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# Consultation on the Revised Code of Practice on Obtaining Information Public Consultation

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October 2024

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# Introduction

The Social Security Fraud Act (Northern Ireland) 2001 provides for Authorised Officers from both Department for Communities (DfC) and authorities administering Housing Benefit to obtain information from specified organisations about their customers in order to help combat fraud against the benefit system. The Act places a statutory requirement on the Department to issue a Code of Practice relating to the exercise of those powers.

The Department may revise the whole or any part of the Code and issue a revised version, but before doing so a draft version must be issued for consultation. The current Code of Practice (version 2, laid before the Assembly in December 2002) has been updated to reflect changes introduced by the Civil Partnership Act 2004, the Welfare Reform (Northern Ireland) Act 2007, the Welfare Reform (Northern Ireland) Order 2015, the Investigatory Powers Act 2016, and within DfC more generally.

This consultation invites comments on the revised Social Security Fraud Act (Northern Ireland) 2001 Code of Practice on Obtaining Information. Following consultation, and as required by Section 3 of the Social Security Fraud Act (Northern Ireland) 2001, a final version of the Code will be laid before the Assembly and will be issued by the Department at which point it will come into force.

## **About this consultation**

### **Who this consultation is aimed at**

This consultation is primarily aimed at those who are required to provide information under the powers contained in sections 103B, 104A, 103BA, and 104AA of the Social Security Administration (Northern Ireland) Act 1992 (for example, banks, insurers, credit reference agencies, gas and electricity suppliers, water companies, educational establishments, the student loans company), but comments from other areas are also welcome.

### **Purpose of the consultation**

The purpose of this consultation is to seek views on the revised Social Security Fraud Act (Northern Ireland) 2001 Code of Practice on Obtaining Information. This revised Code supersedes the previous Code of Practice (version 2) issued in 2002.

### **Scope of consultation**

This consultation applies to Northern Ireland.

### **Duration of the consultation**

The consultation period begins on 7 October 2024 and ends on 17 November 2024.

### **How to respond to this consultation**

Responses are requested through the preferred method of the online survey, which can be found at <https://consultations.nidirect.gov.uk/dfc/dfc-fraud-act-consultation/>

Alternatively, you can email your response to: [castlecourt.fraudactconsultation@dfcni.gov.uk](mailto:castlecourt.fraudactconsultation@dfcni.gov.uk) or by writing to  
Corporate Support Team  
Level 5  
Castle Court  
Royal Avenue  
BELFAST  
BT1 1HR

Please ensure your response reaches us by 17 November 2024.

When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents, and where applicable, how the views of members were assembled. We will acknowledge your response if you write to us or email us.

### **Other ways of getting involved**

We want to get views from as broad a range of people as possible about this issue. We have published details of the consultation document in the consultations section of our website <https://www.communities-ni.gov.uk/consultations>

This document can be made available in other formats, provided on request from:

Email: [castlecourt.fraudactconsultation@dfcni.gov.uk](mailto:castlecourt.fraudactconsultation@dfcni.gov.uk)  
or  
DfC Benefit Security Division  
Corporate Support Team  
Level 5  
Castle Court  
Royal Avenue  
BELFAST  
BT1 1HR

We have sent this consultation document to people and organisations who have already been involved in this work or who have expressed an interest. Please do share this document with, or tell us about, anyone you think will want to be involved in this consultation.

### **Queries about the content of this document**

Please direct any queries about the subject matter of this consultation to:

Email: [castlecourt.fraudactconsultation@dfcni.gov.uk](mailto:castlecourt.fraudactconsultation@dfcni.gov.uk)  
or  
John Mcilwaine  
DfC Benefit Security Division  
Level 5  
Castle Court  
Royal Avenue  
BELFAST  
BT1 1HR

### **Privacy, Confidentiality and Access to Consultation Responses**

For this consultation, we may publish all responses except for those where the respondent indicates that they are an individual acting in a private capacity (e.g. a member of the public). All responses from organisations and individuals responding in a professional capacity will be published. We will remove email addresses and telephone numbers from these responses; but apart from this, we will publish them in full. For more information about what we do with personal data please see our consultation privacy notice.

Your response, and all other responses to this consultation, may also be disclosed on request in accordance with the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR); however all disclosures will be in line with the requirements of the Data Protection Act 2018 (DPA) and the UK General Data Protection Regulations.

If you want the information that you provide to be treated as confidential it would be helpful if you could explain to us why you regard the information you have provided as confidential, so that this may be considered if the Department should receive a request for the information under the FOIA or EIR.

