

Counter Fraud Services

Protecting Resources
Delivering Solutions

Proposal for the provision of counter fraud services
to Public Health Scotland

OFFICIAL - MARKED



Fraud.
Together we can stamp it out.



1. Executive Summary

1.1 Scope and Objectives

- 1.1.1 This proposal identifies the opportunity for NHS Scotland Counter Fraud Services (CFS) to deliver a range of specialist counter-fraud solutions to Public Health Scotland (PHS) to assist in building resilience from the impact of fraud. It describes our shared service approach and explains the benefits to PHS of achieving this goal.
- 1.1.2 CFS has been protecting Scotland's health from the impact of fraud since its inception in 2000. We have achieved this by maximising health and financial impacts for NHS Scotland organisations, supporting them to embed an anti-fraud culture. Key to this success is our collaborative approach. We offer customers access to dedicated teams of specialists, providing a comprehensive range of fraud prevention, detection and investigation services. This approach has resulted in us becoming a trusted NHS partner in the fight against fraud and being recognised nationally by UK counter fraud organisations.
- 1.1.3 CFS has a Scotland-wide remit and is able to deliver a broad range of counter fraud services to over 160,000 staff across 22 NHS organisations. It is this remit that differentiates us from other specialist counter fraud organisations and places us in a uniquely capable position of providing a wide range of services across NHS Scotland and the wider public sector.



1.1.4 The Public Bodies (Joint Working) (Scotland) Act 2014, enables us to offer our counter fraud services to the wider public sector. We welcome this opportunity as many organisations have little or no counter fraud provision and, as a result, are at greater risk from fraud. These services not only provide the environment for significant financial benefits, they support good governance and demonstrate effective financial stewardship and strong public financial management.

1.2 Recommendation

1.2.1 CFS currently provide counter fraud services to Health Scotland and Public Health Intelligence under a [Partnership Agreement](#). This Partnership Agreement is referenced in the Fraud section of the Scottish Public Finance Manual. This can be found at: <https://www.gov.scot/publications/scottish-public-finance-manual/>

1.2.2 It is my recommendation that CFS and PHS have a discussion with a view to agreeing the future provision of a full range of counter fraud services.



Gordon Young
Head of Counter Fraud Services



2. Background

- 2.1 In June 2015, the Scottish Government published [Protecting Public Resources in Scotland – A Strategic Approach to Fighting Fraud and Error](#). The Ministerial Foreword signed by John Swinney and Michael Matheson states:

“In Scotland we recognise the importance of working together across organisational boundaries to protect our precious public resources from the risk of fraud, bribery and corruption. Protecting Public Resources in Scotland sets out our five clear strategic objectives to deter, disable, prevent, detect and deal with fraud, bribery and corruption in Scotland”

- 2.2 The Chartered Institute of Public Finance and Accountancy (CIPFA) also promote this approach to countering fraud, through its [Code of Practice on Managing the Risk of Fraud and Corruption](#)
- 2.3 The Centre for Counter Fraud Studies at the University of Portsmouth recently published a [report](#) about the financial cost of fraud. This report evidences expected fraud and error losses in any organisation at between 3% and 8% of budget, and reflects a consistent public sector loss range estimate, since data became available over 10 years ago. Adopting a more cautious figure of 1% for the Scottish public sector would still result in annual losses in the region of £330million.



3. Proposition

3.1 Risks and Benefits

- 3.1.1 With UK public sector fraud estimates ranging from 3% to 8% of spend, there are obvious benefits for organisations that can support good internal governance and demonstrate effective financial stewardship and strong public financial management.
- 3.1.2 The wider rationale for this proposition is the knowledge that large parts of the devolved Scottish public sector has little or no dedicated counter fraud provision. This weakens fraud resilience and increases the threat posed by those who seek to defraud services and organisations. CFS has the legal vires to provide counter fraud services to PHS. This, together with our national remit and collaborative approach, provides a strong proposition and the ideal opportunity for PHS to benefit from the counter fraud services we offer.
- 3.1.3 Organisations that effectively manage fraud risk do so because they are able to accurately assess and mitigate potential consequences. These are not solely limited to financial loss; they can include other risks such as staff, business and reputational damage. Ensuring that sufficient resources are invested in activities, for example, raising fraud awareness, highlighting independent and confidential fraud reporting routes and investigating alleged fraud, demonstrates an engaged organisational commitment to create a culture where fraud is not tolerated.

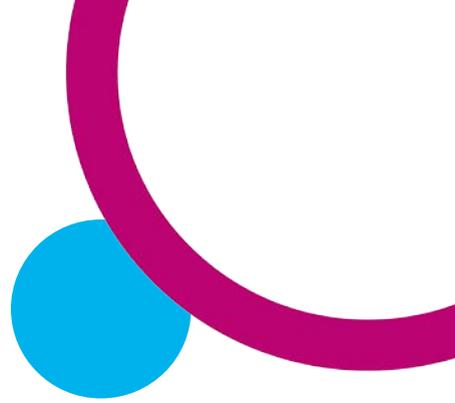


3.2 Scope and Impact

- 3.2.1 CFS maximises its fraud protection capability by offering [specialist anti-fraud solutions](#) to public sector colleagues throughout Scotland. This is achieved through prevention, detection and investigation teams, dedicated only to countering fraud.
- 3.2.2 To maximise impact and provide the greatest organisational fraud resilience, CFS advocates the implementation of the full range of services available.
- 3.2.3 As organisations vary considerably in purpose and structure, consultation is essential to assist better understanding of individual needs. This will enable tailored solutions to be identified for each set of circumstances.

3.3 Financial considerations for non-NHS bodies

- 3.3.1 A pricing proposal has been produced for non-NHS bodies to ensure that a fair and equitable approach is taken to remuneration. This takes into account organisational budget and headcount figures, and provides an indicative measure on which to base the annual fee based system used by CFS. Further discussion will be required to address other influencing factors when reaching a satisfactory financial outcome for both parties. This methodology is intended to balance customer affordability and value for money, whilst ensuring that CFS can facilitate reasonable workforce planning to meet increased demand.



3.4 Outline Plan

- 3.4.1 In order to fully assess the range of services available to PHS and to better understand the resource implications involved, a research meeting is proposed. This will enable PHS to gain a comprehensive understanding of the fraud prevention, detection and investigation products and services CFS provides.

4. Summary

- 4.1 In summary, there is a strong and persuasive case for CFS to provide counter fraud services to PHS. Principally because it will enhance existing organisational governance arrangements and strengthen public financial management.
- 4.2 With complementary focuses, CIPFA, Portsmouth University Centre for Counter Fraud Studies and Scottish Government, all support and endorse the effective financial stewardship that can be consolidated through the provision of counter fraud services.
- 4.3 CFS is uniquely positioned, through a combination of national remit, legislative provision and trusted NHS partner status, to work with PHS to strengthen organisational fraud resilience.



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Counter Fraud Services Service Catalogue

CFS protects Scotland's public services from financial crime by offering a comprehensive range of anti-fraud solutions to public sector organisations like yours.

Working in partnership, we aim to support your services to ensure that your money is deployed for the public good, as the people of Scotland rightly expect.

This Service Catalogue outlines some of the services we provide to organisations like yours to reduce the financial impact of fraud.





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Counter Fraud Assessment Tool

This tool enables you to make high level, balanced assessments on your exposure to financial crime risks and develop time-bound improvement plans to increase your fraud resilience.

Fraud Impact Assessment

The fraud impact assessment is a risk-scored tool that assists your organisation in designing, reviewing and delivering ‘fraud-proof’ systems and identifying those business changes that require further specific counter-fraud advice.

Intelligence Alerts, Bulletins and Publications

Our alerts, bulletins and publications inform you of methods being used by fraudsters to commit financial crime and provide you with advice and guidance to avoid becoming a fraud victim.





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Digital Presence

We maintain a digital presence through social media platforms – Facebook, Twitter, YouTube – and our website. These channels provide useful information on our services and access to our confidential fraud reporting service hosted by Crimestoppers.

Proactive Projects

Our statistics team use data analysis techniques to identify trends and indicators that may reveal fraud or error. This data can provide you with the basis for fraud prevention exercises and/or sanction based investigations.





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eLearning

This web-based fraud awareness package provides you with a simple, accessible and effective method of raising fraud awareness to a wide audience. It provides your staff with an overview of what constitutes fraud, an appreciation of real-life cases and information of the options available to report their concerns.

Referral Management and Investigation

Our intelligence and investigation teams offer you initial advice to prevent continuing and future fraud losses and, following enquiries, make recommendations about criminal, disciplinary and financial recovery action.





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Awareness Events

Our presentations and workshops prevent fraud by raising staff awareness of the threats posed and methods used, on subjects such as cybercrime, bribery and corruption and other insider enabled risks.

Behavioural Insights

Behavioural insights mix traditional economic strategies with social sciences to reveal the factors that influence our everyday decisions. We use behavioural insights to identify our most effective messaging, audiences and communication channels. This can involve simplifying messages, attracting attention to key areas, ‘framing’ decisions and prompting messages at key times.



