



NHSSCOTLAND  
COUNTER FRAUD SERVICES

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**National Services Scotland**

**PARTNERSHIP AGREEMENT  
WITH HEALTH BOARDS**

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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 Special Health Boards and Agencies, and all other bodies constituted pursuant to the National Health Service (Scotland) Act 1978 (as amended) (together referred to in this Partnership Agreement as “Health Boards”) and (2) NHSScotland Counter Fraud Services (“CFS”), a division 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 this Agreement**

1.2.1 This Partnership Agreement:

- explains the roles and responsibilities of the partners to this Agreement
- states the intention to promote an anti fraud culture within NHSScotland
- clarifies the types of investigations CFS will undertake in partnership with Boards and their staff

1.2.2 The Partnership Agreement forms a key element of the Scottish Government’s determination to reduce fraud against NHSScotland. In January 2008, the Scottish Government published its [“Strategy to Counter NHS Fraud in Scotland”](#) and this Agreement follows the principles and guidance set out in that document.

### **1.3 Partnership Period**

1.3.1 The Partnership Agreement will be effective from 1 April 2009 to 31 March 2012. This Agreement will be monitored by the NHSScotland Counter Fraud Services Steering Group. The remit of the Counter Fraud Services Steering Group is outlined in Section 4.6 of this Agreement. The Group will receive regular reports from CFS, in consultation with Health Boards, on its progress. Any changes considered necessary to the Agreement will be again made in consultation with Health Boards.

### **1.4 Escalation Procedures**

1.4.1 Any dispute arising out of this Partnership Agreement should be resolved with the relevant CFS Operational Manager, or for investigations, escalated in the first instance to the Head of Investigations. If this process is unsuccessful the issue should be referred to the Head of Service. If necessary, matters should then be escalated to the Chief Executive of NSS and thereafter the Scottish Government Health Directorate (SGHD).

## **2. BACKGROUND**

2.1. The Scottish Executive Health Department’s (SEHD) February 2005 circular (HDL (2005) 5) advised of the extension of the role of NHSScotland Counter Fraud Services (CFS) and noted that a Partnership Agreement had been established between Health Boards and CFS. That Agreement was to cover the period April

2004 to March 2007. Although the term of that Agreement period has now expired, Health Boards and CFS have continued to work under its guidance.

- 2.2. The delay in reviewing the 2004 Agreement was due to the decision to establish memoranda of understanding with the internal audit community and with human resources directors. It was felt that much of the detail of the 2004 Agreement could be dealt with in these new memoranda of understanding. The 2004 Agreement also contained a great deal of information on the working of CFS, which, after nearly 5 years in its extended role, is no longer considered necessary. The Fraud Action Plan included with the 2004 Agreement has now been adopted and amended locally by Health Boards and whilst an integral part of the overall Counter Fraud strategic aims, has no continuing place within a Partnership Agreement. This new Partnership Agreement is therefore a more concise document, focusing on the issues and responsibilities, which require complete clarity to allow the Health Board/CFS partnership to work effectively. However, there is still a requirement for Health Boards to maintain an extant Fraud Action Plan.
- 2.3. CFS provides a full, professional counter fraud service to all parts of NHSScotland. It has the responsibility for investigating all NHS fraud allegations and Health Boards must seek advice from CFS at the earliest possible stage where these allegations may involve their own organisations. Working with the Counter Fraud Champions within Health Boards, CFS also provides a central resource to advise on, and support, the deterrence, prevention, detection, investigation, reporting and recording of all instances of fraud. CFS will also carry out all patient exemption checks on behalf of Health Boards. CFS has the status of a Specialist Reporting Agency to the Crown Office and Procurator Fiscal Service. This means that CFS is empowered to report cases for prosecution on behalf of Health Boards, without recourse to any other Agency or the police.
- 2.4. Recognising the reality that it is only through access to information that the truth or otherwise of a suspicion of fraud can be determined, CFS and the Health Boards agree to work together to attempt to overcome problems in accessing information, where appropriate, and in the greater interest of countering fraud.