### **Feedback on the consultation process**

We will aim to publish the Department response to the consultation on **<https://www.communities-ni.gov.uk/consultations>**. The report will summarise the responses and the action we will take as a result of them.

### **Background**

The Social Security Fraud (Northern Ireland) Act 2001 introduced powers for Authorised Officers from both DfC and authorities administering Housing Benefit to obtain information from specified organisations about their customers in order to help combat fraud against the benefit system.

Authorised Officers may use the powers only where they are allowed to do so by law.

The Social Security Fraud (Northern Ireland) Act 2001 included a statutory requirement for the Department to issue a Code of Practice relating to the exercise of the powers. This consultation relates to that Code.

The Department may from time to time revise the whole or any part of the Code and issue a revised version. Before issuing or revising the Code, a draft version must be issued for consultation before being laid before the Assembly and being formally issued by the Department at which point the Code will then come in to effect.

The current Code of Practice, version 2, was laid before the Assembly in December 2002.

### Changes to the Code of Practice

Since the last publication of the Code of Practice in 2002 new legislation has been introduced. The draft Code of Practice has been amended to reflect the introduction of the;

- Civil partnership Act 2004
- Welfare Reform (Northern Ireland) Act 2007
- Welfare Reform (Northern Ireland) Order 2015
- Investigatory Powers Act 2016

The Civil Partnership Act 2004 amends the definition of a ‘couple’. The reference made to a ‘couple’ within Chapter 2 of the Code has been amended to reflect this.

The Investigatory Powers Act 2016 brings together all of the powers already available to public authorities to obtain communications data. Schedule 2, paragraph 7 of the Act has repealed DfC’s powers to obtain communications data under Section 103B(2A)(j) of the Social Security Administration (Northern Ireland) Act 1992. This Code of Practice no longer applies to the acquisition of communications data. Other amendments due to operational changes in DfC have been incorporated into the code, mainly the creation of DfC’s Benefit Security Division, which has responsibility for all fraud and error in the social security benefit system.

Updated contact details for the Information Commissioner and Local Government and Public Service Ombudsmen have been incorporated into the code along with changes to the layout of the Code, with the aim of making it clearer and simpler to use. This includes

the introduction of five new appendices providing the more detailed information on:

- Who can be required to provide information?
- Examples of the type of information that may be requested,
- When and about whom may Authorised Officers require information?
- Details to be included in requests for information
- Contact details

### Proposed Code of Practice

The proposed revised Code is provided in **Annex A**.

A synopsis of the Code is below.

The Code of Practice sets out the requirements for the use of and the provisions of the powers namely:

**Chapter one:** provides an overview and introduction to the Code. It briefly outlines who is required to provide information and who is authorised to request it. It details where more information can be found within the Code regarding the use of Social Security Fraud (Northern Ireland) Act 2001 powers and what safeguards exist.

**Chapter two:** explains the Social Security Fraud (Northern Ireland) Act 2001 powers in greater detail, including who can be required to provide information, what type of information can be requested and in what circumstances this will be done. It also provides details on whom information can be requested about and why.

**Chapter three:** expands upon the role of the Authorised Officer and the operating controls that are in place.

**Chapter four:** describes in greater detail the due process required when a request for information is made, including electronic access or requests. It details the penalties for failing to comply and explains how information obtained from an information provider will be used and the specific circumstances when payment for information may apply.

**Chapter five:** outlines the important safeguards that exist and penalties against misuse of the powers including confidentiality, security and data retention arrangements. It also outlines the options and process to raise a complaint.

**Appendix 1** - Details who can be required to provide information.

**Appendix 2** - Examples of the type of information that may be requested

**Appendix 3** - Details when and about whom Authorised Officers may require information.

**Appendix 4** - Details of what needs to be included in requests for information

**Appendix 5** - Contact details

## Questions

We would welcome comments and suggestions about the revised Code of Practice set out in this consultation document. In particular, we would be keen to hear your views on the following

- Q1. Chapter 4, paragraph 4.15, explains that information providers are required to provide information in a reasonable timescale. In order to avoid delay in the process this has been defined as 10 working days, unless information is required more urgently. Are there any reasons why this timescale may not be achieved?
- Q2. Chapter 4, paragraph 4.16, states that information providers may reply to requests for information in a way agreed with the Authorised Officer, however information provided should be in a format that is readily readable by DfC (this is important to avoid delay in the process). Are there any reasons why this may not be possible?
- Q3. Is the draft Code clear and simple to understand? If not, how may it be improved?
- Q4. Do you have any other comments about the draft Code?