Fraud Hotline
08000 15 16 28

Powered by Crimestoppers

www.cfs.scot.nhs.uk

Counter
Fraud
Services



Dear Colleague

**PARTNERSHIP AGREEMENT BETWEEN NHSSCOTLAND
COUNTER FRAUD SERVICES AND NHS BOARDS AND
NATIONAL HEALTH BOARDS**

1. This letter notifies the Boards of an updated Partnership Agreement between NHSScotland Counter Fraud Services (CFS) and NHS Boards and National Health Boards.

Background

2. DL (2016) 3 advised of the establishment of an updated Partnership Agreement between CFS and NHS Boards and National Health Boards. This expires in March 2019. The new and updated Partnership Agreement can be found at:

<http://www.sehd.scot.nhs.uk/publications/DC20190319CFS.pdf>

3. The Partnership Agreement is referenced in the Fraud section of the Scottish Public Finance Manual. This can be found at:

<https://www.gov.scot/publications/scottish-public-finance-manual/>

Action

4. Chief Executives are asked to:
 - Sign the Partnership Agreement with the CFS by 31 March 2019;
 - Familiarise themselves with its contents and ensure that their staff are also familiar with these; and
 - Act in accordance with the Partnership Agreement in tackling NHS fraud.

DL (2019) 4

19 March 2019

Addresses

For action

Chief Executives, NHS Boards and National Health Boards

Chief Executive, NHS National Services Scotland

For information

Directors of Finance and of Human Resources, NHS Boards and National Health Boards

Audit Committee Chairs, Chief Internal Auditors, Fraud Liaison Officers

Auditor General

NHSScotland Counter Fraud Services

Enquiries to:

Nicola Trotter
Health Finance Division
Basement Rear
St. Andrew's House
Regent Road
Edinburgh
EH1 3DG

Tel: 0131 244 2304

Nicola.trotter@gov.scot

5. Signed Partnership Agreements should be returned to Gordon Young, NHS Scotland Counter Fraud Services, 3 Bain Square, Livingston, EH54 7DQ. Email address: Gordon.young2@nhs.net

6. If there are any queries on the Agreement, these should be addressed to Gordon Young, 01506 705 237, at Counter Fraud Services.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R McCallum', with a long horizontal flourish extending to the right.

Richard McCallum
Deputy Director
Health Finance and Infrastructure



NHS SCOTLAND
COUNTER FRAUD SERVICES

National Services Scotland

**PARTNERSHIP AGREEMENT
WITH HEALTH BOARDS**

CONTENTS

1. Introduction
 - 1.1 Parties
 - 1.2 Functions of the Partnership Agreement
 - 1.3 Partnership Period
 - 1.4 Escalation Procedures
2. Background
3. Compliance Statement – UK/Scottish Legislation
4. Roles and Responsibilities
 - 4.1 Health Boards
 - 4.2 National Services Scotland (NSS) (as Managing Board)
 - 4.3 Counter Fraud Services
 - 4.4 CFS Oversight
5. Investigation-Working Together
6. Counter Fraud Operational Remit
 - 6.3 Prevention
 - 6.4 Detection
 - 6.5 Investigation
 - 6.6 Regulation of Investigatory Powers (Scotland) Act 2000
7. Reporting
8. Performance Review Meetings

Appendices

- I. CFS Organisation Chart
 - II. Fraud Offences
 - III. Data Protection Legislation
 - IV. Reporting Requirements
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1. INTRODUCTION

1.1 Parties

1.1.1 This Partnership Agreement is between and among (1) NHS Scotland Health Boards, all National Health Boards, and all other bodies constituted pursuant to the National Health Service (Scotland) Act 1978 (as amended) (collectively referred to in this Partnership Agreement as “NHS Scotland” or “Health Boards”) and (2) NHS Scotland Counter Fraud Services (“CFS”), a part of the Common Services Agency (also known as “National Services Scotland” or “NSS”). Each Health Board has been issued with its own copy of this Partnership Agreement and, by their signature thereof, have indicated their agreement to its terms.

1.2 Functions of the Partnership Agreement

1.2.1 This Partnership Agreement (“Agreement”):

- explains the roles and responsibilities of the partners to this Agreement
- states the intention to promote a counter-fraud culture within NHS Scotland
- clarifies the types of investigations CFS will undertake in partnership with Health Boards and their staff

1.2.2 The Agreement forms a key element of the Scottish Government’s determination to prevent and reduce fraud in Scotland. In January 2008, the Scottish Government published its strategy “[Strategy to Counter NHS Fraud in Scotland](#)” and this Agreement follows the principles and guidance set out in that document. In June 2015, the Scottish Government also published its strategy “[Protecting Public Resources in Scotland – A Strategic Approach to Fighting Fraud and Error](#)” which complements and supports the 2008 NHS strategy document.

1.3 Partnership Period

1.3.1 The Agreement period will be effective from 1 April 2019 to 31 March 2022. Any changes considered necessary to the Agreement will be made in consultation with Health Boards.

1.4 Escalation Procedures

1.4.1 Any dispute arising out of this Agreement should be resolved, in the first instance, with the relevant CFS National Counter Fraud Manager (see Appendix I). If this process is unsuccessful, the issue should be referred to the Head of Counter Fraud Services. If necessary, matters should then be escalated to the Director of Primary, Community and Counter Fraud Services and thereafter the Scottish Government Health and Social Care Directorate (SGHSCD).

2. BACKGROUND

2.1 The original Agreement between Health Boards and CFS was issued in February 2005 (circular [HDL \(2005\) 5](#) refers). This is the fourth update to the original. Previous iterations were provided in circulars: [CEL 18 \(2009\)](#); [CEL 15 \(2012\)](#); and [DL \(2016\) 3](#).

- 2.2 Working with Counter Fraud Champions (CFCs) and Fraud Liaison Officers (FLOs), CFS provides NHS Scotland with a central resource to counter financial crime (Hereafter referred to as 'fraud'). It holds Specialist Reporting Agency status with the Crown Office and Procurator Fiscal Service and reports criminal cases on behalf of Health Boards without recourse to any other organisation.
- 2.3 The CFS mission is to maximise health and financial impact to NHS Scotland by delivering specialist counter-fraud solutions that embed a culture where fraud is considered unacceptable. This will be achieved by the following approach:
- **Prevention** - By deterring and reducing opportunities to commit fraud, through education, awareness raising and disablement initiatives.
 - **Detection** – By working together with public sector and external organisations to share information; analyse data to identify risk; and develop proactive, joined-up approaches to countering fraud.
 - **Investigation** – By investigating allegations of financial misconduct and applying all appropriate sanctions where public sector monies are involved.

3. COMPLIANCE STATEMENT - UK/SCOTTISH LEGISLATION

- 3.1 All investigations undertaken by CFS will be conducted in compliance with relevant legislation, including to the extent applicable the Criminal Procedure (Scotland) Act 2016, the Criminal Justice and Licensing (Scotland) Act 2010, the Regulation of Investigatory Powers Act 2000 ("RIPA"), the Regulation of Investigatory Powers (Scotland) Act 2000 ("RIP(S)A"), the Data Protection Act 2018, the General Data Protection Regulation (Regulation (EU) 2016/679 and 2016/680) (together referred to in this Agreement as "Data Protection Legislation" as more particularly detailed in Appendix III of this Agreement); and all relevant Codes of Practice, recognising the considerations of the Human Rights Act 1998.
- 3.2 The National Patient Exemption Checking Programme will comply with the National Health Service (Penalty Charge) (Scotland) Regulations 1999.
- 3.3 Health Boards and CFS must comply with the provisions of the Freedom of Information (Scotland) Act 2002 ("FOISA") and all relevant Codes of Practice. Therefore all provisions of this Agreement shall be construed as being subject to, and shall not override, any Health Boards' or CFS' compliance obligations in relation to FOISA.

4. ROLES AND RESPONSIBILITIES

4.1 Health Boards

- 4.1.1 Accountable Officers are responsible for having adequate arrangements in place to counter fraud within their Health Board. In line with central guidance, these arrangements should encompass robust systems of prevention, detection and investigation controls, to reduce the risk of fraud and contribute to the promotion of a counter-fraud culture.
- 4.1.2 All fraud against NHS Scotland must be reported to CFS, regardless of who the suspect or victim is, whether or not the matter has been prosecuted criminally, through civil action or by discipline, or whether the fraud was actual or attempted. However, the FLO, in consultation with CFS, may occasionally

decide that a fraud is best dealt with by internal management action. In general, this will be on the grounds of low value.

