

Housing Benefit and Council Tax Benefit

General Information Bulletin

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<http://www.dwp.gov.uk/housingbenefit/>

HB/CTB G5/2008

10 March 2008

Contact	Queries about the <ul style="list-style-type: none">• technical content of this bulletin, contact details are shown at the end of each section• distribution of this bulletin, contact Corporate Document Services Ltd Orderline<ul style="list-style-type: none">- Tel: 0113 399 4040- Fax: 0113 399 4205- Email: orderline@cds.co.uk• bulletin in general, contact Kath Murphy<ul style="list-style-type: none">- Kath.Murphy@dwp.gsi.gov.uk
Who should read	All Housing Benefit (HB) and Council Tax Benefit (CTB) staff
Action	For information

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Statutory Instruments

- 1 The following Statutory Instruments (SI) have now been laid
 - 2008 No.441, The Social Security (Claims and Payments) Amendment Regulations 2008, coming into force from 17 March 2008
 - 2008 No.498, The Social Security (Home Responsibilities) Amendment Regulations 2008, coming into force 6 April 2008
 - 2008 No.536, The Child Support (Miscellaneous Amendments) Regulations 2008, coming into force 6 April 2008
 - 2008 No.463, The Social Security (Local Authority Investigations and Prosecutions) Regulations 2008, coming into force from 7 April 2008
- 2 Copies of SIs can now be downloaded from
 - DWP's own website <http://www.dwp.gov.uk/advisers/docs/lawvols/bluevol/>
 - the website of the Office of Publication Information <http://www.opsi.gov.uk/stat.htm>

Social Security Fraud Act (SSFA) 2001 Authorised Officers

- 3 Following guidance published in *HB/CTB Bulletin G3/2008* a number of Local Authorities (LAs) have asked for further clarification. We have discussed these matters further with your representatives on the Security Operational Group (SOG). Firstly, we would like to acknowledge that *HB/CTB Bulletin G3/2008* did not fully reflect the LA representatives' input. Accordingly, we have now agreed the following additional information.
- 4 The original guidance was produced in the light of a review of all Authorised Officers (AOs) on the database. This database, and the secure website hosting it, is the means by which private sector businesses can confirm that the requests they receive for information are genuine. However, some details on that database were incorrect and there was a need for a thorough review of it. It is equally critical that we now keep this database up to date.
- 5 Due to the unique nature of the information-gathering powers that were granted under SSFA 2001, firm assurances were given to Parliament both about the use of these powers and the number of AOs allowed to use them. This was in part to address concerns from both Parliament and other key stakeholders such as the Information Commissioner and especially the potential information providers.
- 6 There were a number of options originally suggested for LAs, as outlined in *HB/CTB Bulletin G3/2008*. These included the use of the SSFA AO's service offered by National Anti Fraud Network (NAFN) for which DWP provided initial set-up funding. We do not, however, provide ongoing funding to maintain the SSFA AO service and apologise if *HB/CTB Bulletin G3/2008* implied that we do.
- 7 Having provided this funding, we felt it appropriate to restrict LAs to no more than one SSFA AO on the database and only one officer per LA receiving PINS 9A training from our colleagues in Learning & Development (L&D).
- 8 This action was taken in accordance with the assurances given to Parliament and in line with the SSFA Code of Practice.

- 9 As stated in the previous bulletin these restrictions do not apply to AOs appointed under s109 and s110 of the Social Security Administration Act 1992, where PINS 9A training is not required. We have also agreed with your representatives that there is no longer any need to maintain the database for those AOs.
- 10 It is now clear that a number of LAs have only one SSFA AO on the database, but maintain an additional trained SSFA AO that they can call on in an emergency.
- 11 LA representatives on SOG did put this forward as a sensible contingency, so we are relaxing the restriction as to the number of officers that L&D can train from one per LA to two. However, LAs will still be restricted to no more than one SSFA AO on the database.
- 12 The additionally trained SSFA AO can replace the other SSFA AO on the database, but only in cases where there is extended absence, sickness, or a vacancy. This facility should not be used for normal periods of leave or sickness as the resources necessary to change the database on a daily basis are not available.
- 13 In the light of the assurances given to Parliament that there would be a clear separation of duties, LAs cannot appoint investigators as SSFA AOs but only those officers involved in intelligence gathering duties.
- 14 There may also be exceptional circumstances where an LA needs more than one SSFA AO on the database and in those exceptional circumstances we would be prepared to consider their request.
- 15 We will also be regularly monitoring the database and LAs are reminded that it is their responsibility to notify DWP of any changes in AOs. The database is maintained by Colette Cooke who can be contacted at Colette.Cooke@Jobcentreplus.gsi.gov.uk.
- 16 Thank you for your co-operation in this sensitive matter.

