Public Audit and Post-Legislative Scrutiny Committee

National Fraud Initiative

Submissions

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2. Audit Scotland
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The Aberdeen City Context

Aberdeen is a unique place in Scotland. Though the City has benefited from the prosperity brought by the oil and gas industry, now that the rest of the UK economy is recovering from recession, Aberdeen is experiencing a decline due to the drop in the price of oil. This is compounded by pressures on infrastructure, connectivity, housing and skills. The effects of this include job losses, falling property prices and loss of custom.

Despite this decline, Aberdeen City continues to make a significant exchequer contribution to Scotland and the UK and this is expected to continue into the future.

Through our Regional Economic Strategy the City / Region is continuing to support the oil & gas industry, but also taking a more sustainable, diversified approach by attracting non-oil business. The City Council is also leading the largest regeneration programme ever seen in Aberdeen to support vastly improved transport, connectivity and investment in the city centre.

The Council is committed to working in partnership, both with other organisations as well as directly with communities themselves, to support the people of Aberdeen to prosper, no matter their social circumstances. We want Aberdeen to be a city where there is equality of outcomes and opportunities for all irrespective of their circumstances.
Call for evidence on the Section 97 Criminal Justice & Licensing (Scotland) Act 2010
National Fraud Initiative – Post Legislative Scrutiny

1. What have been the benefits, financial and otherwise, of putting the National Fraud Initiative on a statutory footing?

Answer – The Criminal Justice and Licensing (Scotland) Act 2010 allows Audit Scotland to request data from participating bodies, but it does not place a requirement on Councils or other public organisations to review, and take appropriate action, following the data match process. Aberdeen City Council is self-regulating in respect of its counter fraud activities. Where fraud has occurred it is important to stop the fraud as soon as possible and look at whether weak controls have been exploited. The National Fraud Initiative is a valuable resource to help reduce the risk and actual fraud within the City.

All public bodies are under increasing financial pressure to deliver services and provide best value at a time where there is much more public and media scrutiny of our processes. During 2014/2015 many Scottish Local Authorities decided to transfer their investigation teams to the Department for Work and Pension Single Fraud Investigation Service to investigate Housing Benefit Fraud. Aberdeen City Council decided to retain their staff and created a Corporate Investigation Team. The National Fraud Initiative is a valuable resource to help reduce the risk and actual fraud, however, there needs to be an appropriate and suitable response program in place to manage the referrals generated. If this is not in place there is a risk that some public authorities may not attach as much importance to the issue as others resulting in various levels of compliance. As intimated by Audit Scotland in their submission to the Public Audit and Post Legislative Scrutiny Committee on 1 December 2016, they are limited to applying pressure and publicity against public bodies who do not act within the spirit of the National Fraud Initiative.

2. Could the legislation be strengthened in any way?

Answer – As part of the Protecting the Public Purse agenda, the Department for Work and Pensions regularly undertake data matching using legislation specifically in relation to benefit recipients. The Social Security Administration Act 1992 (as amended), Social Security Fraud Act (2001) and Welfare Reform Act (2007) all contain measures to help reduce incidences of fraud by allowing authorised and trained investigators to obtain information from data holders. There is currently a lack of legislative authority to support Local Authority Counter Fraud Staff in their role which impacts on their ability to obtain meaningful sanctions or refer cases for criminal proceedings. This also acts as a barrier to committing to the principles of the Scottish Government’s Counter Fraud Strategy.
Consideration should be given to strengthening, or creating new legislation, to allow authorised and trained Local Authority investigators to be able to refer cases under statute to the Crown Office Procurator Fiscal Service for criminal prosecution. The Scottish Local Authority Investigators Group (SLAIG) would be able to advise further on this.

Data held by Her Majesty’s Revenue and Customs (HMRC) should be made available to Audit Scotland to allow for a wider range of matches. One of the data matches relates to employees who may be committing employment fraud by failing to work their contracted hours because they are employed elsewhere, or are taking long-term sickness absence from one employer and working for another employer at the same time. Whilst recognising the value in this information it is limited in that it does not take into account an employee who may be working in a non-public authority e.g. an individual may also be employed by a retailer which would not show in this report. Instead of solely matching data against public bodies’ consideration should be given to matching this information against HMRC data. This wider scope would likely require legislative changes, however, it would allow more potential frauds to be identified.

Audit Scotland, in consultation with data providers, should be able to vary the frequency and timing of the exercise. This could result in data being provided more often which would not only allow potential frauds to be addressed earlier, but would ease the administrative and investigative burden. Housing Benefit and Council Tax data generate the most matches, but these matches are released in January which corresponds with the busiest time for these teams as preparations are being made for annual billing. Consideration should be given to changing the timing of the releases until after April as this would allow resources to be allocated to these particular matches sooner.

3. **Should participation in the National Fraud Initiative be improved? Are there any bodies who do not participate in the National Fraud Initiative who should do so?**

**Answer** – Data held by credit reference agencies could be useful; however this information can become out dated very quickly. Consideration should be given to empowering Audit Scotland to be able to request employee data from private companies which are undertaking projects on behalf of or in conjunction with a council above a specified contract value e.g. £1m. In Aberdeen, for example, a construction firm are the official developers for the new Aberdeen Exhibition Centre with an estimated spend of £333million. While a main contractor will subcontract the work, contractual agreements can be put in place to ensure the same level of compliance with any subcontractors.
4. Are there any other issues you would like to raise in connection to this particular part of the legislation?

**Answer** – Data is uploaded to the NFI website around September/October but the results are not available until January meaning the results are already out of date.

Staff are required to manually review each data match by comparing the information against current information held. Due to the volume of matches and the delay in receiving the data match there are many occasions where the data anomaly has already been corrected.

For example, data is uploaded to the NFI site on 5 September 2016. On 15 September 2016 the service user has reported a change which is input into the relevant system. As the data was uploaded on 5 September 2016 it will show a discrepancy when the match is made available in January 2017. The only way to check the current status is to manually check the relevant IT systems then update the NFI database. It would be a more efficient use of resources if, when the data is made available, it could be downloaded and a further data match undertaken at the Council which would remove the cases which had already been actioned.

A more efficient method of managing the project would be if the data upload and resulting matches occurred more frequently. In January 2017 Aberdeen City Council received 4,029 matches. Despite our best efforts it will take several months to review these and with each passing day there is the risk that the fraud will continue.

The NFI provides two additional functions; recheck data and appcheck. It is recognised that these tools are available to support the anti-fraud community, however, the Council is required to pay to use the appcheck tool. Consideration should be given to providing this service free of charge in order to encourage greater participation. It is reasonable to suggest that some Councils, for example where anti-fraud measures are given higher priority, may want to spend this money whereas other Councils, while having a commitment to the NFI, cannot afford it.

Consideration should also be given to developing a Scottish wide advertising campaign. Each participating body would be given access to a series of templates which could be individually tailored to allow contact details to be printed on them. These could be placed in libraries, community centres, council buildings and on websites. Not only would this increase public awareness, it should act as a deterrent in that potential fraudsters would see the number of public bodies that are participating.
Response from Audit Scotland, 31 March 2017

1. Audit Scotland welcomes the opportunity to respond to the call for evidence.

2. Audit Scotland has undertaken the National Fraud Initiative (NFI) data matching exercises every two years since 2004/5. Audit Scotland remains committed to the exercises as we believe that they add considerable value for the public sector and have the potential to add more as devolved powers increase. The exercises have identified outcomes\(^1\) totalling £110 million, help public bodies to prevent and detect fraud and error and provide the basis for regular public reports and consideration by Parliament.

**Brief history of NFI**

3. The Audit Commission developed the NFI in the mid 1990’s to enable local authorities in England to share data to help prevent and detect fraud in relation to housing benefit administration in particular.

4. The Audit Commission assessed that auditors had powers to obtain a wide range of audit relevant data from local bodies and implied powers to match that data as part of their audit work. The implied powers were used to share data between bodies but not across national borders and the exercise rapidly expanded from housing benefit data to include payrolls, lists of deceased persons, pensions, council tax discounts and more recently failed asylum seekers, various licenses issued by councils and blue badges.

5. Audit Scotland started to undertake NFI exercises working very closely with the Audit Commission from the early 2000’s and carried out the first full exercise in Scotland in 2004/5.

6. It was seen that the legitimacy and efficiency of NFI would be strengthened by statutory backing which was provided, in England and Wales, through the Serious Crime Act 2007, and in Scotland the Criminal Justice and Licensing (Scotland) Act followed in 2010 which closely reflects the 2007 Act.

7. With the abolition of the Audit Commission the Local Audit and Accountability Act 2014 transferred responsibility for data matching exercises to Ministers in England and the Cabinet Office has taken on the role formerly undertaken by the Audit Commission using former Audit Commission staff. At the same time the scope of the National Fraud Initiative has gone beyond the biannual exercise and now includes more frequent voluntary exercises and real time, pre transaction, checking if bodies wish to access and pay for it. Audit Scotland does not undertake an active role in the real time matching beyond making bodies aware of its existence.

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\(^1\) Outcome figures include amounts for fraud and error detected and also an estimate for those future losses that have been prevented. Estimates are included where it is reasonable to assume that fraud, overpayments and error would have continued undetected without the NFI data matching.
Role of Audit Scotland in NFI

8. Audit Scotland co-ordinates NFI exercises by:
   • maintaining the statutory Code of Data Matching Practice
   • providing guidance and training for participating bodies
   • identifying participating bodies and requesting data to be submitted
   • monitoring bodies access to data matches
   • encouraging bodies to record outcomes
   • requiring appointed auditors to consider and report on bodies' participation in the NFI
   • producing a national report on each exercise

   Audit Scotland also pays the costs of the third party that carries out the data matching and operates the associated software.