- 4.1.3 The Accountable Officer should also report alleged losses involving patients' funds to CFS, where evidence exists of systematic fraud.
- 4.1.4 The Scottish Government's Strategy places the onus on Health Boards to appoint a senior executive or non-executive director as CFC. Their role is to influence cultural change within organisations to achieve a position where fraud is considered unacceptable.
- 4.1.5 Health Boards nominate a senior officer as FLO to liaise with CFS on all fraud related matters. The FLO will report and receive all allegations of fraud to and from CFS on the Health Board's behalf. Subject to Section 6.6.3 below, the FLO and CFS will decide the most appropriate sanction route(s) to pursue (See SG circular [CEL 11 \(2013\)](#) for updated roles and responsibilities of CFCs and FLOs).
- 4.1.6 Responsibility for any necessary actions, based on findings and recommendations from CFS, lies with Health Boards.
- 4.1.7 The Health Boards' "Fraud Action Plan" will outline how fraud will be addressed proactively. This should be reviewed and updated regularly.
- 4.1.8 It is expected that the FLO within Health Boards shall be the appropriate person to take responsibility for distributing all fraud reports and other communications from CFS, to appropriate recipients within the Board. Depending on the circumstances, Boards may wish to nominate other persons to carry out this action, but such persons should be conversant with the necessary fraud procedures, before doing so.
- 4.1.9 All Health Boards are required to provide a secure environment for staff, practitioners and patients to report suspected fraud in compliance with the Public Interest Disclosure Act 1998. In this respect, a method of communication for reporting (or in some cases referred to as a "whistleblowing policy", should be clearly outlined to staff within the relevant Health Board's Fraud Action Plan, intranet and staff leaflets. A useful reference point is the [Implementing and Reviewing Whistleblowing Arrangements in NHS Scotland PIN Policy](#).
- 4.1.10 Further information is also available on the [Public Concern at Work](#) website.

4.2 National Services Scotland (NSS) (as Managing Board)

- 4.2.1 Where NSS' Practitioner Services (PS) identifies potential fraud in another Health Board through the application of its internal control systems, it will simultaneously notify the Health Board and CFS and will assist with discussions to determine the best way forward in accordance with this Agreement.
- 4.2.2 All directed surveillance and CHIS (covert human intelligence sources) work is carried out under RIP(S)A, and is subject to audit by the Investigatory Powers Commissioner's Office. The Investigatory Powers Commissioner's audit may be seen as assurance to Health Boards, and NSS, that CFS is conducting directed surveillance and carrying out CHIS appropriately. NSS will not be informed of any directed surveillance or CHIS activities pertaining to other Health Boards. However, the Chief Executive NSS will receive the

Investigatory Powers Commissioner's audit reports, which directly affect CFS's reasons for authorising surveillance, in respect of the proportionality and necessity of such authorisations and the performance of CFS in its tasks. CFS will be responsible to the Chief Executive (NSS) for any necessary action in respect of those reports.

- 4.2.3 The Service Auditor appointed to review the work done on behalf of NHS Scotland by PS, will carry out any necessary audit of CFS's work in relation to patient exemption checking. The patient exemption checking work will provide assurance to Health Boards from NSS that the exemption fraud work is being carried out according to the protocol forming part of this Agreement.
- 4.2.4 CFS undertakes quality assurance checks as per its standard operating procedures.

4.3 Counter Fraud Services

- 4.3.1 In partnership with the Health Boards, CFS will be integral in embedding a counter-fraud culture into Scotland's Health Service and to deliver a health and financial impact by reducing losses from fraud. The aim of this work is to reinforce that fraud against NHS Scotland is unacceptable.
- 4.3.2 CFS will provide support and facilitation for the FLOs and CFCs in their work.
- 4.3.3 The role of CFS, in partnership with Health Boards, is to:
- reduce fraud through proficient education and awareness initiatives, deter fraud through effective interventions and prevent fraud through targeted proactive projects;
 - proactively detect fraud;
 - investigate alleged cases of fraud by staff, patients, primary care practitioners, contractors or suppliers, third parties and to pursue vigorously all cases to an appropriate conclusion;
 - where necessary, undertake directed surveillance and CHIS management in relation to fraud in accordance with RIP(S)A;
 - provide specialist advice to assist in the formulation of national and UK wide counter fraud policy, regulations and guidance; and
 - assist in the recovery of resources fraudulently or corruptly obtained from NHS Scotland.
- 4.3.4 CFS shall provide reporting in accordance with section 7 of this Agreement.
- 4.3.5 Although CFS forms part of NSS and is accountable to the Chief Executive NSS for governance, the Head of CFS has responsibility for providing advice, support and guidance to Health Boards in the delivery of its counter fraud services. Information concerning work carried out on behalf of a Health Board may only be disclosed outwith the confines of CFS with the express permission of the relevant Health Board. The only exception is where disclosure is necessary to the SGHSCD, or other relevant, UK Statutory Bodies where they require such as part of policy, operational, or legal requirements. In particular, the Crown Office and Procurator Fiscal Service, police or appointed auditor may require such information. Where appropriate, CFS will inform the relevant Health Board when information has been disclosed. The Head of CFS also has the right of access to the SGHSCD Director of Health Finance and Infrastructure in exceptional circumstances (e.g. those involving allegations against the most senior staff in a Health Board, or cases directly involving NSS).

4.4 CFS Oversight

4.4.1 The SGHSCD Director of Health Finance and Infrastructure has a role to oversee counter fraud operational practice within NHS Scotland. This includes:

- influencing how CFS carries out its work by:-
 - agreeing matters of operational counter fraud policy.
 - endorsing the CFS Strategic Intelligence Assessment - directing it to areas of fraud seen as priorities for NHS Scotland.
- acting as a source of professional advice by:-
 - assisting CFS to provide an effective counter fraud service;
 - raising concerns from NHS Scotland about CFS work;
- providing a strategic link with NHS Scotland to proactively enhance and promote the CFS profile.
- evaluating CFS performance on behalf of NHS Scotland.

5. INVESTIGATION-WORKING TOGETHER

5.1 After notification of an alleged fraud, consultation will take place between the FLO (acting on behalf of the Accountable Officer), appropriately nominated officers from the Health Board and CFS, to determine how best to progress any agreed investigation.

5.2 At all times, the “triple tracking” approach will be taken into account in discussions. Triple tracking refers to the three main fraud investigation outcomes available; pursuit of criminal, disciplinary and recovery sanctions. All investigations will be undertaken on behalf of the Accountable Officer, and formal communication and reporting structures and timetables will be established.

5.3 Where investigations identify that a criminal offence has been committed and that a sufficiency of evidence exists, the appropriate Procurator Fiscal must be notified. Therefore, CFS will be under a duty to take the case forward and to report those facts of which it is made aware, on the Health Board’s behalf, to the Crown Office and Procurator Fiscal Service. However, if the relevant Health Board can demonstrate, to the satisfaction of CFS, that it is not in the public interest to put a case forward for consideration by the Procurator Fiscal, then CFS may agree not to do so. In general, this will be on the grounds of low value and in all cases the Health Board must be prepared to justify such a decision to the Appointed Auditor, and CFS must also be satisfied that it can properly and adequately justify its decision if questioned by the Appointed Auditor.

5.4 Where CFS has been in contact with a Procurator Fiscal for an application for a search warrant, or Proceeds of Crime Act application etc., control of the case effectively passes to the Procurator Fiscal, who may demand a report on the outcome to be submitted, whether or not the Health Board or CFS wish it.

5.5 Following consultation between the FLO and CFS, if it is determined that an investigation will be undertaken which may result in a referral of an employee for

criminal proceedings, the matter will be investigated by CFS using all appropriate, legal methods, which may, if warranted, include surveillance.

- 5.6 Where it is agreed that no report will be made to the Procurator Fiscal, this will be discussed and agreed with the relevant Health Board, who may consider that disciplinary sanctions are appropriate, if not already commenced.

6. COUNTER FRAUD OPERATIONAL REMIT

- 6.1 CFS support Health Boards to counter fraud as part of its mission to embed a counter-fraud culture within NHS Scotland. This is with the aim of delivering a health and financial impact by safeguarding NHS funds for patient care. Working in partnership with CFS, the Health Board FLO and CFC, play vital and pivotal roles in achieving this mission.

- 6.2 CFS' operation remit is reflected in its operation structure as detailed in Appendix I.

6.3 Prevention

- 6.3.1 CFS deliver a comprehensive catalogue of prevention related initiatives as part of its counter fraud offering. These initiatives include:

- Tailored presentation packages;
- A portfolio of interactive counter-fraud workshops;
- A range of staff engagement activities leading to roadshow events;
- A generic fraud awareness eLearning package;
- A [CFS Website](#) providing digital accessibility to the full range of counter fraud products and a confidential on-line fraud reporting facility;
- A confidential dedicated hotline fraud reporting facility;
- A fraud proofing service to design out system weaknesses and loopholes from policies and procedures;
- Various intervention related products to assess and disable fraud;
- Intelligence alerts warning of the latest methods being used by fraudsters;
- Fraud Prevention Projects to seek out areas at risk and reduce fraud.

6.4 Detection

- 6.4.1 CFS undertakes a range of initiatives that centre on the analysis, prioritisation and progression of fraud related allegations. CFS continues to develop an intelligence-led capability, working together across the public sector and external organisations to share information, identify risk and develop proactive, joined-up approaches to countering fraud. Detection work includes:

- Using a Strategic Intelligence Assessment to determine the top fraud risks within NHS Scotland;

- Developing specific toolkits that allow cross-comparative and trend analysis of data to identify indicators that may reveal fraud;
- Supporting Local Intelligence Networks (LINs) to promote the safer management and use of controlled drugs and to share relevant intelligence which helps to identify cases where action may need to be taken in respect of controlled drugs;
- Responsibility for patient exemption checking. Fraudulent claims for exemption from NHS charges are investigated and analysed by CFS.