## Annex A

# Social Security Fraud Act (Northern Ireland) 2001 - Code of Practice on Obtaining Information

### Foreword

1. This is version three of the Code of Practice. Version two was issued and laid before the Assembly on 24 February 2003.
2. The Code has been revised to take account of changes introduced by the Civil Partnership Act 2004, the Welfare Reform (Northern Ireland) Act 2007, the Welfare Reform (Northern Ireland) Order 2015, the Investigatory Powers Act 2016 and within the Department for Communities (DfC) more generally.
3. The DfC's Benefit Security Division undertakes investigations into social security benefit fraud. DfC is also responsible for investigating housing benefit fraud on behalf of the Northern Ireland Housing Executive and Land & Property Services.
4. The Investigatory Powers Act 2016 brings together all of the powers already available to public authorities to obtain communications data. Schedule 2, paragraph 7 of the Act has repealed DfC's powers to obtain communications data under Section 103B(2A)(j) of the Social Security Administration (Northern Ireland) Act 1992. This Code of Practice no longer applies to the acquisition of communications data
5. Minor changes have also been made to the contact details for making complaints.
6. This version will be issued on:  
16 December 2024

### Disclaimer

This Code of Practice gives general guidance only and should not be regarded as a complete and authoritative statement of the law. If you do not understand any of the contents of the Code, you may wish to seek independent advice.

# Chapter one: Introduction

## What is the purpose of this Code?

1.1 The Social Security Fraud Act (Northern Ireland) 2001 (referred to as the Fraud Act 2001) introduced powers for Authorised Officers<sup>1</sup> from the Department for Communities (DfC) and authorities<sup>2</sup> administering Housing Benefit to obtain information from specified persons and organisations<sup>3</sup> about their customers to help detect benefit fraud.

More information on the specified list of Information Providers can be found at **Appendix 1**.

1.2 The powers were inserted into the Social Security Administration (Northern Ireland) Act 1992 (referred to as the Administration Act) as amendments to Section 103B and 104A and as new Sections 103BA and 104AA. This Code of Practice governs the use of these powers by officers of DfC. As a statutory code Authorised Officers must have regard to this Code when exercising the powers contained in the Administration Act. Failure to observe the provisions of the Code does not render a person liable to civil or criminal proceedings however

the Code is admissible as evidence in any proceedings in considering if the powers have been used or applied unlawfully. (Unauthorised requests for information are dealt with separately from this Code. See paragraph 1.10 for more information).

1.3 Section 3 of the Fraud Act 2001 (Code of Practice about use of information powers) requires the Department to issue a Code of Practice detailing the provision and use of the powers.

## Who is this Code of Practice for?

1.4 This code is intended for:

- DfC authorised officers
- Organisations and people required to provide information under these powers
- Although the authorities administering Housing Benefit have the right to exercise these powers, it is not their intention to use them at present. This does not however prevent them from doing so in the future. This Code of Practice only makes reference to Authorised Officers from the Department.

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<sup>1</sup> Authorised Officer has the same meaning as in Part VI of the Administration Act.

<sup>2</sup> Here and elsewhere in the Code the term ‘authorities administering housing benefit includes the Northern Ireland Housing Executive and the Rate Collection Agency (which is an executive agency of Department for Finance).

<sup>3</sup> In the Code the persons and organisations required to provide information under this legislation are referred to as Information Providers.

The code may also be of interest to persons with a legal interest and members of the public who wish to know more about these powers.

### **Who is required to provide information?**

1.5 Section 103B (2A) of the Administration Act specifies who may be requested to provide information (a list of Information Providers can be found at **Appendix 1**).

### **Who is authorised to request information?**

1.6 Only DfC staff who have undertaken the approved training and are authorised to exercise the powers may make requests for information.

More information about Authorised Officers is contained in **Chapter 3**.

### **How should the powers be used?**

1.7 To prevent, detect and secure evidence of benefit fraud Authorised Officers may use the powers when it is necessary and proportionate in accordance with relevant legislation.

More information about how the powers should be used is contained in **Chapter 4**. Information Providers can be found at **Appendix 1**.

### **What are the safeguards against misuse of the powers?**

1.8 Authorised Officers may only request and obtain information, where they are

allowed to do so by law. At all times they are obliged to maintain the security and confidentiality of all information that they receive. Information can only be disclosed where it is lawful to do so and in accordance with the relevant legislation.

1.9 Authorised Officers must first consider whether the use of these powers is necessary and that they are the most appropriate to use in order to obtain the required information (see paragraph 4.11).

1.10 Authorised Officers, who make unauthorised requests for information, may be liable to civil or criminal proceedings before the courts and subject to disciplinary action by their employers. Authorised Officers (whether still employed or previously employed in social security administration or adjudication) who unlawfully disclose information relating to individuals, acquired in the course of their employment may be liable to prosecution (see Section 117 of the Administration Act).