9. Audited bodies are responsible for investigating individual matches and deciding the number and depth of investigations to be carried out.

Roles and responsibilities for fraud prevention and detection arrangements

10. The prevention and detection of fraud is a responsibility of management and those charged with governance. The arrangements for this will vary from body to body but will typically include:
   • anti fraud and corruption policies
   • awareness briefings for staff
   • systems of internal controls that take account of the potential for fraud to take place
   • arrangements for the investigation of suspected fraud
   • reporting arrangements to those charged with governance.

11. The NFI is therefore only one part of bodies' overall arrangements in relation to fraud.

Role of external audit in relation to fraud

12. External auditors are required by International Standards on Auditing (ISAs) to identify and assess the risks of material misstatement of the financial statements due to fraud and to obtain sufficient appropriate audit evidence regarding the assessed risks through designing and implementing appropriate responses.

13. The standards recognise that there is a risk that an audit will not identify fraud because fraud may involve sophisticated and carefully organised schemes to conceal it including forgery and may involve collusion within the organisation or with a third party. The standards specifically identify revenue recognition and management override of controls as particular risks. Public
sector guidance on the standards recognises that there are additional risks of fraud where public funds are paid out in areas such as grants and benefit claims.

14. Audit Scotland’s Code of Audit Practice requires auditors to consider wider scope areas including governance and transparency and financial management which would include a body's arrangements for the prevention and detection of fraud. Where significant issues are identified these will be reported to those charged with governance through the annual audit reports.

15. In addition, the Auditor General has the ability to report to Parliament under section 22 of the Public Finance and Accountability (Scotland) Act 2000 on any matter relating to the accounts of a body within her remit. Such reports have included significant frauds such as the report on the 2009/10 audit of the National Library of Scotland here.

Question 1 - What have been the benefits, financial and otherwise, of putting the National Fraud Initiative on a statutory footing?

16. Audit Scotland publishes a report on each NFI exercise. The outcomes of the 2014/15 exercise are set out in the report available here and summarised below:
   - 104 bodies took part
   - £110 million of outcomes cumulatively including £16.8 million from the 2014/15 exercise
   - 4,846 council tax single person discounts cancelled
   - £4.6 million of pension outcomes identified
   - £3.0 million of housing benefit outcomes identified
   - 3,073 blue badges cancelled or flagged for future checks

17. The direct financial outcomes almost certainly understate the benefits of the exercise as a result of the deterrent effect arising from the knowledge that the exercise is undertaken.

18. Whilst the focus of the exercise is required to be fraud prevention and detection a significant number of outcomes recorded arise from errors or inaccuracies rather than proven fraud.

19. Non-financial benefits of putting the NFI on a statutory footing include:
   - Legislative certainty – with explicit legislation in other parts of the UK any lack of legislation in Scotland could have led to challenge to the legality of the exercise
   - Increased legitimacy arising from Parliamentary endorsement of data matching to prevent fraud
   - Ability to match data across geographical boundaries within the UK which was not considered to be permissible using only implied audit powers
20. The stated policy objective of the 2010 act was "To ensure Audit Scotland can continue their efforts to match data to prevent and detect fraud in the public sector". We believe that the objective has been met as demonstrated by the outcomes from the NFI exercises.

Question 2 – Could the legislation be strengthened in any way?

21. The legislation already mandates participation and provides for fines on conviction for bodies that do not provide information. To date Audit Scotland has sought to work with bodies to persuade them of the benefit of submitting data rather than resorting to the threat of prosecution. One of the reasons for taking this approach is that successful data matching goes beyond the provision of data and includes the active consideration of matches, which is not something that can easily be mandated.

22. We also bear in mind that there may be very little direct benefit of participation for some individual bodies, since the benefit may accrue to another body on the other side of a data match. This is one of the reasons why Audit Scotland does not make a charge for participation in the NFI exercises.

Purposes of data matching

23. The legislation across the UK permits ministers to add to the list of public bodies which can be required to take part in the exercise. In England the legislation also permits ministers to add to the purposes for which data matching can be carried out using secondary legislation. These additional purposes are:
   - to assist in the prevention and detection of errors and inaccuracies.
   - to assist in the recovery of debt owing to public bodies

24. It would be helpful in increasing the usefulness of NFI exercises if those specific purposes were included in any revised Scottish legislation to enable Scottish Ministers to activate them.

Electoral roll data

25. There has been doubt about the right of Audit Scotland to request data from the electoral roll. Electoral legislation restricts the bodies to which electronic copies of the register can be provided. There are different legal views as to whether electoral law allows electronic copies of the register to be provided for data matching purposes. Thirty out of 32 Scottish councils provide electoral register data, as do all councils in England where the legislation is very similar. It would be useful to clarify the power to request electoral roll information in any change to the legislation.
Question 3 – Should participation in the National Fraud Initiative be improved? Are there any bodies who do not participate in the National Fraud Initiative who should do so?

26. The bodies that are required to take part if asked are those where the auditor is appointed by the Auditor General or the Accounts Commission. The main public bodies that are excluded through this definition are those public bodies where the Auditor General or the Accounts Commission do not appoint the auditor such as:
   - Caledonian MacBrayne and Highlands & Islands Airports
   - Scottish Futures Trust
   - Local government ALEO’s (although some provide data voluntarily)
   - Subsidiary companies of public bodies

27. The current participation rate for bodies asked to take part is very high in terms of providing core mandatory data sets.

28. Universities and private sector suppliers of public services eg private prisons, are also not required to take part although they could participate voluntarily if they wished.

29. Given the changing way in which public services are being delivered it might be helpful if the definition of bodies required to participate was widened to include some of the above or if Scottish Ministers used their power to add to the list of bodies that may be required to take part.

Question 4 – Are there any other issues you would like to raise in connection to this particular part of the legislation?

30. The further devolution of powers provided under the Scotland Acts 2012 and 2016 mean that Scotland now has the power to administer devolved taxes and certain social security benefits. These new activities will provide opportunities to extend the scope and impact of the NFI exercises. Audit Scotland is engaging with the Scottish Government to ensure that appropriate consideration is given to including these activities within the scope of the NFI. At this stage we do not consider that any changes need to be made to the data matching legislation.
The Auditor General for Wales (Auditor General) is the statutory auditor of public bodies in Wales and is empowered under Part 3A of the Public Audit (Wales) Act 2004 (the Act) to undertake data-matching exercises for the purposes of preventing and detecting fraud. The Auditor General has chosen to exercise this power to collaborate with Audit Scotland, the Cabinet Office and the Comptroller and Auditor General for Northern Ireland in running the National Fraud Initiative as a single data-matching exercise across the four national jurisdictions. The Auditor General is able to mandate that Welsh local authorities (including police and fire bodies) and NHS organisations participate in data-matching exercises undertaken under the Act. He has mandated that all principal local authorities and NHS bodies in Wales participate in NFI. The Welsh Government, several Welsh Government Sponsored Bodies, the Wales Audit Office and some Welsh housing associations participate in NFI on a voluntary basis.

The Auditor General welcomes the opportunity to provide evidence to the Scottish Parliament's Public Audit and Post-legislative Scrutiny Committee for its post legislative scrutiny of the National Fraud Initiative.

Responses to Consultation Questions

**Question 1 - What have been the benefits, financial and otherwise, of putting the National Fraud Initiative on a statutory footing?**

3. The NFI has been placed on a similar statutory footing on Scotland, Wales, England and Northern Ireland. One of the key benefits of this is that it is possible to conduct NFI (and other data-matching exercises) across geographical boundaries. This is important because those who perpetrate fraud often do so across organisational and national boundaries.

4. The statutory power to mandate certain organisations to provide specified data to NFI has been crucial to the success of the exercise. NFI involves matching data both within and across organisations. If certain organisations do not provide data it diminishes the effectiveness of the exercise for all other participants. In Wales, the Auditor General's power to mandate the provision of data has meant that almost 100% of the mandated data has been provided.

5. This collaborative approach to data-matching, exercised through NFI has delivered very significant financial benefits in the fight against fraud, preventing and detecting fraud and error amounting to £1.39 billion across the four nations since the exercise began.

6. The legislation in each national jurisdiction is closely aligned and in consequence there are few difficulties in collaboration. Audit Scotland, the Cabinet Office and the Comptroller and Auditor General for Northern Ireland are in the main able to match the same data for the same
purpose. If the legislative powers were significantly different it would present a major obstacle to running the NFI as a UK-wide exercise. This would impact on the opportunities that exist to collaborate and result in duplication of development and operational costs. This would impact disproportionately on the smaller nations.

**Question 2 - Could the legislation be strengthened in any way?**

7. Whilst statutory data-matching powers are broadly similar across Scotland, Wales, England and Northern Ireland they are not identical. Data matching legislation in England includes provision for the Cabinet Office to undertake data-matching exercises for the purposes of identifying errors and inaccuracies. Extending the legislation in Scotland to enable Audit Scotland to data-match for the purposes of identifying error and inaccuracies has significant potential to support public bodies reducing losses as a consequence of erroneous award of benefits and services. This could deliver significant financial savings to the public purse. The Auditor General intends to seek an extension of the data matching legislation in Wales to include identification of errors and inaccuracies as a specified purpose of a statutory data-matching exercise.

