Chapter 24

Fraud and abuse

The idea that large sums of money are wasted through fraud and abuse is exaggerated. Official estimates, based on survey evidence, combine figures for fraud, claimant error and official error; overpayments attributable to claimants tend to reflect the complexity of the benefits system as much as any deliberate action. However, the pursuit of fraud has had a major effect on the way that the system operates.

One of the factors that is most often identified as the reason for inflated costs is the problem of abuse. Fraud is, in the terms of social science, a myth:[1] that is, it may or may not be true, but what is really happening is probably less important for policy than what people believe is happening. There is some evidence to show fraud, even if most of the survey evidence is confined to a limited part of the benefit system, focusing on unemployment, disability and lone parents. There is very little evidence to suggest that fraud is a major problem in either pensions or Child Benefit, and together they constitute half the costs of the system. Irrespective of the evidence, however, there is a widespread belief that the system is riddled with fraud. This belief is shared by the press, the public, politicians and administrators of the system. The effect of the belief is powerful enough to change the way the system as a whole operates.

How much fraud is there?

The concern with fraud in the benefit system is very long-standing, but it revived in the 1970s. The political right picked up the issue after the publication of an anonymous exposé by a benefits officer, Robin Page, who was subsequently identified and sacked. Page's subsequent book, *The benefits racket*,[2] crystallised concern, and the press latched on to the issue. A government inquiry into the subject in 1973 focused the attention of benefits administrators on the issue.[3] The

1 G Sorel (1961) *Reflections on violence,* New York: Collier-Macmillan.
2 R Page (1971) *The benefits racket*, London: Temple Smith.
3 Cmnd 5228 (1973) *Report of the Committee on abuse of social security benefits*, London: HMSO.

press gave increasing attention to fraud cases, notably the Deevy case in 1976,[4] and coverage and concern escalated, although official estimates were that fraud was tiny – about £2.6 million in 1975. The Conservative government which came into power in 1979 greatly increased both the numbers of investigators and the estimated levels of fraud, raising the official estimate from £4 million to £200 million.[5] The government's justification for this increase was that the previous figure was based in detected, irrecoverable fraud; the £200 million represented what might be happening.[6] They argued that about 1% of all funds were claimed fraudulently. The basis for this figure was explained in Parliament by Reg Prentice, the minister responsible:

> There is no need to ring around department stores to know that they, and other large commercial organisations, assume a loss through fraud of 1 or 2 per cent in their operations. Applying that to the DHSS, with its expenditure of £20 billion a year, leads to an estimated figure of £200 million.[7]

There are perhaps some differences between the administration of benefits and department stores: Jobcentre Plus does not lay the money out on display and invite people to walk round and handle it. But Prentice's rough guess has been the basis for much of the work done subsequently. When a 1998 Green Paper recorded that 2% of fraud was 'confirmed', it did not mean that it was established, discovered, detected or even based on evidence; it meant that the figure was generally accepted to be true.

The estimates of benefit fraud were frequently revised upwards throughout the next twenty years. A study in 1981 by Sir Derek Rayner suggested that 8% of unemployed people (in one location) were working while claiming benefit.[8] The claim was described by the permanent head of the DHSS as 'speculation in the absence of hard evidence'.[9] In the 1990s, Benefit Reviews suggested levels of fraud, varying according to benefit, of up to 12.2%. The argument was made not that fraud had risen proportionately as expenditure on social security increased, but that it had mushroomed, outstripping the growth in benefits. That was certainly the view of the former Chief Executive of the Benefits Agency, in

[4] P Golding and S Middleton (1978) 'Why is the press so obsessed with welfare scroungers?', *New Society*, 26 October; P Golding and S Middleton (1982) *Images of welfare*, Basingstoke: Macmillan.

[5] F Field (1979) 'The myth of the social security scrounger', *New Statesman*, 16 November.

[6] L Chalker (1979) 'Reply to Field', *New Statesman*, 7 December.