1.11 Comments or complaints about the use of these powers may be made to the Manager of Benefit Security Division.

More information about how to complain is contained in **Chapter 5**.

# Chapter two: What are the powers?

## Who can be required to provide information?

2.1 Information Providers listed at section 103B (2A) of the Administration Act are legally required to provide information to an Authorised Officer. A list of those Information Providers can be found at **Appendix 1**.

## What types of information will be requested?

2.2 Authorised Officers will request any relevant information necessary for the purposes as set out in Section 103A (2) of the Administration Act. Examples of the type of information that may be requested can be found at **Appendix 2**.

2.3 Following an initial response to a request for information, an Authorised Officer may, where it is justified, request information providers to give a more detailed or extensive response.

## When and about whom may Authorised Officers require information?

2.4 Authorised Officers may require information only where they have reasonable grounds for believing that:

- a person (identified by name or description)<sup>4</sup> has committed, is committing or intends to commit a benefit offence
- a person who is a member of a family of a person who has committed, is committing or intends to commit a benefit offence
- a person is helping someone else to commit a benefit offence
- a person is being lied about as part of a benefit claim in respect of them
- a fraudulent act against DfC has been committed

2.5 DfC Authorised Officers are required to ensure that all requests for information are reasonable (see paragraph 4.11) and specifically for the purposes set out in Section 103A(2) and in the circumstances set out in Section 103B(2C) of the Administration Act. More information on sections 103A (2), 103B(2C), 104A(1) and 104A(2) of the Administration Act can be found at **Appendix 3**.

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<sup>4</sup> Where the name of the suspect is not known it may be necessary to seek to identify the person by using a description of them and checking this against the address they use. For example, an Authorised Officer may contact a credit reference agency to find out if there is any one particular person matching the suspect's description (e.g. male aged mid-thirties) listed at the address. If there is more than one possible match at that address the Authorised Officer cannot require the credit reference agency to provide any information at all. Authorised Officers must do all they can to eliminate any risk of obtaining information about innocent third parties, which would breach data protection legislation. Neither could an Authorised Officer ask the credit reference company to provide details of all customers living in a block of flats. Enquiries must be necessary in relation to the purposes set out in the legislation.

2.6 Requests will normally seek information about an identified or a named person. Where this is not possible, the Authorised Officer will provide as much information as is available to assist the information provider to identify the person. The Authorised Officer must minimise any risk of obtaining information about innocent third parties. Therefore, if the details provided by the Authorised Officer could relate to more than one particular individual the Information Provider cannot be required to provide any information.

2.7 Authorised Officers may ask for information about people within a family only where their circumstances are directly relevant to the benefit claim being investigated. For example, if a person is claiming an income related benefit but not declaring their partner's earnings, as well enquiring about the claimant, Authorised Officers may also make enquiries in relation to the partner's bank account.

2.8 A family is defined in Part 7, Section 133 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and associated regulations.

A family means:

- a couple
- a couple and a member of the same household for whom one of them is or

- both are responsible and is a child or a person of a prescribed description
- except in prescribed circumstances, a person who is not a member of a couple and a member of the same household for whom that person is responsible and who is a child or a person of a prescribed description

Couple means two people who are:

- married to, or civil partners of, each other and are members of the same household
- not married to, or civil partners of, each other but are living together as a married couple otherwise than in prescribed circumstances

2.9 Information Providers will only be required to provide information that they keep as part of their normal business and will only be asked for information that they can reasonably be expected to hold. Authorised Officers cannot insist that Information Providers supply information if they have been informed that the information is not held or is no longer available. Information Providers are not obliged to inform the Authorised Officer of enquiries that have been made by other law enforcement agencies.

2.10 Information that is subject to legal professional privilege will not be requested. Legal professional privilege protects communications between a

legal advisor acting in a professional capacity and the client. Providing the communications are confidential and are for the purposes of seeking or giving legal advice the person holding them has no obligation to provide them.

2.11 Before an Authorised Officer requests information from an Information Provider (listed at Section 103B(2A) of the Administration Act) consideration must be given as to whether the

information could have been obtained directly from the claimant (without jeopardising the investigation). Authorised Officers require full documentation of the steps taken by investigators to seek the information by less intrusive means before requesting information from an information provider. If none have been taken full reasons will be provided by the investigator.

