

Date	28 September 2009
Our Ref	351962
Enquiries to	Peter MacIntyre
Direct Line	0131-275-6510
E-mail	peter.macintyre@nhs.net

Dear Mr Wyllie

**FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 – REQUEST FOR INFORMATION**

I am writing in response to your request for further information, dated Sunday 6 September 2009 and received by us on Monday 7 September 2009. You requested information relating to the Counter Fraud Services Manual, sections 2, 3, 4, 11, 14, 16 and 17.

I have provided the relevant sections of the Manual and ask you to note that some of the information contained within each section has been redacted. Where this is the case, the redacted information has been marked with five crosses, i.e. XXXXX. I would further ask you to note that, where you see blank paragraphs (i.e. 2006 – 2009), these have been left intentionally blank by Counter Fraud Services to allow future insertion of operational instructions.

We consider the redacted elements can be withheld under Section 35 (1) of the Freedom of Information (Scotland) Act 2002, whereby information is exempt information if its disclosure under this Act would, or would be likely to, prejudice substantially:

- (a) the prevention or detection of crime;
- (b) the apprehension or prosecution of offenders;

This is a non-absolute exemption, and therefore subject to a public interest test, as set out in section 2(1) (b) of the Freedom of Information (Scotland) Act 2002.

As noted in my earlier communication with you, Counter Fraud Services has a statutory role conferred on them by Scottish Statutory Instrument 2008 No. 312, which came into force on 01 October 2008. This cites the function of the Counter Fraud Services, as part of the Common Services Agency, to prevent, detect and investigate fraud or other irregularities in relation to all services provided under the National Health Service (Scotland) Act 1978.

In pursuance of this function, Counter Fraud Services are responsible for the prevention, deterrence, detection and investigation of fraud or other irregularities within, and against, NHSScotland and preventing losses to the public purse. We accept the public interest in being



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assured that bodies with such statutory functions have properly established procedures and protocols supported by effective guidance for their operation. We recognise the issue of public accountability, and the public interest, in being assured that adequate and proper arrangements are in place to investigate irregularities.

We have also considered the likely impact of releasing the redacted information about the investigative, detection and deterrence techniques deployed by Counter Fraud Services. We believe that the release of this information would make it easier for perpetrators of fraud to circumvent preventative measures, evade detection and avoid prosecution. This would substantially prejudice the exercise of our statutory function, and result in an increase in fraudulent activity against publicly funded bodies and a lower detection rate, resulting in a failure of our duty to protect NHSScotland from fraud.

We have concluded that, on balance, the public interest is better served by withholding the redacted exempt information.

If you are unhappy with any aspect of how we have dealt with your request you can make representations to us, asking us to review the handling of your request. Please write, within 40 working days of the date of this correspondence, to:

Head of Corporate Affairs,  
NHS National Services Scotland,  
Gyle Square,  
1 South Gyle Crescent,  
Edinburgh EH12 9EB

You also have the right to apply to the Scottish Information Commissioner, who does not have to take up all cases he receives and will decide whether or not to look into your concerns further. The Commissioner can be contacted at:

Kinburn Castle,  
Doubledykes Road  
St Andrews,  
Fife KY16 9DS

If you have any queries about this letter, please contact me at the above address.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter MacIntyre', written in a cursive style.

**Peter MacIntyre**  
**Interim Head of Service**