a much more serious offence than a person who had children whose motivation was driven by need rather than greed.

The fear of getting caught

For a sanctions regime to have a deterrent effect the risks of getting caught need to outweigh the 'benefits' of getting away with it. However, many of the incognisant group of fraudsters had no fear of getting caught simply because they did not understand that they were doing anything wrong. In general perception of the sanctions regime among all but the persistent fraudster was low and from this it can be concluded that more work could be undertaken by the DWP to raise awareness of them.

There was also a feeling among participants that benefit fraud was widespread because participants knew of people that had committed it currently with impunity. However, based upon their own experiences most believed that the fraudsters they knew about would eventually be caught.

Imposing the right sanction

From the interviews undertaken it seems that there is reasonable consistency in the type of sanction being imposed. The most serious in relation to value or persistent cases of fraud were dealt with through a prosecution. There was less clear distinction between when an administrative penalty was imposed and when a caution was imposed. For example someone with an overpayment of £69 received a caution and someone with an overpayment of over £300 received an administrative penalty. For other claimants the reverse was true – the smaller overpayment received an administrative penalty, the larger a caution.

The perception in people's minds is that being prosecuted and receiving a two strikes sanction are the most severe sanction with cautions and administrative penalties following on. At the same time it is also clear from the interviews that the deterrent effect of the sanction is not so much related to its severity but to the impact it has on people – emotions such as shame, humiliation, sacredness were frequently applied by respondents regardless of the sanction they had.

Is it a deterrent?

In conclusion, all of the people interviewed said that they would never commit a fraud again. In general the majority of respondents felt that the sanction they had received

(irrespective of whether it was a prosecution, caution, administrative penalty or two strikes) acted as an appropriate deterrent in undertaking actions that would lead to an overpayment.

While the view from those who have been through the sanctions regime is positive in its deterrent effects it is important to consider that no interviews were conducted with fraudsters who had not been caught so the wider deterrent effects can not be assessed.

1. Introduction

This report evaluates the effectiveness of the sanctions regime imposed on benefit claimants that commit fraud. The evaluation has been undertaken primarily through qualitative methods involving the gauging of attitudes towards benefit fraud and the deterrent effect of the sanctions imposed through focus groups of the general public and depth interviews with claimants who had committed a fraud.

1.1 The sanctions regime

The sanctions regime adopted by the Department for Work and Pensions (DWP) consists of four main elements. These are:

Prosecution

A prosecution is normally the preferred sanction where the overpayment (the amount of benefit that has been wrongly claimed) is significant. As a national guideline, if the gross overpayment is above £1500, the case is usually considered for prosecution from the outset. This does not, however, exclude taking prosecution action when the overpayment is below £1500, but where there may be other factors which still make prosecution appropriate.

Prosecution is the first option for serious or persistent offenders. In cases of serious fraud the Department can apply to the courts to make orders concerning the restraint/charging of identified assets. Confiscation orders and compensation orders can be satisfied out of restrained/charged assets.

The vast majority of cases go before the magistrate's court, although some of the more serious cases will go before crown court.

Since June 2002 a claimant convicted of benefit fraud will receive a letter warning that any subsequent conviction for fraud within a three year period will result in their benefit being reduced or withdrawn for up to 13 weeks. This is part of the 'two strikes' regime (see later). An example of this letter is at Appendix 4.

Administrative Penalties

Administrative penalties are normally considered where the case is not so serious as to warrant prosecution as a first option. No admission of guilt is required before offering an administrative penalty, although there is a statutory requirement that there are grounds for instituting criminal proceedings, which require a certain level of admissible evidence. A person may be offered the choice of agreeing to pay an administrative penalty as an alternative to criminal proceedings being taken against them.

Caution

In England and Wales (and shortly in Scotland) the Department may offer a formal caution as an alternative to prosecution as long as certain criteria are met and the case is one the Department would wish to see in court if the caution was refused. Cautions are generally aimed at frauds where the offence is admitted and where the value of the overpayment is less than £400. It is thought to provide an additional tool for deterring those offenders who would not normally be prosecuted or offered penalties.

Unlike an administrative penalty in the case of a caution, the offender must admit to the offence. To be able to offer a caution requires the same standard of criminal evidence as for a prosecution and should only be offered if the Department is in a position to prosecute, should the caution be refused.

“Two Strikes”

Under the Fraud Act 2001 implemented from April 2002, where a person is convicted of one or more benefit offences in two separate sets of proceedings within a period of three years they may be disqualified from receiving benefit. This is known as the ‘Two Strikes’ provision. Certain benefits can be withdrawn, or reduced by 20 or 40 percent for up to 13 weeks.

Benefits that can be withdrawn or reduced are all social security benefits except bereavement payments, retirement pensions, and benefits paid for children or those that cover the extra costs of disability.

1.2 The incidence of benefit fraud sanctions

Using information provided by the Department it is possible to analyse the extent to which sanctions have been imposed. The information provided is not complete. For example, the dataset relating to prosecutions post April 2002 contained only basic information on the number of people prosecuted –name and address – but no information on the nature of the offence or the sentence they received. The datasets relating to administrative penalties, cautions and ‘two strikes’ were more detailed and gave information relating to the gross overpayment, the benefit that was being received and the level of penalty imposed. The analysis that follows is, therefore, not a complete picture of the benefit fraud sanctions regime.

Prosecution

Data supplied by the Department shows the number of prosecutions and sentences between 1998 and 2002. This is shown in the table below.

Table 1 : Number of prosecutions and outcomes 1997/98 to 2002

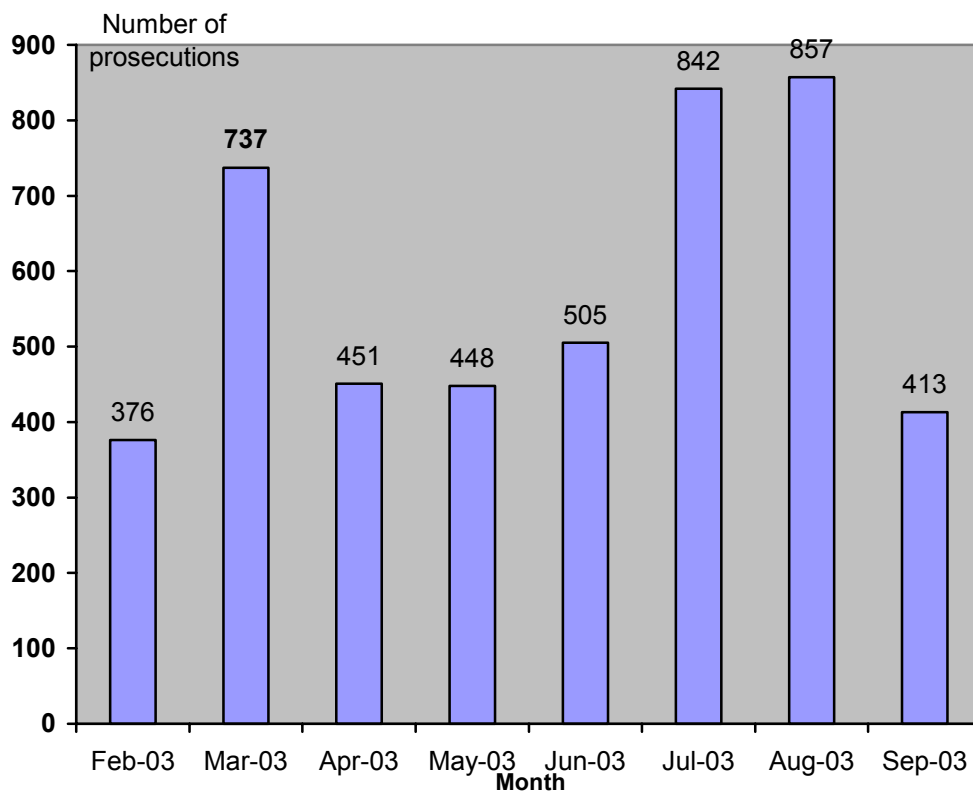
Outcome of prosecutions following investigations by Departmental Investigators					
	Convictions				
	Custodial sentences	Community sentences	Other sentences	Acquittals	Total prosecutions
1997–98	550	2,550	8,280	140	11,520
1998–99	640	2,290	7,030	160	10,130
1999–2000	640	2,210	6,270	140	9,270
2000–01	660	2,700	8,040	180	11,580
2001–02	650	3,070	7,470	170	11,360

The table shows that the number of annual prosecutions has been reasonably consistent over the last few years. Over 11,000 prosecutions were undertaken in

1997/98, 2000/01 and 2001/02. There was a significant drop in prosecutions in 1999/00 but the number has risen in the two years since then.

Data on the number of prosecutions for 2003 was supplied by the Department in a database. Data are only available for the period between February 2003 and September 2003. During this time a total of 4,631 people were prosecuted for benefit fraud.

Figure 1: Number of prosecutions February to September 2003



The chart shows an uneven distribution of prosecutions over the period. The number of prosecutions peaked in July and August 2003 but fell to half this level in September. The September figure is lower than any month with the exception of February.

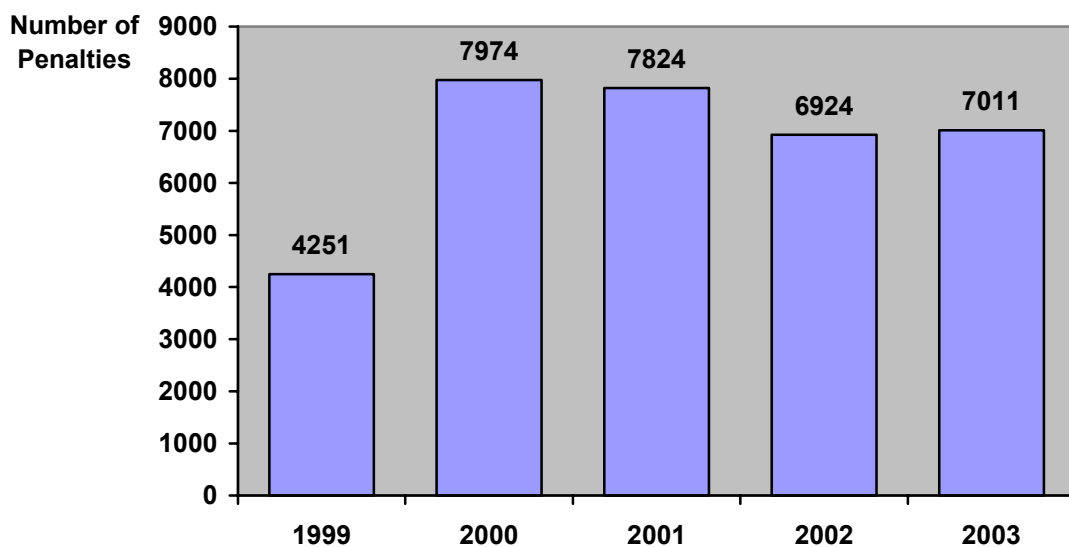
Two strikes

Up until the end of September 2003, 13 claimants had been convicted of one or more benefit offences within a three year period and had been issued with a two strikes sanction. Of those convicted, 2 individuals were fraudulently claiming against Job Seekers Allowance and a further 5 individuals were fraudulently claiming against Income Support. The remaining 6 individuals were not in receipt of benefit payment at the time of conviction.

Administrative Penalties

According to the database on admin penalties supplied by the Department there were 34,479 administrative penalties issued between 1998 and October 2003. The chart below shows the annual number of penalties issued.

Figure 2: Administrative penalties imposed 1999 – September 2003



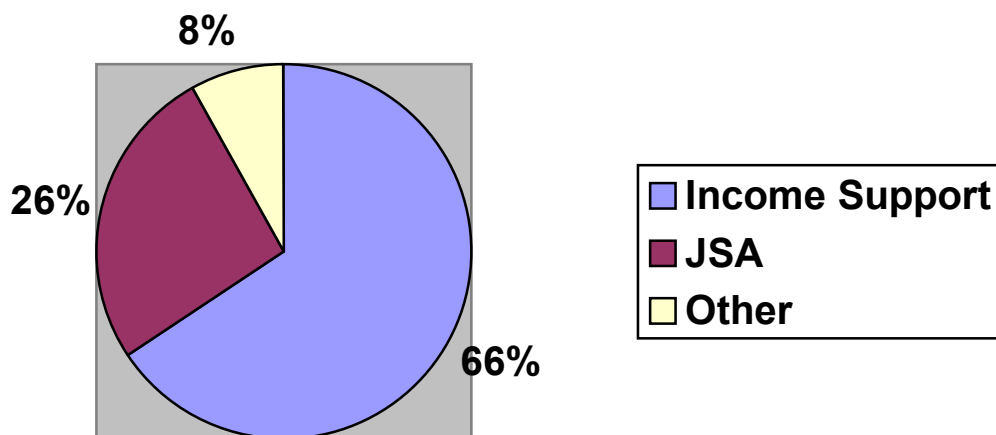
According to the database the peak year for the imposition of administrative sanctions was 2000 when over 7,900 were imposed. The number dropped slightly in 2001 and again in 2002. In the first nine months of 2003 7,000 were issued.

The level of benefit overpayment upon which an administrative penalty was imposed

ranged from £2.55 to £95,326. The median value of overpayment over the period was £687.13. The level of penalty awarded ranged from £0.76 to £42,600. The median value of penalties awarded was £204.71.

Where the benefit being defrauded against was identified and recorded, Income Support was most commonly the benefit being defrauded against. The remainder of the fraud committed was predominantly against Job Seekers Allowance, with other benefits accounting for less than 10 per cent of the remainder of the fraud.

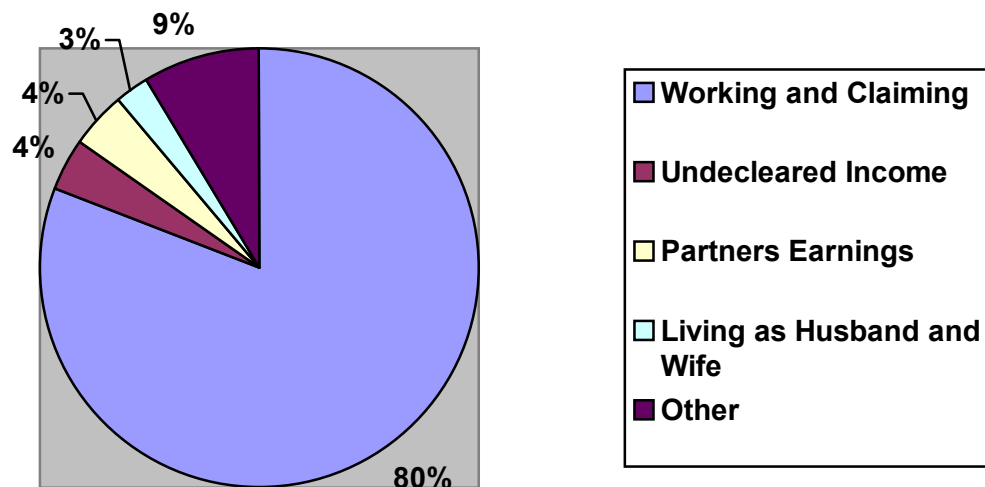
Figure 3: Benefits defrauded where administrative penalty imposed



Where data detailed the reasons for conviction, working while claiming was overwhelmingly the most common reason for benefit fraud conviction.