# Chapter three: Who is authorised to use these powers?

## **The Authorised Officer**

- 3.1 Only DfC officers who have the Department's authorisation may use these powers. These officers are known as Authorised Officers.
- 3.2 DfC will ensure that all enquiries using these powers will be made by Authorised Officers on behalf of fraud investigators. Only staff who have received the appropriate training (see paragraph 1.6) will be eligible for authorisation.

- 3.3 Authorised Officers will hold a certificate of their authority and all Information Providers can access an online list of those officers currently authorised.

## **How will officers be authorised?**

- 3.4 In DfC, the Benefit Security Division Business Support Manager acting on behalf of the Department will authorise officers. Authorised Officers will be of management grade, not below that of Executive Officer 1. They will be managed by officers not below the grade of Staff Officer.

# Chapter four: How should the powers be used?

## What will Information Providers need to know?

- 4.1 Information Providers should be aware that they are legally obliged to provide information that has been properly requested in writing by an Authorised Officer. This obligation overrides any duty of customer confidentiality. This means that they cannot be held liable for breach of confidentiality when the request is made in accordance with the law.
- 4.2 Section 36 of the Data Protection Act 2018 provides that the disclosure of personal data will not be in contravention of data protection legislation where the disclosure is required by or under any enactment, by any rule of law or by order of the court. Under this provision, Sections 103B and 104A of the Administration Act 1992 contains provisions requiring disclosure of personal information.

## What details should requests for information contain?

- 4.3 **Appendix 4** specifies what must be included in all requests for information:

## To whom should enquiries for information be addressed?

- 4.4 The DfC Benefit Security Division will enter into agreements with Information Providers (listed in Section 103B(2A) of the Administration Act) as to where enquiries should be addressed.

More information on the specified list of Information Providers can be found at **Appendix 1**.

## What happens when an Information Provider fails to provide information?

- 4.5 Information Providers are required to comply with requests within a reasonable time scale. Due to the need to conduct investigations without delay this means within 10 working days although, in exceptional cases, Information Providers may be asked to provide information more urgently.

There may be exceptional situations where an Information Provider is unable to provide the information within 10 working days. In such cases the Information Provider must contact the



Authorised Officer to seek a mutually acceptable timescale for providing information. Where multiple requests for information are made to an Information Provider and they are unable to meet the timescale for providing information, a provider liaison point may be set up to negotiate timescales for providing large volumes of information. In these situations, Information Providers will not be required to seek changes to timescales on a case by case basis. Action, as detailed in paragraph 4.6, may be taken against Information Providers who fail to provide information within 10 working days and have not made an agreement to extend that deadline.

If an Information Provider is able to provide some but not all of the information within 10 working days, they should do so and agree a timescale with the Authorised Officer for when all of the information will be provided.

- 4.6 An Information Provider who deliberately fails to comply with a written request for information can be prosecuted under Section 105 of the Administration Act. Authorised Officers should inform an Information Provider that they could face criminal proceedings if they refuse to provide the information that has been requested.

- 4.7 It is an offence under Section 105 of the Administration Act to:
- intentionally delay or obstruct an Authorised Officer in their duties
  - refuse or neglect to answer any question
  - fail to furnish any information or produce any document when required to do so by an Authorised Officer

- 4.8 Information Providers may on conviction, under Section 105 of the Administration Act, be fined up to £1,000 for failing to comply with a request for information. In addition, if after conviction they continue to refuse or neglect to provide the requested information they may be liable on conviction to a fine not exceeding £40 for each day on which they have continued to fail to provide the requested information.

- 4.9 No one is required to provide any information that may incriminate themselves, their spouse or civil partner. No one may be required to provide information subject to legal professional privilege (see paragraph 2.10).

**What reasonable grounds are there for requiring information?**

- 4.11 Authorised Officers can only request the information when there are reasonable grounds for believing that the person to whom it relates

has committed, is committing or intends to commit a benefit offence. Grounds for requiring information may vary depending on the circumstances of the case and each case must be considered on its own merits.

- 4.12 The basic rule is that there must be an objective basis for that belief that is based on facts, information, and/or intelligence which are relevant to the likelihood of obtaining information for any of the purposes set out in section 103A(2) of the Administration Act. Reasonable grounds cannot be supported on the basis of personal factors or a “hunch”.
- 4.13 Authorised Officers must consider all the facts of the case known to them at that time when deciding what is reasonable. They must ensure that each decision made relating to the use of the powers is documented and available for checking by management or validators. Management checks will ensure that these procedures are followed correctly.

