



Statutory Document No. 132/04

THE SOCIAL SECURITY ACT 2000

THE SOCIAL SECURITY FRAUD ACT 2001  
(AS THAT ACT OF PARLIAMENT HAS EFFECT IN THE ISLE OF MAN BY  
VIRTUE OF THE SOCIAL SECURITY FRAUD ACT 2001 (APPLICATION) ORDER 2004)

**THE CODE OF PRACTICE ABOUT THE USE OF INFORMATION POWERS  
UNDER THE SOCIAL SECURITY FRAUD ACT 2001 (AS THAT ACT OF  
PARLIAMENT HAS EFFECT IN THE ISLE OF MAN)**

*Laid before Tynwald*                      *16<sup>th</sup> March 2004*

*Coming into operation in accordance with Article 1*

*Issued*    *18<sup>th</sup> March 2004*

In exercise of the powers conferred on the Department of Health and Social Security by section 1 of the Social Security Act 2000**(a)**, section 3 of the Social Security Fraud Act 2001**(b)** (as that Act of Parliament has effect in the Isle of Man by virtue of the Social Security Fraud Act 2001 (Application) Order 2004) and of all other enabling powers, the following code is hereby issued:-

**Citation and commencement**

1. This Code may be cited as the Code of Practice about the use of Information Powers under the Social Security Fraud Act 2001 (as that Act of Parliament has effect in the Isle of Man) and shall come into force at the time at which it is issued by the Department of Health and Social Security.

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**(a)** 2000 c.5; **(b)** 2001 c.11.

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**Code of Practice about the use of Information Powers under the Social Security Fraud Act 2001 (as that Act of Parliament has effect in the Isle of Man)**

CHAPTER ONE - Introduction

**What is the purpose of this Code?**

- 1.1 The Social Security Fraud Act 2001 (an Act of the United Kingdom Parliament, applied to the Isle of Man by the Social Security Fraud Act 2001 (Application) Order 2004 and referred to in this code as “the Fraud Act”) introduced powers for certain Department of Health and Social Security inspectors (referred to in this code as “authorised inspectors”) to obtain information from prescribed organisations about their customers, in order to help combat benefit fraud. Those powers were inserted into the Social Security Administration Act 1992 (another Act of the United Kingdom Parliament which has effect in the Isle of Man, and referred to in this Code as “the Administration Act”) as amendments to existing provisions in section 109B of that Act, and as new section 109BA.

This Code of Practice governs the use of these powers by authorised inspectors, who must have regard to this Code when exercising the powers contained in the Fraud Act. Failure to observe the provisions of the Code does not of itself constitute an offence, but a court may have regard to the Code when considering if an authorised inspector has acted lawfully.

- 1.2 Examples of how the Fraud Act is likely to work are given throughout the Code. They are intended to be illustrative only.

**Who is this Code of Practice for?**

- 1.3 This Code of Practice is intended for those DHSS inspectors appointed under section 109A of the Administration Act who are specifically authorised to obtain information from persons named in section 109B(2A) of that Act.

The Code sets out how authorised inspectors should exercise their powers. It may also prove useful to persons from whom information may be required under those powers, and to members of the public who wish to know more about the powers.

**Which organisations are required to provide information?**

- 1.4 The types of organisations listed in the Fraud Act, for example banks, may hold information that could help to detect social security fraud.

*A list of the organisations in question is given in chapter 2.*

**Who is authorised to request information?**

- 1.5 Only those DHSS officers who work within its Inspectorate who have been authorised to use the new powers for obtaining information contained in the Fraud Act may make requests for that purpose. They will have received training in the correct application of their powers.

**How should the powers be used?**

- 1.6 These powers should only be used as a last resort, as will be required by the Human Rights Act 2001 (an Act of Tynwald) once it comes into force. Authorised inspectors will be able to use their powers only where it is necessary to do so. This means that they must first consider whether the information is needed in order to uncover the facts. If the inspector decides that it is, they must then consider whether there are other, less intrusive means of obtaining the information. This will include deciding whether the benefit claimant should, in the first instance, be asked to supply the information.
- 1.7 Authorised inspectors will be able to request information in order to ensure that fraud can be detected and appropriate action taken.

