

# Code of Practice

**Obtaining information from employers,  
contractors, the self-employed, pension  
schemes,  
and licensing authorities**

*A guide to the powers of Authorised Officers, and their  
limitations*



## FOREWORD

### Why this Code of Practice is issued to you

**Benefit fraud is a significant cost to the taxpayer. Fraud, due to people working whilst claiming social security benefit, forms a significant part of the overall level of fraud experienced. Obtaining information is necessary if we are to ensure that taxpayers' money goes to those for whom it is intended.**

Our powers to obtain information are not intended to place additional burdens on business, but to reduce the overall burden on society. Everyone, therefore, has an interest in providing information to the Department for Social Development and the authorities administering Housing Benefit<sup>1</sup> so that we can combat fraud.

This Code of Practice is binding on the activities of the Department's staff that operate the procedures under

sections 103B(1) in respect of 103B(2) and 103C of the Social Security Administration (Northern Ireland) Act 1992 and is strongly recommended for use by the authorities administering Housing Benefit who apply the equivalent powers under section 104A of the same Act.

This code has been given to you, as you are required to provide information to the Department or authorities administering Housing Benefit<sup>2</sup> under the legislation explained in this Code. It explains what you can expect of the Authorised Officers making enquiries, and so that you can understand your duties under these powers. It is aimed at encouraging compliance and co-operation. Where the requirements of this Code are not met grounds for complaint may arise. Information about how to complain is contained in this Code of Practice (see Paragraphs 37-44).

Beating fraud is everyone's business. We must all work together if we are to achieve that aim.

<sup>1</sup> Here and elsewhere in the Code the term "authorities administering Housing Benefit" means the Northern Ireland Housing Executive and the Rate Collection Agency (which is an executive agency of the Department of Finance and Personnel).

<sup>2</sup> 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.

## Introduction

1. This Code of Practice explains the powers of Authorised Officers, the extent of those powers, and the responsibilities and rights of those from whom we may seek information, as defined in the legislation. Authorised Officers should undertake their enquiries in accordance with this Code of Practice at all times.
2. Authorised Officers of the Department should issue this Code of Practice, on request, to people from whom they require information, under sections 103B(1) (which allows an Authorised Officer to make written enquiries), or 103C (which allows an Authorised Officer to visit premises to obtain information), of the Social Security Administration (Northern Ireland) Act 1992. It explains the powers of the Department and therefore assists Authorised Officers in their enquiries. It should be carried by Authorised Officers visiting employment premises, and made available in all Social Security Agency (SSA) Offices and any office that administers Housing Benefit to members of the public who wish to consult it. It is also available on the Department's website. An Information Leaflet should always be issued with written enquiries and on visits as it draws attention to the existence and availability of the Code of Practice.
3. The obligation to provide information is now detailed in section 103B(3) of the Social Security Administration (Northern Ireland) Act 1992. This new section was introduced by Schedule 6 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and replaces the previous sections of the Social Security Administration (Northern Ireland) Act 1992, and the comparable provisions of Article 34 of the Jobseekers (Northern Ireland) Order 1995.

4. These powers are only for use in relation to enquiries for the purposes described in section 103A(2) – (paragraph 9 below), from specific people/organisations, as defined in section 103B(2) – (paragraph 12 below) and to question any person who they find on the premises visited.
  5. Authorised Officers operating under this Code of Practice are not permitted to use these powers to request information from the organisations that are listed in the Social Security Administration (Northern Ireland) Act 1992, as amended by the Social Security Fraud Act (Northern Ireland) 2001. Those powers are covered by a separate, statutory, Code of Practice, available from the Stationery Office Ltd.
- ### Authorised Officers
6. Under section 103A, the Department may authorise an officer of the Social Security Agency, or of another Government Department or the authority administering Housing Benefit, to exercise section 103B(1) and 103C powers. The authorities administering Housing Benefit may also authorise their own officers under section 104A for the purposes set out in this Code. Officers who do not have this authorisation may not make enquiries under these powers.
  7. Authorised Officers are required to act reasonably in seeking information from individuals and organisations that hold information necessary to enquire from the Department and the authorities administering Housing Benefit. This means that they must act in an appropriate way given the circumstances of the case, and any representations that may be made during their enquiries. Any actions taken by Authorised Officers should be ones that would stand up to the scrutiny of a Court, or other independent body.