Undeclared income, partners earnings and relationships which constituted as living as husband and wife while claiming to be single are also relatively common reasons for benefit fraud conviction as the chart below shows.

Figure 4: Reasons for administrative penalty



Cautions

Between August 1998 and December 2003, 33,710 cautions were administered.

The number of cautions issued follows the same pattern as the number of administrative penalties in that the peak was reached in 2000 followed by a dropping off in the number issued. In 2000 (the peak year) 7,700 cautions were issued this was about 200 fewer than the number of administrative penalties in the same year. 2003 saw a slight increase in the number of cautions issued.

Data available suggests that the values of overpayments that attracted a caution ranged from £1.40 to £68,390. The median value of overpayment was £149.45. This value is significantly below the median level of overpayment for an administrative penalty (£687). As it is usually the value of the fraud that determines the sanction that is applied this is to be expected.

Where the benefit being defrauded against was identified and recorded, Job Seekers Allowance was most commonly the benefit being defrauded against. The remainder of benefit fraud being committed was predominantly against Income Support, with other benefits accounting for about five per cent of the remainder of fraud.

Figure 5: Cautions issued 1999 to 2003

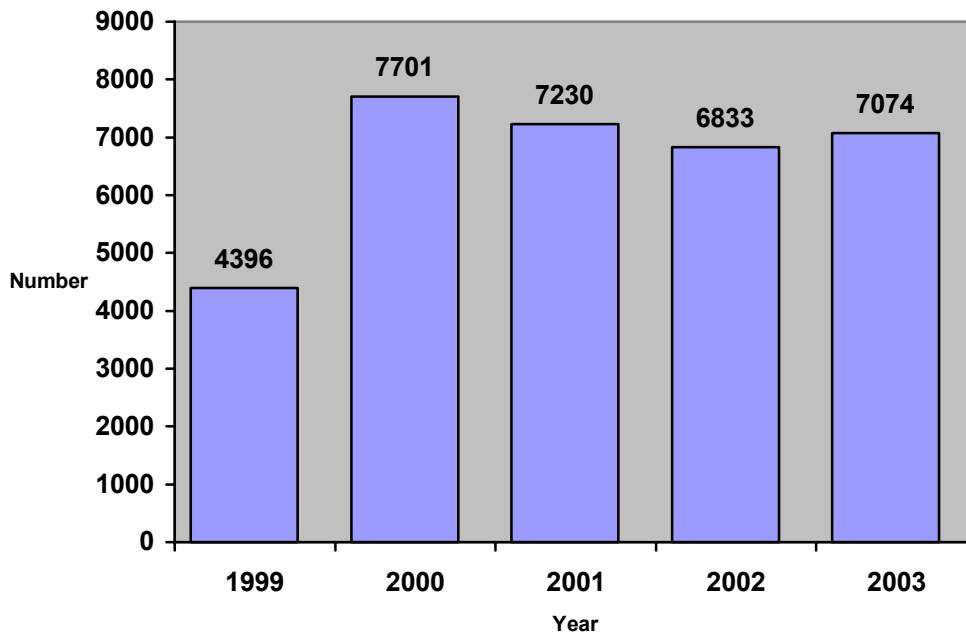
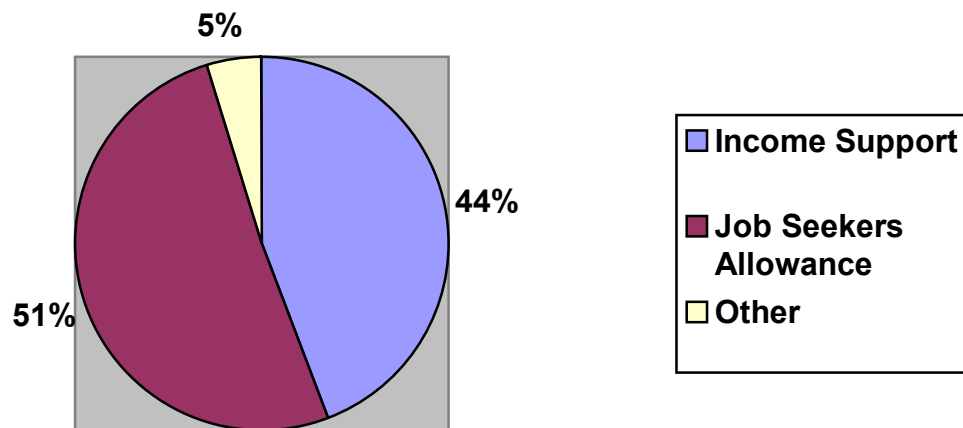


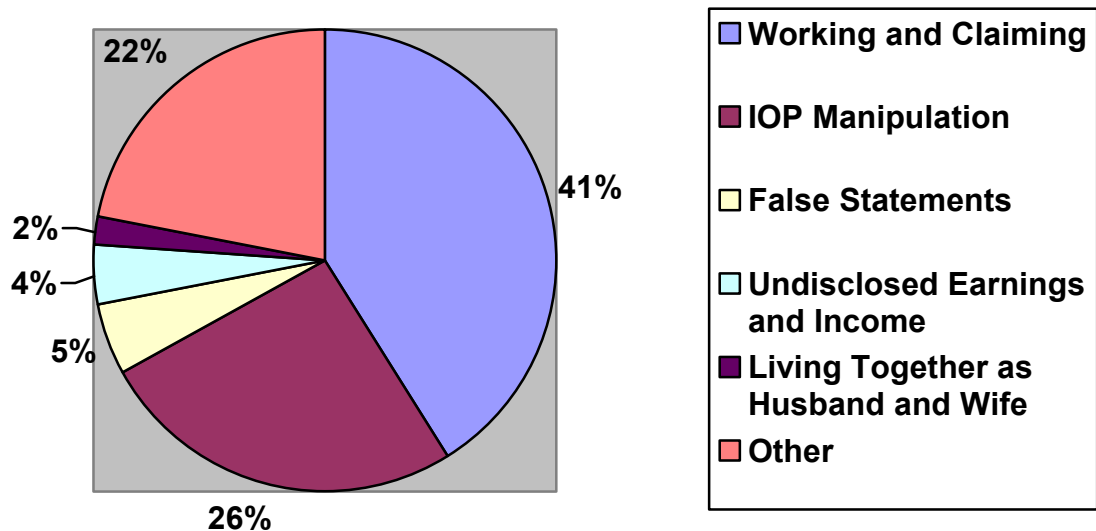
Figure 6: Benefit being defrauded - cautions



Where data detailed the reasons for cautions being administered, working while claiming was the most common reason. IOP manipulation accounted for nearly a quarter of all cautions administered.

Undisclosed earnings and income, false statements and relationships which constituted as living as husband and wife also featured as reasons for cautions being administered.

Figure 7: Reasons for caution 1999 to 2003



1.3 Research method

There were two distinct phases to the research. First a series of focus groups with the general public in England, Scotland and Wales were undertaken. The focus groups were designed to explore attitudes towards fraud, how acceptable certain types of fraud were and to test out public opinion of the effectiveness of the range of sanctions imposed. Focus group participants were invited to decide the appropriate sanction that should be applied to a range of benefit fraud scenarios.

The second element of the research consisted of a small number of depth interviews with claimants who had experienced a sanction since 1999. This was an opt-in exercise with a sample of claimants being invited to take part in the study by letter. Claimants were asked about the circumstances of their case, how the sanction was applied and its deterrent effects.

One of the key aspects of the interviews was to assess the extent to which the experience claimants had been through was sufficient to dissuade them from committing a fraud again.

The focus groups

It is important to note that qualitative research of this type is not, and can never be truly 'representative' in the statistical sense. One focus group is formed by up to ten people sitting around a table, and the views of ten people can never be confidently extrapolated to reflect those of society as a whole in the way that a classical opinion poll might. Instead, the role of these groups was to identify issues that underpin attitudes toward benefit fraud punishment – to ascertain the reasons why people think in a particular way, rather than how many think that way.

Focus group output is directly linked to what goes into the recruitment specification and set up. Given that the primary concern was to evaluate people's attitudes toward appropriate punishment for different types of fraudulent behaviour, it was important to recruit the same types of people to each group setting - open conversation between people in a focus group is usually obtained if participants are similar in terms of their demographic profile and attitudes on the subject matter. As such, the recruitment design was based on three critical variables. Firstly, all groups were split by age, which can often correlate strongly with attitudes toward any kind of social concern. Secondly, the groups were split by overall attitude toward fraudulent behaviour, and thirdly they were split by personal likelihood to commit any kind of fraud (benefit fraud or otherwise). This stratification process produced the following sampling plan:

Table 2 : Stratification strategy for the focus groups

DATE	LOCATION	AGE GROUP	FRAUD TYPE
15 th October 2003	Cardiff	18-44	All fraud unacceptable. Would not consider committing

15 th October 2003	Cardiff	45+	Some fraud acceptable. Would consider committing
16 th October 2003	London Kentish Town	18-44	Some fraud acceptable. Would consider committing
16 th October 2003	London Kentish Town	45+	All fraud unacceptable. Would not consider committing.
22 nd October 2003	Leeds	45+	Some fraud acceptable. Would not consider committing.
22 nd October 2003	Leeds	18-44	All fraud acceptable. Would consider committing
23 rd October 2003	Edinburgh	18-44	Some fraud acceptable. Would not consider committing
23 rd October 2003	Edinburgh	45+	All fraud acceptable. Would consider committing.

The discussion guide used is at Appendix 3.

The depth interviews

To obtain claimants to be interviewed the research team were supplied with a database of claimants that had received each of the sanctions. For administrative penalties and cautions the datasets contained names from 1999 onwards. For prosecutions the data related to the period from April 2002 to September 2003. A full dataset containing the details of the 13 two strikes claimants was provided. All of these individuals were invited to participate in the research.

For prosecutions, cautions and administrative penalties 50 claimants were drawn at random from each of these sanctions and invited to take part in the research. The aim was to interview between six and eight claimants who had experience of one of these three sanctions. Once the sample was selected it was passed over to the Department to provide address details matched on their National Insurance number. Once address details had been provided the research team mailed a letter (on DWP notepaper) inviting claimants to take part.

The letter explained:

- How confidentiality will be assured
- The purpose of the project and how the interview will be used
- Who is carrying out the project, with contact names and telephone numbers
- Who they can contact for further information on the project at the DWP
- Their participation or non participation in the project will not affect any of their benefit claims
- That respondents will receive a £30 incentive for taking part that will not affect their benefit
- Participation is completely voluntarily
- A freephone telephone number was included on the letter to enable people to contact the research team to express their willingness to participate. A freepost address and envelope was also included for claimants to use should they prefer to write in with their agreement to participate.

It became clear early on in the recruitment process that the initial mail out to 50 claimants in each sanctions category would be insufficient. In fact two further waves of sample were drawn and each of the three waves were mailed twice before the following response rates were achieved:

Two strikes – 2 respondents

Prosecutions – 5 respondents

Cautions – 7 respondents

Administrative penalties – 7 respondents

Each respondent was interviewed by an experienced researcher. The length of interviews varied according to the experience of the respondents and the extent to which they had developed views on the sanctions process. On average interviews lasted 35 to 40 minutes.

It is only possible to speculate on why it proved to be so difficult to obtain a better response. It was possible that claimants did not want to talk about such a sensitive subject because of anger, embarrassment or an unwillingness to share their experience. It is also likely that the address details held on the DWP database were no longer current; this would be especially true of people who had moved off benefit and were possibly living in the private rented sector.

1.4 The structure of the report

The report is divided into inter-linked chapters. The next chapter reviews some of the available literature on benefit fraud and sanctions and draws parallels with fraud committed in other areas. After this the report discusses the general public's attitude to benefit fraud and the sanctions regime. This information is taken from the focus groups. Then the report looks at the characteristics of fraudsters, categorises them according to the type of fraud committed and discusses what motivates fraud. After this each sanction is reviewed using information from the depth interviews with fraudsters. Finally, the report concludes on the effectiveness of the sanctions regime combining the views of the public with those of fraudsters.

2. Review of literature on benefit fraud, general fraud and sanctions

2.1 Aims of the literature review

The National Audit Office in its most recent report **The Department for Work and Pensions “Tackling Benefit Fraud” by the Controller and Auditor General (2003)** recommended that the current benefits sanctions regime needed to be reviewed and the deterrent effects of the different sanctions evaluated.

This chapter overviews the existing literature on benefit fraud and benefit overpayments.

The aims of the literature review are to:

- Consider the available evidence on the general public’s attitudes to crime and punishment and any implications this may have for the punishment or deterrence of benefit fraud.
- Review the evidence on the current benefit sanction regime.
- Identify any evidence available on the attitudes and views of the general public and or benefit claimants that may or may not have become involved with benefit fraud or overpayment.
- Consider the result of available studies on benefit fraud.
- Compare and contrast the evidence available on the approach of industry and other Governments to fraud and overpayments.

The review is not an analysis of the reasons that benefit fraud is committed but; rather it is an overview of the available literature on fraud deterrence.

A full bibliography is provided at Appendix 2.

2.2. Crime and punishment key issues: Ignorance of penalties

The 1996 British Crime Survey covered attitudes to punishment allowing for detailed analysis. One of the main findings of the influential report **Attitudes to Punishment: findings from the British Crime Survey (Hough and Roberts 1996)** was that the public in England and Wales have little knowledge about crime. Among the conclusions of the report was that the less information that people have about what's really happening with crime and punishment, the more they wanted severe prison sentences.

'The most challenging demands are in identifying effective ways of interrupting the processes that feed public cynicism...A successful strategy for tackling public misperceptions will almost certainly have to resort to more modern techniques. It will have to identify key audiences...and convey in the media appropriate to each audience an accurate portrayal of current sentencing practice'.

(Targeting Crime initiatives, Payback: a rough guide to sentencing (1993)).

The public's limited understanding about the criminal justice system was confirmed by the findings of the **British Crime survey 2000**. A briefing paper by **the Esmee Fairbairn Foundation's** entitled **"What does the public think about prison?"** further confirms this lack of understanding however, it goes on to state that the general public is clear about what they want sentencing to achieve-

'it should aim to stop re-offending, reduce crime or create a safer community . Very few [members of the public] questioned spontaneously [referred] to punishment or incapacitation." The report concludes that the public supports the idea of rehabilitation and restorative justice but has very little awareness of the range of sentences available to the courts. Almost everyone agrees with greater use of intensive community punishment for young offenders'.

Price Waterhouse Coopers (PWC 2000) in their qualitative research on **social security benefit fraud** confirm that awareness of benefit fraud punishment was low particularly among non claimants and the over 65's. Overall awareness of punishment was limited to small fines and repayment of the amount defrauded and although the respondents felt that the punishments were lenient they felt they were

appropriate in the situation as it was considered that low level benefit fraud does not merit a jail sentence.