8. Whilst data-matching legislation enables Audit Scotland, the Cabinet Office and the Comptroller and Auditor General for Northern Ireland to mandate that specified bodies provide data for NFI data-matching, the legislation does not require these bodies to take action to address anomalies identified through data-matching which could be due to fraud. The Audit General has found in Wales that there is significant variation in the action taken by public bodies to follow up the data-matches. It may be possible to strengthen the legislation to require all bodies who can be mandated to provide data to follow up the resulting data matches and report on the actions they have taken.

**Question 3 - Should participation in the National Fraud Initiative be improved? Are there any bodies who do not participate in the National Fraud Initiative who should do so?**

9. NFI has been a successful tool in combatting fraud within social housing. Whilst local authorities which hold housing stock are mandated to provide housing stock and tenancy data for NFI data-matching, much of the social housing stock is held by housing associations which are not mandated to provide data. Whilst some housing associations provide data to NFI on a voluntary basis, the majority do not. Extending the legislation to allow housing associations to be mandated to provide data would significantly increase the potential for identifying tenancy fraud and returning fraudulently occupied units of social housing to legitimate occupation.
The Cabinet Office NFI Team welcomes the opportunity to respond to the call for evidence.

**Question 1: What have been the benefits, financial and otherwise, of putting the National Fraud Initiative on a statutory footing?**

Putting the NFI on a statutory footing in Scotland, and mirroring this across the UK, has enabled a more effective drive to prevent and detect fraud and error. It has provided a clear legal basis and enabled data to be combined across the UK to the benefit of the public purse across the whole UK.

The powers have been used effectively to undertake batch data matching to detect fraud and prevent any further losses from this fraud.

The fact that the powers allow for data provision to be mandated has allowed the data to be required from organisations. This is vital to ensuring that 100% (or as near as possible to 100%) of key datasets have been supplied. This is important as, the value of the data matching, and therefore the levels of fraud prevented and detected, increases as you move towards 100% data capture.

The positive results of the NFI have been clearly set out in the national reports of Audit Scotland on the NFI who have reported cumulative outcomes from the NFI in Scotland of £110.6 million. Across the UK the cumulative total is now £1.39 billion.

We fully support the continuation of the NFI under statutory powers.

**Question 2: Could the legislation be strengthened in any way?**

**Follow up of data matches**

Currently while the data can be required the legislation does not allow for circumstances where those organisations do not take effective action to follow up and stop the fraud detected by the NFI. This means fraud continues. This weakness is partially offset by linking the NFI in Scotland to the audit regime, Audit Scotland, as the statutory external auditor is better placed than most to influence good practice at audited and inspected bodies.

The options to address this would seem to be extending the powers to:

1. introduce a mandatory duty for all bodies in scope to provide data to follow up the resulting data matches and report back; or
2. enable specific follow up action(s) to be required of specific organisation(s), within a specified timeframe, in circumstances where their follow up approach
was considered ineffective and highly likely to allow existing fraud to continue.
Again this would be linked to a duty to action and report back.
Option 2 would also be restricted to those bodies that can be required to provide
data. The details of the mandatory follow up actions would be determined on a case
by case basis and would aim to address the significant weakness in the follow up
approach that has been identified.
If either option was adopted consideration would need to be given to associate
penalties which could be levied in the event of non-compliance. The main options we
see would be levying meaningful monetary fines (ie significant enough to act as a
deterrent), publishing details of non-compliance and/or reporting them to parliament.
Alternatively it may be possible to consider strengthening the Code of Data Matching
Practice or the Code of Audit Practice to more specifically address the issue of
following up the NFI data matches.

**Purposes**

The permitted purposes could be extended to cover error and inaccuracies. Currently the powers allow fraud to be targeted, with error and inaccuracies a natural
by product. They do not allow for data matching where the primary purpose is to
detect and prevent error. An example where this could be useful would be GP
registrations where, although not fraud, error can mean patients are incorrectly
registered with GPs. Not only would this lead to payments from these errors but it
may also mean the correct GP does not have access to a patient's medical records.

**Question 3: Should participation in the National Fraud Initiative be improved?**

**Are there any bodies who do not participate in the National Fraud Initiative who should do so?**

The bodies that are required to take part if asked are those where the auditor is
appointed by the Auditor General or the Accounts Commission. This does not
include all public bodies. Consideration could be given to extending those bodies
who can be required to provide data to all public bodies, or all organisations
providing public services to be mandated. For example, Housing Associations
provide 47% of social housing in Scotland. The inclusion this data in the NFI would
help prevent and detect social housing fraud in Scotland and the wider UK. Currently
while local authorities are mandated to provide social housing tenants data, other
social housing providers are not. While a small number of housing associations
across the UK do provide data on a voluntary basis the fact that the significant
proportion elect not to impacts on the ability of the NFI to spot frauds, for example
tenancy fraud where a person has multiple social housing properties and is
subletting one or more unlawfully.
Question 4 – Are there any other issues you would like to raise in connection to this particular part of the legislation?

The focus to date has been on detecting fraud already present in systems, for example fraudulent housing benefit payments. Going forward we would encourage that, alongside this existing focus, more emphasis is given to looking to use the data matching powers to prevent fraudulent claims for public services and/or employment being successful. To do this would require the use of data matching at the point of application. NFI already has this functionality but to maximise the benefits that this real time service could provide would require consideration as to how best to link the NFI into real time intelligence held by other organisations so as to ensure that the checks provided the most up to date intelligence available. Key organisations would include local and central government, eg HMRC and DWP, plus private sector organisations like credit reference agencies.
Introduction

The Scottish Parliament’s Public Audit and Post-legislative Scrutiny Committee is conducting its first ever piece of post-legislative scrutiny and the Committee launched a call for written submissions on February 1, 2017. The City of Edinburgh Council has been asked to consider providing a written submission.

This is not a mandatory request and there is an option to mark the report as confidential if required. The written submission has to be sent by electronic mail to the designated mailbox at the Scottish Government by the deadline of 31 March 2017.

The Post-legislative Scrutiny Committee has agreed to examine Section 97 of the Criminal Justice and Licensing (Scotland) Act 2010, which put the National Fraud Initiative (NFI) on a statutory footing, and consider whether there are any improvements that could be made to the legislation underpinning it.

The questions the Committee have asked the Council are:

- What have been the benefits, financial and otherwise, of putting the National Fraud Initiative on a statutory footing?
- Could the legislation be strengthened in any way?
- Should participation in the NFI be strengthened? Are there any bodies who do not participate in the National Fraud Initiative who should do so?

This briefing paper aims to provide feedback by examining the current fraud prevention activity at the Council and therefore forming an appropriate and transparent response to the Scrutiny Committee.

Background

The formation of a Single Fraud Investigation Service (SFIS), covering all welfare benefit fraud, was announced by the Chancellor of the Exchequer on 5th December 2013. The new service became operational soon after and the Council Benefit Fraud detection staff transferred to the Department of Work and Pensions (DWP) on 1 November 2014.

In conjunction with this transfer of responsibilities, the Council created a corporate fraud function to investigate potential fraudulent activities that fall out with the scope of the SFIS.

The team undertake non-housing benefit fraud investigations, allowing the Council to increase detection and enforcement activities and prosecute, where appropriate.
The newly developed function aims to have skilled professionals involved in fraud and detection and to ensure the new statutory duties of the National Fraud Initiative are followed.

The new function has been created on a phased basis with the initial remit including fraud investigation activities relating to:

- Council tax reduction scheme;
- Discretionary housing payments;
- Non-domestic rates discounts and exemptions;
- Scottish Welfare Fund;
- National Fraud Initiative Review;
- Tenancy fraud; and
- Emerging fraud activities relevant to customer services activities.

The new function also aims to consolidate related fraud prevention activities across the Council with existing policies and practices reviewed to ensure their effectiveness and consistency with existing best practice.

The success of these new arrangements is currently measured through:

- Improved service co-ordination to tackle fraudulent activities;
- Development of sophisticated fraud detention methods;
- Identification of multiple infringements by individuals and organisations; and
- Efficiencies in delivering fraud prevention activities and associated savings achieved.

**Main Report**

The new statutory duty for the Council means that it must provide uploads of requested data sets to NFI within specified timeframes however there is no requirement for the Council to continue processing the NFI matches as previously if a new way forward can be agreed.

Therefore, the Council has adopted a prudent and sensible approach of prioritising resources as well as considering the requirements of the NFI.

Audit Scotland and the Information Commissioner have both stated that ideally, they want to see bodies using their data legally and effectively and to ensure they are doing all they can to prevent fraud and error in the system. The process itself is considered to be an issue of governance within each organisation and participation in the initiative varies somewhat across all of Scotland’s local authorities.
Evaluation of current Council approaches

In November 2016, in response to the data matching requirements of the NFI, Internal Audit (IA) and the Council Corporate Fraud Team (CFT) undertook a survey of the Council NFI Investigating Officers to establish whether there was value in continuing the data matching exercise in its current format. This was a considered response to the new statutory requirements and aimed primarily at providing an evaluation of the effectiveness in current approaches.

The overwhelming feedback was that the data was too old to be of operational use and most sections had more effective controls in place.

Examples of this would be:

- “Tell Us Once” used by several teams to identify deceased users and update their databases
- Subcontracting data matching to third parties such as Experian to identify household makeup proactively to stop Council Tax Reduction before overpayments have accrued.

