

30th September 2024

Rt Hon Liz Kendall MP
Secretary of State for Work and Pensions,
Caxton House, Tothill St
London
SW1H 9NA

CC - Sir Stephen Timms MP, Minister for Social Security and Disability, by email only.

CC – Baroness Sherlock OBE, Minister for Lords, by email only.

Subject: Urgent concerns regarding proposals for mass financial surveillance powers

Dear Secretary of State,

We are writing to you as civil society organisations representing a wide range of groups and causes to express our concerns regarding the announcement this week to introduce mass financial surveillance powers through a new Fraud, Error and Debt Bill.

These powers, which sound alarmingly similar to the powers proposed and later defeated just three months ago under the previous Conservative government, represent a severe and disproportionate intrusion into the nation's privacy, with potentially punitive consequences for vulnerable individuals in the social security system. Given the strong resemblance to the previous measures, we feel it important to emphasise the extraordinary risks these powers posed to individuals' protected rights and strongly urge you to not to resurrect them.

Mass Surveillance, Privacy and Data Protection

The Conservative Government planned to compel banks and other third parties to trawl the accounts of the entire population, without suspicion of fraudulent activity, to target people receiving state benefits for ongoing monitoring.¹ This sweeping plan would have targeted not only claimants, but also those 'linked' to them, including partners, parents, and landlords – which risked decimating the housing market for

¹ Data Protection and Digital Information Bill, 25th April 2024, Clause 131 and Schedule 11:
<https://bills.parliament.uk/publications/55222/documents/4745>

benefits claimants.² It rightfully drew heavy criticism from Parliamentarians from across both Houses,³ 42 charities and civil society organisations,⁴ and over 270,000 members of the public⁵ for its potential to discriminate against vulnerable individuals and introduce unprecedented intrusive financial surveillance in the UK.

Many Labour MPs and Peers condemned the extreme privacy impacts of the Conservatives' mass bank spying powers during the course of parliamentary scrutiny - Baroness Sherlock warned that they would enable the search of bank accounts belonging to tens of millions of innocent citizens;⁶ Lord Bassam drew attention to the narrow distinction between data collection and surveillance;⁷ Sir Chris Bryant criticised their broad scope;⁸ Sir Stephen Timms argued the suspicionless surveillance was "absolutely not necessary";⁹ and Baroness Young of Old Scone condemned the legitimisation of "mass surveillance by algorithm" as a "Big Brother mechanism" that would constitute a "major intrusion" for everyone in the UK.¹⁰ Given these strong objections, as well as many others, it is incredibly concerning to see the Labour Government seemingly reviving the Conservatives' proposals.

It is important to recognise that the state already possesses a wide range of powers to address fraud within the social security system - DWP already has powers to instruct banks to share data where there is reasonable grounds of suspicion.¹¹ Legal experts

- 2 Big Brother's briefing on benefits and financial mass surveillance powers in the Data Protection and Digital Information Bill, May 2024:
https://bigbrotherwatch.org.uk/wp-content/uploads/2024/05/Big-Brother-Watches-briefing-on-benefits-and-financial-mass-surveillance-powers-in-the-DPDI-Bill-for-HoL-Committee-stage_BS3.pdf 19
- 3 MPs and Peers call on Government to drop new welfare spying plans, (22 April 2024):
<https://bigbrotherwatch.org.uk/press-releases/mps-and-peers-call-on-government-to-drop-new-welfare-bank-spying-plans/>
- 4 Scrap plans to scan accounts of benefit claimants or risk new scandal, MPs told, The Guardian (4 March 2024): <https://www.theguardian.com/society/2024/mar/04/ministers-urged-to-scrap-plans-for-surveillance-of-benefit-claimants-bank-accounts>;
- 5 270,000 people sign petitions telling Government to "Stop Bank Spying" in response to new surveillance, Big Brother Watch (14 May 2024):
<https://bigbrotherwatch.org.uk/press-releases/270000-people-sign-petitions-urging-government-to-stop-bank-spying-in-response-to-new-surveillance-powers/>
- 6 HL Deb 24 April 2024, vol 837, col 536GC:
<https://hansard.parliament.uk/Lords/2024-04-24/debates/9BA1A8E3-48E3-4472-AF8E-2EFAFC53E605/DataProtectionAndDigitalInformationBill#contribution-59ED33F6-9E08-4C91-89C3-2AE11E7C1941>
- 7 HL Deb 24 April 2024, vol 837, col 542GC:
<https://hansard.parliament.uk/Lords/2024-04-24/debates/9BA1A8E3-48E3-4472-AF8E-2EFAFC53E605/DataProtectionAndDigitalInformationBill#contribution-59ED33F6-9E08-4C91-89C3-2AE11E7C1941>;
- 8 HC Deb 29 November 2023, vol 741, col 886:
<https://hansard.parliament.uk/Commons/2023-11-29/debates/46EFOAA6-C729-4751-A3DA-6A3683EB8B87/DataProtectionAndDigitalInformationBill#contribution-362842EF-1C11-415B-BF10-4C77E51BECBD>;
- 9 HC Deb 29 November 2023, vol 741, col 900:
<https://hansard.parliament.uk/commons/2023-11-29/debates/46EFOAA6-C729-4751-A3DA-6A3683EB8B87/DataProtectionAndDigitalInformationBill>
- 10 HL Deb 19 December 2023, vol 834, col 2179:
<https://hansard.parliament.uk/lords/2023-12-19/debates/2960AC9B-D86E-4EA1-8E4E-F3198BEE702F/DataProtectionAndDigitalInformationBill>
- 11 Big Brother's briefing on benefits and financial mass surveillance powers in the Data Protection and Digital Information Bill, May 2024:
<https://bigbrotherwatch.org.uk/wp-content/uploads/2024/05/Big-Brother-Watches-briefing-on->