6.5 Investigation

6.5.1 Where fraud has been detected, CFS' Investigation team will work with the relevant Health Board to ensure that allegations are properly pursued and appropriately enforced. An agreed list of fraud offences (See Appendix II) will be used to determine which cases should be referred to CFS for investigation.

6.5.2 Where CFS investigates a case on behalf of a Health Board, regular communications will be maintained throughout the investigation. At the conclusion, a report outlining the criminal case will be issued. Where appropriate, a range of recommended sanctions will be included in the report. On occasions, CFS will also include counter fraud recommendations in reports. Health Boards have a responsibility to provide a timely management response to any recommendations made in the reports. In the case of criminal prosecution, a Standard Prosecution Report will be sent directly to the Procurator Fiscal by CFS on behalf of the Health Board. In any case where there is disagreement between the Health Board and CFS over the application of the full range of sanctions that may be recommended in the CFS report, then:

- the Health Board's Accountable Officer must submit his/her concerns to the SGHSCD Director of Health Finance and Infrastructure, copying the letter to the Head of CFS;
- CFS must submit its concerns to the Health Board's Accountable Officer, copying the letter to the SGHSCD Director of Health Finance and Infrastructure.

6.6 Regulation of Investigatory Powers (Scotland) Act 2000

6.6.1 The use of covert surveillance or covert human intelligence sources (CHIS) by public authorities in Scotland is strictly controlled by the provisions of Regulation of Investigatory Powers (Scotland) Act 2000 (RIP(S)A). The Common Services Agency is a named authority under RIP(S)A. Director of P&CFS and the Head of CFS may authorise directed surveillance and the use of CHIS's in respect of activities affecting NHS Scotland. (See [HDL \(2003\) 30](#) Regulation of Investigatory Powers (Scotland) Act 2000), [CEL 40 \(2010\)](#) Regulation of Investigatory Powers (Scotland) Act 2000 and [SSI 2014/339](#) the Regulation of Investigatory Powers (Authorisation of CHIS) (Scotland) Order 2014).

6.6.2 Pursuant to and in terms of [HDL \(2003\) 30](#) all cases of potential fraud against NHS Scotland (as listed in Appendix II – Fraud Offences) must be referred to CFS. Where appropriate, CFS will authorise and conduct directed surveillance and the use of CHIS on behalf of Health Boards.

- 6.6.3 On the grounds of the health and safety of its employees and its duty of care for any CHIS, should CFS require to use its powers under RIP(S)A, it will not inform the relevant Health Board until after the directed surveillance, or covert human intelligence source work, has been completed. The exceptions would be where covert surveillance equipment requires to be installed or where CCTV is being utilised for the purpose of a specific investigation, in such a manner likely to result in the obtaining of private information about a person and otherwise than by way of an immediate response to events or circumstances, which would be done with the cooperation of the FLO.
- 6.6.4 Where Health Boards are considering the use of directed surveillance or the use of CHIS in cases which do not involve fraud (falling outwith the remit of CFS) in respect of public safety or the prevention of disorder, or for the purposes of protecting public health, then they should contact the appropriate public body as outlined in [HDL \(2003\) 30](#). This will normally be Police Scotland. However, CFS may be able to assist the relevant Health Board in certain instances (for example where there has been a theft of property).
- 6.6.5 CFS has a website to assist health boards, in addition to allowing referrals to be made. Health Boards should consult their Data Protection Officer to ensure that all surveillance (including CCTV and monitoring of employee emails/internet usage) and other activities, is carried out in accordance with Data Protection Legislation and all relevant Codes of Practice.

7. REPORTING

- 7.1 CFS will issue a Quarterly Report to all Health Boards, summarising new and current cases and highlighting new types of frauds. Quarterly figures on Patient Exemption Checking will be included, as will reports on initiatives undertaken to promote and raise awareness of countering fraud. CFS will also produce an end-of-year review of its activities, which will summarise its year's work.
- 7.2 Health Boards will be kept fully informed, through their FLO, about individual investigations by regular updates and will be consulted regarding all major decisions.
- 7.3 For detailed reporting timetables refer to Appendix IV.

8. PERFORMANCE REVIEW MEETINGS

- 8.1 A timetable of annual Performance Review Meetings will be established between CFS and Health Boards. The following key personnel should be present; Director of Finance, FLO and CFC. Health Boards may also wish to include the Medical Director and other representatives from; Human Resources, Primary Care, Staff Side and Audit. At these meetings all aspects of CFS' performance will be reviewed.
- 8.2 An annual Customer Satisfaction Survey will also be undertaken to assess the level of satisfaction with the service provided by CFS. The findings of the survey will be disseminated to Boards and other interested parties.

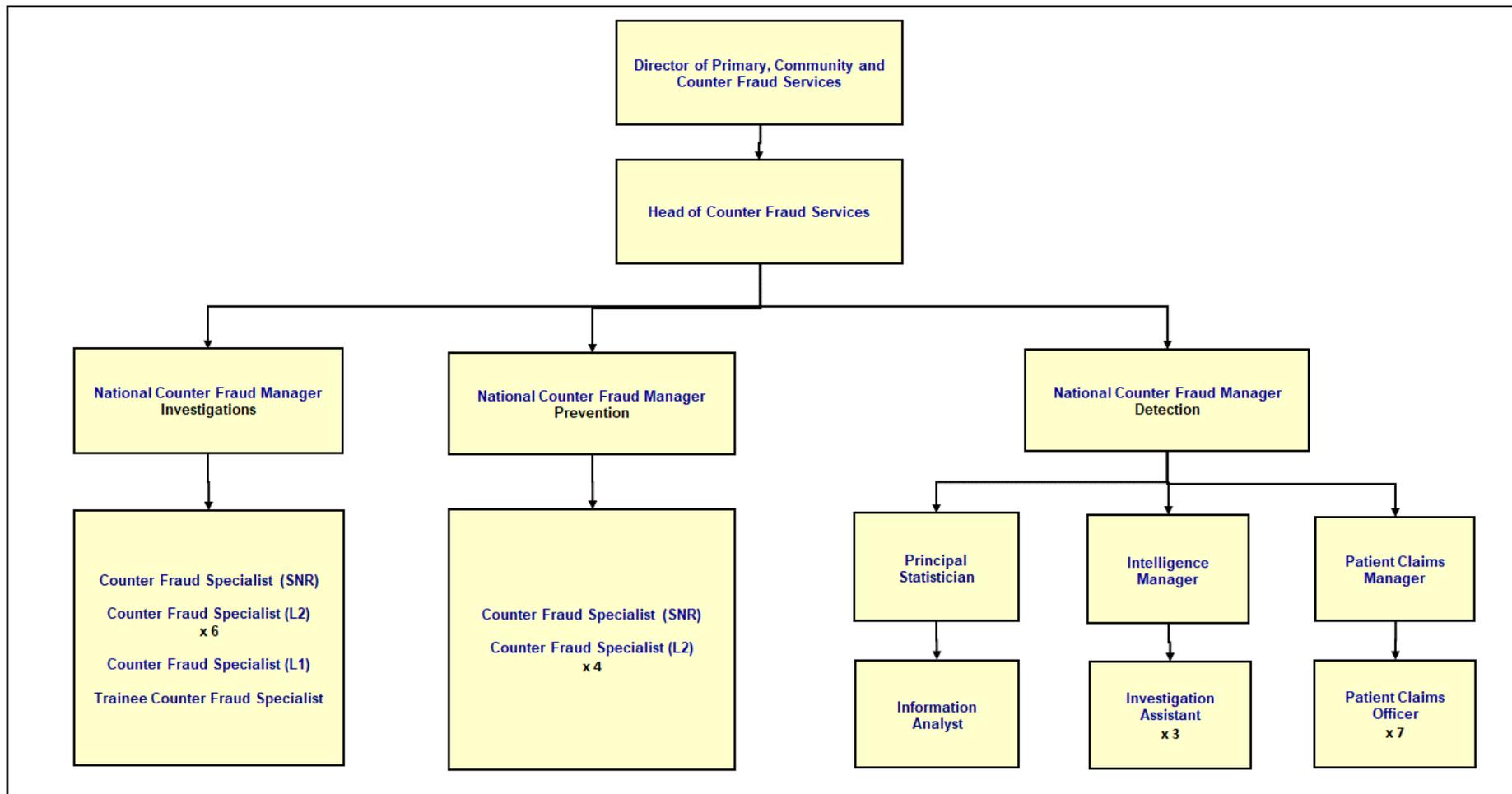
The terms of this Agreement are agreed below by [•] **[insert name of signing body]**

.....

Signed on behalf of [Health Board]

Date:

CFS ORGANISATION CHART



1. LIST OF FRAUD OFFENCES

1.1 Depending on the nature of business and the products or services provided, NHS employees may have the opportunity to commit fraud. There are numerous types of fraud that can be perpetrated by staff and some examples are given below. This list is not exhaustive.

