

NHS Wales Counter Fraud Arrangements – Public Health Wales (PHW)

Paper for discussion

1. Purpose

This paper briefly outlines the current situation regarding Local Counter Fraud Services (LCFS) provided to Public Health Wales (PHW). It seeks to identify whether the service is sufficient and cost effective. The scope of this paper is to respond to the request from the PHW Audit Committee to review the current situation regarding the Counter Fraud Provision. This paper does not offer opinion on the cost effectiveness of the provision, rather, it provides background to the service provided in order that those reviewing the report may.

2. NHS Wales Counter Fraud Background

Welsh Government Directions require that all NHS Health Bodies:

- Nominate a suitably resourced LCFS service for their health body;
- Co-operate with NHSCFA and NHSCFS Wales to enable them to carry out their counter fraud functions; and
- Comply with the counter fraud responsibilities and functions of NHS bodies and LCFSs in Wales.

There are currently three layers to the counter fraud service in NHS Wales:

a) **NHS Counter Fraud Services (CFS) Wales** – a 7.0 WTE team hosted by NWSSP who investigate large scale, complex, cross border economic crimes and have specialist financial investigators who are authorised to use restricted powers under the Proceeds of Crime Act (POCA) 2002. The team's Head is the professional lead on counter fraud matters and the main point of contact with Welsh Government (WG) and NHS Counter Fraud Authority (NHSCFA) on counter fraud issues in NHS Wales.

b) **Local Counter Fraud Specialists (LCFS)** - the network of 21.71 WTE Local Counter Fraud Specialists (LCFS) and 2.6 wte admin support staff are all employed by health bodies in Wales. They investigate both simple and complex economic crime cases and also conduct proactive work to identify and raise awareness of NHS fraud risks at their health bodies.

c) **NHS Counter Fraud Authority (NHSCFA)** – a part of NHS England, the NHSCFA provides specialist support services and guidance to NHS Wales under the terms of an annual Service Level Agreement (SLA) with WG.

3. Current PHW Counter Fraud provision

The LCFS service at PHW is currently provided on a 'buy-in' basis from Cardiff and Vale University Health Board (CAVUHB) Counter Fraud Service. The service is based upon an allocation of days per year with PHW currently buying in one hundred (100) days service. This

service is agreed by way of a Service Level Agreement signed by the Executive Director of Finance of both organisations and the Head of the CAVUHB Counter Fraud Service. This is supplied at Appendix 1. CAVUHB Counter Fraud Service also provides the Counter Fraud function for four more 'buy-in' organisations as follows, Digital Health and Care Wales (DHCW), Health Education and Improvement Wales (HEIW), Velindre University NHS Trust (VUNHST) and NHS Wales Shared Services Partnership (NWSSP). As a result of this CAVUHB Counter Fraud service does not have the capacity to offer any further provision at its current staffing level.

The table below provides a breakdown of the Counter Fraud resources across Wales. Please note staffing headcount related to figures obtained by CFS Wales as at 31/12/21.

NHS WALES COUNTER FRAUD RESOURCE 2022/23									
Health Body	LCFS Annual WTE	Admin Support Annual WTE	Annual Planned LCFS Days	Q1 LCFS Days	YTD LCFS Days	Salary Costs Q1	Annual Staffing budget	Staff Headcount (at 31/12/21)	LCFS wte per 1,000 NHS staff
AB UHB	2.8	1	535	66	66	£37,019	£148,076	14,471	0.19
BCU HB	2.91	0.6	590	147.5	147.5	£38,030	£154,493	19,610	0.15
C&V UHB *	2.27	0	500	95	95	£33,613	£134,452	16,021	0.14
CTM UHB **	2.6	0.2	616	154	154	£37,818	£151,273	12,726	0.20
DHCW*	0.18	0	40	17	17	£2,689	£10,756	926	0.19
HEIW *	0.24	0	50	27	27	£3,361	£13,445	423	0.57
HD UHB	2.0	0	420	99	99	£23,126	£92,506	11,188	0.18
NWSSP ****	1.35	0	285	41	41	£9,873	£78,128	4,688	0.29
Powys tHB **	1.2	0.2	308	77	77	£18,301	£73,205	2,516	0.47
PHW NHST *	0.46	0	100	17	17	£6,723	£26,890	2,297	0.20
SB UHB **	3.2	0.6	704	176	176	£44,371	£177,485	13,368	0.24
VEL NHST*	0.5	0	110	34	34	£7,395	£29,579	1,420	0.35
WAST	2.0	0	440	110	110	£29,250	£117,000	4,180	0.48
TOTAL	21.71	2.6	4,688	1,060.50	1,060.50	£291,569	£1,207,288	103,834	
CFS WALES ***	6	1	1,314 ***	273.75	273.75	£103,678	£414,711		Average is 0.28
ALL WALES TOTAL	27.71	3.6	6,002	1,334.25	1,334.25	£395,247	£1,621,999		