[7] *Hansard* (1980) HC Deb.981-1156, 25 March.

[8] D Rayner (1981) *Payment of benefits to unemployed people*, London: Department of Employment, Department of Health and Social Security.

[9] Cited in R Smith (1985) 'Who's fiddling? Fraud and abuse', in S Ward (ed) *DHSS in crisis*, London: Child Poverty Action Group.

his evidence to the Public Accounts Committee: 'We always took the view that fraud was increasing through social security.'[10] The 1998 Green Paper was more graphic: 'our budget is under attack.'[11]

Some of the estimates have been unreliable to the point of being irresponsible. The Green Paper estimated fraud at 7% of total benefit costs. This was made up of 2% 'confirmed fraud', 3% 'high suspicion' and 2% 'low suspicion'. These figures were inflated at every turn – in the initial assumptions, the acceptance of suspicion as fact, exaggerated estimates of the cost of fraud, the inclusion of further material on 'low suspicion', the extension of assumptions to benefits that have not been investigated and a liberal rounding up of all the totals. Following public criticism in 2002, the government reduced the estimates from £7 billion to about £2 billion. This figure was more securely founded, because there was some survey evidence to back it up, but it was still based substantially on the assumptions that suspicions raised are justified and that where fraud is happening, it happens for long periods.

The Department for Work and Pensions currently estimates figures for 'fraud and error' in the benefit system. Some benefits are 'continuously reviewed': Income Support, Jobseeker's Allowance, Employment and Support Allowance, Pension Credit and Housing Benefit. Most other benefits are reviewed only intermittently, and some are either too small to bother with or, like Council Tax Benefit, are assumed to follow the pattern of other benefits. The headline figures for fraud and error are:

- 5.5%, or £640 million, on Income Support and Jobseeker's Allowance;
- 4.9%, or £840 million, on Housing Benefit;
- 5.1%, or £390 million, on Pension Credit;
- 3.4%, or £220 million, on Incapacity Benefit.

The estimate for the total loss through fraud and error is £3,000 million.[12] Those figures are substantial, and consistent with the (lower) previous estimates, but they still need to be treated with some caution. They bring together three different types of estimate: assessments of fraud, overpayments through customer error and overpayments through official error. The total on the five benefits listed in the headline figures is £2,090 million. Without official error, that figure becomes £1,510 million. The estimate of fraud on its own for these five benefits is £770 million, and the total estimate for fraud across the whole system is consequently

[10] House of Commons (1998) *Select Committee on Public Accounts: 58th Report, Minutes of evidence*, HC 570, London: The Stationery Office

[11] Department of Social Security (1998) *Beating fraud is everyone's business*, Cm 4012, London: The Stationery Office, para 2.2.

[12] Department for Work and Pensions Information Directorate (2009) *Fraud and error in the benefit system: April 2008 to March 2009*, London: DWP (http://research.dwp.gov.uk/asd/asd2/fem/fem_apr08_mar09.pdf).

£1,100 million.[13] This is less than one sixth of what was supposed to be true in 1998.

Other recent figures estimate the level of fraud for the DWP at £1 billion and fraud for Tax Credits at £0.6 billion. A further £2.6 billion is attributed to customer error, of which £1.5 billion is attributed to Tax Credits.[14] HMRC has in the meantime undertaken to deliver £8 billion of savings from fraud and error in tax credits by 2014-15,[15] which appears to be nearly all the money lost. The commitment seems unrealistic.

The prevention of fraud

The strategy for dealing with fraud commits the agencies to 'prevent, detect, correct, punish and deter'.[16] The principal forms of fraud are claiming benefit while working, cohabitation, feigning disability and having access to undeclared resources. They mainly affect benefits for people of working age, which is why measures to deal with fraud have concentrated principally on those groups. The system of unemployment review, now an established part of the response to unemployment, invites unemployed people for interview, at which point many people sign off. This could be taken as an indication they were not really entitled, though as many unemployed people sign off anyway in the normal course of events, it is difficult to be certain.