- **Dishonest action by staff to obtain a benefit** e.g. sick pay fraud, false expenses, false overtime, embezzlement of cash or goods and procurement fraud.
- **Account fraud** e.g. fraudulent account transfer to employee account, fraudulent account transfer to third party account and fraudulent account withdrawal.
- **Employment application fraud** e.g. false qualifications, false references or use of false identity.
- **Unlawfully obtaining or disclosure of personal data** e.g. fraudulent use of customer/payroll data, modification of customer payment instructions and contravention of IT security policy with intent to facilitate the commission of a criminal offence.
- **Unlawfully obtaining or disclosure of commercial data** e.g. contravention of IT security policy with intent to facilitate the commission of a criminal offence.

1.2 The remit of CFS relates to fraud including theft, dishonesty, deception and/or manipulation of documents/records where there is a loss to NHS Scotland property or funds. The following is a list of offences which, following the consultation process between Health Board FLO and CFS, CFS may investigate:

- **Fraud** (A false pretence – a false pretence by word of mouth, writing or conduct, and
An inducement - induce someone to pay over monies/hand over goods, and
A practical result - that the cheat designed had been successful to the extent of gaining benefit of advantage, or of prejudicing, or tending to prejudice, the interests of another person)
- **Embezzlement** (is the felonious appropriation of property (i.e. a thing or things belonging to someone) that has been entrusted to the accused with certain powers of management or control)
- **Forgery and uttering** (is the making and publishing of a writing feloniously intended to represent and pass for the genuine writing of another person. Uttering means the tendering or presenting of a document)
- **Bribery and Corruption** The Bribery Act 2010 makes it a criminal offence to take part in 'active' or 'passive' bribery or to fail to prevent bribery in an organisation:

- Active bribery (section 1 of the Act) makes it an offence for a person to offer, give or promise to give a financial or other advantage to another individual in exchange for improperly performing a relevant function or activity.
 - Passive Bribery (section 2 of the Act) makes it an offence for a person to request, accept or agree to accept a financial or other advantage in exchange for improperly performing a relevant function or activity.
 - Corporate offence (section 7 of the Act) states that an organisation may be liable if it fails to have adequate procedures in place to prevent bribery.
- **Theft** (the felonious taking or appropriating of property without the consent of the rightful owner or other lawful authority) of NHS property or funds with a high value or where a series of thefts has been identified.

In exceptional circumstances, or in the interest of NHS Scotland, but always as directed by the relevant Accountable Officer, CFS may investigate the alleged commission of any of the fraud offences where there is no direct loss to NHS Scotland funds or property but the loss is in connection with the delivery of services under the National Health Services (Scotland) Act 1978.

DATA PROTECTION LEGISLATION

1. DEFINITIONS AND INTERPRETATIONS

1.1 In this Agreement the following expressions shall, unless otherwise specified or the context otherwise requires, have the following meanings:-

“Collected Personal Data”	means any and all Personal Data collected by CFS in connection with its roles and responsibilities (other than the Shared Personal Data), and which may comprise the same categories of information in respect of the same categories of Data Subject as is relevant to Shared Personal Data, as well as information relating to fraudulent and/or criminal activity;
“Controller”	shall have the meaning given in the GDPR;
“Data Loss Event”	means any event that results, or may result, in unauthorised access to Personal Data held by the CFS or any Sub-processor under or in connection with this Contract, and/or actual or potential loss and/or destruction and/or corruption of Personal Data in breach of this Contract, including but not limited to any Personal Data Breach;
“Data Protection Legislation”	means (i) the GDPR and any applicable national implementing Laws as amended from time to time; (ii) the DPA 2018 to the extent that it relates to the Processing of Personal Data and privacy, including Processing ; and (iii) any other Law in force from time to time with regards to the Processing of Personal Data and privacy, which may apply to either party in respect of its activities under this Contract;
“Data Subject”	shall have the meaning given in the GDPR;
“Data Subject Request”	means a request made by, or on behalf of, a Data Subject in accordance with access and other rights granted to a Data Subject pursuant to the Data Protection Legislation in respect of their Personal Data;
“DPA 2018”	means the Data Protection Act 2018;
“DP Losses”	means all liabilities and amounts, including all: <ul style="list-style-type: none"> a) Direct Losses; b) costs and expenses relating to reconstitution and/or correction of the Personal Data and any and all records comprising the same; and c) to the extent permitted by Applicable Law: <ul style="list-style-type: none"> (i) administrative fines, penalties, sanctions, liabilities or other remedies imposed by a

	Supervisory Authority; and (ii) compensation to a Data Subject ordered by a Supervisory Authority;
“GDPR”	means the General Data Protection Regulation (Regulation (EU) 2016/679);
“Information Commissioner’s Office”	means the United Kingdom’s Supervisory Authority;
“Law”	means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, by-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgement of a relevant court of law, or directives or requirements with which the Health Board and/or CFS is bound to comply;
“Permitted Recipients”	means the Crown Office and Procurator Fiscal Service, relevant professional regulators and/or Police Scotland, as appropriate;
“Personal Data”	shall have the meaning given in the GDPR;
“Personal Data Breach”	shall have the meaning given in the GDPR;
“Processing”	shall have the meaning given in the GDPR and the terms “Process” and “Processed” shall be construed accordingly;
“Processor”	shall have the meaning given in the GDPR;
“Shared Personal Data”	<p>the Personal Data shared by the Health Board with CFS in connection with this Agreement, and which may comprise the following categories of information relevant to the following categories of Data Subject:</p> <ul style="list-style-type: none"> a) name, address, telephone number, email address, date of birth, payroll information and related bank account details, HR record information, including but not limited to PVG scheme information, disciplinary information, sickness and other absence information and suspected fraudulent acts for or involving current and former employees of the Health Board; b) name, address, telephone number, email address, D.O.B., CHI number, next of kin information, physical and mental health information as for current and former service users of the Health Board; and c) name, address, telephone number, email address and bank account details for current and former primary care practitioners, suppliers or contractors to the Health Board.

	For the avoidance of doubt, the above categories of information, and of Data Subject, are for illustrative purposes only and are not intended to comprise an exhaustive list. The parties acknowledge that Personal Data comprised of other categories of information and other categories of Data Subject may form part of the Shared Personal Data, depending on the facts and circumstances of a Specific Investigation;
“Specific Investigation”	means a fraud investigation relating to a specific Data Subject or specific group of Data Subjects;
“Supervisory Authority”	shall have the meaning given in the GDPR; and

2.1 DATA PROTECTION AND CONFIDENTIALITY

- 2.1 In order to enable CFS to perform its roles and responsibilities outlined in this Agreement, Health Boards shall disclose the Shared Personal Data to CFS.
- 2.2 Health Boards and CFS anticipate that they shall be Joint Controllers in respect of the Processing carried out in connection with this Agreement.
- 2.3 Health Boards and CFS acknowledge and agree that CFS’ roles and responsibilities fall within the meaning of “law enforcement purposes” in terms of the DPA 2018 and that, as a result:
- 2.3.1 the Processing is being carried out on the basis of Article 6(e) of the GDPR and, where the Processing involves any special categories of Personal Data, the Processing is then also carried out on the basis of Article 9(g) of the GDPR and Section 35(5) and paragraph 1(b) of Schedule 8 to the DPA 2018; and
- 2.3.2 the Data Subject rights granted pursuant to Articles 13 to 22 of the GDPR are restricted as per Chapter 3 of Part 3 of the DPA 2018.
- 2.4 Health Boards and CFS shall at all times throughout the Partnership Period, Process the Shared Personal Data and, where relevant, the Collected Personal Data in compliance with the Data Protection Legislation and shall comply with all the obligations imposed on a Controller under the Data Protection Legislation in relation thereto.
- 2.5 Each party shall:
- 2.5.1 make generally available such fair processing information as is required pursuant to Chapter 3 of the Part 3 of the DPA 2018;
- 2.5.2 Process the Shared Personal Data only for the purposes outlined in this Agreement; and
- 2.5.3 where relevant, Process the Collected Personal Data only for the purposes outlined in this Agreement.
- 2.6 Following completion of the Specific Investigation, CFS shall, at its sole discretion based on its knowledge, expertise and experience:

- 2.6.1 pass all or any part of the Shared Personal Data and the Collected Personal Data to the Permitted Recipients; or
- 2.6.2 advise the Health Board that the content of the Shared Personal Data and the Collected Personal Data is insufficient to warrant the passing of all or any part of the Shared Personal Data and the Collected Personal Data to the Permitted Recipients but that alternative disciplinary sanctions and/or civil action may be appropriate,

and, in addition, CFS may at the Health Board's written request provide a copy of the Collected Permitted Data to the Health Board, subject always to any obligations that CFS may have at Law to the contrary, and provided always that the Health Board can demonstrate to CFS that it has a lawful basis to receive and Process a copy of the same in terms of the Data Protection Legislation. Retention of the Shared Personal Data and/or Collected Personal Data by CFS and the Health Board following completion of the Specific Investigation shall be in line with each party's respective retention policy.