8. If the course of action undertaken, or proposed, by the Authorised Officer was not considered to be reasonable it should be raised at once with the Authorised Officer. If this does not satisfy the concerns raised the complaints procedure set out in this Code can be applied.

### What these powers are used for

9. Authorised Officers use section 103B(1) and 103C powers to obtain information from certain people, under section 103A(2) and 104A(2), to:
- establish if benefit is, or was, correctly payable in an individual case;
  - investigate the circumstances of accidents, or injuries or diseases that give rise to claims for Industrial Injuries benefit or other relevant social security benefit;

- establish whether the provisions of the relevant Social Security legislation have been, are being, or are likely to be, contravened, whether by a particular person or more generally; and
- prevent, detect and secure evidence of benefit offences being committed.

10. An Authorised Officer can ask for information about individual named persons or, in certain circumstances, the names and other details of the whole workforce. Requests for information can be made in writing or in the course of a visit. This also applies to premises owned, or occupied by the Crown, and anyone employed by, or in the service of the Crown (for example Prisons, Hospitals, etc)
11. The following are examples of the types of information that Authorised Officers might request, for example from an employer:

- names of employees;
- wage details;
- period of employment;
- conditioned hours;
- terms of employment (for example whether an employee, sub-contractor, or self-employed);
- bank details (for example whether wages are paid into a bank, and its location);
- staff/payroll number;
- National Insurance number;
- home address;
- date of birth;
- details of goods supplied for personal sale;
- details concerning licences granted; and
- details and dates of pension payments.

This list is not exhaustive and there will be circumstances in which Authorised Officers will seek information not specifically listed here, which is relevant to their enquiries, and determined

by the circumstances of the investigation.

## Written requests for information

12. Section 103B(1) allows an Authorised Officer to write to (or e-mail) any of the persons defined in section 103B(2), requiring them to provide information. These people are:
  - any person who is or has been an employer or employee;
  - any person who is or has been a self-employed earner;
  - any person who, under existing legislation, is treated as an employer, employee or self-employed earner;
  - any person who is carrying on, or has carried on, any business involving the supply of goods for sale to the ultimate consumers by individuals not carrying on retail businesses from retail premises (for example catalogue companies);

- any person who is carrying on, or has carried on, any business involving the supply of goods or services by the use of work done or services performed by persons other than employees of his (for example self-employed individuals who are paid on a commission only basis, etc, such as double glazing salespeople or sub-contractors);
  - any person who is carrying on, or has carried on, an agency or other business for the introduction or supply, to others, of persons available to do work or to perform services (for example employment agencies);
  - any Department or local district council acting in their capacity as an authority responsible for the granting of any licence (for example in relation to licensed taxicab drivers or market traders);
  - any person who is or has been a trustee or manager of a personal or occupational pension scheme;
  - any person who is or has been liable to make a compensation payment or a payment to the Department under Article 8 of the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997 (payments in respect of recoverable benefits); and
  - the servants and agents of any person as described as above.
- 13.** An Authorised Officer will only write to any of those persons defined above for information if they have reasonable grounds to suspect that benefit fraud is being, or has been, committed. They will provide a written notice that sets out:
- who they are;
  - their address;
  - what information they need;
  - the format in which they would like the

information provided;  
and

- when they would like the information by.

14. They may ask for original documents, photocopies of documents or extracts of documents (for example, computer printouts etc) to be produced. However, they will only request the information they need and will take account of the burden this would place on the business, as well as their own needs.

### The legal duty to provide information required under a written notice

15. If an Authorised Officer writes to ask for information, recipients are legally obliged under section 103B(3) of the Social Security Administration (Northern Ireland) Act 1992, to provide it, in the form it has been requested and within the time specified.

