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# LEGAL SERVICES AGENCY NORTHERN IRELAND

## INTERNAL FRAUD REFERRAL POLICY & INSTRUCTIONS

**Fraud Email:** [counterfraud@lsani.gov.uk](mailto:counterfraud@lsani.gov.uk)

**Fraud Referral Portal:**

[www.nidirect.gov.uk/services/report-legal-aid-fraud-online](http://www.nidirect.gov.uk/services/report-legal-aid-fraud-online)

**Fraud Hotline:** 0800 328 7360

12 October 2021

# Review Table

Review	Comments
0.1	First Draft
0.2	Updated draft following Quality Review
1.0*	Final Draft (12 October 2021)

\*Note this Policy will be reviewed on an annual basis

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## Overview

1. The Legal Services Agency (LSA) adopts zero tolerance to fraud and will always act in response to a suspicion of fraud or corruption. There is a responsibility for all LSA staff to act with honesty and integrity to safeguard public funds against the risk of fraud, from any source. It is important that staff and those with management responsibilities know what to do in the event of a suspected fraud so that appropriate action can be taken immediately.
2. This document sets out the following key information:
  - Responsibilities of Staff, Managers and the Counter Fraud Unit (CFU);
  - Fraud Referral Process and Fraud Indicators; and
  - Summarised Desktop Instructions for Fraud Referral.

## Staff Responsibilities

3. All civil servants have a duty to ensure that public money is safeguarded. This responsibility is outlined in the NICS Code of Ethics, which details how we are to conduct ourselves in line with the Seven Principles of Public Life aligned to the Nolan Principles (Appendix I, pg.10-11).
4. There is a responsibility to be vigilant and to report unusual events /transactions which could be Indicators of Fraud (Appendix II, pg.12-13). The Public Interest Disclosure NI Order 1998 protects the rights of staff who report wrongdoing. However, concerns about an Applicant/Practitioner/Staff member must not be made in bad faith or for personal gain. This policy sits alongside the facility to report legal aid fraud online [www.nidirect.gov.uk/services/report-legal-aid-fraud-online](http://www.nidirect.gov.uk/services/report-legal-aid-fraud-online) .
5. Staff are also reminded they have a responsibility to declare an actual or perceived conflict of interest and to also declare any offers and acceptance of gifts/hospitality in line with LSA's Gifts and Hospitality Policy.
6. Where it is believed that fraud may have been attempted or has taken place there are a number of steps involved (**REPORT, REVIEW, REFER**) to bring the concern of fraud to the attention of Line Managers, the Senior Management Team and CFU, where appropriate. The Referee has only one step to make.

7. The first step is to **REPORT** the matter to your line manager or the next level of management should you believe they are complicit.
8. You must complete a Fraud Referral Form (Appendix III, pg.14-15) and follow the Desktop Instructions (Appendix IV, pg. 16). Once completed, you should email this form to your Line Manager (or where unavailable the next person in the line management chain) for their review, and complete the Business Area Counter Fraud Register (exception if suspected fraud relates to a staff member) (Appendix V, pg.17).
9. Your Line Manager is obliged to commence a **REVIEW**, which is the second step of the process within 24 hours of receipt. Within 48 hours your Line Manager will decide the next steps and advise you of the outcome.
10. During an investigation by CFU, a Criminal Offence may be identified which will be referred to the Police. In such circumstances, CFU may need to obtain a factual account from you. CFU will lead, manage and act as a representative of LSA should the matter progress to court.

## **Line Manager's Responsibilities**

11. As a Line Manager there is an increased responsibility on you to prevent and address fraud and ensure that all areas within your responsibility have adequate controls in place to prevent fraud. You will be involved in the **REVIEW** which is the second step of the fraud referral process.
12. When a referral is received, you must take the concern raised by the member of staff seriously, examine documents, make discreet fact-finding enquiries and gather evidence to determine if the concern is substantiated or not in order to form an opinion.
13. You must review this referral within 24 hours of receipt and notify your Head of Branch (HOB). Within 48 hours, you must form an opinion and recommend the next steps. Your opinion and how the conclusion was arrived at must be documented on the Fraud Referral Form (follow the Desktop Instructions in Appendix IV, pg. 16) and the person who made the referral must be informed of your decision.

14. The following 4 options are available to you:
  - **Closed - No further action** (please also ensure the Business Area Counter Fraud Register has been completed as per instructions as this will be reviewed by CFU);
  - **Further action by the Business Area;**
  - **Refer to Compliance & Training Unit (CTU);** and
  - **Refer to Counter Fraud Unit (CFU).**
15. Where necessary, CFU will convene a Fraud Panel comprising of HoBs, key staff and SMT (if required).
16. Further detailed instructions on these options have been provided below.
17. The outcome determined on each issue raised should be recorded to the **Business Area Counter Fraud Register** which is unique to your Business Area (Appendix V, pg. 17) and notified to your HOB and the CFU.
18. If in doubt at any stage of the process, please seek advice from the CFU.