- 2.7 Health Boards and CFS shall assist each other in complying with all applicable requirements of the Data Protection Legislation insofar as such requirements relate to the Agreement, and in particular, each party shall:

- 2.7.1 consult with the other party about any fair processing notices made generally available to Data Subjects in relation to the Shared Personal Data and the Collected Personal Data;

- 2.7.2 promptly inform the other party about the receipt of any Data Subject Request, and where appropriate provide a copy of such Data Subject Request to the other party, which such Data Subject Request will be handled by:

- (a) the Health Board insofar as it relates to the Shared Personal Data; and/or
- (b) CFS insofar as it relates to the Collected Personal Data,

subject always to paragraph 2.7.3;

- 2.7.3 provide the other party with reasonable assistance in complying with any Data Subject Request;

- 2.7.4 not disclose or release any Shared Personal Data or Collected Personal Data in response to a Data Subject Request without first consulting the other party, wherever possible;

- 2.7.5 be responsible for responding to communications addressed to that party from any Supervisory Authority or other regulatory authority and for participating in consultations with any Supervisory Authority or other regulatory authority at their instance relating to the Processing of any Personal Data carried out in connection with this Agreement but that party shall, where appropriate, keep the other party informed in relation to same;

- 2.7.6 notify the other party without undue delay on becoming aware of any breach of the Data Protection Legislation;

- 2.7.7 notify the other party without undue delay on becoming aware of any Data Loss Event, and to the extent that such Data Loss Event requires to be

notified to the Information Commissioner's Office, such notification shall be made by:

- (a) the Health Board insofar as it affects only the Shared Personal Data; or
- (b) CFS insofar as it affects the Collected Personal Data or both the Collected Personal Data and the Shared Personal Data;

2.7.8 maintain complete and accurate records and information to demonstrate its compliance with this Appendix; and

2.7.9 provide the other party with contact details of its Data Protection Officer who shall be that party's point of contact and responsible manager for all issues arising out of the Data Protection Legislation.

2.8 In the rare circumstances where CFS is acting as a Processor for and on behalf of the Health Board, if, and to the extent, that such circumstances arise, CFS undertakes to:-

2.8.1 only Process Personal Data for and on behalf of the Health Board in accordance with the instructions of the Health Board and for the purpose of its roles and responsibilities and to ensure the Health Board's compliance with the Data Protection Legislation.

2.8.2 comply with the obligations applicable to Processors described by Article 28 of the GDPR which include, but are not limited to the following:

- (a) to implement and maintain appropriate technical and organisational security measures sufficient to comply at least with the obligations imposed on the Health Board by Article 28(1) of the GDPR;
- (b) to act only on documented instructions from the Health Board (Article 28(3)(a)). CFS shall immediately inform the Health Board if, in its opinion, an instruction infringes any Data Protection Legislation;
- (c) to ensure that personnel authorised to process Personal Data are under contractual confidentiality obligations to (Article 28(3)(b));
- (d) to take all measures required by Article 32 of the GDPR in relation to the security of Processing (Article 28(3)(c));
- (e) to respect the conditions described in Article 28(2) and (4) of the GDPR for engaging another Processor (Article 28(3)(d));
- (f) to assist the Health Board, by appropriate technical and organisational measures, insofar as this is possible, to respond to Data Subjects Requests (Article 28(3)(e));
- (g) to assist the Health Board, as appropriate, to ensure compliance with the obligations pursuant to Articles 32 to 36 of the GDPR taking into account the nature of the Processing and the information available (Article 28(3)(f));
- (h) to maintain a record of Processing activities as required by Article 30(2) of the GDPR;

- (i) to allow the Health Board to audit CFS' compliance with the obligations described in this Paragraph, on reasonable notice subject to the Health Board complying with all relevant health and safety and security policies of CFS and to provide the Health Board with evidence of its compliance with the obligations set out in this Paragraph;
- (j) to obtain the prior agreement of the Health Board to store or Process Personal Data outside the European Economic Area (comprising the countries of the European Union, Norway, Iceland and Liechtenstein) and where CFS does Process Personal Data, to do so in compliance with the GDPR; and
- (k) to notify the Health Board as soon as practicable after becoming aware of Personal Data Breach.

2.9 Each party (the "Indemnifying Party") shall indemnify the other party (the "Indemnified Party") against all DP Losses suffered or incurred by the Indemnified Party arising out of or in connection with any breach of the Data Protection Legislation by the Indemnifying Party, its employees or agents, provided that the Indemnified Party gives to the Indemnifying Party prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it.

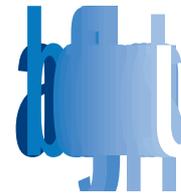
2.10 The provisions of Paragraph 2.7.9 shall not affect the liability of either party to any Data Subject.

2.11 CFS will keep the business of the Health Board and related documents confidential. Information provided to CFS will only be disclosed to parties authorised by the Health Board or as required to any other authorised body or as otherwise permitted under the terms of this Agreement.

REPORTING REQUIREMENTS

Reports provided by CFS

Period of Reporting	Report Content	Data Used to Produce Report
Monthly	Intelligence cases and operational update	Ongoing summary of intelligence cases and operations
Quarterly	<p>Patient Exemption Checking System – cumulative quarterly report commencing with the quarter ending June</p> <p>Cumulative quarterly referral, intelligence case and, operational report commencing with the quarter ending June</p>	<p>A count of all cases processed through PECS in the reporting quarter including all carried forward cases from the previous quarter</p> <p>A summary of all referrals, intelligence cases and operations processed in the reporting quarter, including intelligence alerts issued</p>
Annually	<p>Patient Exemption Checking System – report for period April to March</p> <p>End of Year - Annual referral, intelligence case and operational report for period April to March</p>	<p>PECS cases processed during the financial year including cases recommended for write off with the reason and details of recoveries</p> <p>A summary of all prevention, intelligence, detection and investigation work carried out</p>



Dear Colleague

**UPDATING CEL 3 (2008) – STRATEGY TO
COMBAT FINANCIAL CRIME IN NHS SCOTLAND**

1. This letter informs NHS Scotland bodies of the requirement to update the current strategy to combat financial crime in NHS Scotland and requests them to take note of new and specific actions in relation to this.

Background

2. In January 2008, the Scottish Government published its strategy document: [Don't Let Fraud Drain Our Resources](#). This updated the counter fraud strategy for the NHS in Scotland at that time, and outlined the general actions which were expected of NHS Scotland Counter Fraud Services (CFS), Health Boards and other NHS bodies, to tackle the menace of fraud and financial crime.

3. Complementary to that strategy document, the Scottish Government also published CEL 3 (2008) – [Strategy to Combat NHS Fraud in Scotland](#), which provided more detailed advice to Chief Executives and HR Directors of NHS Scotland bodies, on what specific actions they should be taking to meet the aims of the strategy. It also outlined the roles of Audit Committees, Counter Fraud Champions (CFCs) and Fraud Liaison Officers (FLOs).

Progress against Actions of CEL 3 (2008)

4. Since CEL 3 (2008) was issued, a considerable amount of work has been undertaken by CFS, in conjunction with NHS bodies and Professional organisations, to combat fraud and financial crime. The Partnership Agreement between CFS and Health Boards has been a successful initiative, as has the Memorandum of Understanding between CFS and HR Directors, in Boards. Since 2000, significant cost avoidance has been achieved and recoveries made, which otherwise would have been lost to fraud. The general levels of awareness on fraud matters, and counter-measures to defeat it, are now considerably more developed, across the Service.

**CEL 11 (2013)
30 May 2013**

Addresses

For action

Chief Executives, NHS Boards

Head of Service, NHSScotland Counter
Fraud Services

For information

Chairs, Audit Committees, NHS Boards

Directors of Finance, NHS Boards

Fraud Liaison Officers, NHS Boards

Counter Fraud Champions, NHS Boards

Chief Internal Auditors, NHS Boards

Employee Directors, NHS Boards

Auditor General

Association of Chief Police Officers
(Scotland)

Enquiries to:

Directorate of Finance, eHealth and
Pharmaceuticals
St Andrew's House
Regent Road
Edinburgh EH1 3DG

Tel: 0131 244 1816

Fax: 0131 244 2371

david.bishop@scotland.gsi.gov.uk

<http://www.scotland.gov.uk>

5. However, the threat from fraud and financial crime is increasing as fiscal pressures continue to emerge. Since 2008, the degree of sophistication in perpetrating financial crime has also increased, and the rise of organised crime gangs, and cyber crime, has brought a new dimension to that threat. The Scottish Government considers therefore, that steps need to be taken to reinforce the counter fraud message, including the placing of a more direct responsibility on Accountable Officers for their organisation's approach to countering fraud and the achievement of measurable outcomes that are required from actions to prevent fraud occurring.