16. If a recipient of such a request has difficulty meeting any part of a request for information, they may contact the Authorised Officer to explain why, and make alternative arrangements for the provision of the information.

17. The legal duty to provide information is not discharged until the requested information has been received.

### Verbal requests for information by visit

18. Under section 103C, an Authorised Officer may seek entry to any premises (including a home) where there are reasonable grounds for suspecting that a business or trade is being carried out. They are also allowed to enter any premises (including a home) where there are reasonable grounds for suspecting that documents relating to a trade or business are kept.

- 19.** An Authorised Officer may also seek entry to any premises:
- from which a personal or occupational pension scheme is being administered or where documents relating to the administration of such a scheme are being kept; and
  - where a person or someone acting on their behalf, who has paid compensation in relation to an accident, injury or disease is to be found.
- 20.** Requests to enter such premises will only be made where the Authorised Officer has reasonable grounds to believe that benefit fraud is being or has been committed by one or more persons.
- 21.** When visiting premises, the Authorised Officer will state who they are and will show their certificate of authorisation and identity card.
- 22.** The authorisation allows the officer to be accompanied by any other person or persons they think fit to accompany them, for the purpose of their visit. If other persons are accompanying the Authorised Officer, they will be identified, and will carry identification, which will be presented for inspection.
- 23.** Generally, Authorised Officers will give advance notice of their intention to visit. In certain circumstances this is not always appropriate, and visits may be made without prior notification.
- 24.** Authorised Officers, and those accompanying them, will only enter premises, and remain, with consent (that is, from the owner, the occupier, or their representative). They will never try to force an entry – they have no legal powers to do so. If, after entry has been granted, the officers are asked to leave before they have completed their enquiries, they will do so. However, where an Authorised Officer(s) considers that such action has been taken to obstruct their

enquiries or to conceal evidence, they will consider criminal proceedings.

25. Under section 105 of the Social Security Administration (Northern Ireland) Act 1992, it is an offence to intentionally delay or obstruct Authorised Officers in the exercise of their powers under this Act (see paragraphs 30 – 35).
26. When visiting premises, an Authorised Officer and any person accompanying them, may inspect the premises and question, with the consent of the owner, occupier, or their representative, anyone they find there. They do not have the power to detain people.
27. The Authorised Officer may require anyone on the premises to produce documents, make photocopies of documents or extracts of documents, or to create computer or other printouts. An Authorised Officer will only seek access to records that are considered to be connected with payments

and employment details, of employees, sub-contractors, recipients of commission payments, etc.

28. If absolutely necessary (for example, because there is not a photocopier available), the Authorised Officer may lawfully remove documents from the premises visited. The Authorised Officer will explain why this is necessary. Any original documents that are removed will be returned as soon as possible. A receipt will be given for any documents that need to be removed temporarily.
29. Documents will not be seized and removed by force. They will only be removed with consent.

### The statutory duty to provide information

30. No one is required to provide any information (whether documentary or otherwise) that tends to incriminate them, or, if they are married, their spouse.

31. Otherwise, when a request by an Authorised Officer is made, whether in writing or verbally and in person, there is a statutory duty to provide that information, including any documentation that is requested.

32. Under section 105 of the Social Security Administration (Northern Ireland) Act 1992, it is an offence to:

- intentionally delay or obstruct Authorised Officers in the exercise of their powers; or
- refuse, or neglect, to
  - answer any questions
  - furnish any information
  - produce any documents

when required to do so by an Authorised Officer.

An initial refusal to provide information (including the withdrawal of consent to remain on premises to undertake enquires - see paragraph 24) will not be considered as intentional

delay or obstruction, where the refusal is given in order to seek independent advice before responding. It should be noted that obstruction includes circumstances where false or inaccurate information is provided in response to enquiries.

