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Council CEOs

17 December 2007

Dear

National Fraud Initiative (NFI) – electoral register and data security

I wrote to you in early July to explain that Audit Scotland was extending the NFI exercise to match council tax records with the electoral register. Pilot work in England has demonstrated the scope for such an exercise to help identify significant numbers of invalid claims for single person discount.

Since then Audit Scotland has provided NFI key contacts with the specifications for the datasets, the timescales for its submission and instructions on how it can be uploaded securely via a new facility within the NFI web-based application. In view of recent well publicised events I would like to confirm that this facility has been thoroughly tested and data uploaded in this way is automatically encrypted. From now on, this secure upload facility will be the only acceptable method of submitting data for NFI purposes.

Overall, feedback about the council tax exercise has been positive but we have also had enquiries from some officers, in particular, about the legal framework for providing of a full copy of the electoral register. Similar enquiries were raised in England and, to allay concerns, the Audit Commission sought advice from Queen's Counsel. The Audit Commission has allowed Audit Scotland to make that advice available in Scotland and a copy is enclosed.

Counsel's advice is that it is lawful for the electoral register to be provided to auditors for the purpose of this exercise. The advice also covers aspects of data protection and human rights issues. While the advice is based on the duties and powers of auditors in England, and on the Representation of the People (England and Wales) Regulations, our legislation is no different in any significant respect and Audit Scotland considers the advice to be persuasive in Scotland. The Appendix to this letter identifies the key legislation and other documents referred to in the advice and the Scottish 'equivalent'.

I hope that this letter and enclosure will help to allay any concerns that may exist in your council about providing the electoral register or about the security of NFI data transfers.

Yours sincerely



Russell AJ Frith
Director of Audit Strategy

cc Council NFI key contacts [by email]
Appointed auditors [by email]

Para	Provision or document referred to	Scottish equivalent/comments
4	Representation of the People Act 1983	UK legislation
9	S3(9) Audit Commission Act 1998	The Accounts Commission has approved arrangements under S53 Local Government in Scotland Act 2003 for appointed auditors in Scotland to be assisted by staff in Audit Scotland and by the Audit Commission's NFI appointed auditor. This was done to avoid any issues about the Audit Commission receiving and processing data from Scottish bodies on behalf of Audit Scotland
10 etc	Statutory duties of auditors and duties under the Code of Audit Practice	The statutory duties of auditors are similar in Scotland and England. The Accounts Commission has approved a Code of Audit Practice issued by Audit Scotland which further explains the respective responsibilities etc of auditors and audited bodies. That Code is available on Audit Scotland's web-site
16	S6 Audit Commission Act 1998	S100 Local Government (Scotland) Act 1973 (S100 is reproduced at Appendix 3 of Audit Scotland's Code of Data Matching Practice – also available on our web-site)
18	Regulation 107 of the Representation of the People (England and Wales) Regulations 2001	Regulation 106 of the Representation of the People (Scotland) Regulations 2001
20	Regulation 43 of the Representation of the People (England and Wales) Regulations 2001	Regulation 43 of the Representation of the People (Scotland) Regulations 2001
22	Regulation 102 of the Representation of the People (England and Wales) Regulations 2001	Regulation 101 of the Representation of the People (Scotland) Regulations 2001
23	Regulation 94 of the Representation of the People (England and Wales) Regulations 2001	Regulation 94 of the Representation of the People (Scotland) Regulations 2001. Some previous responses from Audit Scotland referred to Regulation 95(2) which also appeared to be relevant. This was caused by initial difficulties in identifying all amending regulations between 2001 and 2006.
32	Para 2.3 of the Audit Commission's Code of Data Matching Practice	Para 2.3 of Audit Scotland's Code of Data Matching Practice
36	Serious Crime Act 2007/section 32A etc of the Audit Commission Act 1998	Additional data matching powers for the Audit Commission in this Act have not yet been provided in Scotland. This is not relevant to the current debate but Audit Scotland is in discussion with the SG Justice Department about this.