### **3. COMPLIANCE STATEMENT - UK/SCOTTISH LEGISLATION**

- 3.1. All investigations undertaken by CFS investigators will be conducted in compliance with relevant legislation including to the extent applicable the Criminal Procedure (Scotland) Act 1995, the Regulation of Investigatory Powers Act 2000, the Regulation of Investigatory Powers (Scotland) Act 2000 ("RIP(S)A"), the Data Protection Act 1998 (the "1998 Act") and all relevant Codes of Practice, recognising the considerations of the Human Rights Act 1998.
- 3.2. CFS will ensure that confidential and/or personal information obtained or created by it is dealt with appropriately and, where relevant, processed in accordance with the 1998 Act. NSS is registered as a Data Controller (as defined in the 1998 Act) on the Information Commissioner's Register of Data Controllers, which registration covers the work of CFS.
- 3.3. When acting as a Data Processor (as defined in the 1998 Act), CFS undertakes to:-
  - 3.3.1. comply with the obligations of a Data Controller (as defined in the 1998 Act) under the 1998 Act (seventh principle);
  - 3.3.2. have in place appropriate technical and organisation measures to protect any personal data accessed or processed by CFS against unauthorised or

unlawful processing and against accidental loss or destruction or damage, and in this regard shall take all reasonable steps to ensure the reliability of its staff who may have access to personal data processed for Health Boards;

- 3.3.3. only act on the instructions of Health Boards in relation to the processing of any personal data provided to CFS by them, on their behalf, or by their employees;
- 3.3.4. to allow representatives from relevant Health Boards to access relevant premises owned or controlled by CFS on reasonable notice to inspect the procedures described at 3.3.2 above, and, on request from time to time, to prepare a report for Health Boards in relation to the current technical and organisational measures used by CFS to protect personal data processed for Health Boards;
- 3.4. CFS will ensure that it adheres to the principles of the 1998 Act including ensuring that data it processes as a Data Controller (as such term is defined in the 1998 Act) in relation to living individuals is:
  - 3.4.1. as accurate as possible, and retained for no longer than is necessary. CFS Document & Retention Policy requires that Investigation Files are kept for a minimum of seven years from the current date of that investigation.
  - 3.4.2. held securely, in a publicly accountable manner and used only for the purpose of the prevention, detection and investigation of fraud, embezzlement, theft, corruption or other irregularities in relation to the health service and/or any relevant Codes of Practice (hereafter collectively referred to as "fraud").
- 3.5. CFS will follow the NSS Code of Practice on "Protecting Patient Confidentiality", adhering to the Caldicott Principles.
- 3.6. Both Health Boards and CFS are obliged to, and must, comply with the provisions of the Freedom of Information (Scotland) Act 2002 and all relevant Codes of Practice. Therefore all provisions of this Partnership Agreement shall be construed as being subject to, and shall not override, any Health Boards' or CFS' compliance obligations in relation to such Act.

## **4. ROLES AND RESPONSIBILITIES**

### **4.1. Health Boards**

- 4.1.1. Accountable Officers remain responsible for countering fraud within their Health Board.
- 4.1.2. Accountable Officers are required to have adequate arrangements in place for the deterrence, prevention and detection of fraud. In line with central guidance, these arrangements should encompass robust systems of preventative and detective controls to reduce the risk of fraud and contribute to the promotion of an anti-fraud culture.
- 4.1.3. In October 2008 the SGHD issued circular [CEL 44 \(2008\)](#) (see Appendix III) noting that all frauds must be reported to CFS regardless of who the suspect or victim is, whether it is prosecuted criminally, civil action or by discipline, or whether the fraud was actual or attempted. The Accountable Officer must ensure that systems are put in place to notify CFS of all reports of fraud, so

that complete records of fraud against NHSScotland are available (see Appendix III – Reporting).

- 4.1.4. The Accountable Officer should also use CFS to assist in the investigation of actual, and alleged, losses involving patients' funds where evidence exists of systematic fraud.
- 4.1.5. The Scottish Government's Strategy asks Health Boards to appoint an executive or non-executive director to be a Counter Fraud Champion to help with the process of changing attitudes to fraud within organisations where it is felt that further work needs to be done on this challenge.
- 4.1.6. Health Boards have nominated a senior officer as fraud liaison officer (FLO). The FLO will liaise with CFS on all matters relating to NHSScotland fraud and will co-operate with proactive enquiries. The FLO will have a duty to report/receive, on the Health Board's behalf, all allegations of fraud to/from CFS, and, subject to Section 6.1, to decide with them whether the allegation will be taken forward for potential criminal prosecution, and/or as a disciplinary or civil case. (See SGHD circular [CEL 03 \(2008\)](#) for roles and responsibilities of Counter Fraud Champions and Fraud Liaison Officers).
- 4.1.7. Responsibility for any necessary actions based on findings and recommendations from CFS lies with Health Boards.
- 4.1.8. The "Fraud Action Plan" details Health Boards' responsibilities in respect of co-operating with CFS's proactive, and counter fraud, culture programmes. Health Boards must each adopt and implement their own Counter Fraud Action Plans.
- 4.1.9. Health Boards shall nominate either the FLO or another person to take responsibility for distributing all reports and other communications from CFS to appropriate recipients.