This confirms the findings in the **Department for Social Security Report 64: Social Security Fraud- The role of penalties (Rowlingson, 1997)**. This study involved 45 in depth interviews, a third of whom were selected from a general sample of the unemployed on Income Support. A third were selected from records of those investigated, but not prosecuted for benefit fraud and the final third were selected from the records of people investigated and prosecuted for benefit fraud. The main aim of the study was to explore the role of penalties in deterring benefit fraud. Most of those caught committing fraud said they were deterred from becoming involved in such activities again but most had thought they would not get caught. Further, most of those involved in fraudulent activity had very little information about the likely penalties.

The **Criminal Justice Act 2003** received royal assent in November 2003. The **Consultations paper Criminal Justice System: Catching up with Crime and sentencing (December 2001)**, made no specific reference to fraud however it provides useful information on the different types of sentences used by the courts. One of the findings of the consultation on the new **Criminal Justice Act Criminal Justice System “Justice for All” (July 2002)**, was that sentences should target the needs of the offender and address the underlying causes of their offending behaviour. So what does the literature say about what causes people to commit benefit fraud?

2.3. Why do people commit benefit fraud?

The findings of **Rowlingson (1997)**, found that the main reasons given for committing fraud were:

- financial need.
- inflexibility of the benefits system.
- low probability of fraud being detected.
- Misunderstanding and unintentional over-claims.

The common view was that those who committed fraud were ordinary people who committed it on a small scale because of need. It was argued that these people should not be treated harshly, but should be helped not punished. However, judgements about benefit fraud were based upon a strong moral code about benefit fraud and assessments were made on the basis of:

- 'Need' or 'greed'.
- Scale.
- Regularity/persistence.
- Premeditation.
- The degree to which others might suffer.

It was felt that the hardened group of people committing fraud purely for financial gain should be severely punished for example put in prison.

Dean and Melrose (1995) in their paper **Manageable discord** also found that the predominant reason for fiddling was economic necessity, inadequacy of benefit payments, lack of belief in the system and opportunity. The principal preliminary findings were that those claimants that fiddled were not especially "streetwise". Some claimants suggested that the deterrent nature of the claiming process inhibited them from bothering to investigate the full extent of their entitlements. Further, most did not admit that "fiddling" was dishonest or else they distinguished between fiddling (which they felt to be harmless) and more serious or organised forms of fraud. Often the fraud was a response to an opportunity without much premeditation.

The paper also suggested that claimants who fiddle will not be easily deterred because for the claimants interviewed low income was a bigger worry than the prospect of getting caught. Although, most wanted to get off benefits and would readily be dissuaded from fiddling if only reasonable paid jobs were available. Further, **Dean and Melrose** found that the claimants had ambivalent conceptions of citizenship. Some were unclear about their obligations as citizens; some defined it as being a "good person" or obeying the law, while others felt they had no particular obligations.

Dean and Melrose considered the reasons behind benefit fraud by means of theoretical model building taking into account historical and political changes that have affected the modern welfare state and an increasingly polarised society. They argue that the effectiveness of benefit penalties and disqualifications depends upon the universal fear of predictable consequences. They argue that what their findings show is that with some of its claimants the social security system is failing to sustain the degree of consent or compliance and or the level of anxiety or insecurity that is necessary to the smooth running of the system and that benefit fraud may be a manageable form of rule breaking. This conclusion, while interesting, is theoretical and must be considered in the context of the academic theoretical model advanced in the paper.

Parallels can be drawn between the theory of manageable discord proposed by Dean and Melrose and the findings of a study by the Association of British Insurers (ABI) which questioned a random sample of the British public on their attitudes to petty crime. The study concluded that insurance fraud is part of a wider public uncertainty of what is acceptable (**Association of British Insurers: What is dishonest? (2003)**).

Teresa Hunter (2003), personal Finance Editor of the Sunday Herald in her article **Revealed: UK love affair with fraud, theft and drink driving** states that one in ten people surveyed admitted they had already made a fraudulent claim, while nearly half would have no problem in making one in the future. The article quotes Debra Weekes, the ABI's head of financial crime prevention "We don't want to infer from these results that the public are dishonest-rather that some people are confused about what is honest and what isn't. However, in view of the findings that financial need is one of the main motivations for benefit fraud (**Rowlingson (1997), Dean and Melrose (1995)**) and this is clearly not the situation for insurance fraud, (the ABI survey quotes an interviewee "Its justice money for all the years that you've paid into insurance") the comparison is tortuous.

2.4. Victimless crime

Price Waterhouse Coopers (2001) suggests from its study that benefit fraud is seen as a victimless crime (para1.30). The ABI came to similar conclusions about insurance fraud. However, this is not consistent with **Rowlingson's (1997)** finding that there was a strong moral code about benefit fraud including an assessment of

the degree to which others might suffer.

2.5. The current sanctions

Some analysis of the current sanctions was undertaken by the Department for Work and Pensions (DWP) the findings of which are contained within the **Targeting Fraud Campaign March 2001 and February 2003**. These reports detail the current statistic available on the various sanctions. Prior to 1998 the only form of sanction was prosecution and/or recovery of the overpayment through civil recovery. Administration Penalties and Cautions were introduced to address this. As a guideline a minimum prosecution amount of £1500 was introduced (unless there were aggravated circumstances. The upper guidance limit for cautions was set as under £400 and Admin Penalties to be used for sums from £400 to £1500. A summary of the findings are as follows:

Administration penalties were introduced following the findings of Rowlingson (1997). Where overpayments were fully recovered, then in three quarters of those cases the administration penalty was also recovered but over 40 per cent of overpayments are not recovered. Further, 127 cases (59 per cent) could not be accounted for because no details were recorded on the overpayment recovery computer. It is concluded that administration penalties are not effective in the long term because of the slow rate of recovery. However, there is no evaluation of whether they deter future fraud.

Interestingly, while 65 per cent of total overpayments are recovered this drops to 15% for those who cease to receive benefit. This issue is now being addressed by the DWP.

Cautions The evaluation states that there is no evidence whether a caution has a deterrent against further opportunistic fraud but they are seen as a success because most are accepted!

Prosecutions are seen as a success because 66-85 per cent of those prosecuted fulfilled the probation or community service penalty issued by the court.

Two strikes legislation. The evaluation of this penalty was that it was successful because if re-offending occurred in accordance with the predicted rate there should have been 500 two strike cases following the introduction of the legislation and in the

first year there were only 2.

2.6. Attitudes on Fraud deterrence

Both **Rowlingson (1997)** and **PWC (2001)** identify the risk of being caught as more of a deterrent than sentence. While Rowlingson (1997) found that the general view was that the risk of being caught was low, the DWP state in its research into **Public attitudes to White Collar Crime and the relationship with Benefit Fraud offences(2003)** that the targeting fraud campaign has begun to register changes in that regard.

Rowlingson's (1997) findings on the effectiveness of sanctions are as follows:

- Warnings are seen as the most effective way of dealing with small scale fraud.
- Community work is also seen as effective, and advertises detection whilst the offender is also putting something back into the community.
- Publicity was seen as both positive and negative. There was a preference for financial advice for first time offenders being seen as a means of education to help reduce the chance of re-offence.
- Prison was still seen as the most appropriate sentence for persistent and large scale offenders despite a lack of conviction in its effectiveness.
- Financial penalties in the form of fines were not seen as an effective deterrent as they are rarely paid. This was confirmed by **PWC(2001)**
- Repaying benefit was not seen as effective particularly for persistent offenders
- Suspension of benefit was seen as unacceptable as it would punish those that depend on the fraudulent claimant, often children, and might encourage further fraud committed out of need

A successful compliance strategy would need to:

- Be flexible to ensure that it is not contributing to the motivation or necessity of

fraud.

- Be consistent in the use of sanctions.
- Distinguish between first time and persistent fraudsters.
- Advertise its fraud detection strategy and success in detecting fraud to increase perception of getting caught.

Rowlingson (1997) points to the following factors as being of greatest benefit to reducing the incentive to commit fraud:

- Reduce the financial motivation to commit fraud
- Increase informal sanctions against fraud
- Increase respect for the system
- Make it easier to conform to rules
- Reduce the possibility of fraud due to ignorance

3. Attitudes of the general public towards benefit fraud

The attitudes of the general public towards fraud and the effectiveness of different sanctions were gauged through a series of focus groups in England, Scotland and Wales.

3.1. What is fraud?

If there is an opportunity for people to think of fraud in a highly technical way, linking it perhaps to white-collar crime along the lines of the complicated Enron or Arthur Anderson scandals, few people actually take it. While there is a vague awareness that fraud can involve sophisticated and high profile international financial scams, people are much more likely to think of it in simple and individual terms. For many people, fraud is an attempt to beat the system if the opportunity arises, and nearly everyone recognises that opportunities potentially present themselves everywhere. In fact, there is a widespread awareness that a myriad of potentially fraudulent acts can be committed, ranging from bumping up an insurance claim to credit card fraud to benefit fraud. For something to be truly considered as fraud, however, people think that three distinct criteria have to apply:

The role of deception

Firstly, for a fraudulent act to have been committed, one person or body must have deceived another. Whether this involves lying, misleading or outright cheating is actually irrelevant – the necessary condition is simply that one party is persuaded that something is true that the other party knows to be false.

The extent of the deceit can vary enormously between cases, but there is a recognition that even the slightest exaggeration or lie – however trivial it might seem – still represents fraudulent behaviour, especially if there is some kind of official documentation involved:

‘When you fill in a document and know that one or two of the details are even the slightest bit untrue, even if it doesn’t cause the end of the world, it’s still fraud’.

(London 18-44. Some fraud acceptable, would consider)

Illegality

The second condition relates to the illegality of the behaviour. Someone may be deceitful in a number of ways but not break the law in doing so, but everyone recognises that for an action to be fraudulent it must break the law. Quite simply, it has to be illegal.

However, for some (even those who think that fraud is acceptable), there is a moral interpretation as well a legal one, infringement of which should constitute fraud even if no law is actually broken. For example, an offer of £20 to an old lady for a Welsh Dresser when the potential buyer knows the true value is £2,000 is considered to be fraud by a few. The issues involved in a case like this do present moral dilemmas to law abiding citizens, and these dilemmas influence the way in which people view different fraudsters and different types of fraud (people in need should not be seen as fraudsters, but the opportunist or serial offender should).

Personal gain

The final condition requires the deceitful party to make a personal gain from the deceived party. People think the gain will be monetary in the vast majority of cases but some extrapolated it to the receipt of any kind of benefit:

'Fraud is getting benefit for something that is dishonest, or deceiving someone in the process of actually getting that benefit. I mean in terms of anything, if you receive something or get value for something that is not earned in an ethical manner'.

(Cardiff 18-44. All Fraud unacceptable, would not consider).

3.2. Types and seriousness of fraudulent behaviour

In terms of awareness of the different types of fraud, participants were most inclined to immediately think of insurance or credit card fraud, although the two are seen in very different lights with the former having various levels of acceptability attached to it, but the latter seen to be completely unacceptable. There is a deeply entrenched impression that insurance fraud is prevalent, and while nobody in the groups admitted to it themselves most spontaneously volunteered occasions during which it would have been easy to falsify an insurance claim. The typical example is loss of property on a family holiday, or inventing 'stolen' items when making a claim after a

burglary:

'Everyone I know who's been burgled or had their car broken into say that it's a chance to make money, your wife's wedding ring was in there you know....'

(London 18-44. Some fraud acceptable, would consider)

Credit card fraud would not be tolerated by the vast majority of participants because it is considered a calculated act against an individual rather than a system. It causes financial and psychological misery to an individual who probably worked hard for their money. This kind of argument is applied in principle to any kind of criminal behaviour that has consequences for an individual:

'It's a different context, stealing a car and a few quid for an OAP is totally different. With a car you are depriving an individual, could be one of us, that we have worked damned hard for. That belongs to a person. But if you defraud the government, then to be quite honest and I know it sounds terrible, I don't give a damn. One is acceptable, the other isn't.'

(Cardiff 45+. Some fraud acceptable, would consider)

This actually represents a crucial element in decision-making about the relative impact and severity of any fraudulent act. The view of those people who find some kinds of fraud acceptable is that the system (whichever one applies in an individual case) automatically discriminates against people and often treats them unfairly, so a simple fraud is a way of getting back at that system. It is thought that insurance companies will not pay out a claim for the flimsiest of reasons, or the government does not provide enough benefit for certain types of claimant (especially pensioners). Furthermore, nobody is seen to suffer. The perception is that a few extra pounds for an older person as a result of failing to provide a few extra details about savings will not break the government's bank.

Awareness of benefit fraud is not too far behind its' insurance equivalent, although one particular type of benefit fraud is considerably more to the fore of participants than any other. The first reaction of many people in these groups to the phrase 'benefit fraud' was to think of unemployed people who are claiming benefit but working cash-in-hand on the side:

'A lot of people are at benefit fraud – a lot of people who claim benefits for everything but work cash in hand'.

(Leeds 18-44. All fraud acceptable, would consider)

Few other types of benefit fraud were mentioned in the first instance. There are possibly two reasons for this. First, because many people are not likely to have thought about the issue seriously before the conduct of the groups, and secondly because in some cases the link between 'fiddling the benefits system' and fraudulent behaviour is not actually made. For example, the OAP who does not declare some savings in the bank that takes them over a specified limit, which would otherwise have prevented them from receiving some state benefits, is not thought to be a fraudster in any way. In fact, many people think it is the system that is wrong in cases such as these, rather than the pensioner:

'It's one of those grey areas where people who have worked all their lives are not entitled to anything whereas those people who have done nothing get that top up. I'd be inclined to let them off'.

(Edinburgh 18-44. Some fraud acceptable, would not consider)

There is also another consideration to take into account. Many people fail to disentangle genuine benefit fraud from legitimate claiming. In the days before the first group took place, a TV documentary on Channel 4 called 'Wifeswap' detailed the lives of a family with six or seven children who were 'legitimately' claiming £37, 000 per year in benefits. For many people, it was a disgrace that the system was paying out this much money to one family, and as such it occurred to them that the system itself was obviously so flawed that the line between benefit fraud and genuine claiming has become rather blurred. It has got to the point where hard working people are themselves the victims of benefit fraud simply because a family can claim so much in entitlement:

'That is where the benefits system has gone wrong, because the system was originally set up to stop people falling into poverty. It was only a safety net'.

(Leeds 18-44. Some fraud acceptable, would not consider)

A third type of fraud that was (infrequently) mentioned was sophisticated corporate fraud. Despite the low salience, however, the depth of feeling toward perpetrators was intense. This kind of fraud is seen simply as greed on a grand scale, and is doubly worse because it affects the financial plight of thousands of people. The Maxwell case and Enron were mentioned as examples, cases that are worlds apart from those perpetrated by the ordinary person:

'If you look at Maxwell he stole hundreds of millions of pounds and to me that was a serious fraud because it left people with no pension and had a big impact on people, but I guess there are other things that are not so serious, like bumping up an insurance claim'.

