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

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

**Introduction**

1. This Code of Practice explains the powers of Authorised Officers, their limitations

and the responsibilities and rights of those from whom we may seek information,

as defined I the legislation. Authorised Officers are required to undertake their enquiries in accordance with this code of practice at all times.

2. Authorised Officers of North East Lincolnshire Council should make this Code of Practice available to people from whom they require information under Regulation 3 and 4 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations (SI 501) 2013. It explains the powers of the Council and therefore assists officers in their enquiries.

3. The obligation to provide information is detailed in Regulation 3 and 4 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations (SI 501) 2013 (the regulations).

4. These powers are only for use in relation to enquiries for the purposes described within “the regulations”.

**Authorised Officers**

5. Under Regulation 3 of The Council Tax Reduction Schemes (Detection of Fraud

and Enforcement) (England) Regulations (SI 501) 2013, the Secretary of State may authorise an officer of a Local Authority for Council Tax Reduction purposes to exercise these powers. Officers who do not have this authorisation may not make enquiries under these powers.

6. Authorised Officers are required to act reasonably in seeking information from individuals and organisations who hold information necessary to their enquiries. 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. The resultant actions taken by Authorised Officers should be ones that would stand up to the scrutiny of a Court, or other independent body.

7. 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**

8. Authorised officers use Regulation 4 powers to obtain information from certain people, under regulation 4 (1 and 2), to:

* Ascertain in relation to any case whether council tax reduction is or was payable in that case in accordance with any provision of the relevant council tax legislation
* Prevent, detect and secure evidence of the commission (whether by

particular persons or more generally) of council tax reduction scheme offences.

9. 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. The following are examples of the types of information that Authorised Officers might request, for example from an employer:

* names of employees
* wage details
* periods of employment
* terms of employment (i.e., whether an employee, sub-contractor, or self-employed)
* bank details (e.g., whether wages are paid into a Bank, and its location)
* staff/payroll number
* National Insurance Number
* home address
* date of birth
* next of kin details

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 on the circumstances of the investigation.

**Written requests for information**

10. Regulation 4 (1) allows an Authorised Officer to write to (or e-mail) any of the persons defined in regulation 4 (2), listed below to obtain 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

* 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
* 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
* Any local authority acting in their capacity as an authority responsible for the granting of any licence
* Any person who is or has been a trustee or manager of a personal or occupational pension scheme, and
* The servants and agents of any person as described above.

11. An Authorised Officer will only write to any of those persons defined above for information if they have reasonable grounds to suspect that Council Tax Reductions Scheme 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 in, and
* When they would like the information by.

12. They may ask for original documents, photocopies of documents or extracts of documents (e.g., 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**

13. If an Authorised Officer writes to ask for information, recipients are legally obliged, under Sections 6 of Regulation 3 and 4 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations (SI 501) 2013, to provide it, in the form it has been requested and within the time specified.

14. Regulation 5 allows an Authorised Officer power to require electronic access to information where it appears to a billing authority that electronic records are kept by the person whom the request is made to. Where those electronic records contain or are likely to contain relevant information and they can be accessed or provided, the Authority may require that person to allow an Authorised Officer access to those records. The Authorised Officer shall not seek any information other than information which relates to a particular person and could be the subject of any such requirement as may be imposed.

15. An Authorised Officer who is allowed access to electronic records is entitled to make copies of, and take extracts from, any records containing information which they are entitled to make the subject of a requirement.

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 this has been done.

**The statutory duty to provide information**

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

19. Otherwise, where a request by an Authorised Officer is made in writing, there is a statutory duty to provide that information, including any documentation that is requested.

20. Under Regulation 6 of The Council Tax Reduction Schemes (Detection of Fraud

and Enforcement) (England) Regulations (SI 501) 2013, it is an offence to

intentionally delay or obstruct Authorised Officers in the exercise of their powers

or to refuse, or neglect, to:

* answer any questions
* furnish any information
* produce any documents

When required to do so by an Authorised Officer. Obstruction includes circumstances where false or inaccurate information is provided in response to enquiries.

21. The General Data Protection Regulation and the Data Protection Act 2018 will not be contravened by providing the information requested by Authorised Officers. Schedule 2, Part 1 (5) of the Act explains that where you are required by an enactment to disclose personal data, the non-disclosure provisions do not apply, such as Regulation 4 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations (SI 501) 2013, requires the supply of information.

22. Failure to meet in full requests for information could result in criminal

proceedings being instigated. The maximum penalty is a maximum fine, fixed a

level 3, with a continuing penalty of £40 per day (under Regulation 6 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations (SI 501) 2013.

23. If information is not provided the Authorised officer should explain the local authority statutory powers, and the potential consequences of non-compliance.

**At the end of Authorised Officer enquiries**

24. 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**

25. If you have grounds for any complaint about how Authorised Officers have used

their Regulation 4 powers, or the reasonableness of their actions when obtaining

information, please write to the: Strategic Lead – fraud, Municipal Offices, Town Hall Square, Grimsby, DN31 1HU.

26. Most complaints can be settled by contact with the manager in this way. If you are not satisfied with the reply, you may contact the Chief Finance Officer, Municipal Offices, Town Hall Square, Grimsby, DN31 1HU.

27. Independent legal advice may be sought at any time. The local Citizens Advice Bureau can assist in deciding whom to contact. Their locations and telephone numbers can be found in the local telephone directory.

28. This does not affect the right to seek assistance from a Member of Parliament, or to refer a complaint to The Local Government and Social Care Ombudsman. You can make a complaint online to the ombudsman at [www.lgo.org.uk](http://www.lgo.org.uk) , or by telephone 0300 061 0614.

**Disclaimer**

Please note 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.