#### **How will information be requested?**

- 4.14 All requests for information must be made in writing (this can be by post, fax, e-mail or through any other agreed/specified electronic access) with regard to preferences expressed by Information Providers.
- 4.15 Information Providers may reply to requests for information, within 10 working days (unless specified otherwise), in a way agreed with the Authorised Officer. Authorised Officers must take account of what would suit the organisation providing the information when deciding how information should be returned, however information provided should be in a format that is readily readable. Information Providers who provide information in such a way as to intentionally delay or obstruct an Authorised Officer in their duties may be prosecuted (see paragraph 4.7). Information Providers should take into account any suitable electronic systems available to them when considering the mechanism for providing information. Where information is provided by electronic means, it must be done securely, ensuring an adequate level of protection.
- 4.16 DfC may enter into an agreement with an Information Provider as to how enquiries will be made and the way the information will be provided. Authorised Officers must comply with those arrangements unless there is a specific reason for them not to do so. Authorised Officers should explain to an Information Provider why there is a need to depart from any agreed process.

4.17 Authorised Officers will not normally make enquiries in person by means of a visit. They may arrange to telephone the organisation if they need to discuss the information that has been provided. No new enquiries will be made in the course of this contact although clarification may be sought in relation to the information already provided.

4.18 Authorised Officers will make enquires of specific Information Providers only where they have grounds for believing that they hold information on a particular individual. For example, Authorised Officers will not normally issue requests to all UK banks asking for information on a particular claimant. However, such requests might be required in the most serious cases where the information cannot be obtained by other means.

#### **How will electronic access be managed?**

4.19 Information held electronically by an Information Provider can be requested by an Authorised Officer.

4.20 Only designated Authorised Officers will have access to electronic information with access controlled by passwords or the equivalent. DfC will also retain a record of all enquiries in order that this can be cross-checked against their own records.

4.21 The Department cannot insist that Information Providers provide them with electronic access to information

held if they do not already provide access in this format, or are not able to provide it to another organisation.

4.22 In addition, the Department will not require Information Providers to update their computer software in order to provide electronic access. However, DfC may enter into arrangements to obtain information electronically where an organisation is already able to provide such access to Department for Work and Pensions or another organisation.

#### **How will Authorised Officers manage requests for information?**

4.23 DfC will ensure that requests for information are made by Authorised Officers within Benefit Security Division. The Authorised Officers will process all enquiries from DfC Fraud Investigators.

4.24 DfC will manage requests in such a way as to cause the least amount of inconvenience to the Information Provider and should ensure that the burdens on business are kept to a minimum (see paragraph 4.15).

4.25 DfC will make sure that adequate provisions are in place to guarantee the security of the arrangements for managing requests for information. Established security protocols will be agreed with Information Providers, such as passwords, to safeguard the information that is requested.

4.26 Information Providers will have access to a secure and up-to-date list of current Authorised Officers. This will be maintained by the Department for Work and Pension Fraud and Error Service (Central Criminal Intelligence Service) who will ensure that only current Authorised Officers who have received full training are included on the list. If a request is received from an officer who does not appear on the list, it should be refused and the Information Provider should contact Benefit Security Division Business Support Branch Manager for further guidance.

4.27 All requests for information will include specific details to assure Information Providers that requests received are genuine and who they should deal with if they have any enquiries about the request. See **Appendix 4** for details on what will be included in information requests.

#### **How will information be used?**

4.28 Any information provided by Information Providers will be treated and evaluated in exactly the same way as information gathered from any other source during a benefit investigation.

4.29 In the event that a criminal prosecution is brought for an offence, the information provided by the Information Provider may be used as evidence in criminal proceedings before the courts. Usually this will be in the form of a witness statement.

#### **Who will receive payment?**

4.30 The Department has the power to make payment to Information Providers in certain circumstances. These providers include:

- credit reference agencies
- telecommunications companies for specific information such as, reverse telephone number search
- utilities where we are obtaining bulk information
- the servants and agents of the above

4.31 DfC may where appropriate enter into negotiation with Information Providers in these categories to decide when payment is appropriate and how much will be paid.

# Chapter five: What safeguards are there?

## Confidentiality and security

5.1 Authorised Officers who obtain information from Information Providers are under a legal duty to observe the rules on confidentiality and must ensure that the information is kept securely and the information is only used for the purpose for which it has been obtained. DfC has strict procedures to ensure that:

- information is only used for lawful purposes notified to the Information Commissioner (see paragraph 5.6)
- access to personal information is limited to those staff who need it to carry out their work
- personal information is only disclosed to someone else where it is necessary and lawful to do so

5.2 DfC must maintain a record of all access to electronic information using the powers in the Administration Act. This includes undertaking regular audit trails and access checks.

5.3 DfC will take disciplinary proceedings or other action against members of staff if it is proven that staff have inappropriately accessed or used

information that has been provided by an Information Provider. Complaints that are not satisfied through internal management routes are passed for independent scrutiny.