(Edinburgh 18-44. Some fraud acceptable, would not consider)

Finally, group participants identified another type of fraud that technically isn't, but in their opinion should be. Generally speaking, two types are identified. Firstly, there is institutional corporate fraud, where money earned in the UK avoids taxation through the use of off-shore trusts. Secondly, there is government benefit fraud, whereby the government is guilty of not informing legitimate claimants about their entitlement or else inform them but make the claim process so complicated and judicious that many people fail to complete the form – or complete it incorrectly – and hence fail to receive the money to which they are entitled:

'But how much do the government gain in not coming along and saying 'hey, you should be getting £x there'? They tell you to claim it but don't tell you how. If that's not fraud I don't know what is. Is that government fraud? That's the government depriving me of money and it's the same as me depriving them of money'.

(Cardiff 45+. Some fraud acceptable, would consider).

3.3. Relative crimes – seriousness and understanding

There is little doubt that almost everyone knows that fraud is a serious crime that incurs a criminal record upon conviction:

'Fraud is fraud. It's a criminal offence. End of story'.

(Cardiff 45+. Some fraud acceptable, would consider).

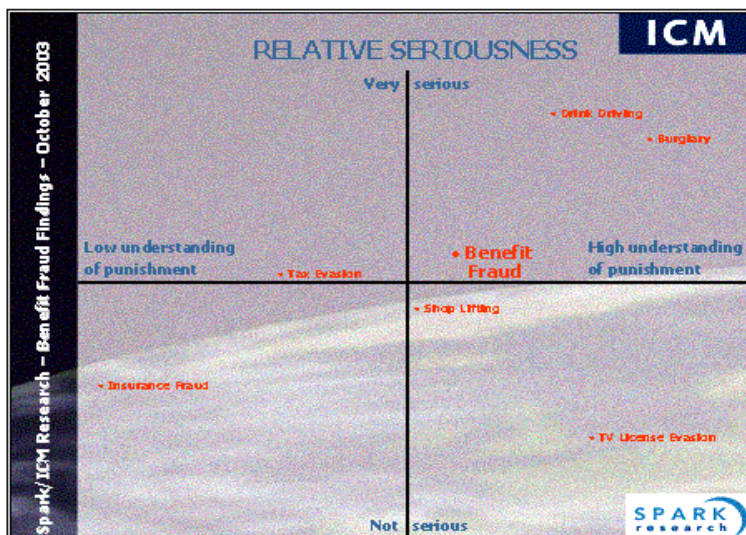
That said, few participants consider it to be as serious as any kind of crime against a person. Whatever the outcome of a criminal prosecution the fact that no one suffered from any kind of physical harm automatically reduces its seriousness in the eyes of many:

'...I think that putting a few things down on an insurance claim is just a minor thing and not even in the same league as a crime against a person'.

(Leeds 18-44. All fraud acceptable, would consider)

This kind of response very much fits in with a mapping exercise that sought to provide direct comparisons between (benefit) fraud and other types of crime. The chart below shows how it fits into the overall crime universe on a seriousness scale (vertical axis) and when it comes to the level of understanding that people have about potential punishments (horizontal axis).

Figure 8: Comparative view on fraud.



Those crimes that are mapped into the top right hand corner of the chart are considered to be very serious AND people are thought to know what kind of punishment they are looking at. Two types of crime are set apart on this basis, both of which potentially, and critically, involve crimes against the person. Drink driving is seen to be the most serious crime, largely because victims can be killed. Quite simply, there is no tolerance for drink driving in the current climate (although many recognise this is a relatively new development over the course of the last 20 years or so). Burglary is only slightly less serious, but is thought to involve emotional scars in terms of an infringement of personal space as well as the obvious theft of property.

However, when it comes to the level of understanding about the punishments for each of these crimes very different considerations apply. Everybody knows that to be caught drink driving involves a ban or prison if anyone is hurt as a result of a crash. When it comes to burglary, however, people perceive that there is very little punishment. Indeed, there is a considerable amount of frustration that perpetrators are perceived to continually get away with it:

'Not a lot. Normally the householder is told to make them tea before the police arrive. If you retaliate you get more than them'.

(Cardiff 45+. Some fraud acceptable, would consider).

Benefit fraud ranks third most serious, considered to be slightly more serious a crime than tax evasion and shop lifting, but much more serious than insurance fraud or TV license fee evasion.

Perhaps the most surprising aspect of this finding is the consistency of response across all groups, especially after considering that the groups were split between those who find fraud acceptable and those who don't. There are two ways in which this can be rationalised. Firstly, even those people who think that the OAP getting a few extra pounds that they are not entitled to is a 'small fry' crime understand that if the offence becomes a regular occurrence – or if the pensioner gets drawn into other benefit frauds because they now know they can – then the offence becomes much more serious. In fact, those same participants do actually recognise that the implications of even the most innocuous offence are more far reaching than they had ever considered, and that they were letting their sentiment and compassion override

their self interest:

'It is a serious offence when you think about it really. Opinion and sympathy should not really come into it because it is a serious offence no matter what. I think it's unfair. I'm working and I struggle'.

(London 18-44. Some fraud acceptable, would consider)

Secondly, they consider there to be benefits frauds and benefit fraud. Some may well shut their eyes in minor cases where there is seen to be a need rather than a greed, but few have any sympathy for the serial offender or where the financial scale of the fraud is large:

'It's very serious because they are getting something for nought and they want even more. It's people who work who have to pay for it'.

(Leeds 18-44. Some fraud acceptable, would not consider)

There is less confusion when the types of punishment that perpetrators incur for benefit fraud is debated. Most think that there are very few punishments in place for low level benefit fraud and that conviction doesn't necessarily mean that the perpetrator will suffer serious consequences:

'There isn't much of a punishment is there? Everyone has a clear understanding that there isn't much of a punishment'.

(London 45+. All fraud unacceptable, would not consider)

That said, most people are generally aware of the specific types of punishments that are available to the courts when dealing with this type of criminal behaviour. In particular, it is known that:

- the recipients of benefit fraud would typically have to pay back the money they received plus a small fine on top
- community service, which is considered to be a viable option according to some, is a joke according to others. In principle, the idea that benefit fraudsters who have taken money out of the community for their own financial

gain should be forced to pay it back through community service is thought a punishment commensurate with the crime. The problem is, however, that community service is thought to be detrimental in practice. One example given was the offender who while helping to repair an old ladies house caused it out for a burglary. These types of incidents may be the exception rather than the rule but do go a long way to undermining public confidence in the system.

- Prison is thought to be the place where all serial or very serious benefit fraudsters should go. However, it is recognised to be the last resort rather than the first, and there is a considerable amount of scepticism about the amount of space available in jails. In general, people think that crimes against the person should result in prison sentences rather than financial related crime where no-one comes to physical harm.

This particular issue is considered in more detail in the following section.

3.4. Specific fraud cases – current available punishments?

Having considered the types of punishment that might be available for fraudulent behaviour, a number of case scenarios were put before participants who were then asked to consider what they would expect a typical punishment to be. Two of the crimes were benefit fraud cases, and two were insurance fraud related. In order of consideration they were:

1. After being burgled, a home owner bumps up an insurance claim by saying that a camcorder has been stolen when it had not been
2. A mother claims for income support as a lone parent when she is actually having a live-in relationship with a man who is not the father of the child
3. A motorist fails to disclose an accident that was their fault when applying for a new car insurance policy, in the hope that a premium would be lower
4. An old age pensioner claims for income support without disclosing that they have £12,000 of savings that would mean they are not entitled to the income support

There are two general observations that can be made about these cases collectively.

Firstly, the majority of people adopted a resigned acceptance about the fact that these kinds of fraud are prevalent – indeed when it comes to the insurance frauds there is a view that the public is almost obligated to get back at the insurance companies who are perceived to avoid paying out on claims:

'The ethos of insurance companies as a whole is to make huge profits and avoid paying out when they should. I saw an example where a woman lost one shoe but instead of paying out £70 for a new pair of shoes the insurance company only paid out £35 because she'd lost only one. They screw us out of things like that all day long'.

(London 18-44. Some fraud acceptable, would consider)

As far as benefit fraud is concerned though, the view from the groups is that people do it not so much to get back at the system (although some participants feel that insufficient benefits are paid to claimants, thereby making deception inevitable) but because they think it is easy. It is not thought to be so much opportunistic theft, or even systematic in the sense that a considerable amount of thought goes into the deception. It is more that benefit fraud is perceived to have become a way of life for people – a culture of dependency which takes for granted that the state can be defrauded in a number of different ways. This development is thought to be based on tight social networks, usually in deprived council areas where this is the accepted 'game' to be played:

'They know how to work the system, it's word of mouth, one of their friends says "why don't you do this" and they are all at it'.

(Edinburgh 18-44. Some fraud acceptable, would consider)

Secondly, participants perceived that the punishment for any or all of these crimes is lenient – indeed in some cases they think there is no punishment at all (which is thought to be desirable in some cases, but intensely frustrating in others). However, this kind of response does need to be placed in context of the public's general impression about crime and punishment. Generally speaking, there is a suspicion that criminals are receiving light sentences when the general public's preference would be for the cell key to be thrown away. As one participant put it:

'You get told to be a good boy and don't do it again!'

(Cardiff 45+. Some fraud acceptable, would consider)

The Single mother

When participants thought specifically about their expectations for punishment, there is a sudden realisation that things might not be as straight-forward as they would like! They find it difficult to disentangle what they think the punishment currently is, and what they think the punishment should be. The latter soon becomes a contentious when debated within group contexts, and this will be discussed in detail in the later section on required punishments.

In relation to other current punishments, however, there is a widespread recognition that a fine would be imposed on the mother, which would at least involve paying the money back, and may or may not involve an additional fine on top (depending on whether it was a first offence or the amount of benefit paid).

The OAP

'I say good luck to 'em. They have paid all their lives'.

(Leeds 18-44. All fraud acceptable, would consider)

Many think the OAP will (and should) be treated very sympathetically. Once again, the debate centred on the relative merits of what the punishment should be rather than what it is and the quote above sums up what many participants thought about this particular case. At worst, the pensioner is thought to have to pay the money back, probably at £1 a week for the duration of the term. That said, some argue that the state knows that any kind of harsh treatment might backfire in PR terms:

'They won't do much, it's bad publicity'.

(Cardiff 18-44. All fraud unacceptable, would not consider)

3.5. The hierarchy of benefit fraud

There are two aspects to the perceived seriousness of different kinds of benefit fraud.

Firstly, a distinction needs to be made between those frauds that are organised and systematic and those that are based on need or opportunity. Secondly, there is a morality aspect, which is linked to the type of benefit being claimed.

Organised or systematic frauds were an anathema to just about everybody. The most prominent example discussed in the focus groups was of Slum Landlords providing sub-standard accommodation and claiming their housing benefit whether they live there or not. Awareness of this particular example was especially high in the (North) London groups, where a number of media stories about individual cases had been published in the few months before the groups took place.

However, many group participants did feel that a large number of small scale benefit frauds are desperate attempts to claw some money into the home because state benefits are insufficient to cover household expenses. These kinds of fraud are not seen to be nearly so serious and should be taken into account when sentence is passed:

'We are saying we want a judge to say that the end justified the means. Depending on the fraudsters circumstances – if that person really needs the money then let the fraud go.'

(London 18-44. Some fraud acceptable, would consider)

However, it should be said that this is not a uniform view. A vocal minority were of the opinion that no fraud should ever be tolerated; otherwise the upshot would be more fraudulent behaviour. This particular line relates especially to those situations where an element of compassion or morality is introduced into any given fraudulent scenario. Where an OAP gains a few extra hundred pounds they are not entitled to, many argue that they deserve to keep it. However, it is recognised by some that compassion actually means differential application of the law, which itself is unfair:

'That's the mistake you make with that kind of fraud, you can dress it up as two old people or a single mother but they are all doing the same thing. It should not matter who they are it is what they have done.'

(Leeds 45+. Some fraud acceptable, would not consider)

While it is quite difficult to sum these points up by ranking different types of benefit fraud into a hierarchy, the chart overleaf does attempt to demonstrate a hierarchy of seriousness. Housing benefit fraud is seen to be the most serious for reasons explained above. Ranked second is Incapacity Benefit fraud, which is perceived to have increased over the last ten years. A number of anecdotal cases of disability fraud were given by participants, often with a humorous tone that rather belied their mock exasperation of the fact that the perpetrators were getting away with it. (For example, the neighbour who had retired after five years off sick from work with a bad back who had recently built his own garage extension).

'For me, the worst is claiming disability when you're not, claiming motorability when you don't need it. Many of these people don't need it. They are taking it away from genuine people'.

(Leeds 45+. Some fraud acceptable, would not consider)

Ranked third is Job Seekers Allowance fraud, if only because everybody appears to know someone else who has worked cash in hand. On this basis it is thought to be the highest incidence of benefit fraud, although not the most serious by any means. The quote below maybe enlightening on why this should be the case:

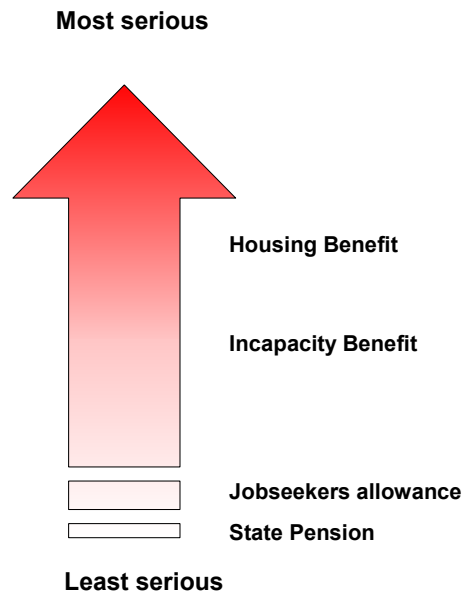
'It might be because so many people are doing it. The guys doing my extension were doing it, all on the dole but this was £50 a day cash in hand'.

(Cardiff 45+. Some fraud acceptable, would consider)

If everybody is at least tolerant of this, never mind participant tax-evaders or fraudsters themselves, then the public are clearly taking it less seriously than the law might – it is almost as if public opinion is in advance of the law in determining that black market behaviour is so entrenched in modern society that it actually becomes acceptable in their own minds.

Finally, any kind of fraudulent claim for state pension is seen as the least serious. We should not be surprised by this, given the sympathetic attitude adopted toward pensioners. Other kinds of benefits were not mentioned in this context, and as such were impossible to rank.

Figure 9: Relative seriousness of different types of benefit fraud



There is one further dimension to the seriousness of differing benefit frauds, which relates to any difference between the length of time a single fraud has been committed and the number of separate frauds involved in an individual's case. There is little doubt that anyone who commits multiple benefit frauds is viewed in a considerably worse light than the individual who gets away with a single fraud for a long time. As far as the former is concerned, they are seen to be working the system (which they are thought to know inside out). On this basis serial fraud is thought to be in a different league to that of an individual case, for which people can construct a number of scenarios that justify or at least rationalise it:

'You have your career fraudster and you have your opportunist. I do see what you mean about direct debit – they might get a job and forget about the benefit and it's in the back of their mind but they don't get around to it. That kind of person should be

treated differently from the person who seeks out another and another false claim. That's on a different level'.