#### Public Interest Disclosure Act 1998

- 4.1.10. All Health Boards are required to provide a secure environment for staff, practitioners and patients to be able to report suspected frauds and a Boards' whistleblowing policy will be clearly outlined for staff within the relevant Health Board Fraud Action Plan, intranet and staff leaflets. A useful reference point is the [Partnership Information Network \(PIN\) Guideline on Dealing with Employee Concerns](#).
- 4.1.11 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 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 Office of the Surveillance Commissioner. The Surveillance 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, which do not relate to NSS, but will receive the Surveillance Commissioner's audit reports and will direct CFS to take any necessary action in respect of those reports.

4.2.3. The Service Auditor appointed to review the work done on behalf of the NHS by Practitioner Services will carry out any necessary audit of CFS's functions and particularly the CFS' patient exemption fraud work. This 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. In terms of audit, the specialised nature of specific fraud investigations will require a careful assessment of the type of audit required. This will require discussion with all key parties involved and a plan developed that meets the need of auditors, but recognising the special nature of the investigation. The audit of investigation work is therefore still under consideration but may be carried out by one, or a combination of:

- review by questionnaire to Procurators Fiscal of CFS cases submitted;
- a qualified auditor;
- independent audit by an appropriately qualified and experienced professional (e.g. retired Procurator Fiscal/Senior Police Officer etc).

### **4.3. Counter Fraud Services**

4.3.1. CFS, in partnership with the Health Boards, will work actively to promote an anti-fraud culture the aim being that NHS staff, patients, FHS practitioners, contractors or suppliers and the wider public will come to regard fraud against NHSScotland as unacceptable. An overview of CFS's role, and contact details, is at Appendix II.

4.3.2. CFS will provide support and facilitation for the Counter Fraud Champions in their work.

4.3.3. The role of CFS, in partnership with Health Boards, is to:

- undertake a campaign of fraud deterrence and provide training and education in respect of countering fraud;
- undertake the work necessary to prevent and detect both primary and secondary care patient exemption fraud on behalf of Health Boards, and to pursue vigorously all cases of suspected fraud to a conclusion;
- proactively detect and identify fraud against NHSScotland;
- investigate, on behalf of the Health Boards, alleged cases of fraud by staff, patients, FHS practitioners, contractors or suppliers;
- where necessary, undertake directed surveillance and covert human intelligence source management in relation to fraud or other financial irregularities 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;
- assist in the recovery of resources fraudulently or corruptly obtained from NHS Scotland;

- undertake a biennial measurement of the level of patient fraud/error, delivering proposals for reducing that fraud/error.

4.3.4. Reporting – CFS shall provide reporting in accordance with section 7 of this Partnership Agreement

4.3.5. Although part of NSS and managerially responsible to the NSS' Chief Executive, the CFS Head of Service has a professional responsibility to the Accountable Officers of the Health Boards for the conduct of investigations on their behalf and the provision of subsequent advice. Information concerning work carried out on behalf of a client body may only be disclosed outwith the confines of CFS with the express permission of the relevant Health Board, except for disclosure to the SGHD, other UK health counter fraud bodies where relevant, the appointed auditor, or the Crown Office and Procurator Fiscal Service or Police. The CFS Head of Service also has the right of access, in exceptional cases (those involving allegations against the most senior staff in a Health Board, or cases directly involving NSS), to the SGHD Director of Finance.

#### **4.4. Internal Audit working with Counter Fraud Services**

4.4.1 The role and responsibilities of Health Board internal audit function and CFS are shown in the [Memorandum of Understanding with Internal Audit](#).

#### **4.5. Human Resources working with Counter Fraud Services**

4.5.1 The roles and responsibilities of Health Board Human Resources function and CFS are shown in the [Human Resources/CFS Memorandum of Understanding](#).

#### **4.6. CFS Steering Group**

4.6.1 The role of the CFS Steering Group is as a central focus for counter fraud operational practice within NHSScotland. The Group is made up of representatives from SGHD, Health Boards (which includes a representative from DoFs and a representative from Directors of HR), Audit Scotland, Counter Fraud Champions, the Crown Office and Procurator Fiscals Service and CFS senior staff.