Per 1000 staff members PHW has a relatively low ratio of LCFS WTE at 0.20 (as at 31/12/2021.)

4. Cardiff and Vale University Health Board Counter Fraud Team

The CAVUHB Counter Fraud Team is structured as follows:

1 x Counter Fraud Manager;

3 x Accredited Local Counter Fraud Specialists.

Along with the Welsh Ambulance Service Trust, Cardiff and Vale University Health Board are the only health body in Wales without access to administrative support.

All members of the team work currently on a full-time basis.

5. Resilience

The allocation of days to proactive and reactive counter fraud work is based largely on what has been offered historically. The days allocated (100) when shared proactively between strategic, governance, awareness and risk work, allows some resilience for any necessary reactive investigative work that may arise. Where there is a requirement to carry out reactive criminal investigation this will always take precedence. Priority is always given to reactive investigation as immediate action is required to prevent further loss and to ensure the best evidence is secured to protect the chances of future prosecution.

Resilience is potentially undermined by the fact that CAVUHB counter fraud department provide the service to a total of six organisations. Therefore, a complex investigation within any of these health bodies will inevitably lead to temporary staffing issues because of the resource demands of a complex investigation elsewhere.

That said, during the course of this financial year the counter fraud team have been confronted with a high volume of referrals/investigations from other organisations, one resource heavy, high value and complex investigation at another health body, and staff shortages seeing a 25% reduction in resources for a significant portion of the year. This has however, had little impact to the proactive work planned and carried out thus far on behalf of the organisation, nor to any reactive work that has been referred.

6. NHS Wales Counter Fraud Review of Arrangements.

A report has been commissioned by NHS Wales Shared services Partnership into the current and future arrangements of counter fraud in NHS Wales. There are a number of future options being discussed and this is being carried out at Director of Finance level. Local Counter Fraud teams have not been consulted in relation to this paper.

7. Adopting a Risk based Approach

The Counter Fraud team is required to comply Government Functional Standard No 13 (Counter Fraud). This is broken down into 12 NHS requirements. The requirements are listed below. They form the basis for the annual work plan each year produced by the Counter Fraud Manager. The NHSCFA is required to provide assurance to Cabinet Office of how the NHS is identifying and mitigating the risk of fraud, bribery and corruption. Consequently, NHS funded services are required to provide NHSCFA details of their performance against the Functional Standard annually. The Counter Fraud Manager must complete a Functional Standard return at the end of the financial year detailing compliance in each of the required areas. This return is shared with the Director of Finance and the Audit Committee Chair who are required to review and sign off this document.

NHS Requirements

NHS Requirement 1A:

A member of the executive board or equivalent body is accountable for provision of strategic management of all counter fraud, bribery and corruption work within the organisation. The accountable board member is responsible for the provision of assurance to the executive board in relation to the quality and effectiveness of all counter fraud bribery and corruption work undertaken.

The accountable board member is responsible for ensuring that nominations to the NHSCFA for the accountable board member, audit committee chair and counter fraud champion are accurate and that any changes are notified to the NHSCFA at the earliest opportunity and in accordance with the nominations process.

NHS Requirement 1B:

The organisation's non-executive directors, counter fraud champion or lay members and board/governing body level senior management are accountable for gaining assurance that

sufficient control and management mechanisms in relation to counter fraud, bribery and corruption are present within the organisation. The counter fraud champion understands the threat posed and promotes awareness of fraud, bribery and corruption within the organisation. Board level evaluation of the effectiveness of counter fraud, bribery and corruption work undertaken is documented. Where recommendations have been made by NHSCFA following an engagement, it is the responsibility of the accountable board member to provide assurance to the board surrounding the progress of their implementation. The organisation reports annually on how it has met the requirements set by NHSCFA in relation to counter fraud, bribery and corruption work, and details corrective action where requirements have not been met.

