

Interviewing the Subject

When all evidence has been gathered, a decision is taken as to whether the criminal case should be taken forward. Discussions are held with the relevant Health Board and the way forward is agreed.

At this time, the next stage is normally to request the Practitioner attend on a voluntary basis an interview under caution. The practitioner will be advised to have a solicitor or representative present at the interview.

This interview will usually be held in Health Board premises, and the interview will be tape recorded. Two tape cassettes are used and one is sealed and signed by the Investigators and the interviewee for evidential purposes. The second is used to transcribe the notes of the interview.

Reporting the Allegation of Fraud

If it is considered that there is sufficient evidence that an offence has been committed, a report will be submitted to the Procurator Fiscal (PF) who will decide whether criminal proceedings should be instigated or not.

A final report is also issued to the Health Board.

Outcomes

There are several options available to the PF and to the Health Boards and in some cases more than one course of action will be considered and acted upon.

Criminal

The PF may refer the case to court for proceedings.

No Case to Answer

The PF may decide that there is insufficient evidence. In this case no criminal action will be taken.

Civil

The Health Board may refer the case to court for civil recovery of the monies obtained fraudulently or for inappropriate claims.

Discipline

The Health Board may refer the case for discipline or may even consider referral to the NHS Tribunal.

Fraud. Together we can stamp it out.



Counter Fraud Services

Investigation Procedures Explained

Fraud Hotline 08000 15 16 28

Family Health Service Contractors

www.cfs.scot.nhs.uk

If you require this leaflet in braille, large print or another language please contact the Fraud Hotline.



Role of Counter Fraud Services

Counter Fraud Services (CFS), a division of NHS National Services Scotland, provide a full service to NHSScotland through a centrally based, professionally qualified team of specialists dedicated only to counter fraud work.

Working with Health Boards, Professional Representative Bodies and all NHS stakeholders, CFS undertakes a range of counter fraud work. A significant role is the investigation into allegations of fraud and other irregularities within and against NHSScotland.

There is a considerable amount of misunderstanding around this role and this leaflet aims to explain the investigation process and how it would impact on Primary Care Contractors.

A key factor in this process is the fact that CFS are a Specialist Reporting Agency and are able to report cases of fraud directly to the Procurator Fiscal.



Background to Counter Fraud Services investigations

A key aspect of effective counter fraud work is the professional, objective and fair investigation of suspicions and allegations of fraud as they arise. Investigative work is conducted to the highest standard. All counter fraud specialists are professionally trained and must be accredited before they can undertake this important work.

The purpose of an investigation is to assess objectively the truth or otherwise of a suspicion that has arisen. If it is appropriate to secure evidence, this is carried out to criminal prosecution standards.

The result is a greater degree of assurance that those who have committed fraud will have appropriate sanctions applied against them.

Our investigations conform fully with the law in all respects, including:

- Criminal Procedure (Scotland) Act;
- Proceeds of Crime Act;
- Data Protection Act;
- Freedom of Information (Scotland) Act;
- Race Relations (Amendment) Act;
- Human Rights Act;
- Regulation of Investigatory Powers (Scotland) Act; and
- Other relevant legislation.

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Allegation of fraud received by CFS

When an allegation of fraud is received by CFS the first action is to notify the relevant Health Board, if the allegation has been received from another source. Investigators will then undertake background enquiries to determine whether or not there is any substance to the allegation.

This may include issuing a letter and questionnaire to patients who are informed that this is part of a CFS exercise. If this demonstrates that the allegation is unfounded, no action will be taken and the contractor may not know that they have been investigated.

If it has been established that there are sufficient grounds for a full investigation the case is allocated to an Investigator who is known as the Officer in Charge (OIC).

Gathering Evidence

The OIC will review available claims information and may contact the Practitioner requesting their voluntary cooperation and access to patient records. At this point you may wish to seek legal advice before responding to the request.

It may be appropriate for practitioners and/or staff within the practice to be interviewed during an investigation and this is normally done with the full agreement of the individuals involved.

Patients can be interviewed as witnesses to obtain additional information and in some cases, the police may become involved if a search warrant is required to search and seize records from the practice. If this is necessary, CFS will work with the police to ensure, where possible, disruption to patient care and administration of the business is kept to a minimum.

At the point you become aware that CFS is making enquiries you may wish to contact your defence society.