4.6.2 The remit of the CFS Steering Group is:

- to influence how CFS carry out their work by:-
  - agreeing matters of operational policy concerning the fraud prevention and detection work of CFS (except where there is a direct steer from the Scottish Government) and,
  - the drafting of an “annual plan” for CFS, directing it to areas of fraud seen as priorities by the NHS (having canvassed their colleagues to find the areas they see as at most risk)
- to act as a sounding board and as a source of professional advice/information by:-
  - raising any concerns from NHSScotland regarding how CFS operate
  - using members’ best efforts to assist CFS overcome any obstacles to providing an effective counter fraud service,
  - providing the link into and from NHSScotland to enable CFS to give information/clarification of their aims and activities to NHSScotland

- assist in raising the profile of CFS and proactively champion countering fraud within the NHSScotland
- to review and comment on CFS performance in respect of the external sections of the quarterly “Balanced Scorecard” reports, on behalf of NHSScotland

## **5. CONDUCT OF PROCEEDINGS – WORKING TOGETHER**

- 5.1. After notification of an alleged fraud, consultation will take place between the FLO and appropriate officers from the Health Board, acting on behalf of the Accountable Officer, and CFS to determine who should undertake the investigation.
- 5.2. At all times the policy of the Scottish Government on “triple tracking”. The explanation of Triple Tracking is the pursuit of criminal, disciplinary and recovery sanctions. These must be taken into account in discussions. All investigations will be undertaken on behalf of the Accountable Officer, and formal communication and reporting structures and timetables will be established. See hyperlink at Paragraph 4.5 above.
- 5.3. Circular [HDL \(2002\) 23](#) states that “Where preliminary investigations suggest that prima facie grounds exist for thinking that a criminal offence has been committed, the appropriate Procurator Fiscal must be notified without delay...” Therefore, where such grounds exist, 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 Procurator Fiscal. 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. Where, following consultation between the FLO, other appropriate Health Board officers and CFS, it is determined that an investigation will be undertaken which may result in a referral of an employee for criminal and disciplinary proceedings, the matter will be investigated by CFS. The Health Board will sanction CFS to undertake the investigation using all appropriate, legal methods which may, if warranted, include surveillance.
- 5.6. Where it is accepted by CFS that no notification to the Procurator Fiscal will be made, but that disciplinary sanctions are to be sought, the investigation will be determined by discussion with the relevant NHS organisation and may be conducted internally, normally by Internal Audit and/or Human Resources staff (see Memoranda of Understanding with Internal Audit/Human Resources - referred to at sections 4.4 and 4.5 above)

## **6. COUNTER FRAUD OPERATIONAL REMIT**

### **6.1. Proactive Operations**

#### **Anti-Fraud Culture/Communications**

6.1.1. CFS will work with the NHSScotland in promoting an anti-fraud culture within NHSScotland and the wider Scottish public; with the aim of reducing fraud and safeguarding funds for patient care. The communications aspects of this work will be agreed annually with Health Boards' Counter Fraud Champions, and Fraud Liaison Officers, as part of the "Proactive Plan".

6.1.2 The role of the Counter Fraud Champions is vital in promoting and promulgating the communication of the counter fraud message to staff, and delivering the impetus to create an anti-fraud culture within Boards. In this respect, the Counter Fraud Champions Network has been set up to share local ideas and initiatives to meet the challenge of beating fraud. CFS will also maintain and promote the Fraud Reporting Line (08000 15 16 28) as well as the ability to report fraud via the [CFS website](#).

6.1.3 The Proactive Plan is aimed at delivering the proactive aspects of the core elements mentioned above with four key initiatives:

- Raising Awareness;
- Delivering and/or Facilitating Training;
- Building Relationships and Developing Networks;
- Proactive Exercises/Investigations.

#### Proactive Investigation

6.1.4 CFS will seek out fraud proactively and will undertake projects to identify areas of fraud including, but not restricted to:

- abnormal payment claims for treatment;
- atypical financial transactions;
- abuse of contracts.

These projects will be agreed annually with Health Boards as part of the Proactive Plan.

### **6.2. Reactive Operations**

6.2.1 All investigations carried out in reaction of perceived, alleged, or actual fraud, will be undertaken on behalf of Health Boards and communication with the relevant Health Board officers will be maintained throughout each investigation.

6.2.2 An agreed list of fraud related offences (See Appendix I) will be used to determine which cases should be referred to CFS for investigation.