NHS Requirement 2

The organisation aligns counter fraud, bribery and corruption work to the NHSCFA counter fraud, bribery and corruption strategy. This is documented in the organisational counter fraud, bribery and corruption policy, and is submitted upon request. The counter fraud work plan and resource allocation are aligned to the objectives of the strategy and locally identified risks.

NHS Requirement 3:

The organisation has carried out comprehensive local risk assessments to identify fraud, bribery and corruption risks, and has counter fraud, bribery and corruption provision that is proportionate to the level of risk identified. Risk analysis is undertaken in line with Government Counter Fraud Profession (GCFP) fraud risk assessment methodology and is recorded and managed in line with the organisation's risk management policy and included on the appropriate risk registers, and the risk assessment is submitted upon request. Measures to mitigate identified risks are included in an organisational work plan, progress is monitored at a senior level within the organisation and results are fed back to the audit committee (or equivalent body).

NHS Requirement 4

The organisation has a counter fraud, bribery and corruption policy and response plan (the policy and plan) that follows NHSCFA's strategic guidance and has been approved by the executive body or senior management team. The plan is reviewed, evaluated and updated as required, and levels of staff awareness are measured.

NHS Requirement 5

The organisation maintains an annual work plan that is informed by national and local fraud, bribery and corruption risk assessment identifying activities to improve capability and resilience. This includes (but is not limited to) defined objectives, milestones for the delivery of each activity and measurable areas for improvement in line with strategic aims and objectives. The plan is agreed, and progress monitored by the audit committee (or equivalent body).

NHS Requirement 6

The organisation identifies and reports on annual outcome-based metrics with objectives to evidence improvement in performance. This should be informed by national and local risk assessment, national benchmarking and other comparable data. Proactive and reactive outcomes and progress are recorded on the approved NHS fraud case management system.

Metrics should include all reported incidents of fraud, bribery and corruption, the value of identified fraud losses, the value of fraud recoveries, the value of fraud prevented, criminal sanctions and disciplinary sanctions.

NHS Requirement 7

The organisation has well established and documented reporting routes for staff, contractors and members of the public to report incidents of fraud, bribery and corruption. Reporting routes should include NHSCFA's Fraud and Corruption Reporting Line and online reporting tool. All incidents of fraud, bribery and corruption are recorded on the approved NHS fraud case management system. The incident reporting routes are publicised, reviewed, evaluated and updated as required, and levels of staff awareness are measured.

NHS Requirement 8

The organisation uses the approved NHS fraud case management system to record all incidents of reported suspect fraud, bribery and corruption, to inform national intelligence and NHS counter fraud functional standard return submission by the NHSCFA. The case management system is used to record all fraud, bribery and corruption investigative activity, including all outcomes, recoveries and system weaknesses identified during the course of investigations and/or proactive prevention and detection exercise.

NHS Requirement 9

The organisation employs or contracts in an accredited, person (or persons) nominated to the NHSCFA to undertake the full range of counter fraud, bribery and corruption work, including proactive work to prevent and deter fraud, bribery and corruption and reactive work to hold those who commit fraud, bribery or corruption to account. The organisation will ensure that any changes to nominations are notified to the NHSCFA at the earliest opportunity and in accordance with the nominations process. The accredited nominated person (or persons) must demonstrate continuous professional competencies and capabilities on an annual basis by examples of practical application of skills and associated training to include (but is not limited to), obtaining witness statements, conducting interviews under caution and maintaining up to date knowledge of legal and procedural requirements.

NHS Requirement 10

The organisation undertakes proactive work to detect fraud using relevant information and intelligence to identify anomalies that may be indicative of fraud, bribery and corruption and

takes the appropriate action, including local exercises and participation or response to national exercises. Results of this work are evaluated and where appropriate feed into improvements to prevent and deter fraud, bribery and corruption. Relevant information and intelligence may include (but is not limited to) internal and external audit reports, information on outliers, recommendations in investigation reports and NHSCFA led loss measurement exercises. The findings are acted upon promptly.