### **Further Action by Business Area**

19. If you choose “Further Action by the Business Area” e.g. to verify information, the Fraud Referral Form must be completed in detail outlining the reasons and the timeline to complete the action for further review. Line Managers should review the further action on the set date to conclude on the matter, notifying the HOB and the CFU.

### **Refer to Compliance & Training Unit**

20. On occasions Line Managers may conclude that it is not fraud but an issue surrounding training, compliance or controls and in such instances, the matter should be referred to the Compliance and Training Unit.

### **Refer to Counter Fraud Unit**

21. A referral to CFU should be forwarded to your HOB and CFU (via email to [counterfraud@lsani.gov.uk](mailto:counterfraud@lsani.gov.uk)). Please follow the Desktop Instructions in Appendix IV, pg. 16. During an investigation by CFU, a Criminal Offence may be identified which will be referred to the Police. In such circumstances, CFU may need to obtain a factual account from you. CFU

will lead, manage and act as a representative of LSA should the matter progress to court.

## **CFU Responsibilities**

22. When a case is referred to CFU, Investigators will engage with staff involved, secure evidence, ensure preservation of records and conduct a thorough fraud investigation with a view to determining if a criminal offence has occurred, in which case there will be a referral to Police.

## **When CFU receives a referral**

23. When CFU receives a referral, an acknowledgement will be issued within 1 working day to the HOB. Within 3 working days, the referral will be triaged and a decision made as to what category the referral falls into. The referral will be categorised as:
  - Non Complex;
  - Complex; or
  - Highly Complex / High Profile.
24. All cases will be actively investigated and updates provided to the Business Area, where appropriate.
25. **Non-Complex Cases** (e.g. where all the information is readily available and there is insufficient evidence to substantiate the allegation).
26. Practitioners will not be notified in respect of case referrals which are judged to be non-complex unless there is a case to answer. CFU do not anticipate having to review a physical file in respect of non-complex cases.
27. From the date of categorisation, Non Complex investigations will be completed within 3 working days. In most cases, where there is no further action required, the practitioner will be unaware of the referral.
28. The HOB will be notified there is no further cause for concern and CFU records will be updated with the outcome.
29. The case will be re-tasked to the original Referee and it will proceed to assessment or payment, if payment has not already been made, in line with normal processes.

## **Complex/ Highly Complex Cases**

30. Where CFU review the case and have classified it as complex or highly complex they will liaise with the HOB to discuss future action.
31. If a case originally considered non-complex requires review of the physical file it will be re-categorised as complex. Where a case is classified as complex or highly complex the assessment/payment of the cases is unlikely to fall within the normal KPI timelines and CFU will take over handling of the case and engage with the Practitioner directly.
32. In line with the action agreed with the HoB, CFU will initiate a verification exercise and contact the practitioner to request the file using the wording from the Template Letter / Email (Appendix VI, pg. 18-19). The case will remain tasked to CFU.
33. Depending on the nature of the concern and the implications for other cases, CFU will agree with the HOB whether it is necessary to suspend action on further cases that are on-going within LAMS. For example, if duplicated hours were believed to be claimed in a case it may be agreed that all such payment requests that are on-going in the system should be suspended. The communication to the practitioner will reflect the scope of review to be undertaken and the cases for which files are required.
34. Irrespective of whether the request is subsequently closed (after 21 days as per Appendix VI, pg.18) the investigation into the case will continue and appropriate action will be taken as required.
35. On reviewing the practitioners file, in conjunction with any additional evidence being collected, if the CFU are content that there is no cause for concern the file(s) will be returned to the practitioner (Appendix VII, pg.20) and the case re-tasked to the original business area to proceed to assessment or payment, if appropriate.
36. Practitioners will be requested to collect files from the office where possible but secure courier can be used at their request.

## **Where Inappropriate Action/Fraud is Suspected**

37. Where the CFU review results in concerns over inappropriate action, by a practitioner or indeed an applicant or official, they will:

- liaise with the SMT to discuss future action. Consideration will be given to the implications for other cases from this supplier. If other files were not previously called in by LSA, the need will be considered again and the practitioner will be communicated with in respect of these;
- engage early with Police to inform them of CFU preliminary findings. CFU will take advice from Police as to when/if to inform the practitioner. This will inform LSA's decision making;
- discuss with SMT and Police the timing on notification of the regulatory bodies and any action they would be anticipated to take in this regard.

### **Referral to Police / Regulatory Body**

38. LSA take a zero tolerance approach to fraud and will report to Police in all cases where allegations or suspicions are substantiated.
39. LSA will always notify the appropriate regulatory body, Law Society or Bar Council where a referral is made to Police.