There also appeared to be checks which are not useful to the Council. An example of this would be where a tenant would not be evicted from a Council House because their immigration status has changed.

However, it was acknowledged that some of the checks carried out were not as robust and joined up as they otherwise could have been. For example, payroll to creditor matches were not explored logically, merely confirming they were both genuine.

Even using the recommended matches there were such a high volume of false positives that the investigating officers became disillusioned and the process of checking became extremely unproductive meaning resources were not being utilised effectively. The majority of these false positives arise due to 3 specific reasons:

- Timing differences where the snapshot of data has not allowed time for due process
- Addressing issues (householder addresses) such as 14/1 v 14(GF1)
- Naming issues re use of initials, misspelling etc,

It is acknowledged that there are genuine operational ‘nuggets’ of intelligence such as employee immigration status that are immediately investigated in conjunction with Human Resources and legal.

There are also areas which the Internal Audit team are keen to review which:

- Detect potential internal fraud
- Take assurance that the controls identified earlier are operating effectively

A report is being prepared for Senior Management consideration of the results of the testing and the approach and if necessary the approach will be fine tuned.

In summary, 2,188 of 2,634 (83%) of recommended matches will be reviewed in the first instance and the rest will be sample checked.
Planned approach 2016/17

The following outlines the Council’s planned and prioritised approach to data-matching requirements to deal with the 2,634 recommended matches with the total volume of matches associated with each individual exercise:

1. Housing Benefit cases will be passed to DWP but there is no feedback in return to the Council so they will appear to remain open. Also it is important to note that each file has to be reviewed by CFT first, so there is effort expended without any reward. [261 records]

2. Pensions will continue to review theirs as they would need committee approval to stop. [519 records]

3. Blue badges and parking will continue to review [579 records]

4. Payroll, creditor and VAT recommended matches will be reviewed by IA in conjunction with the relevant officers and appropriate action taken [787 records]. It is noted however that “Duplicate records by invoice amount & creditor ref” [633 records] is very low risk as multiple payments for the same amount are common and genuine occurrences.

5. Private Residential Care homes [80 records] will not be reviewed by the service area who use “Tell Us Once” but will be sample tested by internal audit in the first instance to evaluate controls.

6. Housing Tenancy / Waiting List [752 records] will not be reviewed by the service areas. Experience has shown that most of these are of no use to the Council or are false positives. Internal Audit will sample check these.

7. If 1 to 4 show (as outlined above) significant error rates then additional “non recommended” matches will be undertaken.

8. If Audit Sampling of 5 and 6 (as outlined above) show that alternative controls are not effective then the service areas will be instructed to carry out further testing.

9. Worth noting that activities around Disabled Blue Badge Investigations and also School Placement Investigations take up an inordinate amount of Council officer’s time.

Recommended Action

Based on the feedback received from the Corporate Fraud team and the officers who are tasked with the responsibilities there is now a robust and planned approach to the process of dealing with the NFI data matching requirements across the Council.

It is therefore recommended that the Council provides the post-legislative scrutiny committee with details of the evaluation of our approach since November 2016 as this will provide insight for them into what benefits the NFI provides the Council.
To demonstrate strong governance it is also recommended that we provide details of our planned approach to demonstrate the Council’s commitment to the NFI going forward and the challenges and practicalities of carrying out the specific data matching duties required of it.

By doing this the Council will also assure transparency of process and approach.

It should be noted that there was no specific or notable feedback provided in respect of the other questions posed therefore it is recommended the Council makes no comment in this respect.

References

Extract from meeting held on 1 Dec 2016 – Scottish Government:-
Discussing the NFI with Audit Scotland


National Fraud Initiative – 4 Nov 2016 – UK Cabinet Office

Section 97 of Criminal Justice and Licensing (Scotland) Act 2010

Governance, Risk & Best Value (Referral Report) – 13 November 2014:-

External Fraud Prevention and Detection – Annual Report and Future Planned Activity (Referral report from the Finance and Resources Committee)

Contact details

Garry Sneddon
Insight and Engagement Team
Strategy and Insight
Tel: 0131 529 7133
Email: garry.sneddon@edinburgh.gov.uk
As the representative voice of local government in Scotland, COSLA is pleased to provide brief comment on the work local authorities have carried out to strengthen their contribution to the National Fraud Initiative to minimise fraud and error across the public sector.

Local Authorities take seriously their duty to protect the public purse from all forms of misuse, this is highlighted by the vast number of Councils who were deemed as having managed their role in the NFI 2014/15 exercise satisfactorily. That said the 2016 report did highlight five Councils who had scope for improvement across two areas, late submission of data sets and limited investigation work being carried out. It is worth highlighting that four of these five authorities, had by February 2016, subsequently been found to have demonstrated actions resulting in final auditor assessments of adequate or satisfactory. The fifth Council named in the report whilst not achieving an adequate/satisfactory final assessment did demonstrate limited progress in the areas highlighted.

The progress made by those Councils to strengthen their contribution to NFI was achieved during a period of instability for Councils around fraud/error prevention and detection. As the Committee is aware the resources previously linked to fraud prevention and investigation work were transferring to central government to form the Single Fraud Investigation Service. Local authorities across Scotland, were very much still finding their way around how they should proceed, mindful of the overarching duty to protect public funds against a backdrop of reductions in funding, both generally, and associated with fraud and error.

In closing local government has played an active part in the National Fraud Initiative work, both before and after, the initiative was placed on a statutory footing. The results contained within the 2016 report demonstrate the continued benefits across the public sector of this initiative. Local Government remains committed to being involved with NFI moving forward and individual Councils recognise the importance of fulfilling the role expected of them appropriately.

COSLA
March 2017
Public Audit and Post-Legislative Scrutiny Committee

National Fraud Initiative

Submission from Fife Council

I refer to your request for comments on the Scottish Parliament’s Public Audit and Post-legislative Scrutiny Committee’s work on the benefits of putting the National Fraud Initiative on a statutory footing.

Fife Council welcomes this development, having been a keen participant in the NFI since its inception. The Council already has robust data matching and internal controls in place, and whilst participation the NFI has not identified a large number or value of errors in Fife, it has given us access to additional sources of data and confirmation that our internal controls are working.

Increasing the number of bodies participating would improve the effectiveness of the exercise, but this has to be matched by ensuring the quality and integrity of the data. The use of suitable filters on the data to identify high quality matches maximises the best use of scarce resources.

With regard to the specific questions

1 What have been the benefits, financial and otherwise of putting the NFI on a statutory footing?

By putting participation on a statutory basis, it should ensure a wider participation and an increased pool of data that not only identifies instances of error or fraud but also gives assurance, where no error or fraud is found, that the Council’s own internal controls are working.

Where error or fraud is identified, the existing internal controls can be revised and additional data matching carried out.

Being a national exercise, it reinforces the message that fraud will not be tolerated by reporting outcomes both locally and nationally. By doing so, it has a deterrent effect.

2 Could the legislation be strengthened in any way?

The legislation seems to have appropriate powers for Audit Scotland to demand data from the bodies that are within the remit of the Auditor General or the Accounts Commission. Audit Scotland could perhaps be more proactive in doing that.

3 Should participation in the NFI be improved? Are there any bodies who do not participate in the NFI who should do so?

The exercise could always be improved by increasing the number of bodies who participate. As experience is gained, additional data types and matches could be developed.
4 Are there any other issues you would like to raise in connection to this particular part of the legislation?

Care will always have to be taken to ensure that the exercise does not place too onerous a commitment on those involved. Fife Council’s experience to date is that our existing internal controls limit the number of matches that need to be investigated. We welcome Audit Scotland’s soft touch approach to monitoring and reporting on our progress and outcomes at both a local and national level.
Public Audit and Post-Legislative Scrutiny Committee

National Fraud Initiative

Submission from Highlands and Islands Enterprise

HIGHLANDS AND ISLANDS ENTERPRISE

Written Evidence – National Fraud Initiative in Scotland

March 2017
Highlands and Islands Enterprise (HIE) is pleased to provide the following in response to the Public Audit and Post-legislative Committee’s call for evidence and specific questions on Section 97 of the Criminal Justice and Licensing (Scotland) Act 2010 - the National Fraud Initiative.

• **What have been the benefits, financial and otherwise, of putting the National Fraud Initiative on a statutory footing?**

HIE has benefitted from taking part in the National Fraud Initiative through the ability to use an analytical function to analyse all our data and also being able to run comparisons with other bodies. This has highlighted some errors in our standing data on which we have been able to take corrective action. No fraudulent activity has been highlighted through our results from taking part in the initiative, however the additional assurance this exercise provides us with is invaluable. The links with other existing legislation, such as Data Protection ensure we can demonstrate that all data provided will be protected appropriately.

As internal staffing resources are limited, taking part in this exercise is vital in providing additional routes to identify highest risk data which we should focus on. This allows us to allocate and focus resource to review/investigate those matters which require attention and to provide assurance that our controls are working or identifying weaknesses on which corrective action can be taken.

Participation has also helped to raise awareness of Fraud within HIE at employee level and also at Board level as it is reported to our Audit Committee.

• **Could the legislation be strengthened in any way?**

There is a specific focus in the data which is required and in the guidance to providing matches to the local government sector which means there is a large volume of information which is irrelevant to HIE, e.g. council tax, housing payments.