NHS Requirement 11

The organisation has an ongoing programme of work to raise awareness of fraud, bribery and corruption and to create a counter fraud, bribery and corruption culture among all staff, across all sites, using all available media. This should cover the role of the NHSCFA, LCFS and the requirements and national implications of Government Counter Fraud Functional Standard providing a standardised approach to counter fraud work. Content may be delivered through presentations, newsletters, leaflets, posters, intranet pages, induction materials for new staff, emails and other media, making use of the NHSCFA's fraud awareness toolkit as appropriate. The effectiveness of the awareness programme is measured.

NHS Requirement 12

The organisation has a managing conflicts of interest policy and registers that include gifts and hospitality with reference to fraud, bribery and corruption, and the requirements of the Bribery Act 2010. The effectiveness of the implementation of the process and staff awareness of the requirements of the policy are regularly tested.

As can be seen from these requirements the Counter Fraud Team are required to perform activity in different areas. However as stated above "the NHSCFA is required to provide assurance to Cabinet Office of how the NHS is identifying and mitigating the risk of fraud, bribery and corruption" the overriding objective of the Standard being based upon mitigating risk. The requirements have therefore been developed by Cabinet Office with this in mind and the Counter Fraud function in complying with the Standard does provide a risk-based approach to its work.

More specifically a draft risk profile has been produced for the organisation and has been shared with the Fraud Champion and the Director of Finance and is shared in the most recent Counter Fraud progress report. Work has commenced on completing proactive risk assessments into the inherent areas of risk identified. These are reported upon in the Counter Fraud progress reports submitted to audit committee and are requested to be placed on the relevant local risk registers with ownership being duly taken. The aim being to comply with the local Risk Management Policy. Furthermore dynamic, informed risk assessment work is carried out in relation to specific areas of risk identified as a result of investigation or informed by intelligence from other organisations. The organisational fraud Risk Profile Document is intended to remain a living document in order that the risks identified can be reviewed and revisited as required, and in order that any newly identified risks can be added. All risk work carried out by the team is further reported on the CLUE case management system which is reviewed by the NHS CFA compliance team on a regular basis.

Appendix 1

SERVICE LEVEL AGREEMENT

Counter Fraud Provision

Cardiff and Vale University Health Board

&

Public Health Wales (PHW)

October 2022

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1. INTRODUCTION

Both parties, in signing this agreement, commit to a two-year Service Level Agreement (SLA) for the Cardiff and Vale University Health Board (“Provider”) to provide a NHS Counter Fraud Service to **Public Health Wales** (“Recipient”) based on an agreed sum of **100** days each year for the period from 1st April 2021 to 31st March 2024. After that date this SLA will continue until notice is given in writing, but such notice should be given not less than six months before the end of the SLA or given in accordance with the stated terms of the agreement (see Section 8).

Both parties pledge to co-operate closely and agree to be bound by the principles of this SLA and operate in the spirit of partnership.

The SLA is based on the current understanding that there may be future developments within the NHS Counter Fraud Service in Wales and that both parties recognise that any changes to this may affect the service provision.

It is an overriding objective of this agreement that the number of days allocated to the organisation and reported in the year start annual plan will be met by year end. However due to the nature of Counter Fraud work, meeting this target may not always be possible. For example, a resource heavy investigation undertaken on behalf of another client (recipient organisation) drawing resources away from this organisation. In the circumstance that all allocated days are provided before year end and further days are required, then these will be provided where possible, but only in response to reactive ongoing or new investigation. A record of days provided annually will be accurately reported at year end within the Annual Report. Both parties agree that whilst the number of days allocation may be subject to change, due to circumstances beyond the control of either organisation, the financial charge for the provision will remain unchanged from that stipulated at Appendix 2. This charge will be invoiced once a year and in advance of that year’s provision.

2. TERMS AND CONDITIONS

The SLA sets out proposed arrangements for this and it contains:

- key relationships and contacts
- the key objective and governance
- escalation procedures
- the service that is to be provided (Appendix 1)
- the agreed SLA price (Appendix 2)

The SLA will be valid until 31st March 2023 and automatically renew on 1st April each year thereafter unless either party requests an interim negotiation. If so, then such a meeting should take place no later than three months before the end of the current term of the SLA.

This SLA outlines the framework of all services covered as they are mutually understood by both parties as defined and set out in the schedules contained as appendices. The SLA contains a termination clause as outlined in Section 8.