(Edinburgh 18-44. Some fraud acceptable, would not consider)

Having said that, most participants understand that benefits can potentially create a comfort zone, which undetected benefit fraud would compound. It is perceived that someone who is on long term benefit may not be able to afford to come off it, especially if only low paid work is available. If any kind of benefit fraud is involved as well, it makes it twice as difficult to come off benefit for employment and more likely that further frauds will take place if the original is undetected:

'It is not worth their while coming off benefit. They get into a comfort zone and won't need to work.....benefit fraud snowballs, because if you get away with something, you will continue to do it'.

(Edinburgh 45+. All fraud acceptable, would consider)

3.6. Social responsibility or state reliance?

Most benefit frauds are considered by the group participants to be based on need, and the compassionate among group participants found it difficult to blame the disadvantaged for seeing a way of getting a few extra pounds. Their view is based on the lack of income through state benefits – or the reverse side of the coin, the perceived inadequate level of minimum wage payments.

'It comes to a situation where their backs are against the wall and they become prepared to do anything to keep the heating on or feed the child. Other people are probably just too scared to do that or break the law'.

(London 18-44. Some fraud acceptable, would consider)

This is a key issue, at the heart of which is discrepancy between individual social responsibility and a reliance upon state protection. Quite simply, there is common agreement that it takes a certain type of person to commit benefit fraud, but the rationale for it goes well beyond a simple need for more money. As one 'law-abiding' participant put it:

'It's not just a lack of money because I've got none but I've never done it'.

(All fraud unacceptable, would not consider)

So why do some do it and others' do not? Firstly, there is the nature of the benefits system itself, which many feel has become much more of a gravy train than the safety net that it was initially intended to be. Secondly, it is felt that those people without "education or moral fortitude" (Cardiff 18-44. All fraud unacceptable, would not consider) prefer to take advantage of the system than work. However, they think the system may permit these people to exist, but it is seen to be only partially responsible for their attitude in the first place. Most participants agree that there are types of people who have no work ethic, something that was termed as 'Third Generation Unemployed' by a Cardiff participant and described perfectly by a Leeds participant:

'It is a way of life for some on benefit; they are on career benefit, second and third generation benefit. They are missing a whole work ethic; it leads on generation to generation and has a knock on effect. The next generation grows up on benefits and learns how to go into more fraud. The fraud is a way of life for some of these families'.

(Leeds 45+. Some fraud acceptable, would not consider)

However, there is a small but vocal group who think that it is the benefits system itself that is totally responsible for encouraging benefit fraud, and the only way to cull fraud is to reduce or cap the amount of benefit that an individual can claim. This would have the effect of widening the gap between the minimum wage, and the amount available on benefit. Of course, the more compassionate think that the minimum wage should rise rather than benefits fall, but this is a political – and highly controversial - choice, and as such outside the scope of this report.

Most agree that the way to eliminate benefit fraud to is make working more attractive, thereby attacking the causes of benefit fraud rather than being tough on benefit fraud itself. Education is the key for many participants:

'You have to educate the people. You have to get to these people when they are in school, to impress upon them the work ethic. Not everyone is going to be Richard

Branson but you have to start somewhere'.

(Cardiff 45+. Some fraud acceptable, would consider)

3.7. What sanctions should be available – the citizen's jury decides

Before providing specific case examples of fraudulent behaviour, over which participants had to be judge and jury, they were asked what kinds of punishments they thought should be available to stamp out benefit fraud. At this point – where consideration of the causes and consequences of individual punishment are keenly debated - a sudden realisation hit home that the issues involved are far more complex than they previously imagined. Often, the sentence that they would ideally like to impose bore little relation to the sentence that they would actually end up passing.

First of all, there is the issue of prison. A few think that prison should not be an option for crimes of a financial nature, with onerous financial penalties thought to be a punishment which is more befitting of the crime. There is also the cost consideration – a double whammy where the taxpayer not only has to foot the bill for the money fraudulently obtained but also has to pay for the perpetrator to be kept inside.

Then there is the over-crowding issue. Nearly everybody understands that prisons are overcrowded and most agree that the little room that is left should be reserved for more serious perpetrators of crimes against the individual. In a ranking order of crime types, benefit fraud would not figure highly on the list:

'The punishment could very well cost more than the benefit fraud in the first place, so it depends on what you want to get rid of first. Benefit fraud is the very thin end of the wedge'.

(Cardiff 45+ All fraud unacceptable, would not consider).

However, the other side of the argument is that prison is the ultimate deterrent, and should always be available for the serial or worst case offenders:

'If someone needs to go to prison then they need to go to prison. Prison should not

be the first option, it should be the last'.

(Leeds 18-44. Some fraud acceptable, would not consider)

Community service is a very popular alternative. There are two aspects that make it a particularly relevant sanction to participants. Firstly, benefit fraud automatically takes money from the central pot of government money that otherwise could have been spent on some community based project or need. If the fraudster has denied the community this money, then the community should get something tangible from the fraudster. Secondly, making the fraudsters work in the community has the added benefit of making them see the value of work. In some cases it might help instil the work ethic that is thought to be missing in many of the people who make fraudulent benefit claims:

'They should be made to do community service so that they are actually working. It's bad that young people neither work nor want to work, it's not character building. They need to do something constructive'.

(Edinburgh 45+. All fraud acceptable, would consider).

Fines are also thought to be a relevant sanction as far as most, but not all are concerned. Again, it is deemed fitting that people who attempt to make financial gain should incur a financial-based punishment in principle, therein defeating the purpose of the crime:

'Pay it back, twice over'.

(Cardiff 18-44. All fraud unacceptable, would not consider)

There are a number of fine related alternatives suggested, most of which would attempt to deal with the root of the problem on top of applying the sanction. They include:

Attempting to educate the fraudster in the hope of encouraging them that work is a better alternative:

'What they've got to do is pay the money back and agree to an education program to channel their energies in a proper way'.

(Cardiff 18-44. All fraud unacceptable, would not consider)

Alternatively, the more draconian measure would be stop the benefit (at least until the amount is paid off) and force people to take a job. There is a suggestion that decisions should be based on the fraudsters' ability to work – young and fit types would not receive much sympathy from the proponents of this kind of policy:

'They should stop the benefit.....and tell them to get a job in McDonalds because they are looking for people there'.

'They should not get any more money'.

(Cardiff 45+. Some fraud acceptable, would consider)

Finally, there are the hard line measures, some of which are known to be politically unacceptable but are thought to be suitable punishments none the less. The most prominent is naming and shaming. Depending on the attitude of the participant, this would range from photos of perpetrators in bus shelters to stocks in the town hall square (this suggestion is always delivered in a jocular way, but there should be little doubt that the people who suggest it would undoubtedly wish to see it).

'What about public humiliation? Stocks, rotten fruit in the market place. There is an element of naming and shaming because the public are paying for it and should be told'.

(Leeds 18-44. All fraud acceptable, would consider)

Of course, there are others who are disgusted at the very idea, and others still who reasonably argue against it. One participant (who had a relevant conviction behind him) believed that his peer group would be encouraged by the naming and shaming process, perversely seeing it a some kind of badge of honour:

'It would embarrass the family more than the kid, who would think it's great, like!'

(Cardiff 18-44. All fraud unacceptable, would not consider)

Secondly, a very popular form of punishment with the focus group participants would be to confiscate property. There is firmly held view that those people on benefits can always afford life's luxuries. They are perceived never to be short of money for

alcohol or cigarettes, and many have the latest Plasma TVs in their homes. Taking away something like this would be seen as an excellent way of making life more uncomfortable for the fraudster:

'The only times we have ever seen Plasma screen TVs is in Housing Associations.....the whole point of punishment is to take away something of value'

(Leeds 18-44. All fraud acceptable, would consider)

However, there are flaws recognised in this plan. For one thing, the committed fraudsters would be thought to replace their confiscated assets with rented property, and therefore not care if the bailiffs returned; and for another, it is argued that they become more likely to graduate to other kinds of criminal behaviour, like burglary.

The citizen's jury

Each set of participants were asked to imagine that they were the judge in court, and standing before them were four separate cases of alleged benefit fraud. They were asked to pass judgement and punish each of the accused (who were guilty). The purpose of this kind of activity within a group context was to establish the kind of punishments they think would actually be warranted in case-by-case scenarios, and to understand whether they think that the sanctions that are currently available to the courts and authorities are draconian, adequate or insufficient.

To ensure that the latter issue was adequately covered, the citizen's jury sat twice – once before the current, actual system of sanctions was discussed in full, and once afterwards. This permitted detailed discussion on the relative merits of the current sanctions program in its' own right, before applying it to the jury case scenarios.

The cases were:

1. An old age pensioner has £30,000 hidden from the authorities and is claiming full pension rights.

BEFORE: The participants thought that the pensioner should escape punishment, or if they have to be punished, it should not involve anything more than a small fine. Without doubt, this is an emotional and compassionate response, and to a large degree this is recognised by the very people who fall into this trap:

'I'm too soft. I'd let you walk because you've paid your taxes all your life so why shouldn't you get something back. I don't blame people for doing it'.

(Leeds 18-44. All fraud acceptable, would consider)

There is more than this to it, however. The system that brings a pensioner with savings before a court is itself seen to be inadequate. The view is taken that the pensioner has done what the state has asked of them (worked hard, saved for his retirement), and then penalises them for having done so. An example was given that reinforces the point: two pensioners live next door to each other and worked for the same company, doing the same job all their lives. One spends each weekend drinking while the other is frugal and saves for his retirement. In this scenario, the 'boozer' who has drunk his earnings is looked after while the frugal pensioner gets nothing. Furthermore, the £30,000 has been taxed as earnings, taxed as savings, and is now effectively taxed as a benefit alternative. The system, when viewed in this way, is seen to be iniquitous. Instead of penalising the pensioner, the system should have acted in such a way that the pensioner was educated in ways to benefit from his savings without being penalised by their existence – i.e. provide financial advice. In short, the general view is that:

'I don't really think this is up for discussion. This is not even a crime'.

(London 18-44. Some fraud acceptable, would consider)

However, if there is one down side it is the recognition that leniency is no deterrent. Some pensioners may well take advantage of the system because they know that people may view their case sympathetically. Others may well be convinced that they can also get away with it:

'An OAP would use their age as a sympathy factor. Why should he get away with it just because he is a pensioner?'

(London 45+. All fraud unacceptable, would not consider)

AFTER: A caution was the only punishment considered appropriate to the pensioner's case - the public do not appear able to contemplate anything other than leniency.

'Caution. That's it. If you have to do something then it's the lesser of the three evils. Personally I still think it's too much'.

(Cardiff 45+. Some fraud acceptable, would consider)

However, their view of 'third generation unemployed' does give them cause for concern. Tomorrow's pensioners are considered to be today's benefit cheats, and will differ from today's pensioners in innumerable ways. There is a worry that the system will be overloaded with experienced benefit fraudsters using their old age as a sympathy vehicle thirty years down the road:

'Mind you, the scroats who are ripping off the system now will be 20 years time's pensioners.....they will be the one's now who have been ripping off the system for years and they won't give a toss'.

(Leeds 45+. Some fraud acceptable, would not consider)

2. A man has been claiming unemployment benefit but doing casual building work two days a week.

BEFORE: This particular case does present a number of difficulties for people, and the fact that there are at least two main strands of thought on appropriate punishments demonstrates this. The main problem for people is accepting that this deserves serious punishment when many have themselves taken advantage of it one way or another. One Cardiff participant admitted to accepting cash in hand as a younger man, and others admitted they had tradesmen on their property who they knew were also claiming benefits. That this behaviour is thought to be so endemic within society somehow makes it more acceptable to many people, and makes them more lenient to a large degree.

However, it is still seen to be much more serious a fraud than the OAP's, largely because the builder is obviously capable of work. In fact, some find it appalling that a builder doesn't have a full time job, never mind that he is working while on benefit. This strand of thought demands a more serious punishment, but even that is deemed to be no harsher than repaying the fraudulently claimed money plus a relatively small fine on top – perhaps £1,000. The majority think that there should be a work element involved in paying back the money, perhaps forcing the builder to keep the job he

has been doing but paying an amount back every week.

The second strand of thought involves community service. A builder is thought to be an ideal candidate for community service, obviously because their specialist skills could be used to improve housing conditions for the elderly, or perhaps to help build or repair community projects. It is felt that the punishment does need to involve some kind of hardship or irritation in order to encourage the builder that it is not worth their while getting caught again. One way of doing this would be to impose a large number of community service hours, another to make the builder work all week, every week for the duration of the order:

'Let him carry on doing his job, but let him do community service on Saturday so it buggers up his weekend'.

(Edinburgh 45+. All fraud acceptable, would consider)

A number of alternatives were also mentioned as appropriate bolt-on punishments in this case. There was a suggestion that many people don't bother turning up for their community service work, and in these cases there should fall back positions that are heavy handed and involve taking away items of value to make their life considerably more difficult:

'Can we have some sort of bailiff system here? Half the time they won't turn up for their community service so why not send the bailiff round and say: "by the way, we've got your car. We've repossessed that and we'll sell it in an auction"'.

(Leeds 45+. Some fraud acceptable, would not consider)

Another example would be to name and shame offenders. Where the offence involves working people it is thought that the shame would be greater than if it were difficult teenagers. If a builder or other individual actually has something of a professional reputation then to be publicly shamed in this way might have more of an effect.

However, this case is by no means settled simply by looking at the offence. Many agree that circumstances have to be taken into account on a case-by-case basis and differential punishments should be imposed depending on the personal

circumstances of the fraudster. This is where participants can become confused and contradictory and rather fail to establish any kind of in principle criteria for punishment. The introduction of family scenarios can significantly change people's approach. Suddenly a builder who is lazy and taking advantage of the system is now be viewed (by some) as a down-trodden victim of society who is doing his best to provide for his family. In fact, they say, he should be commended for his enterprise!

'I would have said, well done, good initiative, get yourself an enterprise scheme'.

(Cardiff 18-44. All fraud unacceptable, would not consider)

'If one has a wife and kids in tow he should be treated more leniently because he is doing his best – he is doing what we would do to try and look after his family'.

(Cardiff 45+. Some fraud acceptable, would consider)

AFTER: At least there is some consistency when it came to adopting real life punishments. Most do appear to settle on a repayment of the fraudulently claimed benefits with work imposed on the builder. They recognise this would involve an Administrative Penalty, which is deemed appropriate in most cases. However, a caution might be sufficient if the amount of benefit claimed is relatively small or if there is a family involved. Many people would not want the children penalised at any cost.

3. A single mother is claiming benefits but cohabiting with a working man without telling the authorities.

BEFORE: This particular case is seen to be the biggest can of worms of all three, and the punishment imposed very much depends on a number of circumstances. Does the man pay toward the upkeep? Is the relationship stable? Does the man actually know that benefit is being fraudulently claimed? Is any kind of punishment going to affect the children more than it does the fraudulent mother? These are the kind of issues that are immediately questioned, and the prescribed punishment very much depends on the answers.