• **Should participation in the National Fraud Initiative be improved? Are there any bodies who do not participate in the National Fraud Initiative who should do so?**

In the report provided by Audit Scotland for the previous exercise in 2014/15 it was noted that a number of bodies did not react promptly to matches which were provided. If it is mandatory for bodies to provide data for matching purposes then it should be mandatory to undertake the investigations once the matches have been provided but to allow individual organisational discretion as to how and what they focus effort on.

• **Are there any other issues you would like to raise in connection to this particular part of the legislation?**
We have found it useful to report participation, results and follow up action to our Risk and Assurance Committee (equivalent to an Audit Committee) as part of our assurance and control arrangements.

Highlands and Islands Enterprise
March 2017
Response to call for written submissions S97 of Criminal Justice and Licensing Act (Scotland) 2010

- What have been the benefits, financial and otherwise, of putting the National Fraud Initiative on a statutory footing?
  - There has been an improvement in compliance as all bodies are now required to take part in the initiative. The data protection implications are also clearer thus providing assurance to bodies over the sharing of personal information.

- Could the legislation be strengthened in any way?
  - Council’s investigation powers could be strengthened under the act. The Authorised Officer powers under the Social Security Administration Act 1992 used to allow Benefit Fraud Investigators to request information from employers, financial institutions etc. Following the transfer of benefit fraud investigations to the SFIS, Local Authority Corporate Fraud Investigators no longer have these powers.
  - There is no legislation in Scotland to pursue social housing fraud uncovered by NFI matching. In England, the Prevention of Social Housing Fraud Act 2013 makes subletting and parting with possession of a social housing property a criminal offence.

- Should participation in the National Fraud Initiative be improved? Are there any bodies who do not participate in the National Fraud Initiative who should do so?
  - Other bodies that could participate include: Housing Associations and government bodies such as HMRC, DVLA and TV Licensing
  - Matches against Insurance companies’ address databases could be used to confirm residence, rather than just claims information.

- Are there any other issues you would like to raise in connection to this particular part of the legislation?
  - The NFI exercise requires a lot of resource and returns have been diminishing over past years.
To consider whether:

- The policy intentions of putting the NFI in Scotland on a statutory basis have been realised,
- Any further policy or legislative changes are required to improve the effectiveness of the National Fraud Initiative,

Questions

Q: What have been the benefits financial and otherwise of putting the national fraud initiative on a statutory footing?

A: The statutory framework has provided certainty for participating bodies relating to the transfer of large volumes of data, including personal data, to a third party processor. The development of suitable protocols for doing so and the services secured from the Cabinet Office, specifically around co-ordinating data uploads, the matching of data and the return of matches in a regulated manner gives confidence to participants that data protection and information sharing issues have been fully considered in the framing of the legislation.

The financial benefits have been direct where data matches have indicated error or other irregularity leading to recovery of funds. There have also been indirect benefits in that the legislation has obviated the need for individual participants to allocate resources to considering the legitimacy and legality of sharing data in this manner, thus simplifying the process.

Q: Could the legislation be strengthened in any way?

A: The legislation as presently drafted appears fit for purpose, requiring mandatory participation by the main public bodies in Scotland in the submission of data. The discretionary element is the extent to which participating bodies check the returned matches. We believe this should remain discretionary to ensure that the level of checking is commensurate with the assessed risks arising from the matches. The nature of the data in scope means that many legitimate matches will be highlighted. Hence it is important, from a cost benefit perspective, that local discretion is retained in determining the extent to which matches should be investigated. In any event the rationale for checking processes is subject to review and comment by appointed external auditors.
Q: Should participation in the National Fraud Initiative be improved? Are there any bodies who do not participate in the National Fraud Initiative who should do so?

A: To the extent that the principal public bodies in Scotland are included we have no specific comments to make on others who may usefully participate.

Q: Are there any other issues you would like to raise in connection with this particular part of the legislation.

A: There are no other issues we would wish to raise. We believe the policy intentions of putting the NFI in Scotland on a statutory basis have been realised, by providing a means by which public bodies can assess the quality of data held within a range of operating systems.
Dear Mr Cocker,

**National Fraud Initiative**

I refer to your recent request for views and experience of taking part in the National Fraud Initiative.

The National Fraud Initiative is viewed by NHS Ayrshire and Arran as an important exercise, and one of the key components of the Board’s counter fraud strategy, with a summary of the results being reported to the Audit Committee.

It is believed that the present arrangements are working well, with a broad coverage across sectors, and that there are no obvious weaknesses in the process which need to be addressed.

Yours sincerely

Bob Brown,
Assistant Director of Finance

30 March 2017

Your Ref

fin/bb

Enquiries to

Bob Brown

Extension

13944

Direct line

01292 513944

E-mail

bob.brown2@aatpct.scot.nhs.uk
Background

The Scottish Parliament’s Public Audit and Post-legislative Scrutiny Committee is examining Section 97 of the Criminal Justice and Licensing (Scotland) Act 2010, which put the National Fraud Initiative on a statutory footing, and considering whether there are any improvements that could be made to the legislation underpinning the National Fraud Initiative.

Remit

The remit for the post-legislative scrutiny is to consider whether -

- the policy intentions of putting the National Fraud Initiative in Scotland on a statutory basis have been realised;
- any further policy or legislative changes are required to improve the effectiveness of the National Fraud Initiative.

Views are being sought on the following questions:

- What have been the benefits, financial and otherwise, of putting the National Fraud Initiative on a statutory footing?
- Could the legislation be strengthened in any way?
- Should participation in the National Fraud Initiative be improved? Are there any bodies who do not participate in the National Fraud Initiative who should do so?
- Are there any other issues you would like to raise in connection to this particular part of the legislation?

What have been the benefits, financial and otherwise, of putting the National Fraud Initiative on a statutory footing?

Within NHS Dumfries and Galloway (NHSDG) we have always given the exercise a priority and this has meant that we have submitted data in previous years to ensure that we get as much benefit out of the data matching as possible. In 2010/11, although not a mandatory requirement, NHSDG submitted the Creditors data and used the matches to identify approximately £22,000 of overpayments in this area.

One of the benefits of putting the National Fraud Initiative on a statutory footing is that it means that public bodies are required to submit the data, although the guidance is not clear on what will happen if bodies do not comply.

A further benefit of NFI being on a statutory footing is that this gives a clear
message that the public sector in Scotland will not tolerate fraud and that there are many means that will be used to identify wrongdoing. Although many of the results and recoveries from NFI are retrospective, by publicising these results and getting the message out that fraudsters will be caught and prosecuted will also help to deter fraud.

**Could the legislation be strengthened in any way?**

The legislation is very clear, although further consideration should be given to what will happen if bodies don’t comply with the legislation.

Emphasis could be given to the existing governance mechanisms within bodies to ensure that participation is built into these to ensure non-compliance is identified and acted upon.

The role of Audit and Risk Committees could be enhanced to identify where assurances are gained from participation in the process and how this links into the overall assurance framework within the body.

**Should participation in the National Fraud Initiative be improved? Are there any bodies who do not participate in the National Fraud Initiative who should do so?**

We cannot comment in this area

**Are there any other issues you would like to raise in connection to this particular part of the legislation?**

If bodies only submit data because it is mandatory and do not engage in the process, they will never get the best out of the exercise. In this situation participation will be seen as a tick box exercise and not because of the benefits.

The benefits of the exercise should be given greater focus to ensure that all required organisations participate because they are aware of these rather than be worried they will be criticised for non participation.
Post-Legislative scrutiny call for written submissions.

Introduction

NHS National Services Scotland is Scotland’s largest shared services body, supporting Scotland’s health by delivering shared services and expertise that help other organisations to work more efficiently and save money. We provide national strategic support services and expert advice to all of NHSScotland. We also play an active and crucial role in the delivery of effective healthcare to patients and the public.

Other than as a participating Board, NHS National Services Scotland does not have any direct role or responsibility with regard to the National Fraud Initiative (NFI), and therefore this response is based on premise.

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<th>Q.</th>
<th>What have been the benefits, financial and otherwise, of putting the National Fraud Initiative on a statutory footing?</th>
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<td>A.</td>
<td>Not applicable, please see above statement. NHS National Services Scotland is only a participant body.</td>
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<th>Q.</th>
<th>Could the legislation be strengthened in any way?</th>
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<td>A.</td>
<td>Yes. It is suggested that some purposive measures introduced to ensure participation and compliance, for example, in the timely provision of core data sets. It is not suggested that this be obstructive or punitive. An overall approach of willing voluntary participation above provision of datasets as suggested should continue.</td>
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<th>Q.</th>
<th>Should participation in the National Fraud Initiative be improved? Are there any bodies who do not participate in the National Fraud Initiative who should do so?</th>
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| A. | Integrated Joint Boards are becoming responsible for the provision of more and more vital public services. Some consideration should be given to ensure that any new data sets are considered/provided, and that collaboration between the individual public authorities that make up the Integrated Joint Board is adequate to ensure governance arrangements are robust, assurance is provided on public expenditure and NFI is fully utilised along with other measures, to ensure fraud, error and loss is reduced to a minimum within these new and essential public authorities.  
Other bodies such as the Association of British Pharmaceutical Industry, could be considered as a participant body who could publish and provide data around payments, honorarium or hospitality, which is provided to public officials, for |
consultancy/discretionary/advisory or educational services. It is always useful to have additional sources of information through a wider fraud landscape. The NFI could be extended to other bodies who engage in such activity, such as major research and development companies or companies with a dominant market position in key services such as IT, telecommunications or care services. This data could be matched against public authority employee/agency/contractors records to ensure transparency, and that deliberate failures or errors in compliance with policy and procedures are investigated appropriately.