3. SERVICES PROVIDED

An Annual Counter Fraud Work-Plan will be produced by the Lead LCFS for Cardiff and Vale UHB on behalf of the Recipient that will contain the main areas of Counter Fraud work to be carried out during the financial year ahead. The work-plan will be drafted each year prior to 1st April and will require approval from the Director of Finance and the Audit and Assurance Committee of the recipient organisation. The CF annual plan will be drafted in line in order to meet Government Standard 13 requirements for NHS bodies in relation to Counter Fraud work. Quarterly progress reports will be provided to DoF and AAC in written form and where appropriate Lead LCFS or deputy will attend in person and provide verbal updates. A detailed Counter Fraud Annual Report will be completed at year end reporting upon the work carried out during the course of the year and its alignment to the Annual Plan. A functional return in relation to compliance with NHSCFA standards will be completed at year end and forwarded to NHSCFA. A detailed description of service provision is provided at Appendix 1.

4. PRICING AND INVOICING

The annual charge for providing an NHS Counter Fraud service to the recipient is included and is as detailed in Appendix 2. **This charge will be invoiced once in advance at the start of the financial year for the annual amount. If more or less days are provided as allocated in the Annual Plan due to unforeseen circumstances the cost will remain fixed.**

5. KEY OBJECTIVE and GOVERNANCE

The main objective of providing the service is to satisfy the organisation's Finance Director and the members of the audit committee, that there is a robust system in place for the prevention, detection and investigation of any alleged NHS fraud, bribery or corruption. This will involve adopting a risk-based approach in tackling Fraud, Bribery and Corruption and ensuring that all referrals are investigated thoroughly and any identified system weaknesses are reported upon in line with CFA rationale and local procedure.

To assist in the governance of the provision, meetings will take place between the nominated Lead LCFS and the Health Body's Finance Director and the Audit Committee Chair on a regular basis as required. The lead LCFS for the provision will maintain an open channel of contact with the DoF, the Audit Chair and the Fraud Champion to ensure an effective flow of information.

The main method of monitoring performance will be provided by a quarterly progress report that will be submitted for noting at Audit Committee. This will be shared with the DoF and Audit Committee representatives prior to scheduled meetings.

Statistical data collated and produced about the number of cases being investigated, successful outcomes (civil, disciplinary or criminal) and any financial recoveries that are made by the organisation will also be reported quarterly to the Counter Fraud Service Wales for onward reporting to Welsh Government. An Annual Report will be completed and submitted to the DoF and the Audit and Assurance Committee at the end of the financial year.

6. ESCALATION PROCESS

Management & escalation process - If either of the two parties is able to demonstrate that the other party is not adhering to this SLA, the following escalation mechanism will be implemented:

Stage 1 - Local resolution:

Both parties are responsible, that if a service is not being delivered, in line with the specification in the SLA, escalation will occur. In the first instance this is raised between one of the relevant nominated Lead Contacts from each party, copied for information to the respective Finance Directors. All reasonable endeavours at the local level are to be completed before escalation to the next stage. It is expected that it would be reasonable to expect a resolution to this within 10 working days

Stage 2 - Final resolution:

Should the issue not be satisfactorily resolved then the next step would be for the relevant Finance Director to meet with his or her counterpart to attempt to agree a resolution to the problem.

7. FORCE MAJEURE

Neither party shall be in breach of any obligation under this agreement if it is unable to perform that obligation in whole or in part by reason of an event of "Force Majeure" including by way of illustration only and not exclusively; any act of God, fire, act of government or state war or civil commotion, insurrection, embargo, prevention from or hindrance from obtaining raw materials energy or other supplies and any other reason beyond either party's control.

8. TERMINATION

The Agreement may be terminated in the following circumstances:

By either party during the term giving a minimum of 6 months prior notice in writing;

By either party with immediate effect, if the other party is in breach of any of its obligations under this agreement and, if the breach is capable of remedy, the other party has failed to remedy or take substantive steps to remedy such breach.

9. CHARGES AND LIABILITIES

Both parties shall remain liable for any losses or liabilities incurred due to their own or their employee's actions and neither party intends that the other party shall be liable for any loss it suffers as a result of this agreement.