*For example,*

*A building society may have information about a customer's savings account. If that customer is receiving a social security benefit on the grounds of having no savings then they may be committing fraud. Knowing about that account may help the DHSS to put a stop to the fraud. Under Section 111 of the Administration Act, any organisation that fails to provide information when asked to do so under these powers may be prosecuted.*

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

- 1.8 Authorised inspectors may obtain information only where the law permits it. They are obliged to maintain the security and confidentiality of all information that they may receive as a result of their enquiries/investigations. There are strict penalties for unauthorised requests for, or disclosure of, information. Comments or complaints about the use, or misuse, of these powers may be made to the Deputy Director (Contributions and Compliance) of the Social Security Division of the DHSS.

## CHAPTER TWO - What are the powers?

### **Who can be required to provide information?**

2.1 The Administration Act lists the organisations from which information may be required in section 109B(2A) of that Act.

They are -

- (a) any bank (which includes credit unions, friendly societies, industrial and provident societies in the Isle of Man);
- (b) 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;
- (c) any insurer;
- (d) any credit reference agency;
- (e) any body the principal activity of which is to facilitate the exchange of information for the purpose of preventing or detecting fraud;
- (f) 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;
- (g) the Isle of Man Water Authority;
- (h) Manx Gas Limited;
- (i) the Manx Electricity Authority;
- (j) any person who provides a telecommunications service;
- (k) any person conducting any educational establishment or institution;  
and
- (l) any servant or agent of any person mentioned in any of the preceding paragraphs.

2.2 Any organisation covered by the description in the above list may be required to provide information to an authorised inspector.

### **What types of information will be requested?**

2.3 Authorised inspectors will obtain any relevant information that is considered necessary for the prevention and detection of benefit fraud. For example, they may request such information as:

- bank statements;
- building society statements;
- details of income from an insurance policy;
- address records from a credit reference agency; and
- customer details from the Manx Electricity Authority or Manx Gas Limited.

2.4 Initial requests for information will not typically require detailed responses.

*For example,*

*An authorised inspector may ask a building society to provide a copy of the last quarter's statement in relation to a savings account. However, if this initial enquiry indicates that the fraud is of a more serious nature, for example, there are regular and substantial deposits made to the account which have not been disclosed to the DHSS, the inspector may request further, more detailed information.*

### **When and about whom may authorised inspectors require information?**

2.5 Authorised inspectors may only obtain information that relates to a particular person identified by name or description. In a minority of cases this may involve seeking to identify a suspected fraudster using his description (for example male, aged mid-thirties) and checking this against the address he uses.

Authorised inspectors must do all they can to eliminate any risk of obtaining information about innocent third parties which would be a breach of the Data Protection Act 2002 (an Act of Tynwald). For example, they will not be able to ask a utility provider to supply details of all customers living in a block of flats. Enquiries must be reasonable and proportionate in relation to the purposes set out in the legislation.

- 2.6 The purposes to which any of the DHSS's inspectors - not just its inspectors authorised with powers under the Fraud Act - must have regard are set out in section 109A(2) of the Administration Act. They 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 a particular person or more generally); and
  - (d) preventing, detecting and securing evidence of the commission (whether by a particular person or more generally) of benefit offences.
- 2.7 Under the terms of the Fraud Act, 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 inspectors cannot insist on information being supplied once they are informed that it is not kept. They must not ask for more recent information than that which is currently held.

*For example*

*Authorised inspectors may not ask the Manx Electricity Authority to obtain a current meter reading purely for the purposes of the fraud investigation.*

- 2.8 The Fraud Act also provides that an authorised inspector may not make enquiries about an individual unless it appears to him that there are reasonable grounds for believing that they are a person who has committed, is committing or is intending to commit a benefit offence or unless the individual is a family member of such a person.
- 2.9 This means that authorised inspectors may make enquiries only where they have reasonable grounds for believing that a person:-

- is committing fraud;
- is helping someone else to commit fraud; or
- has given false information about another person for whom they are claiming benefit.

*For example,*

*The DHSS receives an anonymous report alleging that a claimant is studying at a college without declaring that fact to the DHSS. If it is believed that the information is genuine and credible, an authorised inspector may contact the college to confirm whether the claimant is currently a student. The inspector can make such an enquiry in this example only because he has received a credible allegation and therefore has reasonable grounds for suspicion.*

- 2.10 Information may also be requested, for example, where it is suspected that a claimant has not disclosed capital held in a bank account. However, no information will be requested which is the subject of legal privilege, that is, confidential communications between a legal adviser and their client for the purposes of giving or receiving legal advice, or any information obtained or documentation prepared for the purposes of legal proceedings.

*For example,*

*Authorised inspectors may not request confidential client information from a bank's lawyer.*

However, information such as financial details contained in a loan application that does not constitute confidential communication for the purposes of obtaining legal advice and information concerned with the furthering of a criminal offence are not protected by legal privilege.

