

# Written Evidence on the Public Authorities (Fraud, Error and Recovery) Bill

Submitted by Dr Rasha Kassem, Senior Lecturer in Accounting and Leader of the Fraud Research Group, Aston University, UK

Dear Committee Chairs and Members,

Thank you for inviting me to provide oral evidence regarding the Fraud, Error and Recovery Bill. Below, I present my written evidence in support of my testimony, highlighting the Bill's strengths as well as potential issues that warrant attention.

## Strengths

- Overall, I believe the Public Authorities (Fraud, Error and Recovery) Bill offers a comprehensive framework aimed at preventing fraud against public authorities and facilitating the recovery of erroneous payments.
- The Bill addresses a wide range of topics, including investigatory powers, recovery methods, penalties, and the establishment of the Public Sector Fraud Authority. This holistic approach is crucial for effectively tackling fraud and errors.
- The inclusion of various recovery methods, such as direct deduction orders from bank accounts and deductions from earnings, provides authorities with flexible options for reclaiming funds.

## Issues to Address

- **Definitions of Fraud and Error:** Providing clear definitions for both fraud and error is essential to prevent ambiguity and ensure all stakeholders understand the differences in intent and consequences. The current definitions are insufficient. For instance, the key distinction between fraud and error lies in the intent to deceive for personal gain. Outlining criteria for assessing intent—such as deceit, knowledge of wrongdoing, or patterns of behaviour—can aid investigators in determining whether an act constitutes fraud or error. It is also important to note that fraud is not always motivated by financial gain; non-financial motives, such as revenge or ideological beliefs, can also drive fraudulent actions<sup>1</sup>. Therefore, the definition of fraud should encompass these broader motivations, possibly referencing the definition in the Fraud Act 2006.

---

<sup>1</sup> Citation

- **Distinction Between Fraud and Error Procedures:** A clearer differentiation between the procedures for handling fraud and error cases is vital. This distinction would ensure that individuals or organisations making genuine mistakes are not treated with the same severity as those committing intentional fraud, promoting fairness in enforcement. A better distinction can lead to more appropriate recovery mechanisms tailored to the nature of the action. For example, error recovery could emphasise correction and support, while fraud recovery might involve penalties and stricter measures. It is important to specify different penalties and recovery procedures for fraud and error, with civil penalties or criminal charges for fraud, and corrective actions or restitution without penalties for errors.
- **Differentiating Fraud Penalties Based on Offender Type:** Fraud could be committed by individuals or organisations. Tailoring penalties and recovery procedures based on whether the offender is an individual or an organisation allows for a more just and effective approach to combating fraud. This distinction acknowledges the varying impacts and motivations behind fraudulent actions. Individuals and organisations may have different motives and capacities for committing fraud. While organisations might engage in systematic fraud due to policies or practices, individuals may act out of personal necessity. Penalties for individuals should consider their financial situation to ensure they are proportionate and do not cause undue hardship. Conversely, organisations, having greater financial resources, can face more substantial penalties without jeopardising their viability. Concerning individuals, recovery procedures should aim to correct the situation without excessive punishment, focusing on restitution and education. In cases of organisational fraud, recovery procedures can include more rigorous compliance measures and oversight to prevent future incidents.
- **Clarity on Penalties:** While the Bill outlines penalties for non-compliance, further clarity on the appeal processes and the thresholds for imposing penalties would enhance fairness and transparency.
- **Impact on Vulnerable Individuals:** The mechanisms for recovery, particularly direct deductions from bank accounts or wages, could disproportionately affect vulnerable individuals. Safeguards should be implemented to protect those who may struggle financially, especially when errors rather than fraud have occurred.

- **Establishment of the Public Sector Fraud Authority:** This is a positive step, but its effectiveness will depend on adequate funding, staffing, and clear mandates. Ensuring it has the necessary resources and authority to operate effectively is crucial.
- **Inter-agency Coordination:** The Bill should address how different public authorities will coordinate efforts to prevent and address fraud. Establishing protocols for information sharing and joint investigations can enhance effectiveness.
- **Potential for Abuse of Power:** The broad investigatory powers outlined in the Bill could lead to potential misuse. Stringent oversight mechanisms should be in place to ensure these powers are exercised appropriately and individuals' rights are protected. Additionally, provisions for regular reviews of the Bill's effectiveness in achieving its objectives should be included, evaluating its impact on fraud rates and fund recovery.

Yours sincerely,

**Dr Rasha Kassem**

Senior Lecturer in Accounting

Leader of the Fraud Research Group

Aston University, UK