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<th>Q</th>
<th>Are there any other issues you would like to raise in connection to this particular part of the legislation?</th>
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<td>A</td>
<td>As the numbers of participating public and discretionary bodies may increase along with the data sets provided, and given the existing challenges regards resources and time to deliver core services, a longer lead in time could be considered, or a staggering of the NFI matching datasets, with less ‘successful’ matches being carried out less frequently and the more ‘successful’ matches targeted with relevant resources to investigate to an outcome.</td>
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On the wider connected point, a strategic assessment of the matches and learning from the outcomes should now be considered given the length of time the NFI has now been in existence. This strategic approach may be codified into the statute or left as ancillary to it. This would help with an overall targeting of public authority resources and lead to more efficient investigation and potential recoveries or cessation of losses. It seems inefficient to continually find the same errors year after year. Strategic/operational assessments should be made and recommendations followed to increase resilience of systems and processes after each match.
Dear Public Audit and Post-legislative Scrutiny Committee,

I refer to your recent circulation around “Post-legislative scrutiny: call for written submissions from public bodies”. Having reviewed the documentations I can provide the following comments:-

1) **What have been the benefits, financial and otherwise, of putting the National Fraud Initiative on a statutory footing?**

   **Organisation**
   Having this as a statutory footing ensures that discrepancies are analysed and the results reported back, providing the board and internal/external audit with the assurance that processes and procedures are robust within the health board. Any discrepancies are analysed and lessons learned thus improving procedures for any shortfalls. It also gives the public the assurance that boards aren’t paying twice for services received.

   **Employees**
   Linking in with other public bodies analysing payroll, for example, ensures health and wellbeing of employees by not contravening the working time regulations working outside the normal place of work without informing your current employer.

   **Financial**
   Highlighting possible duplicate payments allow potential over payments to suppliers which would be recovered making better use of resources.

   For council this could potentially highlight the single occupancy allowance for council tax when they aren’t entitled so could also maximise potential income.

   Anything that confirms to the public that public bodies are doing all that is possible to maximise resources is beneficial.

2) **Could the legislation be strengthened in any way?**

   Audit Scotland has the statutory powers to obtain data, however, there are no powers for organisations to provide it. Some public bodies may have their own process for carrying out
this work, but there should be consistency and best practice in place to ensure everyone is able to carry out the same checks with the maximum benefit, if data is missing this can’t be done.

3) Should participation in the National Fraud Initiative be improved? Are there any bodies who do not participate in the National Fraud Initiative who should do so?

The National Fraud initiative in Scotland only takes account of Scottish areas, however, there are cross over’s with England and should include this in the exercise so linking in with their payroll, for example, would be beneficial as NHS employees have various contracts with other boards. This could also highlight staff on sick working in other health boards if NFI is carried out more regularly and also excess hours.

4) Are there any other issues you would like to raise in connection to this particular part of the legislation?

This isn’t widely publicised around the NFI and its use. There aren’t any penalties invoked when single council tax allowance is obtained when someone else also lives at the property.

Thank you for allowing us the opportunity to comment.

Yours sincerely

Cathie Cowan
Chief Executive
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<th>Question</th>
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<tr>
<td>What have been the benefits, financial and otherwise, of putting the</td>
<td>Increased participation and therefore potentially better outcomes.</td>
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<tr>
<td>National Fraud Initiative on a statutory footing?</td>
<td>The NFI is also likely to act as a deterrent to those who may consider fraudulent activity as it increases the likelihood of being caught and so it is important that there is publicity around the outcomes.</td>
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<td>However it should also be noted that the financial return from the NFI is very low in relation to the time invested in submitting data and investigating potential data matches.</td>
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<td>Could the legislation be strengthened in any way?</td>
<td>Timescales for the investigation of potential data matches could be shortened – at present, public bodies are given 12 months after the release of data matches to investigate and close these off.</td>
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<td>The role of DWP in investigating potential Housing Benefit matches requires to be clarified following the introduction of the Single Fraud Investigation Service (SFIS).</td>
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<td>Could participation in the National Fraud Initiative be improved? Are</td>
<td>Any new public bodies created through the devolution of financial powers to the Scottish Government should be included if they are not already.</td>
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<td>there any bodies who do not participate in the National Fraud Initiative who should do so?</td>
<td>The NFI and its benefits should be publicised to other bodies and organisations that may wish to participate on a voluntary basis, in order to increase participation.</td>
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<td>Are there any other issues you would like to raise in connection to this</td>
<td>No further comments.</td>
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<td>part of the legislation?</td>
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Paul Doak  
Senior Manager (Internal Audit, Risk and Fraud)  
North Ayrshire Council  
22/03/2017
What have been the benefits, financial and otherwise, of putting the National Fraud Initiative on a statutory footing?

Data matching legislation in Northern Ireland, as in Scotland, England and Wales, provides a clear statutory footing which requires the majority of public sector organisations to provide their key data for matching purposes. Being able to mandate data in this way helps ensure a significant level of data capture which in turn boosts the level of fraud that can be detected and/or prevented.

Since 1996, the NFI has realised over £1.1 billion savings nationally. This has only been possible because of the clear legal basis for the exercise, which includes arrangements for matching data across the four countries.

NIAO believes that the NFI should continue on a statutory footing.

Could the legislation be strengthened in any way?

There are two potential ways in which the legislation could be strengthened:

- extend the purposes for which data matching can be carried out; and/or
- mandate follow-up of matches by organisations.

Purposes

There are legislative differences in the data matching powers of England, Scotland, Wales and Northern Ireland. Our understanding is that under current legislation, Scotland cannot extend its data matching powers to include debt recovery (this can be added under E, W and NI legislation) or errors and inaccuracies (this can be added under English legislation). Such extensions would potentially provide greater outcomes.

Follow-up

While organisations can be mandated to provide their data, current legislation does not require them to take any specified follow-up action in relation to the data matches they receive.

Data matches highlight an inconsistency which could indicate fraud or error. Logically, therefore, the more follow-up and investigation of matches that is undertaken, the more outcomes there are likely to be.

There is, however, a balance to be struck between little or no effective follow-up by organisations and mandating organisations to look at all matches (which could cause significant resourcing issues for many organisations). Currently, the general approach adopted is a collaborative one, whereby organisations are encouraged to review and investigate a targeted sample of matches based on identified fraud risks. NIAO (and Audit Scotland), as statutory external auditors, can challenge those
organisations which do not adopt a proportionate, risk-based approach to their NFI work.

NIAO would have reservations about extending the legislation to include the mandatory follow-up of matches. It may, however, be possible to introduce a limited power which would enable the statutory auditors to require action in certain defined circumstances.

- **Should participation in the National Fraud Initiative be improved? Are there any bodies who do not participate in the National Fraud Initiative who should do so?**

The NI Comptroller and Auditor General and the Local Government Auditor can mandate participation in the NFI by those organisations for which they have audit responsibility. There are other organisations which receive significant sums of public money but because there is no audit relationship, there is no power to mandate participation.

Organisations can choose to participate voluntarily and in Northern Ireland, for example, three of the largest housing associations (which receive significant public money) participate on this basis.

There may be a case for extending the coverage of the NFI to include, on a mandatory basis, organisations which receive significant amounts of public money even though they are not audited by the Comptroller and Auditor General and the Local Government Auditor (and equivalent in Scotland).

A further improvement would be an increased emphasis on preventative measures, for example by way of real time data matching. This is aimed at preventing fraud getting into the system in the first place, rather than detecting it after it has occurred, and is potentially a more efficient and effective way of tackling fraud.

This area of NFI functionality continues to be developed. The value of real time data matching would be significantly increased if key datasets, such as those held by HMRC, were available to the NFI.
1. What have been the benefits, financial and otherwise, of putting the National Fraud Initiative on a statutory footing? None - it causes considerable work with almost no tangible benefits that were not being provided already by the external/internal audit process already in place.

2. Could the legislation be strengthened in any way? Yes – by selecting only high risk organisations rather than a wholesale blanket covering of all public bodies – the Parliamentary Committee were informed of some of the costs – were the costs of organisations carrying out the matching post audit included, and was the fact that the same observations as last year and answered satisfactorily were simply repeated taken into account?

3. Should participation in the National Fraud Initiative be improved? Are there any bodies who do not participate in the National Fraud Initiative who should do so? Small bodies should be excluded – i.e. those with turnover of less than £20M.

4. Are there any other issues you would like to raise in connection to this particular part of the legislation? No
The biennial data matching exercise carried out by public bodies for the prevention and detection of fraud and error was put on a statutory basis by Section 97 of the Criminal Justice and Licensing (Scotland) Act 2010. Section 97 gave statutory powers to Audit Scotland to require disclosure of data and publish reports on data matching for public bodies which are within the remit of the Auditor General or the Accounts Commission, presumably with the expectation that by enshrining this in legislation would ensure the greatest degree of compliance in the provision of the required data.

The National Fraud Initiative 2014-15 received data from 104 public bodies with only two organisations from which data was requested, both further education colleges, failing to supply any data. That would seem to indicate that putting this exercise on a statutory footing has been successful from a participation perspective however only 80% of the participating bodies were adjudged to have managed their roles in the exercise satisfactorily and that was slightly down on the previous NFI exercise with the decline in performance noted as being in the local government and NHS sectors.