### **Responsibility of Investigation**

40. During the CFU investigation the responsibility of the investigation will remain with CFU to lead, conduct the investigation, manage and engage with the practitioner throughout with guidance from SMT.

### **Updates / Monthly Meetings with HoB**

41. In relation to Complex cases and Highly Complex / High profile cases, CFU will provide regular updates to the HOB.
42. Where the matter has been referred to the Police, notification will be provided to the HOB. CFU will be unable to provide any details of the investigation but will provide recommendations on further prevention controls.
43. On a monthly basis, CFU will engage with the HoB and provide details of the number of cases referred, any emerging patterns, share any intelligence or information from authorities and discuss any improvements that would assist the business area.



44. CFU will review the information from Business Area Counter Fraud Register with the HoB on a monthly basis. Consideration will be given to the nature, number of concerns raised and the reasons why these may not have been referred to CFU.

CFU will provide the following information to the Business area:

- Number of Cases referred from the Business Area
- Categorisation of cases - Non Complex, Complex, Highly Complex/Highly Profile
- Name of Referee / Line Manager of business area
- Name of Applicant/ Practitioner suspected
- Name of Practitioner's firm
- Area(s) of Concern raised
- Current status of case
- Number of cases closed / outstanding
- Number of cases referred to Police / Regulatory Body
- Lessons Learnt

## **Notification to DoJ and NIAO**

45. On a monthly basis, CFU will continue to report the number of referrals to DoJ who will in turn notify the NIAO.

## **Closure & Disposal of Cases**

46. When an investigation is concluded and where there is no evidence to substantiate fraud or any issues relating to CTU, the records gathered will be disposed of in accordance with LSA's disposal policy. In compliance with legislation, records are retained for a period of seven years and then destroyed.



# Appendix I – Seven Principles of Public Life

The Seven Principles of Public Life (also known as the Nolan Principles) apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the NICS.

All public office-holders are both servants of the public and stewards of public resources.

## **Selflessness**

Holders of public office should act solely in terms of the public interest.

## **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

## **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

## **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

## **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

## **Honesty**

Holders of public office should be truthful.

## **Leadership**

Holders of public office should exhibit these principles in their own behavior. They should actively promote and robustly support the principles and be willing to challenge poor behavior wherever it occurs.

# Appendix II – Fraud Indicators

This list provides some indicators that may cause staff to have concerns of potential fraudulent activity. This list is not exhaustive and if you have any doubt please speak to your Line manager or the CFU.

## General

- Consistent failures by the Practitioner to check submissions;
- Deprivation of funds where the applicant appears to be getting rid of savings prior to applying for legal aid or transferring it to other members within the family
- Inconsistent information;
- Excessive and continuous overcharging of work;
- Payment for work not completed;
- Over-claiming of expenses;
- False signatures;
- False invoices or invoices that look altered;
- False ID or false client;
- Suspicious comments or behaviour;
- Missing information and when requested does not provide a plausible excuse or refuses to comply;
- Figures and trends are not consistent with expectations;
- Supplier consistently not following procedures with regards to registration and authorised user;
- Excessive movements of cash /transactions;
- Numerous adjustments without Supplier appealing LSA decision;
- Transactions not consistent with information provided.

## Assessment/Eligibility Stage

- Issue raised by opponent/ opponent's solicitor in the proceedings;
- Where supplier has stated an applicant has a benefit and it transpires that they didn't;
- Identical applications (duplicate claims/applications made by a Supplier);
- Indications of additional property or income that has been undeclared;
- Proof of living with or claiming joint benefits previously undeclared;
- Proof of undeclared savings or shares;
- Understating value of capital or assets;
- Non-disclosure of bank accounts;

- Refusal or delay in producing supporting evidence;
- Anomaly/query re-applicant's /assisted person's means;
- Refusal to comply with normal rules and practices;
- Self-employed accounts /cash in hand /not declared income etc.

## **Payment Stage**

- Supplier submitting exact same court attendance times;
- Supplier submitting exact same, overlapping, or excessive waiting times;
- Supplier submitting exact same, overlapping, or excessive consultation times;
- Supplier submitting exact same, overlapping, or excessive travel and mileage times;
- Supplier submission not providing a breakdown of time spent on individual dates, despite being informed and continues to submit an overall hours and minutes over a period of time;
- Refusal or unreasonable delay in producing supporting evidence;
- Refusal to comply with normal rules and practices;
- Supplier not providing correct fee note for disbursements etc.