found that the previous proposals, as with many bulk powers, would have meant that “the overwhelming majority of persons whose private and personal information is searched/analysed will not be suspected of any wrongdoing or improper conduct”.¹² Like before, DWP has stated that these powers will require banks and other financial institutions to share data that may help identify benefit fraud, which would mean suspicionless searching.¹³ It is extremely troubling to see Labour now pursuing what appears to be the same “guilty until proven innocent” approach that it previously opposed.

Equalities

While we all agree that tackling fraud is important, the evidence overwhelmingly shows that mass surveillance and AI-generated suspicion are neither appropriate nor effective solutions for DWP. The Public Accounts Committee has raised concerns about DWP’s use of AI,¹⁴ and even the DWP has admitted its limited ability to prevent discriminatory impacts.¹⁵ Recent reports revealed that 200,000 people faced wrongful investigation for housing benefit fraud and error after being incorrectly flagged by a DWP algorithm.¹⁶ If these new proposals resemble their predecessors as they appear to, the Government risks automating discrimination and suspicion of some of the poorest and most vulnerable in the UK.

There are around 22.6 million individuals in the welfare system, including some of the most vulnerable members of society – people who are disabled, sick, caregivers, living in poverty, and pensioners could all be particularly impacted by the impending proposals. Those in receipt of state pension but not in the welfare system could also be targeted. These groups will face heightened scrutiny and many have already expressed fear and anxiety about their bank accounts being constantly monitored, while the risk of wrongful investigations triggered by algorithmic errors could lead to devastating consequences, including worsening mental health, increased stigma around welfare, and even wrongful benefits suspension. The Horizon scandal and

[benefits-and-financial-mass-surveillance-powers-in-the-DPDI-Bill-for-HoL-Committee-stage_BS3.pdf](#) 6.

- 12 Legal opinion re. financial surveillance provisions under the Data Protection and Digital Information Bill – Dan Squires KC and Aidan Wills, Matrix Chambers, 11 April 2024: <https://bigbrotherwatch.org.uk/wp-content/uploads/2024/04/DPBIB-Financial-Surveillance-Matrix-Legal-Advice-for-Big-Brother-Watch.pdf> 10
- 13 Department for Work and Pensions, New laws to be introduced to crack down on fraud, Department for Work and Pensions (24 September 2024): <https://www.gov.uk/government/news/new-laws-to-be-introduced-to-crack-down-on-fraud>
- 14 Committee of Public Accounts, The Department for Work and Pensions Annual Report and Accounts 2022-2023 (6 December 2023): <https://committees.parliament.uk/publications/42434/documents/210942/default/> 7
- 15 National Audit Office, Report on Accounts – Department for Work and Pensions, July 2023, <https://www.nao.org.uk/wp-content/uploads/2023/07/dwp-report-on-accounts-2022-23.pdf> 10.
- 16 DWP algorithm wrongly flags 200,000 people for possible fraud and error, The Guardian (23 June 2024): <https://www.theguardian.com/society/article/2024/jun/23/dwp-algorithm-wrongly-flags-200000-people-possible-fraud-error>

DWP's well-documented history of negligence should serve as stark warnings.¹⁷ Claims flagged incorrectly may trigger burdensome appeal processes and the wrongful suspension of vital financial support, leaving people unable to afford essential food, medication, or housing. The risks are especially severe given that some forms of social security fraud are remarkably low - DWP's own statistics show that the fraud in Personal Independence Payments (PiP) is so minimal it amounts to 0%, underscoring the disproportionate nature of such proposals.¹⁸

Safeguards

The announcement of new financial surveillance powers has come with promises of "measures to protect vulnerable customers", including oversight and reporting mechanisms, staff training, and a code of practice.¹⁹ However, we find it extremely unlikely that any code of practice could mitigate the privacy intrusion of a mass financial surveillance power specifically designed to intrude on individual's privacy where there is no suspicion of wrong-doing.