33. The Data Protection Act 1998 will not be contravened by providing the information requested by Authorised Officers. Under section 35(1) of the Data Protection Act 1998 exemption from the non-disclosure provisions exists where a statutory provision, such as section 103B(1) or 103C of the Social Security Administration (Northern Ireland) Act 1992, requires the supply of information.

34. **Failure to meet in full requests for information could result in criminal proceedings being instigated. The maximum penalty is a fine, fixed at level 3, currently set at £1000, with a continuing penalty of £40 per day (under**

section 105(2) of the Social Security Administration (Northern Ireland) Act 1992).

35. If information is not provided the Authorised Officer should explain the statutory powers of the Department under sections 103B(1) and 103B(2) and 103C(3) of the Social Security Administration (Northern Ireland) Act 1992 and the potential consequences of non-compliance.

### At the end of enquiries by the Department

36. Where an Authorised Officer has made enquiries, and obtained information, notification of any further action, that is being taken in relation to the employer, will be made as soon as possible. When the enquiry has been concluded notification of that action will also be made.

## Complaints

37. The leaflet '*Making a Complaint*' is available from Social Security Offices and Advisory Groups. In all cases an acknowledgement of receipt of the complaint will be sent within 2 working days and normally a full response will be issued within 10 working days.
38. A senior Departmental official oversees Social Security Agency Investigators. He is the Director of Benefit Security.
39. If anyone has a question about the way that an Authorised Officer has used their powers, or the reasonableness of their actions when obtaining information, they can contact the Authorised Officer to discuss the matter. For example, if compliance with a request for information can be made only at disproportionate cost, the information provider may inform the Authorised Officer of the fact and ask for the request to be reconsidered.

40. If this does not provide a satisfactory resolution to the matter they may write to the Manager of Benefit Investigation Services. Most complaints can be settled by contact with the manager in this way, and it is the most effective way of putting things right. However if the complaint is more serious, it should be directed to the Head of Benefit Security Services. Their addresses are as follows:

**Manager of Benefit  
Investigation Services  
2 Curtis Street  
BELFAST  
BT1 2ND**

**Head of Benefit Security  
Services  
2 Curtis Street  
BELFAST  
BT1 2ND**

41. Anyone who remains dissatisfied may write to the Agency's Chief Executive and ask him to look into the complaint. The Chief Executive will ask the Customer Services Director to investigate and

reply on his behalf. His address is as follows:

**Chief Executive  
Social Security Agency  
Churchill House  
Victoria Square  
BELFAST  
BT1 4SS**

42. If, having received a reply from or on behalf of the Chief Executive, any member of the public is not satisfied they can have a complaint investigated by the Independent Case Examiner. The Independent Case Examiner will act as an independent referee if any customer feels that the Agency has treated them unfairly or they are not happy with the way we have dealt with their complaint. The address is as follows:

**Independent Case  
Examiner  
PO Box 1245  
BELFAST  
BT2 7DF**

43. The Department welcomes feedback. Although we make every effort to get

things right, occasionally we may get things wrong. We want to know how we can put things right and we want to learn from our mistakes.

## The Ombudsman

44. The Ombudsman deals with complaints about maladministration by government departments and their agencies. Any complaint should be sponsored by a member of the Northern Ireland Assembly. The Ombudsman seeks to establish whether the public body has acted correctly in accordance with established policies and procedures. Cases for investigation may include those where a public authority is alleged to have done something in the wrong way, done something they should not have done or failed to do something which they should have done. The Ombudsman can recommend a variety of remedies, including an apology, a consolatory

payment or the revision or clarification of administrative procedures. Further information can be obtained from:

**The Ombudsman**  
**FREEPOST**  
**Belfast**  
**BT1 6BR**  
**Freephone 0800 343424**

## 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.**

## **AO1 (NI)**

This Code of Practice is also available to members of the public through SSA offices, any office that administers Housing Benefit and on the DSD website ([www.dsdni.gov.uk](http://www.dsdni.gov.uk)), should anyone wish to find out about our powers to obtain information under the provisions at sections 103B and 103C of the Social Security Administration (Northern Ireland) Act 1992.

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