First of all, there appears to be little consideration about the nature of the relationship

or indeed concern about its future given any kind of severe penalty. There is, however, concern for the welfare of the children, which for some is the only important concern. Prison is ruled out as a punishment, partly because of the detrimental impact on taking the children into care, partly because it would cost society considerably more than it would by not incarcerating the mother.

Fines are also a problematic solution, because they would be viewed as penalising the children:

'But what about the children? In reality you are starving the kids'.

(Leeds 18-55. All fraud acceptable, would consider)

Fines are thought to be a viable option where it can be proved that the man is paying for the upkeep of the household. In these circumstances, the benefit claim is thought to be taking advantage of the system and as such the benefits should be paid back with a fine on top. If the man is proved to be party to the fraud, some think that he should also incur some kind of fine but others are concerned that someone who has not actually committed a crime will be prosecuted, which they think is difficult to justify under any circumstances:

'That's like saying 'I know someone who has committed a crime, so I should be punished as well''.

(Cardiff 18-44. All fraud unacceptable, would not consider)

There are a number of suggested alternatives. The confiscation of assets does appeal to the more hard-line participants, especially in the sense that making the children suffer in some way should emotionally blackmail to mother not to do it again:

'It's not difficult because it's the same fraud. If the kids Playstation has got to go, then it's got to go'.

(Leeds 45+. Some fraud acceptable, would not consider)

Alternatively, a work placement should be found for the mother and if she fails to turn up then her benefits are revoked. This also appeals in some ways to those people who adopt a softer line. They think that there should be some ways in which the

mother can be induced to go out an work – irrespective of whether it involves the repayment of a fine or not. If this involves the provision of free childcare, then this might still be the most acceptable way of spending money in the hope of changing the mother's ways:

'Give her free childcare and make her take a job to pay back the fraud'.

(Edinburgh 45+. All fraud acceptable, would consider)

AFTER: In reality, most people understand that there is little that can be done. Prison is out of the question and an Administrative Penalty is likely to have little effect because they will be unable to pay it back except at a rate of £1 a week for ever, which itself is unlikely to be any kind of deterrent. This only leaves the caution and most opt for it as the most likely form of punishment that would be applied given today's punishment alternatives.

3.8. Current Sanctions

In between passing sentence on the three cases (i.e. after passing sentence using their own judgement but before passing sentence on the basis of current available sanctions), available sanctions obviously had to be described in detail to the citizens jury participants. After each description, they were asked to evaluate the likely potential and effectiveness of each.

Prosecution

Group participants understand that prosecution is not the same thing as punishment. Given this, there is some confusion about the actual penalties available under these circumstances. Many participants relied upon anecdotal evidence and this has to be taken into the context of perceived lenient sentences with regard to any crime. However, prosecution was generally assumed to lead to a custodial sentence in the case of a serial offender or fines for first time or relatively small scale offences:

'It is an interesting word 'prosecution' so what's the outcome? If they get 50p a week it doesn't hurt anybody'.

(Leeds 45+. Some fraud acceptable, would not consider)

There is also the simple matter of a defendant being found not guilty. There is an assumption that sufficient evidence would be available for a guilty verdict to be found, but it is also assumed that there will not be a 100% success rate and prosecution will achieve nothing in these cases.

In terms of the process under review however, the debate focussed on the financial level at which prosecution should be automatically instigated. Prosecution is automatic in cases where the gross overpayment in benefit is over £1,500 and there was general agreement that there should be a financial level in place to regularise the system and to ensure that punishments were consistent and uniform:

'You have to have some sort of monetary system otherwise the punishments you get will vary from case to case.'

(London 45+. All fraud unacceptable, would not consider)

Whether the level should actually be £1,500 was more open to debate. Some thought it was the correct level, but more of the others thought it was rather on the high side, and that it should be brought down:

'I think £1,500 sounds like a lot of money, the level should be lower.'

(London 18-44. Some fraud acceptable, would consider)

The key to prosecution for most participants was whether a guilty verdict should result in a custodial sentence. Views were mixed and fairly entrenched on both sides. Some argue that prison is not appropriate in any financial related crime, especially when more serious crimes against the person are thought to be treated less seriously than they should be. Indeed, it is thought that the government places too much emphasis on financial related crime because it wants to protect its own revenue streams. The natural consequence of this is a prison system bursting at the seams and judges then forced to treat 'serious' offenders more leniently because the system cannot cope:

'You can't send someone to prison for 10 years for murdering a child and then send someone to prison for benefit fraud. This is why people have no respect for it.'

(Cardiff 18-44. All fraud unacceptable, would not consider)

The other side of the argument is based on individual responsibility. People are assumed to be making a deliberate choice when claiming fraudulently (although in many cases they may actually be unaware they have committed a fraudulent act). Prison is there as a deterrent and should be there as a punishment for the most serious cases:

'If you think the punishment is severe then don't do it. I think that most people would agree that for the worst offenders that kind of punishment is right'.

(Edinburgh 18-44. Some fraud acceptable, would not consider)

Even those who support prison as a punishment for benefit fraud are aware that the prison system needs to be expanded to cope. There is little point in determining harsher sentences across the board if it means that previous offenders are let out early. People would rather 'serious criminals' like murderers or rapists were left in jail for longer even it means that financial fraudsters are not incarcerated as often or for as long as they otherwise might be.

In summary, prison is only thought to be appropriate in the most severe of cases, but certainly should be considered if a particular fraudster has consciously and significantly swindled the system. There should also be no doubt about the veracity of the fraud, nor the fact that it is a considered and deliberate act. People tend to have fewer problems with someone who may have stumbled into a fraud than they do with those who seek to permanently profit.

Administrative Penalty (Ad Pens)

Views on Ad Pens are as mixed as they were for prosecution. For some, they are a very good idea because they would sort those people who had perhaps unwittingly perpetrated an offence (and who are perhaps unlikely to repeat it) from those who are – or planning to be - serial offenders. In this sense the person who gets this 'slap on the wrist' knows that a repeat offence will incur a considerably more severe punishment, and it is hoped should be deterred from carrying it out. As such, Ad Pens are thought to be most appropriate for first time offenders, but for serial offenders they are likely to achieve little:

'It's probably not a bad thing and will sort the men from the boys – there will be those

who get their knuckles rapped and they'll go "oh my God I'm not doing that again". However, the serious fraud guy will go "ha that was nothing". It's a means test as to how fraudulent they want to be in the future'.

(London 18-44. Some fraud acceptable, would consider)

Ad Pens are also thought to be an appropriate way of lessening the load on the courts and hence saving money in the process.

Opponents of Ad Pens think that they offer no tangible punishment or deterrent to repeat offenders. There are two main deficiencies. Firstly, accepting a fine which is (always thought) to be paid back at a few pounds a week is not thought to be a significant punishment in any way. Given that it introduces nothing in the way of hardship, detractors can't see any point in actually enforcing the fine:

'£1 a week is not a deterrent. It is not going to work, at the end of the day I'll admit it and pay the £1500 at £1.27 a week'.

(Leeds 45+. Some fraud acceptable, would not consider)

Secondly, people who have been caught accept the fine and escape any kind of mark against them. This is beyond the pale for some, who would like to see more of a naming & shaming element rather than none at all:

'Tell me how I go about doing that? I am quite prepared to commit fraud now because there is absolutely nothing to deter me there. Nothing'.

(Cardiff 18-44. All fraud unacceptable, would not consider)

However, others think that this is actually the BEST part of the Administrative Penalty – that people who (most likely) have committed a first offence will not have their career or record spoiled by an isolated misdemeanour – so long as the Ad Pen is only applied to first or obviously low level fraudulent offences, it is seen as a positive punishment scenario:

'No, it's a good way of dealing with it. It effectively wipes the slate clean without leaving you with a record. For a first offence it is a good way of dealing with it'.

(Edinburgh 45+. All fraud acceptable, would consider)

Caution

The majority of focus group participants think that cautions are far too lenient – they are seen to be effectively letting people off. The first reaction of some participants is that they are something of a joke:

‘And that is going to stop benefit fraud, how? What are they drinking, can I have one?’

(Leeds 45+. Some fraud acceptable, would not consider)

They also wonder how effective these types of punishment actually are at the present time. They perceive benefit fraud to be on the increase and wonder about the impact of lenient punishments of this type, even if their own view of the punishment is more positive than negative:

‘They sound right to me but if they were how come fraud is still happening or getting worse?’

(London 45+. All fraud unacceptable, would not consider)

3.9. Putting sanctions into context

If Administrative Penalties and Cautions are thought to be too lenient, then how do we rationalise the Citizen’s Jury punishments, which were themselves based on the most lenient options? In two out of three cases, a caution was considered to be sufficient, whereas the builder received either an AP or a caution depending on individual group thinking. This is the difference between knee-jerk perception based on judgements about crime and punishment within the current political climate, and considered rationality. These groups demonstrate that many people think that the courts dish out inappropriate and insufficient punishments across the board, but then those same people adjudicate in a similar manner after they have considered many of the same pertinent issues that a real judge has to. We may speculate that this is because the issues involved on a case by case basis are of no consequence to people who expect more protection from the justice system - but when they understand the potential consequences of individual punishments, their reaction is

more balanced. That said, in effect they indulge in 'collective irrationality' where they move from a severe penalty to a lenient one but still criticise the system for itself imposing the same lenient penalty.

3.10. Deterrents

Having been through the sanctions programme, group participants found themselves in a considerably more informed position when it came to effective deterrents, if only in being able to identify those types of concepts that cloud the issue rather than solve it. Fines are a case in point. Any sanction or deterrent that involved the repayment of benefit with a fine on top was to one person an effective way of punishment or prevention; to another, pointless because it created destitution and an environment in which people might be forced to commit more crime:

'There's no point in making them pay it back because they don't have it, they've spent it as soon as they get it so you might as well cut your losses. You can't force people into destitution'.

(Cardiff 45+. Some fraud acceptable, would consider)

There was agreement about the requirement for a short, sharp shock, but this still needs to be proportionate to the crime. A way needs to be devised that acts as a deterrent in the sense that it instils fear in the potential fraudster, but which is not so over the top that it creates more confusion or suffering than is necessary:

'I think a punishment has to be a deterrent. People have to be frightened of their punishment'.

(Cardiff 18-44. All fraud unacceptable, would not consider)

That said, there is a recognition that even the most stringent of punishments would not dissuade the serial fraudster. Like most crimes, those people who are committed to it will undertake it if they think the risk is worthwhile. Where you have serious fraud, you have serious fraudsters who will never be put off by a jail term. It is only the first time offenders who are likely to be put off by the short, sharp shock type of therapy.

Arguments become circular. Where a tough sentence (like a jail term) is passed

(which should be used as a deterrent factor where appropriate), the problem then becomes the cost to the taxpayer or the impact on family life. If community service orders are imposed then how do you stop the fraudster becoming the burglar? If a fine is imposed, who feeds the children? If there is one thing that these focus groups demonstrate with little ambiguity, it is that participants are very capable of identifying the problems, but fail to provide the solutions.

Despite this, however, in general it could be argued that the public would favour more community service, perhaps sequestration of goods, and a form of naming and shaming in certain circumstances. They do feel that the fraudster needs to be exposed to the community that they have defrauded in such a way that they feel shame because of it.

For serial fraudsters, there is much more of an 'open season' approach. They assume that deliberate choices have been made to commit subsequent frauds, presumably on the understanding of what the likely punishments are. In cases such as these, some argue that full benefit withdrawal is the only legitimate way of establishing a tangible deterrent. However, the vicious circle does still apply – there is a realisation that this will cause financial hardship on the fraudster's family, or generate more crime as a result, but this is a price that has to be paid.

Available deterrents

Whatever the deterrents currently are, they are seen to be ineffective. This is thought to be true because benefit fraud is assumed to be going up exponentially:

'Whatever it is, it's obviously not working. It's not publicised and it's no deterrent'.

(Leeds 45+. Some fraud acceptable, would not consider)

As the quote above also demonstrates, there is little awareness of the government's deterrent options, with only a few being able to spontaneously volunteer any phrase that included 'strikes and you're out'. Nobody had heard of local authority sanctions.

Each of these concepts was then explained to each of the groups. The first of them, '2 strikes and you're out' disqualifies from benefit anyone who is convicted of more than one benefit offence in two separate sets of proceedings within three years.

Benefits can be withdrawn or reduced by 20-40% for up to 13 weeks.

In principle, the idea is generally well received, but in practice the participants were able to identify a number of flaws that they thought would make the policy unworkable. Firstly, it was seen to be too lenient in terms of the detail. Partial withdrawal of benefit for a limited term is not seen to be a sufficient punishment for multiple offences. As one participant argued, serial offenders have to be imprisoned if the deterrent is going to be in any way effective:

'It should be two strikes and you're in!'

(Edinburgh 18-44. Some fraud acceptable, would not consider)

Both the extent of the benefit withdrawal (if not 100%) and the length of time that it applied for were thought by the more hard-line participants to be insufficient. Indeed, one participant was adamant that this can only work - and fraudsters can only take it seriously - if full and complete withdrawal of benefit is available within policy parameters:

'Two strikes should be this: if you get caught once you tell them quite clearly and categorically if you commit another fraud then that's it, you're not getting anymore money and you're only to blame for your actions'.

(Cardiff 18-44. All fraud unacceptable, would not consider)

However, others fundamentally disagree with this idea, even if they support an increased period of benefit withdrawal. They believed that a complete cessation of payments would have the detrimental effect of punishing the children. Indeed, if extended benefit withdrawal were imposed, many think that the fraudster would find some other way of finding money, whether it be from a legitimate, alternative government source or from more crime:

'In principle it sounds good but it won't happen, the system will just cave in and they will get some money, whether it's crisis loan or whatever. They will go and steal'.

(Edinburgh 45+. All fraud acceptable, would consider)

The second deterrent available is Local Authority Sanctions, whereby the central

government pays each local authority £1,200 for each formal caution or Administrative Penalty offered and accepted, or £2,000 for a successful court prosecution.

The first reaction of many people to this concept is one of shock and horror that the government could be so invidious. However, the initial shock is often replaced with a sense of considered acceptance. The realisation is that this policy is little different from TV detector vans, parking wardens or speed cameras:

'I think that's quite right. It's like speed cameras if you get caught speeding then what's the problem?'

(Cardiff 18-44. All fraud unacceptable, would not consider)

A sense of satisfaction also sets in after they realise that this process will save the government money and hence the taxpayer a considerable amount of money. They understand that it is worth the government funding the program because they will save much, much more in reducing fraudulent claiming; and it is worth the local authority employing 'fraud wardens' because the cost should be more than covered by the income from central government. It is a 'win-win' scenario.