10. CONFIDENTIALITY

Both parties shall ensure that: Employees comply with their requirements on confidentiality, which necessitates that any confidential information coming into the hands of either party or their employees, including individuals' records, shall not be divulged to any unauthorised person. Satisfactory systems exist to ensure that unauthorised persons do not obtain such confidential information. Strict adherence to the NHS Code of Practice on Confidentiality is maintained.

11. STATUS OF THIS AGREEMENT

This agreement is an "NHS contract" made between two NHS Bodies pursuant to section 7 of the National Health Service (Wales) Act 2006.

This agreement shall be construed and governed in accordance with the law of England and Wales as it applies in Wales.

This agreement is not intended to be legally binding, and no legal obligations or legal rights shall arise between the parties from this agreement. The parties enter into the agreement intending to honour all their obligations.

Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties nor authorise either of the parties to make or enter into any commitments for or on behalf of the other party.

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this agreement.

12. KEY STAFF CONTACTS

Recipient

Huw George

Executive Director of Finance

Angela Fisher

Deputy Director Finance

Provider – CAVUHB

Gareth Lavington

Cardiff & Vale UHB Counter Fraud

Catherine Phillips

Executive Director Finance

Appendix 1- Specifics

1. Specific Duties of the LCFS
2. Cases investigated by the LCFS
3. Cases investigated by CFS Wales
4. Sanctions
5. Case Closure
6. Redress
7. Fraud Awareness
8. Pro Active Work
9. Staff CPD

1. SPECIFIC DUTIES OF THE LCFS

- 1.1 The Lead LCFS is required to produce a risk-based annual work-plan for the health body that is to be agreed by the Director of Finance. The work plan will indicate the resource provision allocated to each task. Progress against the work-plan will be regularly monitored to ensure that the level of provision is sufficient to mitigate the risk.
- 1.2 The Lead LCFS will provide a written progress report to each quarterly audit committee
- 1.3 Participate in national anti-fraud work including the National Fraud Initiative and complete within agreed standards and set timescales.
- 1.4 Maintain the Health Body's Fraud and Corruption Policy. Ensure implementation and communication across the health board.
- 1.5 Liaise with other organisations, professional bodies and agencies as necessary.
- 1.6 Ensure compliance with Part 3 Chapter 1 Data Protection Act 2018
- 1.7 Raise awareness of fraud and corruption across the organisation with presentations, including induction training, newsletters etc.
- 1.8 Maintain existing protocols and relationship with key partners including Workforce and Organisational Development, Internal Audit, Finance teams, Fraud Champion, DoF and Audit Committee representatives.
- 1.9 All referrals of suspected fraud and corruption, investigations and outcomes will be recorded.
- 1.10 All investigations will be compliant with NHS CFA guidance and relevant legislation, for example: Police and Criminal Investigations Act 1996, CPIA 1996

2. CASES INVESTIGATED BY THE LCFS

- 2.1 Investigations conducted by the LCFS will be in accordance with the Welsh Assembly Directions on Counter Fraud Measures and the guidance issued by NHSCFA, namely, the NHS Counter Fraud and Corruption Manual.
- 2.2 The Finance Director of each health body is required to nominate a Lead LCFS to NHSCFA. The Lead LCFS will then, in agreement with the Health Body's Finance Director, nominate support LCFS for the Health Body via the NHSCFA internet site.
- 2.3 The nominated LCFS will notify CFS Wales of all cases which they are investigating in accordance with Welsh Government Directions. The LCFS are

required to enter all potential fraud information and all fraud referrals on the NHSCFA electronic Case Management System known as CLUE.

- 2.4 The CFS Wales manager and the Lead LCFS will review the initial information and, depending on the nature of the allegations and the potential value of the fraud, the investigation will be allocated either to one of the CFS Wales Team or to an LCFS for further enquiries.
- 2.5 CFS Wales Team members will be available to support LCFS by offering advice at all stages of the investigation. Any request for advice will be responded to within five working days while urgent requests will be dealt with promptly.
- 2.6 If, during the course of an investigation, the LCFS believes that the value or nature of the fraud under consideration is likely to be above £15,000 or may involve more than one health body, then the LCFS should discuss this with the CFS Wales manager at the earliest opportunity.
- 2.7 In the circumstance at 2.6 the LCFS should obtain specific approval from the CFS Wales manager to retain responsibility for the investigation or proceed to formally transfer responsibility for the investigation to CFS Wales via CLUE. Such a transfer should take place within five working days and CFS Wales shall provide the organisation's LCFS with confirmation that they have accepted the case.
- 2.8 At the conclusion of investigations undertaken by the LCFS, they will produce an update for the health body's Finance Director. The LCFS will make a recommendation, based on an objective assessment of the evidence, whether fraud or corruption is present. The health body's Finance Director will in conjunction with the Lead LCFS make the final decision how the case should progress whether this be to formal prosecution or remain as an internal resolution matter.