- 2.11 Authorised inspectors will only be able to make enquiries about family members where their circumstances are directly relevant to the claim being investigated.

*For example,*

*If a man is claiming a means-tested benefit but not declaring his wife's earnings, an authorised inspector may make enquiries about her bank account in order to establish details of the salary which she is receiving.*

- 2.12 A "family" is defined in section 137 of the Social Security Contributions and Benefits Act 1992 (as that Act of the United Kingdom Parliament has effect in the Isle of Man) and associated regulations as -

- (a) any married or unmarried couple who are members of the same household;
- (b) any married or unmarried couple who are members of the same household and any children or dependants which either member is responsible for and which live in the same household; and
- (c) a single person and any child or dependant which the person is responsible for and who lives in the same household.

2.13 Authorised inspectors will not be able to make enquiries about family members who fall outside the definition given above. So, in the example given in paragraph 2.11, the inspector would not be able to make enquiries about a grown-up daughter who is believed to be working. However, if a member of the family is assisting the claimant to commit fraud - for example, a sister helping her brother to cash stolen benefit cheques - she could be guilty of a benefit offence and so enquiries could be made about her in her own right.

#### **Who will the Department go to first for information?**

2.14 Fraud investigators working in the DHSS's Inspectorate who are not authorised inspectors under the Fraud Act should always consider whether they could obtain the information they need as part of their investigation from the claimant, instead of asking an authorised inspector to seek it from a third party. However, they will need to balance the risk of intrusion into the private life of the claimant with the risk that a determined fraudster may seek to further hide the truth when confronted by the investigator without corroborative evidence.

When asking authorised inspectors to make a request for information, fraud investigators will include full documentation of the steps that have been made to seek the information by less intrusive means. If none has been taken, then full reasons will be provided as to why not.



## CHAPTER THREE - Who is authorised to use these powers?

### **Authorised inspectors**

- 3.1 Only certain officers within the DHSS's Inspectorate will be able to exercise the new powers provided for in the Fraud Act.
- 3.2 They will each hold a certificate of their authorisation and will be required to include a copy of it with their requests for information, whether they are made in writing, by fax or by e-mail.
- 3.3 Neither authorised inspectors nor any other DHSS inspector has any direct role in making decisions on entitlement to benefit.

### **How will officers be authorised to use the powers in the Fraud Act?**

- 3.4 The DHSS will have to formally appoint individual inspector(s) it wishes to have the powers provided by the Fraud Act.

### **How will authorised inspectors be trained?**

- 3.5 Authorised inspectors will have received proper training in the use of these powers prior to their appointment. They will have completed appropriate training in investigative techniques, data protection and human rights legislation.

## CHAPTER FOUR - How should the powers be used?

### **What will information providers need to know?**

- 4.1 Information providers will need to know that they are legally obliged to provide information that has been properly requested in writing by an authorised inspector. This obligation overrides any duty of customer confidentiality. This means that they cannot be held liable by their customers for providing information when the request is made in accordance with the Fraud Act.
- 4.2 The Data Protection Act 2002 will not be contravened by providing the information requested by inspectors. Under section 31(1) of that Act, exemption from the non-disclosure provisions exists where a statutory provision, such as section 109B or 109C of the Administration Act, requires the supply of information.

### **What details should requests for information contain?**

- 4.3 All requests for information will include -
- (a) the identity of the authorised inspector who is making the request, and to whom the information should be sent;
  - (b) sufficient information to ensure that the customer, and the particular account in question, can be identified from the information provided. This may include such details as their date of birth, address or customer reference number; and
  - (c) the address to which the information must be sent.

### **To whom should enquiries be addressed?**

- 4.4 All enquiries will be made directly to the relevant organisation. This is because it is only organisations that are listed in the legislation (section 109A(2A) of the Administration Act) on whom the requirement to provide information is placed.

Enquires will normally be addressed to the organisation, care of the most senior individual within that organisation, whose name has been established by the authorised inspector. Alternatively, it may be agreed that such enquiries should be addressed to another nominated member of staff of that organisation.

### **What happens when an organisation fails to provide information?**

4.6 If information is not provided, the authorised inspector should explain the statutory nature of the powers, and the potential consequences of non-compliance. Information providers will be expected to comply with requests, and the matter will be taken further if an individual employee or corporate body is being obstructive.

If a reasonable excuse for not providing the information has been given, for instance, because of a computer breakdown, the authorised inspector must not insist on obtaining the information at that time.