6.2.3 Where CFS investigates a case of fraud, a final report outlining the criminal case will be issued to the appropriate Health Board. Where appropriate, a

range of recommended civil or disciplinary actions and an estimate of potential civil recoveries will be included in the report. On occasions, CFS will also include counter fraud recommendations in reports. Health Boards have a responsibility to make a 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 SGHD Director of Finance, copying the letter to the CFS Head of Service;
- CFS must submit its concerns to the Health Board's Accountable Officer, copying the letter to the SGHD Director of Finance.

6.2.4 A copy of the full Reactive Operational Protocol can be accessed via the following hyperlink: - [Reactive Operational Protocol](#)

### **6.3. Patient Exemption Fraud**

6.3.1 CFS will undertake a national programme of patient exemption checking which will include claims from both the primary and secondary care sectors.

6.3.2 A copy of the full Patient Exemption Checking Protocol can be found via the following hyperlink: - [Patient Exemption Checking Protocol](#)

### **6.4. Regulation of Investigatory Powers (Scotland) Act 2000 ("RIP(S)A")**

6.4.1. The use of covert surveillance or covert human intelligence sources by public authorities in Scotland is strictly controlled by the provisions of RIP(S)A. The Common Services Agency is a named authority under RIP(S)A. The Head of CFS, Head of Investigations, the Operational Managers and a nominated senior investigator may authorise directed surveillance and the use of covert human intelligence sources (CHIS) in respect of activities affecting NHSScotland. (See [HDL \(2003\) 30](#) Regulation of Investigatory Powers (Scotland) Act 2000).

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

6.4.3. On advice from the Surveillance Commissioner and on the grounds of the health and safety of its employees and its duty of care for any CHIS, should CFS 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.

6.4.4. Where Health Boards are considering the use of directed surveillance or the use of CHIS in cases which do not involve fraud which fall within the remit of

CFS, in connection with public safety or the prevention of disorder, or for the purposes of protecting public health, they should contact the appropriate public body as outlined in [HDL \(2003\) 30](#). This will normally be the relevant Police Force. However, CFS may be able to assist the relevant Health Board in certain instances, for example where there has been a theft of property.

- 6.4.5. The [CFS website](#) (secure area) has further guidance for Health Boards on how to ensure directed surveillance is not undertaken by their staff inadvertently, leaving the Health Board potentially open to legal challenge or allegations in relation to the infringement of Article 8 of the Human Rights Act 1998 – The right to respect for private and family life and/or breach of the 1998 Act. Health Boards should also 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 the 1998 Act 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 produce, through its final quarterly report, an annual review of its activities, which will summarise the year's work. The review will serve to highlight and warn of different types of fraud and will be used, as far as possible, to promote the counter fraud message to a wide readership. Health Boards will be kept fully informed, through their FLO, about individual investigations by regular updates and will be consulted regarding all major decisions. CFS will ensure, dependent on Health Board information, that the Enhanced Fraud Reporting requirements of [CEL 44 \(2008\)](#) are met.

- 7.2 CFS will produce, via a balanced scorecard, a set of performance indicators on an annual basis including:

- number of cases referred to Procurators Fiscal
- number of cases referred to discipline/Tribunal/professional body
- number of cases referred for civil recovery
- average time to complete case
- value of recoveries
- value of identified losses
- value of potential annual savings
- number of patient exemption claims checks completed
- value of recoveries from patients
- number of penalty charges issued
- number of surcharges issued
- number of counter fraud presentations delivered
- number of counter fraud publicity leaflets issued
- staff awareness questionnaire results
- satisfaction questionnaire results.
- Number of staff undertaking eLearning package

**FOR DETAILED REPORTING TIMETABLE - SEE APPENDIX III**

8. **MONITORING AND REVIEW ARRANGEMENTS**

- 8.1 A timetable of regular Performance Review Meetings will be established between CFS and Board Directors of Finance, Fraud Liaison Officers and Counter Fraud Champions (either together or singly, as agreed with the respective Health Board). These meetings will take place annually and all aspects of CFS performance will be reviewed.
- 8.2 An annual survey will 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 Partnership Agreement are agreed below by [ • ] **[insert name of signing body]**

.....

Signed on behalf of ..... [Health Board]  
Date: .....