3. CASES INVESTIGATED BY CFS WALES

- 3.1 CFS Wales will review any relevant documentation held at the Health Body by the LCFS. If the documentation is substantial, or it is necessary to preserve its contents for evidential purposes, then the documents may be taken to the CFS Wales Office, currently based at the NWSSP Offices in Pontypool. In these circumstances copies of any essential documentation will be provided to the originating body and a receipt will be issued to the LCFS for the original documents.
- 3.2 CFS Wales will undertake the necessary investigative steps to progress the case but the health body LCFS may be required to assist during the investigation.
- 3.3 CFS Wales will upon conclusion of the investigation provide the Health Body LCFS and Finance Director with a report and recommendations.

- 3.4** In the event of an investigation being prolonged due to complexity or reliance on other agencies, a progress report will be provided periodically to the Health Body LCFS and Finance Director.
- 3.5** Welsh Government Directions state that the health body shall ensure that the LCFS or CFS Wales Team is given access as soon as is reasonably practicable and no later than seven days from the date of any request for such access to:
- All premises, records or data owned or controlled by the health body relevant to the detection, prevention and investigation of cases of fraud and corruption;
 - All staff who may have information to provide which is relevant to the detection and investigation of cases of fraud and corruption.

The health body shall require its Chief Executive or its Finance Director to be responsible for ensuring that such access is provided.

- 3.6** At the conclusion of investigations undertaken by CFS Wales the designated CFS Wales Specialist will provide an update for the CFS Wales manager and the health body's Finance Director. The CFS Wales Specialist will make a recommendation, based on an objective assessment of the evidence, as to whether fraud or corruption is present. The CFS Wales manager, in conjunction with the health body's Finance Director, will make the final decision on how the case should progress.

4. SANCTIONS

- 4.1** Where it is proven that a fraud or a case of bribery or corruption has happened, discussions will be held between the Finance Director and the Lead LCFS to review the case and agree on the sanctions to be pursued. Guidance on the appropriate use of parallel sanctions is provided in the NHS Counter Fraud and Corruption Manual.
- 4.2** No LCFS cases should be referred to the Police prior to consultation and agreement with the CFS Wales manager as per the terms of the NHS Protect Memorandum of Understanding with the Association of Chief Police Officers.
- 4.3** If it is felt that a criminal sanction is appropriate then such a decision will be for agreement between the health body's Finance Director and the Lead LCFS or the CFS Wales manager as appropriate. The relevant Authority to Prosecute form will be signed by the Finance Director and the Lead LCFS or CFS Wales Manager as appropriate.
- 4.4** A file of evidence will be prepared by the LCFS or CFS Wales specialist as appropriate. The LCFS prosecution file will always be submitted to CFS Wales

for review prior to submission for formal legal advice to the Specialist Fraud Division of the Crown Prosecution Service. The LCFS should not contact the prosecuting agents directly without the prior approval of the CFS Wales manager who is responsible for the prosecution legal costs that may be incurred.

- 4.5 If it is felt that a non-criminal sanction is appropriate e.g. disciplinary or civil action, then the health body's Finance Director should make this decision taking account of the report made to them by either CFS Wales or the LCFS and the guidance in the NHS Counter Fraud and Corruption Manual.
- 4.6 A combination of disciplinary, civil and criminal sanctions should be considered as potential options in all suitable fraud or corruption cases
- 4.7 Once formal criminal proceedings are started and a defence has been filed, any further investigation required to rebut the arguments of the defence will be undertaken by the CFS Wales Team or relevant LCFS as appropriate.
- 4.8 Case conferences – a member of the LCFS/CFS Wales Team will routinely keep the Finance Director informed of any major developments in referred investigations and will also attend case conference when required to assist with the interpretation of evidence.
- 4.9 Court or disciplinary hearing attendance – it may be necessary for the LCFS to attend court to assist with the presentation and understanding of evidence and act as a witness. Generally, there is a presumption that LCFS / CFS Wales personnel will act as witnesses in all cases that they investigate.

