



Department for

Communities

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Depairtment fur

Commonities

www.communities-ni.gov.uk

Consultation on the Social Security Fraud Act (Northern Ireland) 2001 Code of Practice on Obtaining Information Department for Communities' Response

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1. Introduction

1.1 Background

The Department for Communities (DfC) consultation, 'Revised Code of Practice on Obtaining Information' was open from 7 October 2024 to 17 November 2024. Its main purpose was to consider amendments to the Social Security Fraud Act (Northern Ireland) 2001, Code of Practice on Obtaining Information.

1.2. Rationale for Change

Section 3 of the Social Security Fraud Act (Northern Ireland) 2001 includes a requirement for the Department to issue a Code of Practice relating to the exercise of powers contained in sections 103B, 104A,

103BA, and 104AA of the Social Security Administration (Northern Ireland) Act 1992, which provide for Authorised Officers to obtain information from specified organisations about the Department's customers in order to investigate benefit fraud.

The current Code of Practice on Obtaining Information (version 2) was laid before the Assembly and published in February 2003. Since then, there have been a number of legislative and administrative changes. These revisions have been made to the Code of Practice to reflect the changes.

2. Consultation

2.1 Background

A consultation paper was published on 7 October 2024 asking for views on a revised Code of Practice on Obtaining Information. The consultation sought comments on the changes made to the Code and to ensure that it was clear and simple to understand. The consultation specifically asked for views on the timescales for providing information and the format in which information must be provided. The consultation ended on 17 November 2024. The Department received three responses; raising twenty-one points; a list of respondents can be found at Appendix 1.

2.2 What this Report does

This report outlines the Department's action for each response; some responses were accepted fully and have led to amendments to the Code of Practice. A number of responses asked specific questions which are addressed in Part 3 of the report.

3. Summary of Responses

3.1 Overview

There were three responses to the consultation from representatives of the public sector and from the financial industry. All respondents were broadly content with the revisions to the Code of Practice; some made suggestions for further improvement.

A detailed summary of the Department's response to these and all representations made can be found at Appendix 2.

4. Conclusion

The Department would like to thank all those who responded to the consultation document.

The Department is committed to tackling fraud and error in the benefits system and to support this aim Authorised Officers have significant powers, enabling them to obtain information from specified persons and organisations about the Department's customers to investigate benefit fraud. It is therefore only right that appropriate governance is in place to ensure those powers are only used where it is necessary and proportionate to do so. This Code of Practice provides such governance and as a statutory code Authorised Officers must have regard to it when exercising the powers contained in sections 103B, 104A, 103BA, and 104AA of the Social Security Administration (Northern Ireland) Act 1992.

The responses we received to this consultation have been helpful in enabling the Department to produce a revised Code of Practice that is up to date and fit for purpose, ensuring it clearly sets out the statutory requirements for Authorised Officers to follow as well as the people and organisations that are required to provide information under sections 103B, 104A, 103BA, and 104AA of the Social Security Administration (Northern Ireland) Act 1992.

Appendix1: Consultation respondents

Information Commissioner's Office (ICO)
Law Centre NI
Irish League of Credit Unions

Appendix 2

Consultation comments	Department's Response
The Code of Practice contains a section on safeguards; it was suggested this section may benefit from being more explicit about the key principles that Authorised Officers need to take account of.	Accepted - Code revised to reflect (Chapter 5 para 5.1 and 5.2)
Suggest clarification on the additional responsibilities of processing sensitive information as the ability for an Authorised Officer to request information pertaining to the partner of a suspect can potentially reveal that person's sexual orientation.	Accepted - Code revised (Chapter 5 para 5.7)
Provide clarity over whether the Powers granted under the Investigatory Powers Act (IPA) 2016 will lead to automated processing; and if so, outline the Department's responsibilities when processing same.	Not accepted - Profiling and the use of automated decision making will not be involved in the application of this Code of Practice. There is a separate Code of Practice governing the use of Communications Data under IPA 2016
Suggest the Department consider carrying out a Data Protection Impact Assessment (DPIA) to highlight and mitigate the risks of processing data.	Accepted - Code revised. The Department completed a DPIA. (Chapter 5 para 5.7)
Query over whether every Authorised Officer can access all the data types listed in Appendix 2, and if not, can the Code clarify if there are different levels of permissions for Authorised Officers with regard to the requests for information they are approved to process	Not accepted - No revision to the Code required as all Authorised Officers can access all the data types listed in Appendix 2. All Authorised Officers can handle any request for information, there are no differing levels of authorisation involved as all officers are specially trained