# Appendix I

## NHSSCOTLAND COUNTER FRAUD SERVICES

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### **National Services Scotland**

## FRAUD RELATED OFFENCES

## 1. LIST OF FRAUD RELATED OFFENCES

1.1 Depending on the nature of business and the products or services provided, NHSScotland members of staff may have many opportunities 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. working whilst on sick leave, 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 is limited to matters of theft, dishonesty, deception and/or manipulation of documents/records where there is a loss to NHSScotland 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
- Attempted Fraud
- Embezzlement (defined as "the crime of stealing the funds or property of an employer, company, or government or misappropriating money or assets held in trust")
- Attempted Embezzlement
- Corruption
- Attempted Corruption
- Theft (where documentation has been falsified)
- Attempted Theft (where documentation has been falsified)
- Other irregularities involving failure to declare gifts, breaches of NHS Circulars or Standing Financial Instructions or other accounting irregularities
- Theft, attempted theft of NHSScotland property or funds (Whilst it is accepted that instances of theft of NHS property or funds are generally reported and investigated by the Police, Health Boards should recognise that in cases of a series of thefts, it may be appropriate for CFS to be notified and provide

additional assistance. Health Boards should seek the advice of CFS as appropriate)

- 1.3 In exceptional circumstances, or in the interest of NHSScotland, but always as directed by the relevant Accountable Officer, CFS may investigate the alleged commission of any of the fraud related offences where there is no direct loss to NHSScotland funds or property but the loss is in connection with the delivery of services under the National Health Services (Scotland) Act 1978 e.g. loss of patient funds. However, in the case of any allegation or suspicion of any criminal offence having been committed, the relevant Health Board must, in consultation with the affected patient (or their representative, if appropriate), agree whether (if anyone) they or the relevant patient should report the matter to the Procurator Fiscal in order to seek criminal proceedings.

# Appendix II

## NHSSCOTLAND COUNTER FRAUD SERVICES

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### **National Services Scotland**

## CONTACT DETAILS

CFS contact details are included in the [CFS website](#) (secure area)

# Appendix III

## NHSSCOTLAND COUNTER FRAUD SERVICES

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### **National Services Scotland**

## REPORTING

# Appendix III

## a. Reports provided by CFS

Period of Reporting	Report Content	Data Used to Produce Report
Quarterly	<ul style="list-style-type: none"> <li>- Patient Exemption Checking System – cumulative quarterly report commencing with the quarter ending June</li> <li>- Case Management System (CMS) – cumulative quarterly report commencing with the quarter ending June</li> </ul>	<ul style="list-style-type: none"> <li>- A count of all cases processed through PECS in the reporting quarter including all carried forward cases from the previous quarter</li> <li>-</li> <li>- A summary of all investigations and a count of all incidents involving financial loss through criminal action processed through the CMS in the reporting quarter including – new cases, on-going cases, those referred to Procurator Fiscal/Central Legal Office, those referred back to the Board for action and cases closed in the quarter</li> </ul>
January-December Report issued at end of January	<ul style="list-style-type: none"> <li>- Patient Exemption Checking System – report for period January – December including the extrapolation of potential fraud based on claims paid against claims checked</li> </ul>	<ul style="list-style-type: none"> <li>- Dental and Ophthalmic claims paid January to December</li> <li>- Pharmacy claims paid November – October</li> <li>- Secondary sector claims paid January – December</li> <li>- PECS cases closed January – December</li> </ul>
April – March Report issued mid April	<ul style="list-style-type: none"> <li>- Patient Exemption Checking System – report for period April – March including cases recommended for write off with the reason and the cheque for recoveries</li> <li>- Case Management System (CMS) – report for period April – March</li> </ul>	<ul style="list-style-type: none"> <li>- PECS cases processed during April – March</li> <li>- A summary of all investigations and a count of all incidents involving financial loss through criminal action processed through the CMS in the reporting period including – new cases, on-going cases, those referred to Procurator Fiscal/Central Legal Office, those referred back to the Board for action and cases closed in the year</li> </ul>

<p>April – March</p> <p>Report issued mid June</p>	<p>- Annual Impact Report</p>	<p>- An annual summary of:</p> <ul style="list-style-type: none"> <li>- Service Auditors Report</li> <li>- Investigation QA</li> <li>- Key Performance Indicators results</li> <li>- Annual statistics</li> <li>- Risk Measurement</li> <li>- Fraud Awareness Surveys</li> <li>- Review of the Year</li> <li>- Future Plans</li> </ul>
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NB A review of patient Exemption Checking reports will be undertaken during 2009-10 to identify additional information which can be provided to Health Boards.

## b. Reports provided by Boards to CFS

The only report required from Boards to CFS is the quarterly Enhanced Reporting as per CEL 44 (2008) (SFR 18 c).