

Treasury - Customs and Excise Division

Notice 910 MAN

Code of Practice

How Customs and Excise Uses the Information It Collects



August 2007



Isle of Man
Government

Reilrys Ellan Vannin

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1. About this Code

This Code of Practice relates to how information collected about you and other people by Customs and Excise is used. It explains the procedures followed and the standards you can expect from Customs and Excise. It also explains your rights and how you can get access to information held about you.

Your rights are protected by the Data Protection Act 2002, which deals with personal information that is held on computer. This Code of Practice also deals with information held in other forms, such as in manual records. The Code does not replace the law. It aims to show you how Customs and Excise will act when it uses the information that it collects.

The Treasury and its Customs and Excise Division take privacy and confidentiality very seriously and are determined to make sure that people's rights are respected. That is why this Code is also meant for the officers of the Division, to help ensure that they understand the rules and abide by them.

2. What information is collected?

As part of its work Customs and Excise may get information about you -

- that it is permitted to get by law in order to collect taxes and duties for which it is responsible (e.g. VAT, excise duties, customs duty, air passenger duty);
- from other Manx or UK departments and agencies where the law allows it to obtain such information to carry out its work (for example, information held by the Income Tax Division that would help Customs and Excise in carrying out its functions);
- from other people who volunteer to provide it to us (for example, intelligence information to help in tackling smuggling and other crimes).

3. How is the information used?

Isle of Man Customs and Excise may use the information in several ways. Some of the main uses are -

- in collecting and managing VAT, customs and excise duties and air passenger duty, and combating fraud involving them;
- in protecting society by fighting drug trafficking, detecting and deterring the smuggling of drugs and pursuing the proceeds;
- in enforcing import and export prohibitions (such as on endangered species and firearms), and taking enforcement action in respect of other matters assigned to Customs and Excise;
- in making sure that the Island complies with international law whilst not holding up legitimate international trade;

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- to supply trade statistics which support the development of Island, UK and EU economic and trade policy.

Information may be exchanged with the police, other Government departments and HM Revenue and Customs. Gateways are provided in Island law for this, for example in -

- sections 174B to 174D, Customs and Excise Management Act 1986,
- section 132, Social Security Administration Act 1992,
- sections 106A and 106B, Income Tax Act 1970, and
- the Customs and Excise Acts (Implementation of 1979 Agreement) Order 1980.

Information may also be disclosed to customs, VAT and excise authorities in EU Member States, and customs authorities in other countries, where the law allows such as by virtue of -

- sections 3, 3A and 4, Customs and Excise Management Act 1986,
- section 77A, Value Added Tax Act 1996, and
- various European Community instruments having effect in the Island.

Information can also be disclosed for the purposes of a criminal investigation or criminal proceedings, or by order of the courts.

The exchange of information is a vital tool in the fight against crime, such as fraud and smuggling. It makes for greater efficiency and helps Customs and Excise provide a better service.

Information is only released by Customs and Excise where it is considered to be proportionate and lawful. Internal guidance used by the Division requires that disclosures must be properly authorised and recorded. Requests for assistance and spontaneous disclosures are regularly checked as a part of the Division's management processes.

When using information in tackling fraud and crime, it is necessary to analyse it. This may involve comparing one piece of information with another, a process known as "data matching".

In a data matching exercise, information collected by one or more users is examined and compared to identify similarities or differences. These similarities or differences can indicate possible fraud or crime that needs to be investigated.

Whilst data matching can be very useful in showing areas that require investigation, it is recognised that most of the information involved will relate to persons who are perfectly honest. Because of this, Customs and Excise will take great care to only use data matching where the law permits.

4. Your rights and how they are protected

When it comes to the information that is held by Customs and Excise about you, Customs and Excise will comply with the provisions of this Code of Practice.

In addition, the Data Protection Act 2002 also requires those persons and organisations who record and use personal information to be open about how it is used, and that they must obey the 8 Data Protection Principles.

In some cases the law exempts Customs and Excise from the Principles. This is normally where obeying them would damage the fight against crime, or be against the national interest in some way.

This part of the Code explains what the Principles are and how Customs and Excise will obey them. Remember that it is simply an explanation. The Code does not attempt to replace the Act itself.

In broad terms, the Data Protection Principles state that when dealing with people's personal information, persons and organisations must -

- Process it fairly and lawfully

Processing includes "obtaining, recording or holding information". It must be obtained fairly and lawfully. You must be told why the information is needed and how it may be used.

Customs and Excise will only process the information in ways that the law allows. The law imposes extra conditions where sensitive information is involved. Information is considered sensitive if it deals with racial or ethnic origin, political opinions, religion, trade union membership, physical or mental health, sexual life, and offences or convictions and court proceedings. Customs and Excise will ensure it meets these extra conditions.

- Only use it for the purpose(s) that it was obtained for and not for other reasons incompatible with that purpose

If Customs and Excise get information about you, it will ensure that it is only used in ways that the law allows.

- Only process information that is adequate, relevant and not excessive

Customs and Excise will only process information that is needed for its functions.

- Ensure that the information is accurate and, where necessary, up to date

Customs and Excise will review the information held at regular intervals to see whether it is still needed. If it is not needed then it will be deleted. Customs and Excise will not keep information "just in case" it might become useful in the future.

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- Treat the information in accordance with your rights

Amongst other rights provided to you by the 6th Data Protection Principle, you have a right to -

- know what personal information is held about you;
- ask for any personal information that is incorrect to be amended;
- ask for any personal information that should not be held to be deleted.

Section 6 of this Code below tells you how to contact Customs and Excise if you want to know more about the information that is held about you.

- Take care of your information

Customs and Excise will always do everything necessary to take very good care of any information about you that is held.