Emphasis on 'Tone from the Top'

6. Although the NHS has made strides over the last ten years, to combat fraud and other financial crimes, there is still much work to be done. Experience has shown that if fraud is taken seriously by an organisation and the 'tone from the top' is one that applies a zero tolerance to this crime, then the results can be encouraging. The hallmarks of a fraud-aware Board are:

- a. The Chief Executive (as the Accountable Officer) is aware of the need to set the tone and takes an active interest in tackling fraud, promoting the counter fraud message, and is prepared to accept any adverse publicity that might ensue. All Chief Executives are reminded that they have signed the formal Partnership Agreement with CFS, on behalf of their Board.
- b. An Executive Management Team who are 'fraud-aware' and have the determination to root out the causes of fraudulent activity.
- c. Having a significant number of fraud referrals is viewed as a testament to an organisation's willingness to tackling issues head-on.
- d. An effective Audit & Risk Committee, which has fraud as a permanent item on the Agenda and diligently monitors progress and actions.
- e. A Board member responsible for overseeing counter fraud measures and, in particular, the development of an effective Counter Fraud Strategy and awareness campaign. This may well be the Counter Fraud Champion.
- f. Having an effective Fraud Liaison Officer supported by the Chief Executive, who can develop close and professional links to CFS and who understands the need to control all referrals and follow-up work.
- g. Having an HR department which understands fraud and has policies in place to deal with the impact on staff, who might be caught up in fraud investigations.
- h. Having communications that are integral to the fraud policy of the organisation, and can direct effective awareness-raising campaigns, in conjunction with advice and support from CFS.

Actions Required to meet Updated CEL

7. To ensure that this CEL has the maximum impact for the future, there will now be a requirement for NHS Scotland bodies to take a more proactive, measurable approach to counter fraud work. Chief Executives will be required to actively pursue their organisation's counter fraud policy and counter fraud work is to be measured on a more routine basis and will form part of the Health Board's Annual Review.

8. **Measurable Tasks.** The following measurable tasks are to be undertaken by NHS Boards:

a. **Board Audit & Risk Committees.** Required to take a more proactive stance on fraud. Committees are to ensure that all appropriate counter fraud measures are in place and that they have been made aware of all referrals submitted to CFS. They should be able to demonstrate that any counter fraud, or sanction-based recommendations made by CFS as part of an investigation within the Board, are appropriately addressed and followed up by the relevant Board officers. A summary of the Committee's actions in relation to fraud are to be provided to CFS on a Quarterly basis and a synopsis provided as part of the Board's Annual Report. CFS will be available to provide any advice, as required.

b. **Counter Fraud Checklist.** The Board, led by the Audit & Risk Committee, are required to carry out an annual gap analysis in respect of fraud. This should usually be completed at the beginning of the financial year. To assist, a Counter Fraud Checklist is attached at Annex A. A copy of the completed Checklist is to be submitted to CFS and a synopsis of the gaps identified, together with mitigating actions will be included in the Board's Annual Report.

c. **Fraud Risk Assessment.** All Health Boards must undertake a Fraud Risk Assessment (unless already completed), using the CFS Fraud Risk Assessment Methodology (FRAM) within 12-24 months of the publication of this CEL. The FRAM is designed to determine the top fraud risks in any organisation, based on the organisation's budget profile. Detailed advice on the FRAM is available from CFS. Evidence of progress with completion will be required to be provided to CFS on a Quarterly basis. Evidence of use of the Assessments will also be reported as part of the Board's Annual Report.

d. **HR DVD.** The counter fraud awareness DVD, sponsored by HR Directors, has been available to Boards since 2010. The formal rollout of the DVD, including the requirement for it to be accompanied by a structured training session, has been sporadic. Boards are now required to ensure that the DVD is actively used for training and a summary of use, reported to CFS by March 2014 (unless already completed). Thereafter, sessions are to be run on a two-yearly cycle and evidence of use reported at the Board's Annual Report.

e. **Counter Fraud eLearning Toolkit.** The Toolkit has been specifically designed to assist staff in understanding the impact of fraud. The Toolkit has been issued to Boards and now requires maximum publicity. Evidence of uptake by Boards will be produced on a Quarterly basis and also reported at the Board's Annual Report.

f. Counter Fraud Media. CFS is able to provide Boards with simple media material that can be shown on Board media facilities – in particular, corporate plasma screens. The same material can also be shown in other sites, for example Primary Care Contractor premises. Boards are to report on the use of such media in Board-controlled premises and are to actively support CFS in other suitable premises. A Quarterly Return to CFS is required to substantiate the use of this media.

Update Roles and Responsibilities of Key Counter Fraud Officers in Boards

Fraud Liaison Officers

9. The roles and responsibilities of FLOs in NHS bodies have been updated since 2008, and are clearly outlined in Annex B. As the concept of FLOs has been embedded since 2008, the Board must be able to demonstrate that there is a close and effective interface between NHS bodies and CFS.

Counter Fraud Champions

10. The role of a CFC was articulated in CEL 3 (2008). However, despite every effort to create an effective network of Champions across NHS Scotland, the concept, as outlined in that CEL has not been fully achieved in every NHS body. There are a number of possible reasons for this situation, including:

- a. Lack of understanding as to the individual's roles and responsibilities
- b. Choice of Champions
- c. Availability of Champions
- d. Lack of support from Accountable Officers

11. With the knowledge gained on the role of CFCs since 2008, the roles and responsibilities of the Champion have been reviewed in order to decide how best to assist NHS bodies with implementing the original CEL. As a result, an expanded set of guidelines are attached at Annex C. These are designed to provide a more realistic framework for Champions, and include suggestions, which will make the tasks of Champions easier to understand, and implement.

Sharing and Utilising Best Practice

12. It is incumbent upon FLOs, CFCs and CFS to share different methods of delivering counter fraud initiatives across all NHS Bodies, using CFS as a conduit. This will promote best practice and consistency. Examples of some of these initiatives, and their successful implementation, are demonstrated in Annex D. These initiatives are available to all NHS Bodies through the CFS Proactive Plan, and can be delivered by CFS staff at no charge.

Further Information

13. Further information and advice on this CEL is available from the following colleagues at NHS Counter Fraud Services:

Brian Donohoe, Senior Investigator (email bdonohoe@nhs.net, or telephone 01506 705209) for Proactive Projects; and

Stephen Frier, Communications Manager (email stephen.frier@nhs.net, or telephone 01506 705240) for Communication Initiatives.

Yours sincerely

A handwritten signature in black ink that reads "John Matheson". The signature is written in a cursive style with a long horizontal stroke underneath.

JOHN MATHESON
Director of Finance, eHealth and Pharmaceuticals

NHS -----

Counter Fraud Checklist

	Yes	No	Gap
<i>Adopting The Right Strategy</i>			
Do we have a zero tolerance policy towards fraud?			
Have we taken steps to set “the tone from the top”? Is there strong executive support for work to counter fraud and corruption?			
Do we have the right approach, and counter fraud strategies, policies and plans? Have we aligned our strategy with the Government strategy <i>Don't Let Fraud Drain Our Resources – Strategy to Combat Fraud in Scotland?</i>			
Do we have an effective counter fraud communication strategy throughout the Board that is acknowledged by those charged with governance?			
Do we have “adequate procedures” in place to prevent bribery as per the Bribery Act 2010?			
Does our Board have a clear programme of work attempting to create a strong deterrent effect?			
Has our Board “fraud proofed” (impact assessed) any relevant policies, procedures and systems to avoid occurrence and re-occurrence of fraud? Has the Board consulted with CFS regarding fraud proofing of policies and has this been reported to the Audit Committee?			
Have all identified weaknesses been fed back to the appropriate departments to ensure any loopholes are closed?			
Have we signed the Partnership Agreement with CFS?			
Does our Board’s Audit Committee have sight of CFS reports which make counter fraud recommendations?			
Does our Board’s Audit Committee monitor agreed changes to processes based on CFS’ counter fraud recommendations?			
Are staff in our Board aware of the channels for reporting fraud and corruption?			
Do staff in our Board know who the Fraud Liaison Officer (FLO) is and how to contact them?			

Do we have effective arrangements for:-			
· Reporting fraud			
· Recording fraud			
· Whistle blowing			
Do we raise awareness of fraud risks with:-			
· New staff (including agency staff)			
· Existing staff			
· Board members			
· Our contractors			
Do we risk assess posts and carry out enhanced vetting, where appropriate, to prevent potentially dishonest employees being appointed?			
Have we successfully implemented the counter fraud e-learning programme?			
Is there a programme to positively publicise fraud cases internally and externally which is endorsed by our communications team?			
<i>Accurately Identifying The Risks</i>			
Do we identify areas where our internal controls may not be performing as well as intended? How quickly do we then take action? Do we inform CFS of any issues?			
Do we maximise the benefit of our participation in the National Fraud Initiative and receive reports on our outcomes?			
Have we reassessed our fraud risks since the change in the financial climate? Have we reported this to the Audit Committee?			
Have we amended our counter fraud action plan in light of this?			
Have we undertaken and participated in a fraud Risk Assessment Methodology (RAM) exercise supported by CFS			
Has our Board "signed up" to any activities in the CFS Proactive Plan?			
Are we satisfied our procurement controls are working as intended?			
Are we satisfied our recruitment procedures:-			
· Prevent us employing people working under false identities;			
· Confirm employment references effectively;			
· Ensure applicants are eligible to work in the UK;			
· Require agencies supplying us with			

staff undertake the checks that we require?			
<i>Taking Action To Tackle The Problem</i>			
Do we have appropriate and proportionate defences against current and emerging fraud risks:-			
· Bank Account Takeover			
· Procurement Fraud			
· Sickness Absence Fraud			
· NHS “brand” abuse			
· Health Tourism			
Is our Board and relevant staff clear as to the procedures for involving CFS?			
Do we receive regular reports on how well we are tackling fraud risks, carrying out plans and delivering outcomes?			
Do CFS provide us with regular alerts/updates on current fraud risks and issues?			