Consultation comments	Department's Response
While noting safeguards to avoid requesting information from innocent third parties; suggestion Authorised Officers should be advised what action to take when they have inadvertently received 'innocent' third party information.	Accepted – Code revised (Chapter 2, para 2.6)
It is also essential that staff members receive practical data protection training tailored to their specific roles, with regular refreshers to ensure ongoing compliance	Accepted – Code confirms Authorised Officers are trained in Data protection principles (Chapter 5, para 5.1)
Suggestion the drafters of the code liaise with their branches Data Protection Officer to ensure Data Protection compliance.	Accepted – the Department has consulted with the Data Protection Officer to ensure compliance (Chapter 5, para 5.7)
Suggest adding a commitment to review the Code of Practice annually to ensure it is reflective of ongoing legislative changes.	Accepted – Code revised to reflect (Foreword, para 7)
Query why existing comments referring to use of the Powers as a last resort to comply with the provisions of the Human Rights Act 1998 have been removed?	Partially accepted – The exclusion of this line does not remove the Department's statutory duty as Authorised Officer's must satisfy reasonable grounds, necessity, and proportionality when considering applications. This is referenced throughout the revised Code. The Code has been updated to reflect compliance with the Human Rights Act 1998 (Appendix 6)

Consultation comments	Department's Response
Suggest a new appendix listing the relevant legislation as quoted in the body of the Code.	Accepted Code revised (Appendix 6)
Suggestion applicable extracts from the Social Security Administration (Northern Ireland) Act 1992 is included in an Appendix for ease of use.	Partially accepted - As legislation is subject to change and to avoid the Code becoming outdated, a website link to the current legislation including any amendments is included (Appendix 6)
Noting the powers should only be used when the information cannot be obtained directly from the subject, suggestion further clarification and example on this approach.	Partially accepted - The Code of Practice is already clear on this aspect (see Chapter 2, para 2.11)
Suggestion the authorisation process is explicitly outlined in the Code of Practice.	Not accepted - An explanation of the authorisation process is already outlined in the Code (Chapter 3, para 3.4)
Suggestion DfC provide information as to where Information Providers can access the list of Authorised Officers.	Not accepted - There is an existing practice in place which is outlined in para 3.3 of the Code which confirms Information Providers can access a current list of Authorised Officers on-line
Suggestion that DfC outline the steps that will be taken to ensure that the Department for Work and Pensions will be kept informed of all Authorised Officers.	Not accepted - A process already exists to inform DWP of the approval of any new Authorised Officers (Chapter 3)

Consultation comments	Department's Response
Suggestion the Department maintain a list of current Authorised Officers to ensure information is updated and accurate.	Partially Accepted - This is an existing practice as the Department already holds this information. There is no need to update the Code of Practice as the current arrangements for recording details of current Authorised Officers is considered adequate
Suggestion the Code outlines measures to protect transfer of electronic information, where this method of transfer is used.	Accepted – Code revised (Chapter 4, para 4.23)
Examples must be outlined as to what constitutes the 'exceptional situations' where an Information Provider is unable to provide the information within 10 working days	Not accepted – examples to illustrate are not required as there are numerous scenarios involved. Information Providers are already aware they can engage with the Department where it may not be practicable for them to reply within ten days
Query clarity over the role of a provider liaison point.	Accepted- Code Revised with this reference removed for avoidance of doubt
Request for clarity around documentation requirements shown Appendix 4.	Accepted - Code revised for clarity - reference to providing a copy of the Authorised Officer's certificate has been removed from Appendix 4