More the two-fifths (41 per cent) of bodies failed to follow-up matches promptly enough, just over three-in-ten (31 per cent) public bodies audit committees reviewed the report and carried out the self-assessment contained within it and almost a quarter (23 per cent) of key contacts failed to review the report or carry out the self-assessment, so whilst there was almost 100% participation in the exercise the quality of that participation it would at first appear is in many cases far from satisfactory. It could however be the case, particularly in local government, that satisfactory alternative data matching exercises exist and are being employed to combat fraud. Thus for instance where 30 Scottish councils were provided with matches to check claimants of council tax single person discounts and 14 councils did not record any outcomes for their matches some or all of these councils could have conducted alternative data matching options to review and therefore did not need to record any results on the NFI system.

Reducing the NFI exercise outcome into a single financial figure (NFI 2014-15 £16.8m) would appear to be of questionable value, involving as it does employing estimation bases which could be subject to dispute. Take for instance the blue badges the financial outcome for this element is valued using a value of £575 applied to each cancelled blue badge that being taken from estimates of what they might illegally be resold for, obviously local authorities are not involved in the resale of blue badges and it is difficult to see why the criminal resale value of the badge...
would necessarily provide any representation of the true social cost of the badge in proper use.

The true social cost of persons improperly using a blue badge comes in the form of persons with genuine serious mobility issues being denied access to designated blue badge spaces or convenient on-street metered parking spaces, there is no particular reason why that social cost should be equated into a financial value equivalent to the illegal sale of a badge.

Quantifying the outcome in terms of the number of blue badges stopped or flagged for future checks (NFI 2014-15 being 3,073) is perhaps better than any financial quantification though it might be of benefit to provide the context of the total number of issued blue badges to highlight the potential significance of this fraud prevention measure.

Other estimation bases are also open to question being the best approximations available and the actual cash recoveries for the public purse however this is but one strand to conducting the exercise which also a preventative measure acting as a deterrent to some who otherwise might commit fraud (though it would benefit from greater awareness in the general public) and it also can highlight weaknesses in processes leading to improvements in them.

The legislation as it currently stands carries no powers of compulsion in terms of penalties or fines but rather relies on pressure from organisation’s auditors and the threat of being named in the biennial report, an annual accounts audit or internal audit report. Given the almost 100% participation of bodies currently covered by Section 97 there does not seem any great requirement to strengthen the legislation in terms of compulsion, the major issues with the biennial exercise rather seem to lie in ensuring bodies satisfactorily fulfil their roles in applying the matching exercise results. It is difficult to imagine how any compulsion to better manage their roles could be incorporated into legislation and extremely dubious as to whether it would be desirable to even attempt that. If bodies are already undertaking successful alternative matching options then it is understandable as to why they might not be utilising the national exercise matches. It is important in terms of the wider public service fraud detection and prevention picture that they do provide data but how they utilise the output data, if at all, depends upon what they have chosen in terms of fraud detection and prevention and in the final instance is a local governance matter.

Section 97 provides for voluntary disclosure of data by bodies out with the remit of the Auditor General or the Accounts Commission, should other bodies be identified who might provide value in terms of widening the exercise that would be an appropriate initial way to incorporate them, if a particular group of bodies were to emerge from that voluntary disclosure path then consideration could be given to amending the legislation to formally incorporating them within the Section 97 of the Act.
Scottish Enterprise has been involved in the National Fraud Initiative since 2010/11. Whilst there have been no frauds or errors identified in the exercises completed, we have recognised the benefits of the data matching exercise across the public sector.

For Scottish Enterprise there may have been no financial benefit from these exercises but there have been clear benefits in providing assurance in relation to our payroll and creditor data. In addition, the exercise also acts as a deterrent for any individuals considering fraudulent activity.

Overall, Scottish Enterprise has very positive views of the National Fraud Initiative. Our only recommendation for improvement is that compulsory participation for all public bodies in Scotland would be beneficial.

Alan Browne
Head of Internal Audit
National Fraud Initiative

Thank you for your invitation to comment on the National Fraud Initiative, to inform the Committee’s post-legislative scrutiny of Section 97 of the Criminal Justice and Licensing (Scotland) Act 2010.

The Scottish Funding Council (SFC) is helping make Scotland the best place in the world to educate, to research and to innovate. Investing around £1.5 billion of public money each year, SFC’s funding enables Scotland’s colleges and universities to provide life-changing opportunities for over half a million people.

Given the funding for which we are responsible, we recognise the importance of the National Fraud Initiative and seek to play our full part in it.

However, as is reflected in Audit Scotland’s report, very few issues have been identified which relate to colleges and universities, and none in relation to the Scottish Funding Council itself. Consequently, we are perhaps not best-placed to comment on the National Fraud Initiative’s overall effectiveness.
With regard to your specific questions:

- In relation to SFC’s own participation, placing the Initiative on a statutory basis has had no impact. However, we recognise that the position might be different for other organisations.

- We are not aware of any aspects of the legislation which need to be strengthened.

- Neither are we aware of any issues with regard to participation in the National Fraud Initiative.

- More generally, we recognise the likelihood that the National Fraud Initiative has a significant deterrent effect, which, by its very nature, is difficult to measure.

Yours sincerely,

Martin Fairbairn  
Chief Operating Officer

Tel: 0131 313 6524; Email: mfairbairn@sfc.ac.uk
The Scottish Government has a zero tolerance approach to fraud and our participation in the NFI exercise forms an important part of our collaborative approach with the wider public sector. Working in partnership is a key objective in our approach to counter fraud and the Scottish Counter Fraud Forum, with its cross-sector membership including local government, public bodies and Audit Scotland, is a vehicle through which we are working to improve how we protect public resources now and in the future.

We recognise the contribution of the NFI as a major counter fraud exercise in detecting and preventing fraud and error as highlighted in the latest NFI report. We continue to use the NFI to review the robustness of our financial data and effectiveness of our systems. Complimentary to the broader purpose of the NFI the Scottish Government is taking a number of other actions, with an enhanced focus on prevention and I have provided further details in the attached annex.

The Scottish Government supports the data sharing opportunity the statutory footing of the NFI provides. This legal gateway benefits public bodies in enabling sharing of data across organisational boundaries highlighting our priority to prevent fraud by removing silos, working across organisations to protect public resources. Through our engagement with the wider public sector we will continue to encourage active participation in the NFI to ensure NHS, central and local government bodies can benefit from sharing data to combat fraud and error.

Scottish Government Finance officials are working with the Cabinet Office through the NFI Steering Group on the work they are leading to improve the NFI products and performance metrics. This improvement work aims to ensure NFI tools continue to offer the opportunity for effective participation by bodies and address the increasingly sophisticated approaches of fraudsters. We are engaging with this review in collaboration with members of the Counter Fraud Forum, offering suggested improvements relating to how the NFI tools can be developed to offer more real time data sharing as well as enable improved referrals when matches are identified.

The Scottish Government will continue to participate in this work to explore how best the NFI tools can be developed to assist in targeting emerging fraud risks and increase effective participation for public sector organisations in support of the wider prevention agenda.

I hope this information is helpful in supporting the Committee’s work.

Sincerely,

GORDON WALES
ACTING DIRECTOR GENERAL FINANCE
Scottish Government Prevention Activity

1. The Scottish Government, in partnership with the Counter Fraud Forum produced the first pan-Scotland, strategic approach to fighting fraud, *Protecting Public Resources*. The strategy is designed to **raise awareness of the continued importance of fighting fraud, bribery and corruption**; provide a basis to **improve fraud action plans and strategies in individual organisations**; and **ensure a consistent preventative approach is being taken to counter fraud** across Scotland.

2. The Forum is a group chaired by the Scottish Government’s counter fraud champion, the Director of Procurement & Commercial, and includes membership from COSLA, DWP, Trading Standards, Scottish Local Authorities Investigators Group & Chief Internal Auditors, **Audit Scotland**, the Crown Office and Procurator Fiscal Service, Police Scotland, National Services Scotland (NHS), Student Awards Agency Scotland and the Scottish Public Pensions Agency – with the aim of improving counter fraud across the public sector. The Forum also has links with the Serious and Organised Crime Taskforce ensuring consistency in approaches.

3. **An effective approach to counter fraud is an important element of maintaining efficiency in the face of continued austerity, ensuring that public money goes to front line services.** The Strategy is designed to support our future delivery of public services through emphasising:
   - a decisive shift towards **prevention**
   - **greater integration** and partnership working
   - **workforce development** through investment in the skills and capacity
   - a sharp focus on **performance**

4. The Scottish Government embodies this approach in the steps taken to raise awareness levels and collaboration in the fight against fraud throughout the organisation and the Scottish public sector that includes:
   - **Supporting the work of the NFI** to review the robustness of our financial data and effectiveness of our systems;
   - Wider engagement with the Scottish public sector through our annual Counter Fraud Conference and awareness events which provide the opportunity to network and learn from one another;
   - Sharing our approach and supporting the prevention agenda through the Fraud, Error and Debt Team within Cabinet Office, participating in cross-government groups such as the Counter Fraud Champions Network and NFI Steering Group;
   - The development of a partnership agreement with NHS Counter Fraud Services to use its counter fraud expertise with the view to improving our capacity to manage and mitigate risks of fraud, bribery and corruption;
   - Support of the CIPFA Fraud and Corruption Tracker through promoting participation by public bodies and local government in Scotland;
• Exploring data sharing opportunities and assessing training and knowledge gaps across the public sector through the Counter Fraud Forum.