4.7 Information providers will be expected to comply with requests within a reasonable time-scale. This will usually be within ten working days although, in exceptional cases, information may be required more urgently. If an information provider is unable to comply with a request for information within ten working days, they should inform the authorised inspector of the reason. If they are able to provide some, but not all, of the information within ten working days, they should do so and inform the inspector of the date that the full information is likely to be provided.

4.8 Under section 111 of the Administration Act, it is an offence to refuse, or neglect, to provide information that has been lawfully requested under these powers. 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 £1,000, with a continuing penalty of £40 per day (under section 111(2) of the Administration Act). No-one is required to provide any information that tends to incriminate themselves or their spouse or which is subject to legal professional privilege. Otherwise, there is a statutory duty to provide that information.

### **What are reasonable grounds?**

4.9 Under no circumstances must authorised inspectors use these powers unless they think it is reasonable to do so. What is reasonable will vary, depending on the circumstances of the case, and each case should be considered on its own merits. The decision of the authorised inspector will be judged against what another person acting in good faith and in the same situation as the inspector might consider to be reasonable.

Examples of what an authorised inspector would consider when deciding whether or not their use of these powers is reasonable include -

- whether they actually need the information;

- whether there was a less intrusive way of obtaining the information; and
- whether the information could be obtained from the customer without jeopardising the investigation.

4.10 Authorised inspectors will consider all the facts of the case known to them at that time when deciding what is reasonable. They will ensure that each decision made relating to the use of the powers will be documented and be available for subsequent checking by management.

*For example,*

- (1) *A claimant has declared savings of £2,000 on his initial claim form. Some time later, an allegation is received that his savings are more substantial than this. In this instance, the fraud investigator investigating the allegation should, in the first instance, question the claimant, and he may be asked to provide copies of his bank or building society statements. If he refused, the fraud investigator should ask for permission to contact his bank or building society directly. If he still refused, the investigator should ask an authorised inspector to make an enquiry of the bank or building society under the terms of the Fraud Act.*
- (2) *A fraud investigator has obtained a statement from an employer which appears to confirm that a claimant is in full-time employment. The investigator asks an authorised inspector to obtain detailed bank statements to confirm the employer's statement and possibly uncover other undisclosed income. There is no reason to suppose that the employer's statement is inaccurate. Neither does the fraud investigator explain why he has reasonable grounds to suspect that there is any other undisclosed income. The authorised inspector consequently rejects the request as the information is neither necessary nor are there reasonable grounds to suspect the existence of undisclosed income.*

4.11 Management checks will ensure that these procedures are followed correctly. Any enquiry made without good reason could lead to disciplinary action against the officer concerned.

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

4.12 All requests for information will be made by authorised inspectors in writing (by post, fax or e-mail), taking into account any preferences which might have been expressed by information providers.

4.13 Authorised inspectors will not make enquiries in person by means of a visit. However, they may make arrangements 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.

4.14 Authorised inspectors will not issue requests by either fax or e-mail without prior agreement with the information provider. Information providers will be able to make replies in a format that has been agreed with the inspector.

Authorised inspectors must take account of what would suit the organisation providing the information when deciding how information should be returned - for example, if the inspector makes a request by e-mail, it would not oblige the information provider to reply in the same manner. Where the DHSS has entered into an agreement with an organisation as to how enquiries will be made and how information should be provided, then authorised inspectors will comply with those arrangements when making requests.

4.15 Authorised inspectors will make enquiries of specific information providers only where they have reasonable grounds for believing that they hold information on a particular individual. For example, authorised inspectors will not normally issue requests to all Isle of Man banks asking if they have information on a particular customer. However, such requests may be made in the most serious cases where the information cannot be obtained by other means.

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

4.16 The DHSS may enter into arrangements to obtain information electronically where an organisation is already prepared to provide such access to the DHSS or to another organisation.

The DHSS may not require an organisation to enter into arrangements to provide electronic access if they are not already providing such access, or are not prepared to provide it, to another organisation.

*For example,*

*The DHSS may not require such access because an organisation provides electronic access to records for its own employees, or because it provides a service whereby customers can electronically access their own accounts.*

The DHSS will not require organisations to update their computer software in order to provide the DHSS with electronic access.

- 4.17 When authorised inspectors access information electronically, they will ask only for information that they might otherwise have asked for clerically. All requests must be necessary and reasonable.
- 4.18 Access to any electronic information obtained under the powers contained in the Fraud Act will be allowed only to other DHSS officers with a legitimate interest in the matter.