As part of this it will always do what is required under the law to protect your information. This includes -

- ensuring the integrity of staff with access to it;
- treating it as confidential;
- only letting authorised people see it; and
- only sharing your information in ways the law allows.

Officers will follow security guidelines on how information should be stored and handled. Standard procedures include the need to use personal identification devices and screen-saver passwords in order to gain access to your information. The information will also only be kept in secure conditions.

Officers will only be authorised to see your information if they genuinely need to do so to do their work.

If any officer made unauthorised disclosure of confidential taxpayer information they would be subject to criminal penalties.

- Not transfer personal information outside the European Economic Area (EEA) unless there were suitable safeguards in the destination country

The EEA is made up of the Member States of the European Union, plus Norway, Iceland and Liechtenstein.

Customs and Excise will only send personal information abroad in cases where the law allows it. Not all countries have data protection law, so before personal information is sent outside the EEA Customs and Excise must be satisfied that there is an adequate level of protection for the individual's personal data in the destination country.

5. Where to get more information about the Data Protection Act 2002

You can get more information, including detailed guidance notes, from the Data Protection Supervisor. The address and other contact details are in section 7 of this Notice.

6. What to do if you want to know more about the information held by Customs and Excise

The Data Protection Act 2002 gives you the right to ask to see details of any personal information held on a computer about you. You should make your request in writing to the Data Controller at -

Customs and Excise
PO Box 6
Custom House
North Quay
Douglas
Isle of Man
IM99 1AG

Tel: (01624) 648100

Fax: (01624) 661725

Email: customs@gov.im

Website: <http://www.gov.im/treasury/customs/welcome.xml>

Be sure to include your full name and address. You will receive a reply within 40 days. It will help in dealing with your request if you also give -

- any personal reference you may have been given, for example a VAT registration number;
- the name of the system on which the records are held, if you know it;
- which part of Customs and Excise may hold the information, for example customs, excise or VAT;
- the type of information you want to know about.

You should remember, however, that the law allows for refusals of requests in some cases. For example, requests can be refused where providing the information to you would be likely to prejudice -

- the prevention or detection of crime;
- the arrest or prosecution of offenders;
- the assessment or collection of any tax or duty.

Customs and Excise will do its best to apply these conditions as narrowly as possible, without damaging the effectiveness of its work, so that requests can be responded to as often as possible.

7. What to do if you are unhappy with our response

If you have asked for details of the information held about you and you are not happy with the response you receive, you can complain to the Collector at the address given in section 6 above, explaining why you are not satisfied. You will receive a reply within 10 working days.

If you are still not happy with the response, or if you believe that one of the Data Protection Principles (or any other requirement of the Act) has been broken, then you can ask the Data Protection Supervisor to assess whether there has been a breach of the requirements of the Data Protection Act 2002. The Supervisor can be contacted at -

The Office of the Data Protection Supervisor
PO Box 69
Douglas
Isle of Man
IM99 1EQ

Tel: (01624) 693260

Email: enquiries@odps.gov.im
Website: <http://www.gov.im/odps/>

8. Do you have any comments?

If you have any comments or suggestions about this Notice, please write to the Collector at the address shown in section 6 above.

9. If you have a complaint or suggestion

If you have a complaint or suggestion on how Customs and Excise can improve its service, you should contact the Collector at the address shown in section 6 above.

If you have a complaint there is a procedure for handling these, see Appendix A to this Notice.

If you are unhappy with a decision, assessment or the terms offered for the restoration of a seized item then there are procedures which will provide for an internal review of the matter by a senior officer not involved in the original decision etc, and an appeal to an independent VAT and Duties Tribunal. See Appendix B to this Notice.

Appendix A

Isle of Man Customs and Excise Complaints Procedure

Members of the public who wish to make a complaint about the service they have received from Customs and Excise in the Isle of Man should follow the procedure below.

Complaints about the conduct of officers of HM Revenue & Customs are covered by the separate arrangements of that Department. You are referred to its Factsheet "C/FS" for details.

1. **Complaints of a routine nature**

These might include such matters as non-receipt of VAT returns, minor delays in dealing with correspondence, apparent errors in assessments etc. and are best dealt with by telephoning or calling at Custom House and asking to speak to the official responsible for the matter in question.

2. **Complaints of a more serious nature**

These might include complaints about the conduct of officers, serious delays in responding to correspondence or making a decision, unfair treatment, inadequate administrative arrangements, breaches of confidentiality, or non-satisfaction with the response obtained to 1 above or the appeals procedure.

If you are unable to obtain a satisfactory response by speaking to the official concerned, you should make your complaint in writing to the head of the Section responsible for the area of work concerned (e.g. VAT, Advice Centre, VAT visiting, Excise, Customs clearance of imports etc.). If you are not sure which area your complaint falls under, you can address your letter to the Complaints Officer at the address shown in section 6 of the Notice.

All complaints will be dealt within strict confidence and only those who are directly involved will be notified.

Appendix B

Independent Review and Appeal Procedures

For most decisions, assessments and other matters concerned with excise or customs matters, traders and individuals have the right to request first a formal internal review and make an appeal to the VAT & Duties Tribunal.

Appeals Procedure

Under the Customs and Excise appeals procedure if you do not agree with the decision or assessment or restoration terms (for seized goods) you have the right to ask for a formal departmental review of your case. Your request should be in writing, setting out your reasons for disputing the decision. It should be sent to the address shown in section 6 above within 45 days of the date of the decision, assessment or restoration.

If you are not satisfied with the outcome of the departmental review you can then appeal to an independent tribunal. Notice 990 gives further details about your rights and about the appeals procedure. Notice 12A explains your rights as regards seizure of goods by Customs and Excise.

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