The Government must take heed of the potential for harm raised by the previous proposals. The Information Commissioner did not see sufficient evidence that the previous proposals were proportionate - had they passed, they could have been unlawful and a breach of individuals' right to privacy protected by the Human Rights Act.²⁰ The Equality and Human Rights Commission warned that the "intrusive nature" of the proposals risked breaching Articles 8 (right to privacy) and 14 (freedom from discrimination) of the ECHR, ignored the requirements of the Public Sector Equality Duty, and undermined important safeguards set out in the Data Protection Act 2018.²¹ Legal experts from Matrix Chambers further cautioned that the powers could infringe on privacy rights, freedom of expression, association and assembly, and protection

17 Post Office Horizon Scandal: Why hundreds were wrongly prosecuted, BBC (30 July 2024): <https://www.bbc.co.uk/news/business-56718036>; Single mum with disabled children told to pay DWP £17,000 in benefit overpayments, The Big Issue (30 August 2024): <https://www.bigissue.com/news/social-justice/dwp-mum-disabled-children-benefit-overpayments/>

18 Department for Work and Pensions, Fraud and error in the benefit system, Financial Year Ending (FYE) 2024: <https://www.gov.uk/government/statistics/fraud-and-error-in-the-benefit-system-financial-year-2023-to-2024-estimates/fraud-and-error-in-the-benefit-system-financial-year-ending-fye-2024#total-estimates-of-fraud-and-error-across-all-benefit-expenditure>

19 Department for Work and Pensions, New laws to be introduced to crack down on fraud, Department for Work and Pensions (24 September 2024): <https://www.gov.uk/government/news/new-laws-to-be-introduced-to-crack-down-on-fraud>

20 Information Commissioner's view on the Data Protection and Digital Information Bill (DPDI Bill) - Lords Committee stage (March 2023): <https://ico.org.uk/about-the-ico/information-commissioner-s-response-to-the-data-protection-and-digital-information-bill/information-commissioner-s-view-on-the-dpdi-bill/>

21 Equality and Human Rights Commission, Public authority data use and biometrics briefing - Data Protection and Digital Information Bill for House of Lords Committee Stage, 19 April 2024: <https://www.equalityhumanrights.com/our-work/advising-parliament-and-governments/data-protection-and-digital-information-bill-house-2;>

from discrimination.²² Although there are reports that the powers in the Fraud, Error, and Debt Bill may be more targeted,²³ banks and other financial institutions do not have a list of benefits claimants – there would be a clear risk to equal treatment if they did. Given this, we believe the same duties will be imposed upon banks to monitor all customer accounts. Labour risks reproducing a slew of risks, potentially severely impacting millions of people.

Labour has maintained the Conservative Government’s line that “DWP will not have access to people’s bank accounts and will not share their personal information with third parties”.²⁴ However, it is banks that would be legally required to scan all customer accounts, find welfare recipients, and monitor them continuously to send automated suspicion reports to the state. We believe it to be wholly inappropriate for the UK Government to order private banks, building societies and other third party organisation services to conduct any such form of mass, algorithmic, suspicionless surveillance.

The previous Government’s proposed measures were unconscionably invasive, disproportionate and, as rightly stated by Baroness Kidron, “cruel to a degree that should worry us all” – they had no place in our democracy, and neither would any similar iteration brought forward by Labour.²⁵ The risks to the public, which are extensively analysed in Big Brother Watch’s briefing, far outweigh any supposed benefits.²⁶ We strongly urge the Government not to resurrect the policies it recently condemned.

Yours sincerely,

Silkie Carlo, Director, Big Brother Watch

Caroline Abrahams, Director, Age UK

22 Legal opinion re. financial surveillance provisions under the Data Protection and Digital Information Bill – Dan Squires KC and Aidan Wills, Matrix Chambers, 11 April 2024: <https://bigbrotherwatch.org.uk/wp-content/uploads/2024/04/DPBIB-Financial-Surveillance-Matrix-Legal-Advice-for-Big-Brother-Watch.pdf>

23 Keir Starmer pledges to root out benefit fraudsters in speech, The Times (23 September 2024): <https://www.thetimes.com/uk/politics/article/keir-starmer-labour-conference-speech-ftc0b6hvx>

24 Department for Work and Pensions, New laws to be introduced to crack down on fraud, Department for Work and Pensions (24 September 2024): <https://www.gov.uk/government/news/new-laws-to-be-introduced-to-crack-down-on-fraud>

25 HL Deb 22 April 2024, vol 837, col 445GC <https://hansard.parliament.uk/Lords/2024-04-22/debates/BOFACBA7-F69A-4D92-9C2A-6DA5FBCC8385/DataProtectionAndDigitalInformationBill#contribution-46764F5C-7BB2-4142-B804-B8BE5971A942>

26 Big Brother’s briefing on benefits and financial mass surveillance powers in the Data Protection and Digital Information Bill, May 2024: https://bigbrotherwatch.org.uk/wp-content/uploads/2024/05/Big-Brother-Watches-briefing-on-benefits-and-financial-mass-surveillance-powers-in-the-DPDI-Bill-for-HoL-Committee-stage_BS3.pdf 19.

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