In relation to unemployment, certainly, the shift to a casualised and ephemeral labour market among low-paid workers creates both the opportunity and the motive for abuse of the system. The directions to fraud officers are to consider unemployed people as possibly fraudulent if they have:

- a suspiciously high standard of living
- a skill or trade that should be employable
- past self-employment
- good health and fitness.

Working while employed also depends on the collusion of employers, and the Fraud Investigation Service conducts special operations in relation to certain sectors (such as building, catering and taxi services) where irregular employment is common.

Lone parents are suspected of cohabiting if:

- they are in debt
- they refuse to get a maintenance order

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13 DWP Information Directorate (2009) table 2.1.

14 HMRC and DWP (2010) Tackling fraud and error in the benefits and tax credit systems, www.dwp.gov.uk/docs/tackling-fraud-and-error.pdf, p 12.

15 Cm 7942 (2010) Spending Review 2010, London: HM Treasury, p 71.

16 HMRC/DWP (2010) p 7.

- they have been deserted
- there are signs of a male presence.

The main form of fraud by pensioners is failure to declare capital resources. Prosecution is rare, but a claim may be made against the estate when the pensioner dies.

Besides the detection of fraud through the process of review, fraud has been the subject of national campaigns.[17] There is a National Benefit Fraud Hotline, which is widely advertised and receives over 17,000 calls a month. Informing on friends, neighbours and relatives is a popular pastime, but overwhelmingly the helpful citizens who make these calls turn out to be mistaken. Recent requests for information have not been answered informatively,[18] so I have to rely on earlier material. According to a Parliamentary statement, 205,999 calls were received in 2001-02 concerning 161,052 cases of alleged fraud. Of these, 6,385 people had their benefit altered: the statement notes that these figures 'include increases and decreases and can relate either to fraud, client error or official error'. In other words, the vast majority of calls were misconceived, and some of the reports of fraud were so very mistaken that the people investigated had their benefit increased as a result. Only 768 cases, fewer than 1 in 200, led to prosecution.[19]

Why has fraud been so difficult to eradicate?

There is a widespread suspicion that the social security system has failed to deal with fraud effectively. Despite repeated, often severe crackdowns, the level of fraud seems to remain high – and may, if the figures are to be believed, be rather higher than when the crackdowns started. The Comptroller and Auditor-General, who is responsible for monitoring the accounts of the DWP, has for several years 'qualified' the accounts, which means that he has refused to approve them while a large black hole continues to appear in them.

It seems appropriate to ask why nearly forty years of crackdowns on fraud seem to have little effect, or even the reverse effect from that intended. Partly, it may be because the obsessive pursuit of abusive claimants has poisoned the water; the constant harping on fraud generates secretiveness and alienation from the system. Dean and Melrose classify four groups among fraudulent claimants. Some are 'subversive', justifying their action; some are unprincipled, seeing no need to justify what they are doing; some are 'fatalistic', finding it difficult to justify what

[17] S Connor (2007) 'We're on to you', *Critical Social Policy*, vol 27, no 2, pp 231-52.

[18] *Hansard* (2009) www.publications.parliament.uk/pa/cm200809/cmhansrd/cm090127/text/90127w0037.htm; see also Ipswich Unemployed Action (2010) www.intensiveactivity.com/government-hides-false-disability-benefit-fraud-allegations/fraud-referral-and-intervention-management-system-0913,1257,351,37.html.

[19] *Hansard* (2002) col 1143W, reproduced in *Benefits* (2002) vol 10, no 3, p 244.

they do and feeling guilty about it; and some are 'desperate', feeling they have been forced into it.[20]

Arguably, there may be a problem because the rules on fraud are trying to eradicate behaviour which is normal, reasonable and desirable. For many single parents, forming a new partnership is crucial to moving off benefits; creating obstacles to the process may not help. In situations where people have no regular income, taking the opportunity to earn some extra money is not necessarily something to be disapproved: on the contrary, it may be just the sort of engagement in society that the benefits system wants to encourage. (Insurance benefits often allow for some earnings, such as the allowance for 'therapeutic work' in Incapacity Benefit.)