Further information

- 17 If you need any further advice or information about this subject, please contact
- Graham Dove
Email: Fraud-Error-Policy@dwp.gsi.gov.uk

Disclosure of personal information – witnesses

Background

- 18 A number of LA investigation staff recently questioned the reasons behind DWP Prosecution Division's (PD) request for details of a LAs investigator's disciplinary records and previous convictions, when they have signed witness statements.
- 19 Housing Benefit Strategy Division has consulted with colleagues within PD to clarify the situation and the legal position.

Legal position

- 20 PD have confirmed that the request for details of all disciplinary records and previous convictions applies to **any LA staff** who have signed witness statements, and is a legal requirement. The information does not need to be supplied on form PF6b, but the information within form PF6b is required if PD are to proceed with the prosecution, see *Appendix A*.
- 21 It is standard practice in all cases for PD to consider the information provided on form PF6b as part of their pre-disclosure duties (following a not guilty plea it is required as part of the prosecutor's disclosure duties). Having received the information, a prosecutor will then have to decide whether it is appropriate to prosecute and, if so, whether the disciplinary information should be disclosed to the Defence.
- 22 This information is required to comply with the
- prosecution's pre-disclosure duties as set out in *DPP v Lee (1999)*
 - Attorney General's Guidelines, the Criminal Proceedings and Investigations Act (CPIA) 1996 and the CPIA Code of Practice (7.13)
 - Code for Crown Prosecutors requirements upon the prosecutor, in assessing that a witness' evidence is reliable (5.4), to decide whether the witness's background is likely to weaken the prosecution case
 - case law/common law *R v Edwards (1991)* – which requires the Prosecution to disclose relevant disciplinary and previous criminal convictions of investigators involved in the case
 - Crown Court and Magistrates Courts Disclosure Protocols issued under the Criminal Procedure Rules
- 23 In addition, the Crown Prosecution Service (CPS) Disclosure Manual requires this information as a matter of course in every prosecution where a full file of evidence is submitted to the CPS.
- 24 Only if the defendant enters a not guilty plea, will a Police National Computer (PNC) check be made and any witnesses' previous convictions be revealed to the defence. DWP Prosecutors will not provide the defence with the LA officers' dates of birth, rather the date of birth will be used to interrogate the PNC to confirm whether the witness(s) has any previous convictions.
- 25 If the PF6b reveals that an officer has any disciplinary proceedings pending or recorded against him, the Prosecutor will then have to decide whether to seek further information. If the case is to proceed and the Prosecutor believes that the information is relevant he will reveal that to the Defence.
- 26 DWPs PF6bs appear on prosecution files in sealed brown envelopes, clearly marked: 'Only to be opened by prosecution staff'. They should be included as part of the prosecution file unless special local arrangements have been agreed with PD. They remain on the prosecution file and when the case is concluded, they are securely disposed of.

Effect on LAs

- 27 As HBSD fund PD to take on prosecution work for LAs, we have agreed that they should only accept cases from those authorities willing to adhere to the procedures referred to above, in relation to checks on those who sign witness statements.
- 28 We would also ask that you examine your own prosecution procedures to ensure they are compliant with the law in relation to disclosure and that the necessary safeguards for dealing with the retention, storage and destruction of confidential information on witnesses are in place.

Further information

- 29 If you need any further advice or information about this subject, please contact
Graham Dove
Email: Fraud-Error-Policy@dwp.gsi.gov.uk

HBMS – on the move...

- 30 From 10 March 2008, HBMS have relocated to the following address

Peel Park, Phase 2, 1st Floor, West Wing
Peel Park Government Buildings
Brunel Way
BLACKPOOL
FY4 5ES
- 31 This modern, purpose-built building will provide a welcome change to the pre-war Lytham site which has been our home since 1996. All LAs should have received email confirmation and full contact details for the various HBMS teams. Please note, HBMS email addresses remain unchanged.

Queries

- 32 For a full contact list, or if you have any queries, please email HBMS
Email: HBMS@dwp.gsi.gov.uk