5. **CASE CLOSURE**

- 5.1 Once a criminal prosecution and all outstanding civil and disciplinary actions have been completed, the CFS Wales Team or relevant LCFS will provide a closure report to the health body's Finance Director and if appropriate, internal auditors about the outcome of the case.
- 5.2 The CFS Wales team or relevant LCFS will be responsible for notifying the outcome of the case by completing the relevant sections on the CLUE database.
- 5.3 Where CFS Wales investigate a case, even if a prosecution was unsuccessful, a report will be prepared by the designated CFS Wales Specialist; which will identify any system weaknesses that presented an opportunity for the fraud to be happen. Measures to prevent that happening again will be recommended. The system weaknesses will be brought to the attention of the NHSCFA National Fraud Prevention Manager and to the health body's Internal Auditors via the nominated LCFS.

- 5.4** Where the LCFS investigates a case, even if the prosecution was unsuccessful, they will highlight, through submission of the CLUE report or progress report and attendance at the health body's audit committee, any system weaknesses that presented an opportunity for the fraud to happen. Measures to prevent that happening again will be recommended. Any system weaknesses that became apparent during the course of the investigation should be brought to the attention of the Health Body's internal and external auditors and the NHSCFA National Fraud Prevention Manager, via CLUE.
- 5.5** The designated officer from CFS Wales or the LCFS will provide the CFS Wales Manager, NHSCFA Communications and the relevant Finance Director with an advance warning of any potential criminal, disciplinary or civil actions, which may attract media interest. The outcome of the actual proceedings must be promptly reported to the CFS Wales's manager to facilitate any publicity arrangements e.g. seeking of positive publicity or defensive publicity. Any criminal, civil or disciplinary sanctions as a result of an LCFS investigation must be entered on to the CLUE and reported to CFS Wales.
- 5.6** If a suspicion of fraud is proved to be false, then CFS Wales or the LCFS should submit the case for closure at the earliest opportunity. The findings should be promptly reported to the health body's Finance Director and the CFS Wales manager in order that the case be closed.

6. REDRESS

- 6.1** The recovery of funds and the cost of civil action is the sole responsibility of the health body as the accountable body. However, CFS Wales will provide support by way of financial investigation, where appropriate, to allow effective recovery to take place and will assist any legal representation appointed by the health board for the civil action.
- 6.2** Redress will be sought in accordance with the NHS Counter Fraud and Corruption Manual. It is for the Director of Finance to decide whether redress will or will not be sought. Consideration should be given to this based upon economic grounds.

7. FRAUD AWARENESS

- 7.1** The Lead LCFS will routinely work with health body personnel, CFS Wales and the Health Body's Finance Director to drive forward any proactive work that is designed to raise the fraud awareness among staff within the organisation. This will be done in accordance with the NHS Counter Fraud and Corruption Manual.

8. PROACTIVE WORK

- 8.1** Proactive risk assessment work will be carried out as appropriate throughout the year and will be based upon the rationale as provided by the NHS CFA.

8.2 Results of proactive projects relevant to the Health Body will be reported by the Lead LCFS to NHSCFA via the CLUE database and to DoF and Audit and Assurance Committee via counter fraud progress reports.

9. STAFF - CPD

9.1 LCFS team will liaise with CFS Wales team members regularly to discuss fraud developments and how to optimise work in countering fraud and corruption. LCFS team will attend CFS Wales meetings for NHS Wales' LCFS to provide a forum for sharing good practice and provide updates on training, legislation, proactive work and investigations.

9.2 LCFS team will identify and undertake CPD in order to remain current with best practice, legislation, and developments within Counter Fraud.

Appendix 2

Agreed Costs per annum **£27,824.00** (Daily rate £278.24)

Signed: 

Date: 04/10/2022

Gareth Lavington
Lead LCFS
CAVUHB

Signed:

Date:

Huw George
Director of Finance
Recipient

Signed: 
.....

Date:

Catherine Phillips
Director of Finance
CAVUHB