### **How will the authorised inspector manage requests for information?**

- 4.19 All requests for information from other DHSS officers will be handled -
- in the first instance by DHSS benefit fraud inspectors,
  - who may then ask an authorised inspector to use his powers under the Act to obtain the information from the information holder, but only where there is no other practical means of obtaining that information.
- 4.20 The DHSS will make sure that adequate provisions are in place to guarantee the security of the arrangements for managing requests for information.

When requests are made, the authorised inspector will supply a copy of his certificate of authorisation, so that information providers can be satisfied that the request is lawful.

- 4.21 The authorised inspector will manage requests in such a way as to cause the least inconvenience to the data provider.
- 4.22 He will try to ensure that the burdens on business are kept to a minimum.

Security protocols, such as passwords, may be established with the information provider to safeguard the information that is requested if this is deemed to be necessary.

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

- 4.23 Under the powers in the Fraud Act, information may not be obtained for purposes other than the prevention or detection of benefit fraud.
- 4.2.4 Information received from organisations in the private and public sector will be treated in exactly the same way as information received from any other source. The information that is received will also be weighed in the same way as information received from any other source. In the event that a criminal offence comes to light, such information may be laid before a court in such a way as it considers appropriate.

- 4.25 If, as a result of the proper exercise of these powers, a discrepancy is discovered that may affect entitlement to benefit and that discrepancy cannot be explained by official error, the claimant may be asked for an explanation. If the explanation is not satisfactory or none is offered, the case will be referred to an adjudication officer for a decision as to whether or not benefit should continue to be paid. Rights of appeal against decisions are not affected in any way by the use of these powers.

### **Information sharing**

- 4.26 Section 122 of the Administration Act enables the DHSS, the Assessor of Income Tax and H.M. Customs and Excise to share information for the prevention and detection of fraud and to ensure the accuracy of the information held by the DHSS. If information is received which suggests that taxes are being evaded, or that another crime is being committed, then the DHSS may pass on relevant information to other departments.
- 4.27 The procedures and standards which are to be adhered to for the disclosure of information and for the prevention of unauthorised disclosure are already enshrined in law and in existing guidance to staff. These provisions ensure that those who obtain or disclose information unlawfully can be punished, thereby providing a deterrent against misuse.
- 4.28 The official instructions issued to all staff working in social security regarding the maintenance and security of information held (and its disclosure) must be adhered to by them in respect of all information, including that obtained under these powers.

### **In what circumstances will the DHSS make payments to information providers for providing information under the Fraud Act?**

- 4.29 The DHSS has the power to make payments to the following information providers -
- (a) credit reference agencies;
  - (b) telecommunications companies;
  - (c) utilities where we are obtaining bulk information; and
  - (d) the servants and agents of the above.
- 4.30 The DHSS will decide whether a payment is appropriate and how much will be paid, as the need arises.

## CHAPTER FIVE - Safeguards

### Confidentiality and security

- 5.1 All of the DHSS's inspectors who obtain information from organisations in the public and private sector are bound by law to observe confidentiality and security at all times. The DHSS has strict procedures that aim to ensure that -
- information is only used for lawful purposes;
  - access to personal information is limited to those staff who need it to carry out their work; and
  - personal information is only disclosed to someone else where it is necessary and lawful to do so.

### The fair collection of data

- 5.2 The first data protection principle requires that information obtained by the use of powers under the Fraud Act be collected lawfully and fairly. The Fraud Act provides for the lawful processing of such information. DHSS claim forms and leaflets will inform customers that information may be sought about them from certain third parties. The DHSS will also work with data providers to ensure that their customers are aware of the possibility of disclosure under the new powers.

### The Data Protection Supervisor

- 5.3 The Data Protection Supervisor is responsible for the promotion of good practice regarding the processing of personal data held on computer. He may take action for a breach of the Data Protection Act 2002. Further information can be obtained from -

The office of Isle of Man Data Protection Supervisor  
P.O. Box 69  
Douglas  
ISLE OF MAN  
IM99 1EQ.



## **Penalties for unlawful disclosure**

5.4 If it appears that an authorised inspector has obtained or disclosed information unlawfully, or attempted to do so, they will be investigated. Breach of the Civil Service disciplinary procedures can lead to dismissal and prosecution.

