

Information Powers: Contact Details for Debtors

Draft Guidance

This is draft HM Revenue & Customs (HMRC) guidance on how Clause 96 and Schedule 49 of Finance Bill 2009 (Information Powers: Contact Details for Debtors) may be implemented.

Background

Each year a significant amount of mail is returned undelivered to HMRC as the address we hold is incorrect or out of date.

Where all attempts to obtain an up-to-date address through our own systems have failed, our policy is to seek information from third parties where we have reasonable grounds for believing they have the information. Currently requests are made on an informal basis and any response made by the third party is voluntary.

What the new power provides for HMRC

The new power enables HMRC to obtain up-to-date addresses for people who are in debt to HMRC but with whom we have lost contact. It allows us to obtain that information from:

- companies
- local authorities
- local authority associations or
- any other third party where we have reasonable grounds to believe they have obtained the details in the course of carrying on a business

This is not a power simply to find out more about a taxpayer. We can use it only in respect of a **debtor**, and where we need the address to collect that debt.

This power is to be used proportionately, after other avenues have been considered and only in worthwhile cases. Therefore, any formal request may only be made through the tracing unit.

The new power creates the lawful means for third parties to provide information to HMRC. A third party that complies with a notice issued on these grounds has discharged its statutory duty, even if a later change in circumstances means that the debt is not due.

If the third party chooses not to comply with the notice then they risk a penalty being imposed.

The new power does **not** apply to:

- friends, neighbours or relatives
- other government departments
- charities (and those working on behalf of a charity) who obtained details in the course of providing services free of charge to the debtor, or
- an individual who has not had a business relationship with the debtor

Current procedures

We use a range of techniques to find a new address, including the extensive use of commercial products and, where cost effective, the appropriate and proportionate use of authorised information gateways with other Government departments (see [IDG4000](#)).

Where new information is not available from these sources we make enquiries with third parties whom we believe have up to date information about the debtor.

Many of these third parties already co-operate with the large number of informal and routine requests we make, but some feel constrained by data protection and confidentiality issues.

New procedures

If, after carrying out our normal checks (see '[Current procedures](#)') we conclude that we have used all reasonable efforts to ascertain the contact details of the debtor and there is no other way forward, we will approach a third party. We will only do so when we have reasonable grounds for believing they have the information and it is the most cost effective option. We will contact the third party informally in the first instance.

Informal contact

We will contact the third party informally, reminding them that we do have the formal power to request the information, so they understand that it is on a statutory basis that will provide protection against legal challenge. We expect this approach will be sufficient, in most cases, for the third party to be able to release the information voluntarily.

The formal process

If the response to the informal contact is unsatisfactory (or inconclusive) and it is clear that the most cost effective way to obtain the information is likely to be through the third party, we will then invoke the formal power.

Issuing the notice

We will issue a formal written notice setting out the name and last known address we hold for the debtor.

The notice will also:

- set out under what authority we are issuing it,
- explain how the third party can give us the information,
- set out the appeal process, and
- give a deadline for reply (usually not less than 30 days from the date of the notice)

A draft of how the formal notice may look is at [Annex A](#).

The decision to issue a formal notice will be made at Senior Officer grade. We will keep a record of the decision and the reasoning in case of an appeal.

If the third party does not have any later address than the one we hold, we will accept a statement to that effect and consider that the notice has been complied with.

Information may be provided in writing or by telephone.

If there is no reply to the notice within 30 days we will contact the third party by telephone to find out why and to warn that failure to comply may result in a penalty being imposed.

Appeal against the notice

If the third party considers that to comply with the notice would be unduly onerous, they may appeal to the tribunal. The appeal must be received in writing within 30 days of the notice being issued.

Penalty

If the third party fails to comply with the notice they are liable to pay a penalty of £300.

If the third party has not responded to the formal notice, we have not been able to make contact with them or no good reason for failing to respond has been provided, we will issue a penalty assessment under paragraphs 44-49 and 52 of Schedule 36 FA 2008. This will include details of how to pay, a payment slip and information on the appeals process.

If there is no appeal and the penalty remains unpaid it will be followed up initially by a reminder letter or telephone call, but ultimately by possible enforcement proceedings against the third party.

Appeal against the penalty

The third party may appeal against the penalty to the tribunal in writing and before the end of a period of 30 days from the issue of the penalty notice (paragraph 48 Schedule 36 FA 2008).

Annex A

Draft formal written notice

This notice, issued under Section xx, requires you to provide contact details for J Smith.

The last address I know of is 1 Acacia Avenue. Please let me have any alternative address and provide a telephone number if you hold one. If the contact address you have is the same as the one shown in this letter, please confirm this.

You should provide the information within 30 days of the date of this notice either in writing or by telephoning on xxxx xxxxxx. If you fail to do this you may be liable to pay a penalty of £300.

If you consider that to comply with this notice would be unduly onerous you may appeal stating your reasons. Your appeal must be received in writing to [name of HMRC officer issuing notice] and must reach HMRC within 30 days of the notice being issued.