## The fair and lawful collection of data

5.4 DfC must process the information that has been provided by the Information Providers lawfully and fairly in order to comply with the provisions contained in the Data Protection Act 2018 and the UK General Data Protection Regulations. The Administration Act provides the legislative power to collect and request information from Information Providers.

5.5 DfC claim forms and leaflets inform claimants that information may be sought about them from certain third parties.

More information on how the Department processes personal data is available in the Privacy Notice:

**<https://www.communities-ni.gov.uk/dfc-privacy-notice>**

### **The Information Commissioner**

5.6 The Information Commissioner is responsible for the promotion of good practice regarding the processing of personal data. The Commissioner may take action for a breach of the Data Protection Act 2018. Details for the Information Commissioner's offices, where further information can be obtained from can be found at **Appendix 5**.

Further information can be found on the Information Commissioner's Office website at <https://ico.org.uk/>

### **Penalties for unlawful disclosure**

5.7 If it appears that Authorised Officers (or any other member of staff, contractor or other person involved in the processing or handling of information provided by an Information Provider) obtained or disclosed information unlawfully, or attempted to do so, they will be subject to an internal and possibly a criminal investigation (see paragraph 1.10).

### **Retention and storage**

5.8 Under the Data Protection Act 2018 and the UK General Data Protection Regulation, personal information shall not be kept for longer than is necessary. DfC staff should follow the guidance provided to them by their organisation.

5.9 In DfC, information will be retained in accordance with the Department's guidance on retention of information. That is, it will usually be kept for not more than 24 months before being destroyed, unless it is required to be retained under the provisions of the Criminal Procedures and Investigation Act 1996, the Regulation of Investigatory Powers Act 2000, the Investigatory Powers Act 2016, or for an outstanding appeal or for continuing debt recovery.

5.10 When information is obtained, it will be kept in secure storage conditions and may be accessed only by those departmental staff who have a need to do so, for the purposes of Section 103A(2) of the Administration Act.

### **Complaints**

5.11 Questions about the way that an Authorised Officer has used their powers or the reasonableness of their actions when obtaining information should be referred in the first instance to the Authorised Officer who made the original request.

5.12 If this does not provide a satisfactory resolution and the original request for information came from a DfC Authorised Officer the Information Provider should write to the Head of Benefit Security Division Business Support. See **Appendix 5** for contact details.

5.13 If a satisfactory outcome still cannot be achieved, the issue will be passed to the Deputy Director of Benefit Security, who will aim to give a full reply within 10 working days. See **Appendix 5** for contact details.

If a reply cannot be provided within this time, we will say why and advise;

- who is dealing with the letter
- when a full reply can be expected
- what has been done so far

5.14 Anyone who remains dissatisfied may write to the Deputy Secretary of Operational Delivery Group in the Department for Communities. See **Appendix 5** for contact details.

5.15 If you are not satisfied with the response from the Deputy Secretary, you can then write or telephone the Independent Case Examiner. The Independent Case Examiner is not part of the Department for Communities and their services are free.

For further information, visit the Independent Case Examiners website at: **<https://www.gov.uk/government/organisations/independent-case-examiner>**

### **The NI Ombudsman**

5.14 The NI Ombudsman carries out independent investigations into complaints about unfair or improper actions or poor service by NI government departments and their agencies. Any complaint must be made to a Member of the Legislative Assembly who will then decide whether to pass the complaint onto the Ombudsman. The Ombudsman seeks to establish whether public bodies have acted correctly and fairly in carrying out their functions and procedures. Contact details of the Ombudsman, where further information can be obtained from, can be found at **Appendix 5**.

For further information, visit the Ombudsman website at: **<https://www.ni-ombudsman.org.uk>**

# Appendix 1: Who can be required to provide information?

Section 103(B)2A sets out the persons who can be required to provide information. They are:

- any bank<sup>5, 6</sup> (This includes: banks, credit unions, friendly societies, industrial and provident societies)
- the Director of National Savings
- any person carrying on a business the whole or a significant part of which consists in the provision of credit (whether secured or unsecured) to members of the public<sup>7</sup> (For example, credit card companies and building societies)
- any insurer<sup>8, 9</sup>
- any credit reference agency (within the meaning given by Section 145(8) of the Consumer Credit Act 1974(c.39))
- any body the principal activity of which is to facilitate the exchange of information for the purpose of preventing or detecting fraud (for example, Credit Industry Fraud Avoidance System (CIFAS) the UK fraud avoidance system)
- any person carrying on a business the whole or a significant part of which consists in the provision to members of the public of a service for transferring money from place to place (For example, money transmission companies)
- any person who is the holder of a license under Article 8(1) of the Gas (Northern Ireland) Order 1996(a) which relates to the conveyance of gas pipes

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<sup>5</sup> The duty of confidentiality also applies to any DfC employee or contractor who obtains information provided by an Information Provider.