5. These activities are also in support of the Open Government Partnership commitment:

Place Scotland as a leader in identifying and preventing corruption and the risk of fraud and corruption in the public sector. Members of the Counter Fraud Forum have contributed specific actions by their organisation to ensure the ambition of the strategy and Open Government Partnership commitment are put into practice.
I write with reference to your letter of 2 February 2017 and on behalf of the Scottish Local Government Partnership (SLGP) would respond to your comments under the following headings:

The effectiveness of the arrangements made by local government bodies for the National Fraud Initiative (NFI)

In the main, across the SLGP, arrangements have consistently been assessed as adequate by External Auditors with the only improvement area being around the development of a formal strategy for prioritising matches. In one area, it had also previously been highlighted that whilst data had been uploaded timeously, improvements were required in the timeous investigation of resulting matches. Action has been taken by the Authority to address this issue and External Audit have acknowledged the work in progress to implement improvements within internal processes.

As a Group, we have also observed that the delivery of data for upload, and more particularly for the resulting investigation of matches, is resource intensive, with Authorities referring specifically to the impact of resources being transferred to the DWP’s Fraud and Error Service (FES) and the Authority's residual ability to service the demands of the NFI process.

Notwithstanding this challenge, each of the SLGP Authorities consider their current arrangements to be adequate to facilitate delivery of the NFI exercise within their own local authority area.

Comments on the National Fraud Initiative

The SLGP are of the opinion that the NFI exercise remains an effective and efficient data-matching service although, through time, the benefits of the NFI exercise are being impacted by the level of other pro-active work being undertaken by local authorities to address fraud. Given Authorities are approaching corporate fraud in new ways, it would be helpful if the NFI report could also recognise the outcomes from this additional corporate fraud work.

In addition to the impact on resources detailed above, the efficiency of the process has also been affected by the new fraud investigation arrangements with FES in relation to the investigation of benefit fraud with the burden of sifting and referring cases to FES along with the gathering of relevant evidence still resting with the Local Authority.

The SLGP, however, as a Group remain committed to the process and recognise that, as Authorities re-structure, there will be a need to identify new resources to investigate resulting matches. Extensive online training is provided on the NFI website and this will be used to ensure that those involved in the exercise are appropriately trained.
For each of the Authorities within SLGP, the areas deriving the most significant number of matches vary, although common to all is benefit matches.

Phasing and timing issues are noted across the Group and reviewing the timing of releases to avoid, for example, the annual billing exercise for Council Tax would be welcomed along with developing more regular data-matching in some areas to ensure data is current. The time delay between upload and release of matches reduces the currency of some matches and it is suggested, if managed in a more phased manner, more frequent data upload and matches would allow potential frauds to be addressed earlier and ease the administrative and investigative burden.

It is also suggested that areas for further consideration could be exploring the benefits of a national advertising campaign to increase public awareness and act as a deterrent and extending data sets to include, for example, Her Majesty's Revenue and Customs (HMRC) data albeit it is accepted that legislative changes may be required.

In summary, the NFI exercise is a valued resource that is welcomed by the SLGP which has, over time, delivered significant outcomes but, in turn, has required significant resources. It is recognised that the cross-Authority check is of great value and it is only the NFI exercise that offers this facility.

Work local authorities are taking to strengthen their arrangements and to ensure that they can benefit from the valuable work undertaken as part of the National Fraud Initiative to minimise fraud and error across the public sector.

The SLGP recognise the NFI data base as a valuable resource to assist in tackling fraud with one SLGP authority exploring the use of the Appcheck application verification system. Additional NFI functionality would be explored by other Authorities but the cost of this remains a material consideration.

Arrangements are reviewed in some Authorities using the NFI checklist supplied and also through the consideration and actioning of recommendations made by Audit Scotland within their NFI report to ensure that the required improvements are made to the process at a local level, year on year.

Each Authority's approach to the investigation of corporate fraud varies but across all of the SLGP, there is a commitment to adequately resource the NFI exercise and use the data to identify trends and patterns in fraudulent practice that require to be explored further either through internal review or as part of a fraud investigation.

To evidence this commitment, the SLGP routinely present reports on the NFI exercise to their own corporate management teams and audit committees to ensure appropriate challenge and scrutiny of these activities and outcomes at a local level.
I trust this feedback is of some assistance but would be happy to provide further information on behalf of SLGP if required.

Yours sincerely

Paul Manning
Executive Director
Finance and Corporate Resources
Scottish Natural Heritage has participated in the NFI since 2012/13, and therefore has a number of years of direct experience of the work.

The financial benefits of the NFI are clear. As reported by Audit Scotland (June 2016) the 2014/15 NFI exercise showed that over £4.5 million of overpayments were being recovered. Given reduced public sector funding, it is vital than any fraudulent or erroneous payments are identified and then dealt with, including criminal charges where appropriate. As well as helping protect public funds, the NFI therefore also acts as a deterrent to potential fraudsters.

In addition, the NFI reaffirms the strong message that fraud crosses organisational boundaries and that a coordinated and joined up approach must be in place across the public sector. Whilst a significant proportion of fraud or erroneous payments will relate to the benefits sector, the inclusion of other public sector bodies in the NFI raises awareness that fraud is not solely confined to traditional areas. The aim should therefore be for the NFI to cover the full remit of the public sector.

However, it is important for it to be proportionate to the level of expenditure, so smaller public bodies do not have to spend significant time preparing disclosures and then handling any subsequent data matches. The Whole of Government Accounts applies a Minor Bodies exemption, and the same approach could be applied to the NFI.

The NFI also helps organisations review their approach to fraud prevention and detection – for example, through the results provided by the NFI to each organisation and also the provision of self-assessment checklists. This helps provide senior managers and Boards with regular health checks on an organisation’s counter-fraud arrangements, identifying where improvements can be made. As well as raising awareness internally, the provision of self-assessment tools also helps bring consistency across organisations in terms of leadership of fraud risk management.

Finally, the NFI represents value for money in terms of the efficiencies delivered through centralised data processing and the identification of targeted high-priority matches. Without the NFI, it would be very difficult (if not impossible) for individual organisation to undertake such data matching, and therefore fraudulent and erroneous transactions would not be able to be identified.

Helen McGeorge - Head of Internal Audit
Elaine Ward - Head of Finance Services
Mairi Gunn - Financial Accountant
Public Audit and Post-legislative Scrutiny Committee

National Fraud Initiative

Submission from South Lanarkshire Council

I write with reference to your email of 1 February 2017 seeking a contribution to the post-legislative scrutiny exercise that is underway to examine Section 97 of the Criminal Justice and Licensing (Scotland) Act 2010 and to consider whether there are any improvements that could be made to the legislation underpinning the National Fraud Initiative (NFI).

Specifically in respect to your questions, I would respond as follows:

What have been the benefits, financial and otherwise, of putting the NFI on a statutory footing?

South Lanarkshire Council has taken part in the NFI since its inception, 2004/2005 for Housing Benefits and 2006/2007 for the full exercise. Putting the exercise on a statutory footing has not impacted upon South Lanarkshire Council’s level of participation but it has increased the number of participants and therefore the number of data sets against which matches can be derived. This can be evidenced in the majority of matches identified within South Lanarkshire that consistently occur in the same areas, in the main, from data supplied by bodies external to the Council.

Could the legislation be strengthened in any way?

Organisations can choose not to participate in the NFI exercise but arrangements can still be considered satisfactory from an External Audit perspective if alternative processes are in place. Whilst alternative arrangements may be beneficial to specific bodies, this reduces the number of data sets and possibly the potential matches that would otherwise have been made.

Within South Lanarkshire Council, the NFI exercise remains an effective and efficient datamatching service although, through time, the benefits of the NFI exercise are being impacted by the level of other pro-active work being undertaken to address fraud. Given Authorities are approaching corporate fraud in new ways the resulting reduction in matches may continue.

Requiring full participation in the NFI exercise must be balanced with the benefit to individual bodies in developing local arrangements. Previous feedback has highlighted potential improvements could be made to the current NFI process, for example, moving to periodic matching throughout a year to improve the currency of the matches, allow potential frauds to be addressed earlier and to ease the administrative and investigative burden attached to participating in the NFI.

Should participation in the NFI be improved? Are there any bodies who do not participate in the NFI who should do so?

Data is separately provided by HM Revenue and Customs (HMRC) as part of Real Time Information that has allowed the Council to highlight overpayments in Housing Benefit claims linked to undeclared income. The incorporation of HMRC data within
NFI may allow other issues to be highlighted such as the identification of potential employee ‘conflict of interests’ given this would provide data outwith the Public Sector.

Are there any other issues you would like to raise in connection to this particular part of the legislation?

There are no other issues that South Lanarkshire Council would like to raise in connection with this particular part of the legislation.

I trust this feedback is of some assistance but would be happy to provide further information if required.

Yours sincerely

Paul Manning
Executive Director Finance and Corporate Resources
National Fraud Initiative - Questions

- What have been the benefits, financial and otherwise, of putting the National Fraud Initiative on a statutory footing?

Response
Due to adding additional public sector bodies in the NFI exercise I expect that there will be more fraud detected.

- Are there any other issues you would like to raise in connection to this particular part of the legislation?

Response
This part of the legislation should be made known to the public in relation to public bodies carrying out the NFI exercise. This could possibly deter fraudsters from potentially committing fraud.

The Government could create a poster to be placed in all public locations advising the public that the organisation participates in a National Fraud exercise.