There are a few concerns. Some think that it will be easier and more cost effective for local authorities to go after 'soft' targets like pensioners or single mothers rather than serious fraudsters who are presumably intent on covering their tracks. Others worry about the types of people who would be employed to go after potential fraudsters. They think that people who apply for this type of work might let the 'power go to their head' and adopt a more officious or openly confrontational approach that is rarely considered to help in situations like this. To counter this, some think that it might be a good idea for private firms to get involved – typically bailiffs who have experience of reclaiming goods. However, others might distrust this kind of operation even more, although they recognise that the introduction of a commercial profit element might encourage the private operations to be more successful in identifying the fraud, and more cautious of acting in such a way that they do something to prejudice their claim for payment.

3.11. Deterrent effectiveness

In general, people think that the deterrents available to the authorities are likely to be “ineffectual”. Other words used include “laughable”, “pathetic” and “inadequate”.

There are few positive words used. This is another example of the ability of group participants to be destructive rather than constructive. Typically, they could identify no single alternative deterrent themselves.

Group participants cannot lead government policy on this issue, for they cannot conceptualise a policy framework which on one hand seeks to impose severe sanctions and deterrents, but on the other seeks to be conditional, compassionate and tolerant of individual circumstances. At best, they are able to demonstrate an awareness of the complex issues at hand, at worst, their responses are uninformed, contradictory and dependent upon their own moral judgements and prejudices.

Problematically, those prejudices are reinforced on two levels. At the lower level, asylum seekers are thought to be driving a coach and horses through the benefits system, and the resentment that this has caused is deeply embedded. However, this is not simply a matter of benefit fraud, it is a matter of benefits available legitimately (whilst fraud might come into it, the resentment is linked more to the fact the asylum seekers can claim in the first place).

At the higher level, people view the actions of senior politicians and businesses with contempt, as they are seen to be committing fraud on a regular basis. The argument goes that if they can get away with it, why shouldn't ordinary people who are simply trying to make ends meet in a large number of cases?

That said, having the option for more severe sanctions and deterrents would sit easily with many people in principle, so long as in practice a degree of common sense, sympathy, understanding and tolerance can be introduced into the sentencing process.

4. Who commits fraud and what are their motivations?

In this chapter an overview is given of the people who had committed fraud who were interviewed for this research. In particular an examination is made of the key behavioural characteristics of fraudsters, the factors that motivated them and their attitude to getting caught. This overview is important because the differences in people's circumstances and their characteristics help to explain the impact of the sanction they received as a deterrent.

4.1. Characteristics of the sample

Research by Dean and Melrose (1995) categorised social security fraudsters into four main types based on the degree of anxiety they felt about the fraud and the extent to which they reflected on it and articulated the meaning of the fraud. The four types of fraudster were classified as:

Self confident philosophers – This group had clear justifications for their fraud and were able to rationalise their actions.

Calculative worriers – This group, though able to rationalise their fraud, felt vulnerable and were the most uncomfortable with what they had done

Macho survivors – This group felt little need to justify their fraud and appeared immune to anxiety

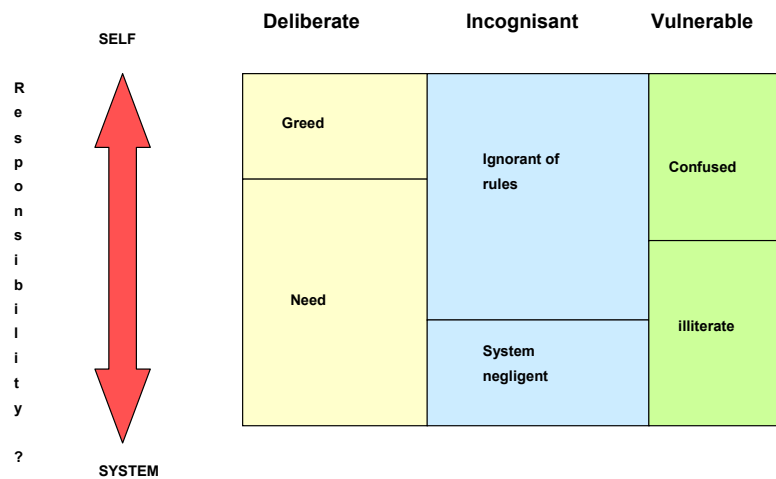
Unreflective opportunists – This group offered what were termed shallow or incoherent justifications for their actions which tended to be opportunist in nature.

The sample of claimants interviewed for this research exhibited some of the characteristics described by Dean and Melrose but none fell comfortably into any of the four groups. Instead, their characteristics can best be categorised according to whether they believed that they had done anything wrong, the extent to which 'the system' contributed to the overpayment occurring and the degree to which claimants were caught out, not so much by deliberate actions but by their lack of education and literacy.

One of the key contradictions between this research and that explored in the literature review is the belief from a number of participants that their actions were not deliberate; they do not perceive themselves to be fraudsters, but are ‘small fry’ caught up in a complex and bureaucratic system that punishes others for the mistakes it makes.

The chart below maps out the common characteristics that were exhibited by the respondents:

Figure 10: Categorisation of benefit fraud respondents



The chart shows that there were three main types of fraudster identified from the interviews: deliberate, incognisant and vulnerable. Within each broad heading there are sub groups that are defined by the degree to which they view themselves as responsible for committing fraud or whether they feel the ‘system’ is at fault. The size of each sub-area within the main grouping reflects its position on the arrow of responsibility. Those near the top see themselves as responsible for the fraud; those nearer to the bottom blame their predicament on the system.

The width of each grouping reflects their population in the sample. So for example incognisant fraudsters were the largest single group in the sample and vulnerable fraudsters the least common.

Deliberate fraudsters fall into two sub- groups: those who deliberately undertook a fraud because of greed and those that did it because of need. Those whose deliberate fraud was based upon need tended to see responsibility lying between themselves and the system. In this case the system is one that gives people only the bare minimum which is not considered enough to live on:

'Income Support just gives you the basics; it doesn't give you anything else for repairing the washing machine and the like'.

(Deliberate fraud-need, Admin Penalty)

People in the deliberate fraud – need category are most likely to have been struggling to make ends meet and found themselves needing extra money to pay for unexpected bills, Christmas time, or generally needing to put meals on the table. The description of the person below is typical of a person who falls into the need category.

Female aged 44, married with five children. Had never worked during her married life. It was coming up to Christmas and she needed money for the Children's presents. She took a cleaning job and was paid £32 per week cash in hand. She did this for eight weeks before getting caught. Has no TV licence and considers the New Deal to be 'slave labour'.

Received a caution.

The serial fraudster is most likely to be in this category. The serial fraudsters interviewed for this study were young and single

At the other end of the deliberate fraud scale is the person whose motivations are not based upon need but on securing more money for themselves.

Female, single, aged 33, no children. Started out by doing one day a week serving at the local shop. This was as a favour to her friend who ran the shop but was short staffed during the school summer holidays. At first the claimant 'forgot' to inform benefit staff that she was working. She then increased her working to three days a week. Still didn't tell the benefits office. The extra money came in useful to help her run her car. She was eventually found out after eight weeks of working three days a week.

The Incognisant fraudsters are those whose fraud was committed, in their view due to their unawareness of the rules or because the system was (again in their view) negligent in their case.

Male, married with three children, receiving JSA. This man had signed on with an agency that supplied labourers to the building trade. He had discussed with his brother (who worked for the DSS) how much he could earn without it affecting his benefits. His brother had told him he could earn £30 a week. This he did and did not declare it to the benefits staff.

His name was discovered after Fraud Officers paid the agency a visit and matched names on their books with benefit claimants. He was interviewed by a fraud officer where he protested his innocence based upon misinformation supplied by his brother.

He received a caution.

The thinking that there is a certain amount of money that a claimant can earn without having to declare it is a common feature of people that fall into this sub-group. There seems to be an informal grapevine of supposed knowledge of just what is and what is not acceptable that originates not from the local benefits office but by 'benefit savvy' claimants. The fact that it is often wrong does not count in mitigation as far as fraud officers are concerned.

Some claimants believe that it is not they that is a fault but the system. The definition of what is the system's fault differs from that defined by the Deliberate-need group (here it was more about the level of benefits being too low). Incognisant fraudsters-system negligent believe that the complexity and bureaucracy of the benefit system

has conspired against them either because their case had got lost in the system or they were given incorrect advice by benefits staff.

Married man, one child claiming incapacity benefit. This man had been off work for six months because of a problem with his back. When his back was better he got a job but the first six weeks of the job required him to go on a training course for which he only received part pay. He contacted the benefits office who said that he was able to keep his claim going at the original rate. Later on this was found not to be the case and an overpayment was discovered. He blames his on the benefits officer who he thinks was new to the job and did not understand the rules.

His situation was compounded because his wife hid the letters from the benefits office telling him to go in to discuss the overpayment. Eventually he was prosecuted and received a conditional discharge. He had to pay back the overpayment and the Court costs. The magistrate expressed surprise that the case had reached the courts.

Also falling into the category of incognisant fraudster are situations where a combination of claimant ignorance about what should be declared is perceived to come face to face with system problems.

'I filled the form in for Council tax last year. I just filled it in and signed it. I had the dole for 10 years and I didn't even know I had to declare the pension I have. Unbeknown to me I had to declare it but honestly I didn't know because I've got a mobility pension and you don't have to declare that. I've been signed on for 10 years and nobody called to say "you're doing something wrong".'

(Incognisant fraud – ignorant of rules/system negligent, prosecution)

These people tend to see themselves as soft targets for the system to convict. They do not view themselves as hardened fraudsters but almost victims. This though is often tempered with an acknowledgement that they have to share some responsibility for what has happened.

The final grouping of claimants in the sample are what are termed 'vulnerable' either because they are confused by the rules and regulations or because they are illiterate or both. Often these claimants receive their information on what can be claimed or

what has to be declared from a circle of people who are in a similar situation. Their understanding of forms is poor, they may have a care or prison background and they accept what they are given without questioning. Their lifestyles can be chaotic and their attendance at formal meetings is haphazard.

Woman aged 17, JSA, has a history of being in care. Signed on but did not receive a Giro. Complained to the Job Centre who said they would cancel it and send another. A few days later a Giro arrived through the post and she cashed it without questioning whether it was the original one or its replacement. She has very little understanding of the system – 'I just go in, sign on and hope for the best'.

She was prosecuted after she 'forgot' to attend a meeting where she was to receive a caution.

The distinctions in the characteristics of claimants are important to the understanding of the deterrent effects of different fraud sanctions. Incognisant fraudsters and to a lesser extent vulnerable fraudsters do not view themselves as having committed a crime. To be labelled a fraudster is by and large a horrendous experience for them.

4.2. The hierarchy of fraud

Among the participants there was a clear hierarchy of fraudulent activities that was classified not so much by the nature of the fraud but on the circumstances of the person committing it. A single person who is working and claiming was felt to be committing a much more serious offence than a person who had children whose motivation was driven by need rather than greed. There were two reasons for this. First, the benefits system is felt to be too harsh on families because benefit levels are considered to be too low. In fact fraudsters interviewed believe the benefits to be at the same time too harsh and too generous – too harsh on those people they considered to be in need (defined as OAPs and families where there has been a history of working) and too generous to the young and single, workshy and asylum seekers.

In the same way that the public have sympathy for people who are genuinely in need who defraud (see the focus groups in this study and the views of the general public in the 1997 study) so too do fraudsters interviewed.

'It's not a case of them being hardened criminals who want to break the law, it's the fact that they're in desperate situations and they've got no choice'.

(Incognisant fraud, caution)

Second, there is a view that pensioners who have paid taxes all their lives should not be penalised twice by having to declare their pension.

'It's bad, very bad. I get a pension, I've worked all my life and they're chastising me for it'.

(Incognisant fraudster, caution)

Once again this view is in agreement with the views of the general public as identified through the focus groups.

Single people who deliberately defraud benefits are viewed in a very poor light, even by people who once were in this position. One man commenting on a previous conviction for benefit fraud when he was single stated:

'It's [punishments for single people] definitely not harsh enough. Like me, I got a £500 fine. My friend paid the fine. We went to see the bloke down the DHSS, he said he wasn't bothered who paid it. So in a way I got off scot-free'.

4.3. The fear of getting caught

There was no fear of getting caught among the incognisant fraudsters because they did not believe they were doing anything wrong. Consequently, the existence of a sanctions regime was not a deterrent for them because they do not view themselves in the same light as people who have deliberately defrauded the system.

'I'm sure that there are loads of people out there deliberately making false claims not people like us who misunderstood the system'.

(Incognisant fraudster, prosecution)

In fact many respondents, regardless of their categorisation, know several examples of people who were working and claiming benefit. Respondents regarded defrauding

of the system as common place:

'You look around this estate, all these girls [single mothers working and claiming] they're all at it'.

(Deliberate fraud-need, Admin Penalty)

There was a strong perception among those interviewed that benefit fraud was widespread because they could see examples of it every day and that these people probably had no fear of getting caught. Interestingly, some held the view that these people would be caught eventually because they themselves had been exposed. Those that have been through the sanctions system appear to have strong faith in its ability to catch up with fraudsters eventually.

In the 1997 research it was contended that the fear of getting caught was outweighed by the need to bring in some extra money. While it is not possible to be categorical because of the small number of people interviewed, there were two views expressed by deliberate fraudsters on their view of getting caught. The first view is the one that concurs with the 1997 research. The view is that desperate people will do whatever they need to do despite the emotional pressure and stress it leaves on them.

'I was really scared. Every time I went out I was really scared. I'd never done anything like this before. It was only for a few weeks. I'd never do it again'.

(Deliberate need, caution (married woman with children))

The counter view to this was that people were prepared to take the chance because there was no expectation that they would be caught. In some part this view was moulded by their environment that saw 'fiddling the dole' as part and parcel of an 'urban underclass' way of life.

Interviewer : Did you think you might get caught?

Claimant – vulnerable, caution : No.

Interviewer : were you surprised when you were?

Claimant : definitely.

The fear of getting caught is governed to a large extent by what people perceive that they have to lose. There was a clear view among the people interviewed that single people have the least to lose by getting caught and so there is no real incentive to dissuade them from committing fraud. This perception was confirmed to some extent by a claimant who had been working and claiming JSA. When asked whether he feared getting caught he said:

'No. I knew that if I got caught I could just live off mum and dad for a while. I didn't really care'.

(Deliberate fraud, two strikes)

People with responsibilities (children for example) are considered to have the most to lose and this should act as a powerful disincentive to committing fraud again.

The interviews with fraudsters have shown that there are distinct views that fraud committed by single people is less acceptable than fraud committed by people with responsibilities. The distinction is underlain by assessments of whether someone has defrauded for need as opposed to greed. The deliberate –need fraudster is probably placed at the bottom of the hierarchy along with the incognisant fraudster. At the top of the hierarchy rests single people who work and claim and those that are termed 'workshy'. Where a fraudster is placed in the hierarchy shapes what people believe to be appropriate punishment. It also shapes personal opinions on how effective the sanction is. This is discussed in the next chapter.

5. Receiving a sanction

In this chapter reactions to the sanctions regime are discussed. The chapter discusses the appropriateness of the sanction, whether it was felt to be fair or harsh and its deterrent effect.