UPDATED ROLES AND RESPONSIBILITIES OF NHS FRAUD LIAISON OFFICERS

1. Acting as Lead Conduit between CFS and the Health Board.

The FLO is the key first point-of-contact between CFS and the Board, relating to specific cases.

2. Responsible for receiving information about suspected frauds, within their organisation, from staff or others and passing such information to CFS.

In line with the Partnership Agreement, the FLO is the key channel for communication of fraud to CFS.

3. Responsible for facilitating investigations in their organisations and liaison between CFS and those within the Board whose interests are closely linked to any fraud referral to CFS.

As summed up in the Board Partnership Agreement with CFS.

4. Responsible for briefing the Chief Executive and other senior Board Executives on specific cases.

So that the tone from the top can be maintained, the FLO will have the responsibility to keep all senior managers (including the Chief Executive) fully briefed on any current cases.

5. Working with HR Department.

Responsible for working with Director HR to ensure that staff governance is observed and particularly timing of actions which may involve staff.

6. Ensuring that Audit & Risk Committees are kept informed.

Working with principal executive officers responsible for conduct of the Audit Committee, to ensure the Committee is properly briefed on fraud matters.

7. Facilitating Deterrence and Awareness Initiatives.

Support CFS, national proactive initiatives to raise awareness by facilitating communications with the relevant Board officers (e.g. CFC, HR Directors, Learning & Development Leads, Communications Manager, etc).

UPDATED ROLES AND RESPONSIBILITIES OF NHS COUNTER FRAUD CHAMPIONS

1. Raising the Profile of Counter Fraud Initiatives and Publicity.

The CFC should be in a position to gauge the level of understanding of financial crime in the organisation. If the level is low, the Champion should work with the board communications team to think of imaginative ways to promote fraud awareness. The Champion should also liaise with CFS to seek ideas, and mediums, to explain the message, utilising existing initiatives.

2. Make Regular Reports and/or presentations to the Audit Committee

The Champion must be an Executive Director/ Non Executive Director who is a regular attendee at the Audit Committee. This means that they will have a direct influence on the agenda when fraud is discussed, and can highlight gaps in the counter fraud regime.

3. Involvement in Counter Fraud Initiatives.

The Champion should have oversight of and, where possible be involved in, any initiatives being considered by the NHS Body for deterring and disabling fraud.

4. Monitor the degree to which recommendations resulting from investigations by CFS have been implemented within his/her organisation and take steps to ensure full compliance.

This is an important responsibility, and may well be the task of others within a Body. However, it should be the role of the Champion to enquire as to whom that responsibility is placed and make it their duty to ensure that matters resulting from investigations are being addressed. Again, this is best facilitated by the Champion being a member of the Audit Committee, but if the Champion is of sufficient seniority, then questions can still be asked as to the compliance with fraud investigation outcomes.

5. Relationship with FLO.

The FLO is the key, day-to-day link with CFS. All matters relating to any fraud investigation and counter fraud initiatives within NHS Bodies, comes through that portal. It is therefore important that the Champion knows who the FLO is, and offers support as necessary. The FLO and the Champion should certainly meet up to discuss ongoing cases and counter-fraud initiatives. Particularly important will be the need to spot any gaps in policy or counter-fraud awareness regimes and work closely to brief the Executive Management Team.

6. Relationship with Director Human Resources.

The Champion should make it known to the Director of HR that he/she is in place, and able to assist with promoting an anti-fraud culture in the organisation. In particular, the Champion should support the use of training tools developed in conjunction with HR Directors and their Teams; including the Counter Fraud DVD and the eLearning package.

7. Relationship with Head of Communications.

The Champion should be alive to any communication going to staff which involves counter-fraud messages. Ideally, the Champion should be involved in the drafting of any communication. The Champion should also be advised, in advance, of any media coverage resulting from successful prosecutions.

8. Relationship with Employee Director.

Encountering fraud in any organisation is stressful for staff. The Champion should therefore liaise with the body's Employee Director and work together to promote a safe environment for staff who report, or are witnesses in, any fraud investigation.

9. Relationship with CFS.

CFS exists to support any NHS Scotland Body in countering fraud. The Champion should feel free to contact CFS at any time to seek general advice on policy and policy implementation. Care should be taken not to obstruct the duties of the FLO, but this can be resolved through close working relationships with FLOs. The Champion will have access to the CFS Secure Website, so that general information can be accessed. The Champion should also attend an introductory briefing with CFS at the beginning of their tenure.

Sharing Best Practice – Practical Applications of Counter Fraud Initiatives

NHS Tayside - Staff Fraud Awareness Sessions – November 2012		
Activity	Target Audience	Outcome
<p>At NHS Tayside's request, CFS delivered a series of fraud awareness sessions, at three hospital locations within the Board area.</p> <p>The sessions were advertised ahead of the sessions, using various internal communication platforms. The sessions involved CFS team members, with the support of the Board's Fraud Liaison Officer and Counter Fraud Champion, engaging with staff on a face-to-face basis. These took place in areas of high footfall (e.g. staff dining rooms or recreational areas and were timed during coffee and lunch breaks).</p> <p>Staff were also presented with an explanatory leaflet, outlining the role of CFS, were provided with some examples of NHS fraud, and asked to complete a short questionnaire. Over 250 staff participated in the sessions.</p>	NHS Staff	<p>Analysis of the questionnaires identified that:</p> <ul style="list-style-type: none"> · 40% of respondents had heard of CFS prior to the sessions; · 70% of respondents found the sessions either very informative or informative; · 89% of respondents did not know the name of their Board's Fraud Liaison Officer; · 77% of respondents said they would report a suspected fraud against the NHS.
NHS Ayrshire and Arran - Fraud Awareness Workshops – Family Health Service Contractors		
Activity	Target Audience	Outcome
<p>In response to a request from the board's dental nurse education co-ordinator, CFS facilitated the delivery of 'generic' fraud awareness workshops to 50+ student dental nurses over 2 evening sessions. These sessions were arranged as part of the students protected learning time (PLT) allocation.</p> <p>Flyers to publicise these events were forwarded in advance for distribution, electronically, throughout the board. Following the sessions, evaluation sheets were completed by all those who attended.</p>	Student Dental Nurses	<ul style="list-style-type: none"> · 95% of respondents agreed or strongly agreed that the initial events were useful and informative <p>Due to the success of these events, the Dental Practice Advise, and CFS are planning a CPD session for Dentists which will address issues specific to exemption and investigations.</p>

NHS Greater Glasgow & Clyde - Counter Fraud DVD Workshop		
Activity	Target Audience	Outcome
<p>A counter fraud training DVD was produced at the request of HR colleagues, designed to promote an understanding of roles, processes, and interactions when a suspected fraud is reported at board level. It was designed to be used as part of a facilitated training event. Training notes that accompany the DVD were provided as an aide memoir.</p> <p>To enhance the use of the DVD, and as part of the training and development experience, an investigator from CFS attends the training session, in order to provide technical input and help facilitate the event.</p> <p>Following a successful pilot event, NHS Greater Glasgow & Clyde conducted an ongoing series. The DVD content was used as a basis for the session. The board chose to expand the DVD's subject matter to cover other areas of interest to those attending; thereby adding value to the overall content.</p>	<p>HR staff, line managers and staff side representatives</p>	<p>The board has introduced an on-line process, whereby staff can register their interest in attending the workshop, via the counter fraud page on the staff intranet.</p> <p>Evaluation of the pilot event revealed that:</p> <ul style="list-style-type: none"> · 95% of respondents agreed or strongly agreed that the event was useful and informative; · 94% of respondents though that the workshop was a productive use of their time.
NHS National Services Scotland (NSS) - e-Learning Programme		
Activity	Target Audience	Outcome
<p>To reach staff who cannot attend face-to-face sessions for fraud awareness, an e-Learning programme was developed by CFS, and launched in August 2012. The on-line training takes about 20 minutes and explains; what constitutes fraud, the process for reporting suspected fraud and the support provided if fraud is found. Each section is followed by a series of questions relating to the content. The training is completely confidential, with no personal data stored. On completion, staff will be more aware of; the impact of fraud, the role of CFS, and the contribution they can make to combat fraud within their own organisation.</p>	<p>All board staff, particularly inductees</p>	<p>Although only recently re-launched, Initial statistical evaluation indicates a marked increase in staff participation</p>

<p>NSS re-launched the programme via board staff updates which featured a message of support from the HR Director, to encourage staff participation.</p>		
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