In part, too, the lack of success may be because the circumstances in which people claim benefits illegitimately are built in to the benefits system. The benefits rules create their own problems: if people have changing circumstances, rules relating to income, part-time earnings and domestic arrangements inevitably catch some people out. As the rules have been tightened, and as benefits have become increasingly residual and conditional, it becomes more difficult to conform to them. A claimant comments:

> You always think you're doing wrong .... I think I'm doing wrong every time because I don't know what I can have. That thing [the fraud warning] frightens you to death.[21]

Fraud, error and overpayments

There is a persistent blurring in official statements of the distinction between fraud – deliberate misrepresentation – and claimant error. Fraud generally implies an overpayment – that people receive money they are not entitled to. Genuine errors can lead to underpayment as well as overpayment, but in many cases an error which leads to people claiming too little (for example, by not getting a disability premium) will be classed as non-take-up rather than error. That means that the figures for error are biased towards overpayment. Despite that, the Department for Work and Pensions estimates that £1,200 million was underpaid through claimant or administrative error in 2008-09[22] – the £700 million not claimed through claimant error should be set against the £1,100 million overclaimed.

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20 H Dean and M Melrose (1996) 'Manageable discord', *Social Policy and Administration*, vol 31, no 2, pp 103-18.

21 Claimant, cited in C Walker (1987) 'Reforming social security – despite the claimant', in A Walker and C Walker (eds) *The growing divide*, London: Child Poverty Action Group, p 104.

22 DWP Information Directorate (2009).

There is some inconsistency in an official strategy which recognises that errors are produced by the muddles generated by the benefits system, but at the same time emphasises punishment and deterrent policies.[23] The fundamental problems here are the complexity of the system and the complexities of people's lives. What is classed as 'fraud' is not necessarily equivalent to the kind of rapacious and dishonest attempts to denude the system that are commonly reported in the press. Apparently the highest levels of fraud in the system are from lone parents who are cohabiting and who do not declare their situation. But the cohabitation rule is not clear-cut, and it is far from certain that the lone parents who are affected would recognise that they are in breach of the rules, or that the men who they are cohabiting with would recognise a financial responsibility to support them or their children. One example of a case meriting 'high suspicion' given in a DWP report was that of a lone parent who is visited, who denies that she is living with her boyfriend, but who comes in the day afterward to sign off benefit because she is living with her boyfriend.[24] This could have been dishonest, but it could also be that the lone parent in question did not think of herself as cohabiting until the process of review pushed her and her boyfriend into thinking about their relationship and where it had got to. Those who have been through the process of forming a long-term relationship may well recognise the hesitation and uncertainty involved.

If the problems of the benefit system are intractable, the fault lies in the structure of the system. We know that benefits which are not means tested, do not rely on identification of specific need and relate to long-term circumstances, are much less vulnerable to fraud and error than other benefits. The estimates for Pension Credit suggest that overpayment through fraud stands at 1.5%, customer error at 1.5% and official error at 2.1%, making 5.1% altogether. By contrast, the equivalent figures for Retirement Pension – a benefit delivered to much the same client group – are 0.0%, 0.1% and 0.0%. The government's conviction that a means-tested, frequently adjusted Universal Credit will reduce fraud and error [25] is hard to reconcile with this picture. If we want to make benefits more controllable and less prone to error, we have to reduce their responsiveness to individual circumstances and their complexities.

QUESTIONS FOR DISCUSSION

Does fraud matter?
How can it be reduced?

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23 HMRC/DWP (2010).

24 Department for Work and Pensions (2002) *The results of the area benefit review and the Quality Support Team from April 2000 to March 2001*, London: DWP.

25 Cm 7942 (2010) p 7.