5.1. A question of intent

Some people in the sample of benefit fraudsters had deliberately undertaken a fraud and when they were caught admitted their intent. Others, however, believed that they did not intentionally do anything wrong. This question of intent is important because from what the research team has been told people go into the interviews with the fraud officer admitting that there has been an overpayment but NOT admitting that there has been a deliberate intention to defraud on their part.

When people were asked to describe what happened in the interview it was very common for them to admit the overpayment and ask how they should pay it back. The research team got the impression that the fraud officers were interpreting the admission of there being an overpayment as an admission of guilt that a fraud has taken place.

The research team obviously only got one side of the story but the view from some of those receiving a sanction was that the fraud officer had made up their mind what they were going to do and did not take the explanation by the claimant of why the overpayment happened into account. As one claimant remarked about his experience with some bitterness:

'You are guilty until proven guilty'.

(Incognisant fraudster – system negligent, caution)

This is a vitally important point because the issuing of a caution or a successful prosecution leads to a criminal conviction. It is outside the scope of this research to assess whether the evidence that leads to the issuing of a caution for example is legally watertight. There is evidence from the interviews that claimants are being offered a caution under threat of being prosecuted if they do not accept it. Of course, debates about whether there is a case in law

to issue a caution are probably taking place without the claimant being present and as was pointed out earlier the research team only got one side of the story. However, the Department should be satisfied that in the drive to meet targets in cutting fraud fairness is seen to be done.

5.2. The hierarchy of sanctions

From the interviews undertaken it seems that there is reasonable consistency in the type of sanction being imposed (this is irrespective of the point made in the section above about whether intent is being proved). The most serious (in relation to value) or persistent cases of fraud were dealt with through a prosecution. The exception to this was one prosecution that took place because the claimant had forgotten to keep her appointment to receive a caution. There was a clear distinction, therefore, between fraudulent activities that resulted in a prosecution and those that resulted in an administrative penalty or a caution.

There was less clear distinction between when an administrative penalty was imposed and when a caution was imposed. For example someone with an overpayment of £69 received a caution and someone with an overpayment of over £300 received an administrative penalty. For other claimants the reverse was true – the smaller overpayment received an administrative penalty, the larger a caution.

The perception in people's minds is that being prosecuted and receiving a two strikes sanction are the most severe sanction with cautions and administrative penalties following on. At the same time it is also clear from the interviews that the deterrent effect of the sanction is not so much related to its severity but to the impact it has on people – emotions such as shame, humiliation and sacredness were frequently applied by respondents regardless of the sanction they had.

It is also clear that few of those interviewed had much, if any, knowledge of the sanctions regime prior to being exposed to it. This is an important point because Dean and Melrose (1996) made the point that the effectiveness of sanctions "...depends upon the universal fear of predictable consequences".

In other words if a person does not know about it they cannot be deterred by it. Knowledge of the two strikes regime is scant and at best confused. Having been

through the sanctions system people see them as valid deterrents but that perception is not necessarily widely felt by other claimants. This point is returned to later.

At this stage it is worth discussing each sanction in turn.

Prosecutions

Prosecutions were considered to be the harshest sanction that could be imposed. The outcome of the prosecution experienced by people in the sample ranged from six months probation, fines of £500 and £250 and at the other end a conditional discharge. None of those prosecuted in the sample received a community service order.

Two of the people interviewed had been to court before and knew more or less what to expect. For them the experience was part of the way of life they were involved in. Both were appearing for the second time on benefit fraud charges and had other convictions to their name. One of these people received probation and the other was fined. It was evident that their previous experience with the court had not acted as a deterrent to fraud. Both of these men were single, one was aged in his twenties, the other in his forties. The older man led a chaotic lifestyle. The younger man was adamant that he would not offend again, but this had more to do with him now having a young child to look after. The responsibility of providing for his baby brought the deterrent effect of the sanction into sharper relief.

The other interviewees had completely different experiences. For them, being prosecuted was their first experience and an unpleasant one at that. When asked for his reaction on learning he was to go to court one interviewee said he felt

'Bugged. It is the first time I've ever been to court. I thought I was going to have to go to prison'.

(Incognisant fraudster)

The fear of the unknown weighed heavily on people's minds in the run up to the hearing. For first time offenders not knowing what was going to happen was a big fear.

'I didn't go to the hearing. I couldn't. My solicitor went instead. I thought "court, that's

prison isn't it". I got a fine in the end. That's a result isn't it?'

(Vulnerable, chaotic lifestyle, overpayment of £69)

The view on whether prosecution is an effective deterrent is dependent upon the circumstances of the person being prosecuted. The issue is really one about whether it is sensible to fine people on low income.

'There's no point in fining these people, they haven't got the means to pay it back. They'd be better off making them do community service, putting something back in to the community'.

(Incognisant fraudster, Admin penalty)

This quote sums up a view that sees prosecutions as being the last resort in dealing with cases of extreme fraudulent activity and possibly more appropriate for people without children or other responsibilities. In fact there was a strong feeling that community service orders would be more appropriate than prosecuting. This point was also made in respect of administrative penalties.

None of the 'first time' prosecutions believed that they would commit a fraud again (knowingly or unknowingly). In this sense it can be seen as a deterrent.

Administrative penalties

An administrative penalty is in effect a fine attached to an overpayment. The literature review earlier showed that the recovery of the administrative charge was poor. In fact one of the claimants taking part in the research had received an administrative payment and had since come off benefits, but when she tried to pay off the full sum was told that she could not because her records had been lost.

Of those in the sample only two (of seven) believed that they had paid back both the overpayment and the administrative penalty. The rest (apart from the case mentioned above) believed that the overpayment part was being paid back but did not know whether the administrative fee was.

In general administrative penalties are offered by fraud officers as an alternative to prosecution. The line seems to be that unless the person accepts the penalty the

matter will end up in court.

The views on penalties are mixed. People who have received a penalty (but which is probably not being enforced) believe it to be reasonable that the overpayment is being claimed back. The fact that there is no admission of guilt is a positive thing.

'It's fair enough really. Better than a criminal record'.

(Deliberate fraud- need, admin penalty)

Where the administrative penalty was being paid there was resentment that the person was being in effect fined by the fraud officer. It was felt that only the courts should do this. The issue of imposing a financial penalty on poor people was also discussed in the context of this sanction. There was a clear feeling that it made no sense to impose a fine element on people because it meant that they either would not be able to afford to pay it or would encourage them to commit fraud in order to make ends meet.

Cautions

Views on receiving a caution range from it being a 'slap on the wrists' to it being a frightening experience. The variation is accounted for by the personal circumstances of the individual receiving it.

From the interviews it is evident that some people do not realise what a caution is and that it is a criminal record. As with administrative penalties cautions are offered as an alternative to prosecution by fraud officers. Again there is an issue of whether intent has been proved.

Cautions seem to work well when the claimant is unlikely to offend again. For people who have entered the sanctions system for the first time, who are incognisant or vulnerable fraudsters or who have been motivated by need to commit fraud, a caution seems an appropriate sanction. Most of the people who received a caution fell into these categories. All had been 'devastated' by the imposition of the sanction and had been scared by the process. Incognisant fraudsters found the sanction harsh because they did not agree that they had intended to defraud the system. It was agreed though that a caution was a more preferable alternative to a prosecution.

Two of the serial fraudsters interviewed had received a caution for their first offence. The fact that they had become repeat offenders must place a question mark over the effectiveness of lower level deterrents for those with a propensity to commit more than one fraud. The difficulty for the cautioning officer is how to determine who might be deterred best by a caution and who might not. What is interesting is that the two repeat offenders who started off with a caution believe that they would not offend again because the risks to them are too great. They are no longer single, are older, and have responsibilities. The way forward for the Department might be to determine sanctions on lifestyle and stage of life rather than on the monetary value of the overpayments.

Two strikes

The number of interviews conducted with recipients of the two strikes sanction is too small to enable meaningful conclusions to be drawn. However, all people who were interviewed were asked if they were aware of what the two strikes provision is. Based upon these answers it is clear that there is confusion on what the provision is as this exchange illustrates:

Interviewer : Have you heard of the 'two strikes' provision

Respondent – caution : They [fraud officers] mentioned that.

Interviewer : What did they tell you about it?

Respondent : They said I had a first strike and the second strike means that if I do it again and I'm caught, I go to Court.

This respondent received a caution and therefore would not have been subject to the two strikes provision. The provision is only applied where a person has been convicted in the Courts of fraud. A person receiving a caution is simply not eligible. In the example above the respondent was given what they believed to be a verbal 'two strikes' warning. Others have received letters that they took to be a strikes warning.

Another respondent who had received an administrative penalty stated that her understanding of the two strikes provision was:

'I understand that if you do it twice you get the book thrown at you'.

Some people who had received administrative penalties or cautions said that they had received a letter warning them that if they committed fraud again they would be prosecuted. These people assumed that they were receiving a strikes letter when it appears that they were receiving a written warning.

The issue of reducing benefits as a result of receiving a two strike letter was also discussed. Earlier in the report it was identified how the interviewees did not agree with applying financial penalties to people with families. This point was raised again in the context of the two strikes provision. It was considered to be a very harsh sanction that could cause financial problems for the recipient and might encourage them to commit further fraud. It was felt that it should be reserved for the worst offenders only – both of the interviewees in this study that had received a two strikes penalty were serial offenders.

The view that two strikes should be reserved for the hardened fraudsters seemed to cause resentment on the part of people who had been prosecuted for a fraud that they believed to be at the bottom of the fraud hierarchy and who had received a 'one strike' letter.

'Well the strike letter is an insult to me. Like I say, I've worked hard all my life and I don't need some bureaucrat to tell me that I did wrong and persecute us in this way, to get a strike letter. Do you know what it's like getting this letter? They say, if you do this again within the next two years we will cancel one or all of your benefits. That's a bit harsh isn't it?'

(Incognisant fraudster, prosecution)

5.3. Overall

In general the majority of respondents felt that the sanction they had received was possibly harsh, given their circumstances, but felt that it acted as an appropriate deterrent in undertaking actions that would lead to an overpayment.

While the view from those who have been through the sanctions regime is positive in its deterrent effects two points need to be kept in mind. First, that many people were not hardened fraudsters and some did not even think that they were committing a fraud. Any sanction applied to them would have had the same effect in making them feel devastated by what had happened and making them determined not to get into

that position again. The type of sanction was irrelevant to them. More important was the effect it had on people.

The second point is that the views of those who know what they were doing are conditioned by the fact that they got caught. To most of these people sanctions work because they know the consequences of defrauding the system and calculate that it is simply not worth the risk.

Whether people who are currently defrauding and have not been caught are aware of the risks and the consequences getting caught has is not known.

6. Conclusion

This report has evaluated the effectiveness of the current benefit fraud sanctions regime through an assessment of public attitudes to fraud and sanctions and a series of depth interviews with people who have had experience of the sanctions regime.

It is clear from the focus groups that the public perceive fraud to be prevalent in society and to take many forms. What defines fraud in their view is that a deception has been made: someone has told a lie for personal gain. Put simply there is intent to defraud. The depth interviews with people who have had a sanction applied showed that there are a group of people who, while admitting that an overpayment has been made, do not admit to having intended to commit fraud. It is acknowledged that the research tells only one side of the story but there does seem to be a difference between the wider public's perception of fraud and the reality for the 'incognisant fraudster'.

That said the view from the focus groups that no fraud should be tolerated because to do so would only encourage more fraud would suggest that even incognisant fraud should be subject to the same treatment as deliberate fraud.

Applying the appropriate sanction

The notion that sanctions should be applied not in a blanket fashion but with some reference to the severity and nature of fraud is crucial here. The view from those who have been through the sanctions regime is that they need to be seen to be appropriate. The research has shown that sanctions are imposed reasonably consistently with prosecutions and the two strikes option being reserved for the most persistent cases. However, the research uncovered some inconsistencies relating to the imposition of administrative penalties and cautions and it is recommended that the DWP reviews the guidance it gives its officers in this regard.

Countering benefit myths

With regard to the incognisant fraudster, and to some extent the vulnerable fraudster, it is apparent that more could be done to stop such situations arising. Earlier intervention, more contact with benefit staff and more accessible information could help to 'nip in the bud' the unknowing activities that constitute fraud. In particular

information on what to do to report a change in circumstances could be tightened. The issue here is not that people are not aware of how to report changes but that they are unsure of (or have not bothered to find out) what changes need to be reported. For some people much of the information they get about what is what is not acceptable comes from their social circle not Social Security.

It is recommended that the DWP undertakes a course of action to reinforce existing campaigns on reporting change of circumstances and what claimants are allowed to earn while claiming benefit.

Putting something back into the community

Throughout this report the appropriateness of financial sanctions such as fines and administrative penalties were questioned by the public and fraudsters themselves. Data from the DWP shows that administrative penalties are patchily enforced. This experience seems to support the view of the people interviewed that a more appropriate form of sanction is needed.

It was in this context that community service orders were identified as a more appropriate sanction, provided that they are enforced, to enable the fraudster to put something back into the community.

It is recommended that greater use of community service as a sanction is used.

The risk of getting caught

Research by PWC (2001) showed that the risk of getting caught was a powerful deterrent to committing fraud. However, it only becomes a deterrent if people know what to expect. There was very poor knowledge of the sanctions regime among people interviewed for this research. Knowledge of the two strikes provision for example was at best confused and at worst wrong.

It is recommended that much greater advertising of the sanctions regime should occur to increase its deterrent effect.

A question of intent

The research has highlighted the question of intent and whether this is being proved. There is a perception among people interviewed that fraud officers interpret admitting the overpayment as an admission of guilt. It is acknowledged that the research team

received only one side of the story and that fraud officers have guidelines to which they work. It is also acknowledged that genuine mistakes or errors by claimants are dealt with without the imposition of a sanction. It is, however, essential that the procedures fraud officers adopt when investigating fraud are fair and transparent so that only those who truly intended to defraud have sanctions imposed on them.

It is recommended therefore that the DWP reviews its policies and procedures in proving intent to defraud.

Overall

The majority of the people who had been through the sanctions regime believe that the experience they have had will deter them from committing fraud again. For incognisant fraudsters the experience has led them to doubly check all information they submit. In this sense the regime can be said to have worked in that people will not offend again and they have a greater sense of what their own responsibilities are. For many people interviewed the experience was shaped not so much by the type of sanction they received but by the fact that they had been subject to the regime in the first place. In essence to many people the deterrent effect would have been the same regardless of whether they had received a caution or an administrative penalty.

Based on these conclusions the following action is recommended:

1. The DWP should raise awareness of the sanctions regime among benefit claimants so its deterrent effects can be more widely appreciated.
2. Work needs to be undertaken to counter the widespread myths about how much claimants can earn before it has to be declared.
3. There should be greater use made of community service orders especially as an alternative to financial penalties on low income families.
4. The DWP should review its guidance to benefit staff on which sanction is imposed to make sure that there is consistency in which sanction is used.
5. The DWP should review the process by which fraud officers prove intent to defraud to that procedures are transparent and accountable