

Public Audit and Post-Legislative Scrutiny Committee

National Fraud Initiative

Submission from Audit Scotland

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 outcomes¹ 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.

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.

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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

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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

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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.

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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.