Criminal offences include -

- (a) the unauthorised disclosure of social security information (section 123 of the Administration Act). An offence under this Act is punishable by imprisonment for up to two years and/or a fine;
- (b) the unauthorised access to computers (section 1 of the Computer Security Act 1992). An offence under this Act is punishable by imprisonment for up to six months and/or a fine of up to £5,000; and
- (c) the unlawful obtaining or disclosure of personal data (section 55 of the Data Protection Act 2002). An offence under this Act is punishable by a fine of up to £5,000 or of an unlimited amount, depending on the nature of the criminal complaint.

## **Retention and storage**

5.5 Information obtained by the DHSS will not be stored if it is no longer needed. DHSS staff must follow the guidance provided to them in the matter of retaining and storing information.

5.6 When information is obtained under the powers in the Fraud Act, it will be kept in secure storage conditions and may be accessed only by -

- the authorised inspector who was provided with the information; or
- the DHSS benefit fraud inspector who asked the authorised inspector to obtain that information.

## **Complaints**

5.7 The Director of Social Security oversees and ensures that professional standards of all DHSS inspectors are being met.

- 5.8 If anyone has a question about the way that the authorised inspector has used his powers, or the reasonableness of his actions when obtaining information, they should contact the authorised inspector 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 inspector of the fact and ask for the request to be reconsidered.
- 5.9 If this does not provide a satisfactory resolution to the matter, they may write to the Deputy Director (Contributions and Compliance) of the DHSS's Social Security Division or to the Director of Social Security with their complaint.

### **Subject Access**

- 5.10 The Data Protection Act 2002 gives individuals the right of "subject access" to information held about them.

The right of subject access means that, with certain exceptions, a person has the right to request, and be given, information by data users.

Exceptions include where the release of information following such a request would be likely to prejudice -

- the prevention or detection of crime; or
- the apprehension or prosecution of offenders.

Under section 5 of the Data Protection Act 2002, an individual is entitled to be informed, upon request, by a data controller -

- (a) as to whether he or she is the subject of any data being processed by the controller;
- (b) if so, to be given -
  - a description of the personal data;
  - the purposes for which the data are being processed; and
  - information about anyone else the data may have been disclosed to; and
- (c) to be given a copy of the personal data held about them and be told where the data were obtained from and, where the individual has been subject to an automated decision, to be told about the logic involved in that decision.

- 5.11 A data controller must provide the information promptly and at least within 40 days of receiving the request.
- 5.12 Anyone wishing to be provided with information about data held on the DHSS computer systems or in any other form should write to the DHSS's Head Office at Markwell House, Market Street, Douglas, IM1 2RZ asking for a Data Subject Access Request form.

### **Appeals against benefit decisions**

- 5.13 Customers' normal rights of appeal are not affected by the use of powers to obtain information from the private and public sector. A customer has the right to dispute or appeal against a benefit decision, including a decision based on the results of an investigation into an inconsistency identified by the use of these powers. If the customer has disputed the decision but remains dissatisfied with the outcome, they can still appeal in the usual way.
- 5.14 The leaflet GL24(IOM) *If you think our decision is wrong* tells customers how to dispute and appeal a decision made by a DHSS adjudication officer. This leaflet is available from any social security office or the DHSS website.
- 5.15 If a customer is not satisfied with the way in which their case is managed, they should contact the Social Security Division of the DHSS. The complaint will be dealt with as quickly as possible. The leaflet COMP.BEN(IOM) *Social Security benefits - Unhappy with our service?* is available from any social security office.

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Issued 18<sup>th</sup> March 2004

*C M Christian*  
Minister for Health and Social Security

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## **Explanatory note**

(This is not part of the Code)

1. This Code of Practice is issued under section 3 of the Social Security Fraud Act 2001 (as that Act of the United Kingdom Parliament has effect in the Isle of Man by virtue of the Social Security Fraud Act 2001 (Application) Order 2004 (“the Fraud Act”)) and gives guidance as to the exercise of -
  - the powers that are exercisable by authorised inspectors of the Department of Health and Social Security under section 109B of the Social Security Administration Act 1992 (as that Act of the United Kingdom Parliament has effect in the Isle of Man) in relation to the persons mentioned in subsection (2A) of that section; and
  - the powers conferred on those inspectors by section 109BA of that Act,as provided for by the Fraud Act.
2. The Code comes into force at the time it is issued, after having been laid before Tynwald.
3. An inspector exercising any power in relation to which provision is made by the Code shall have regard in doing so to the relevant provisions of the Code.
4. A failure on the part of any person to comply with any provision of the Code shall not of itself render that person liable to any civil or criminal proceedings.
5. The Code shall be admissible in evidence in any civil or criminal proceedings.