<sup>6</sup> “bank” means - (a) a person who has permission under Part IV of the Financial Services and Markets Act 2000 (c.8) to accept deposits; (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits or other repayable funds from the public (In this instance an “EEA firm” means a credit institution (as defined in Article 1 of the banking consolidation directive) which is authorised (within the meaning of Article 1) by its home state regulator and does not have its head office in the United Kingdom); or (c) a person who does not require permission under that Act to accept deposits, in the course of his business in the United Kingdom.

<sup>7</sup> “credit” includes a cash loan or any form of financial accommodation, including the cashing of a cheque

<sup>8</sup> “insurer” means - (a) a person who has permission under Part IV of the Financial Services and Markets Act 2000 (c.8) to effect or carry out contracts of insurance; or (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance.

<sup>9</sup> The definitions of “bank” and “insurer” must be read with (a) Section 22 of the Financial Services and Markets Act 2000; (b) any relevant order under that Section; and (c) Schedule 2 to that Act.

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- any person who is a holder of a license under the Article 10(1) of the Electricity (Northern Ireland) Order 1992(a) which relates to the transmission of supply of electricity
- any person conducting any educational establishment or institution
- any body the principal activity of which is to provide services in connection with admissions to educational establishments or institutions
- the Student Loans Company
- any servant or agent of any person mentioned in any of the preceding paragraphs

## Appendix 2: Examples of the type of information that may be requested

- bank statements
- building society statements
- details of income from an insurance policy
- address records from a credit reference agency
- customer details from a utility company
- student status from the Student Loan Company
- mortgage application details

This list is not exhaustive

## Appendix 3: When and about whom may Authorised Officers require information?

Paragraph 2.4 of this Code explains that requests for information must be reasonable and must be made specifically in accordance with the legislation.

**Section 103A (2)** of the Administration Act sets out the purposes whereby an Authorised Officer may request information. These are:

- a) ascertaining in relation to any case whether a benefit is or was payable in that case in accordance with any provision of the relevant social security legislation;
- b) investigating the circumstances in which any accident, injury or disease which has given rise, or may give rise, to a claim for:
  - i) industrial injuries benefit, or
  - ii) any benefit under any provision of the relevant social security legislation, occurred or may have occurred, or was or may have been received or contracted;
- c) ascertaining whether provisions of the relevant social security legislation are being, have been or are likely to be contravened (whether by particular persons or more generally);
- d) preventing, detecting and securing evidence of the commission (whether by particular persons or more generally) of benefit offences.

**Section 103B (2C)** of the Administration Act explains when an Authorised Officer may require an information provider (as detailed in section 103B(2A)) to provide information.

An authorised officer shall not, in exercise of those powers, require any information from any person by virtue of his falling within subsection (2A) above unless it appears to that officer that there are reasonable grounds for believing that the identified person to whom it relates is:

- a) a person who has committed, is committing or intends to commit a benefit offence; or
- b) a person who (within the meaning of Part 7 of the Contributions and Benefits (Northern Ireland) Act) is a member of the family of a person falling within paragraph (a) above.

## Appendix 4: Details to be included in requests for information

All requests for information will include the following details:

- the name and contact number of the Authorised Officer making the request
- a copy of the Authorised Officers certificate
- the name of the Manager of Benefit Security Division Business Support
- the address or e-mail address where the information must be sent to

- sufficient information to ensure that the customer, and the particular account in question, can be identified

Requests may also include details such as:

- the customers date of birth
- the customers address
- a description of the customer
- any customer reference numbers

# Appendix 5: Contact details

## **Head of Benefit Security Business Support**

Department for Communities  
Level 5  
Castle Court  
Royal Avenue  
BELFAST  
BT1 1HR

## **Deputy Director of Benefit Security**

Department for Communities  
Level 5  
Castle Court  
Royal Avenue  
BELFAST  
BT1 1HR

## **Deputy Secretary, Operational Delivery Group**

Department for Communities  
Causeway Exchange  
1-7 Bedford Street  
Belfast  
BT2 7EG

## **Information Commissioner's Office - Northern Ireland**

10th Floor  
Causeway Tower, 9 James Street South  
Belfast  
BT2 8DN

## **Northern Ireland Ombudsman**

Progressive House  
33-37 Wellington Place  
Belfast  
BT1 6HN

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