# Appendix III – Fraud Referral Form

Details of Person Reporting Concerns	
Your Name	
Your Contact Details	
Date Referral made	
Business Area Concerned	
Details of Case	
LSANI Reference Number	
Name of Applicant (and any other names used)	
Name of Practitioner(s)(if applicable)	
Detailed reasons why a Fraud is suspected	
<p>What information/ documents do you have to support the suspicion of Fraud</p> <p>(Provide a PDF copy)</p>	
How was this discovered?	
<b>Signed and dated</b>	

<b>Actions by Line Manager</b>	
Date and time referral received from Staff Member	
What Issues did you identify?	
What actions did you take to address the issues raised?	
What is your decision as the Line Manager?	
What are your conclusions and what are the reasons for your conclusions?	
Was the alleged Perpetrator ever informed of this issue in the past? If so, provide copies of any circular or instructions (PDF copies)	
Category of Decision (Choose one)	<b>Closed no further Action / Further Enquiries by Branch / Refer to CTU /Referred to Counter Fraud Unit</b>
What further Branch Actions are necessary and how long will it take? <i>(if applicable)</i>	
What controls / measures can be put in place to prevent this reoccurring for the future?	
Have you updated the LSA member of staff who reported it?	
Date Closed <i>(if applicable)</i>	
Date referred to CTU <i>(if applicable)</i>	
Date referred to Counter Fraud Unit <i>(if applicable)</i>	



# Appendix IV

## DESKTOP Instructions – 3 Steps

### **STEP 1** – **REPORT** your Concern

1. Complete Fraud Referral Form (pg.14-15 Appendix III).
2. Email this along with any evidence to your line manager within 24 hours of discovery.
3. Log it on your Business Area Counter Fraud Register (pg. 17 Appendix V).

### **STEP 2** - **REVIEW** the Concern (**for Line managers**)

4. Review the Fraud Referral Form received.
5. Notify your HoB and CFU via email [counterfraud@lsani.gov.uk](mailto:counterfraud@lsani.gov.uk) of the referral.
6. Conduct Fact-Finding enquiries within 48 hours, annotate your actions on the Fraud Referral Form, and decide what status (please choose from below) the case falls into.

Status Categories:

- Closed No further action
- Further action by Branch
- Refer to Compliance Training Unit (CTU)
- Refer to Counter Fraud Unit (CFU)

### **STEP 3** – **REFER** the Concern to CTU or CFU

7. Email the referral to either CTU or CFU, copy in your HoB and update Business Area Counter Fraud Register (pg.17 Appendix V).

# Appendix V

## Business Area Counter Fraud Register

Business Area Counter Fraud Register										
Business Area										
Date <i>(to be completed by Referee)</i>	Referred from <i>(to be completed by Referee)</i>	Referral Reference <i>(to be completed by Referee)</i>	Line Manager <i>(to be completed by Referee)</i>	Name of Applicant <i>(to be completed by Referee)</i>	Name of Practitioner and Firm <i>(to be completed by Referee)</i>	Reason for Referral <i>(to be completed by Referee)</i>	Decision <i>(to be completed by Line Manager)</i>	Decision Date <i>(to be completed by Line Manager)</i>	Notification to Head of Branch Date <i>(to be completed by Line Manager)</i>	Date Referred to CTU / CFU <i>(to be completed by Line Manager)</i>
		21\Payments\ xxxx								

# Appendix VI

## Wording for RECORDED DELIVERY LETTER / EMAIL

*(Practitioner's Name & Address to be Inserted)*

Dear Sirs

I am writing in relation to the following case(s):

*(LSA to insert Details of Cases)*

As part of the Agency's audit and assurance framework the above cases have been selected for review and the original files are required within the next 21 days by \_\_\_\_\_ 2021.

The Agency requests these files under (delete as appropriate):

- Regulation 12 of the Civil Legal Services (General) Regulations (NI) 2015 No.195 – **Civil Cases (Advice and Assistance, Rep Lower & Rep Higher)**
- *Rule 7(6) of the Legal Aid for Crown Court Proceedings (Costs) Rules (Northern Ireland) 2005 – **Crown Court (Criminal)***
- *Rule 6(7) of the Magistrates' Court and County Court Appeals (Criminal Legal Aid) (Costs) Rules (Northern Ireland) 2009 – **Magistrate Court (Criminal)***
- *Article 8(8) of the Civil Legal Services (Remuneration) Order (Northern Ireland) 2015 – **Civil Cases (Advice and Assistance, Rep Lower & Rep Higher)***

Please make arrangements to deliver these files to the address above and contact should be made with Patrick Steele on 02890 xx xx xx to arrange delivery of the files.

*LSA cannot progress further action on this case in the absence of your file and if it is not received within 21 days from the date of this message the current request will be considered to no longer be valid and the case will be closed.*

Regards

**Legal Services Agency Northern Ireland, Department of Justice**

# Appendix VII

Dear X,

**RETURN OF FILE RELATING TO: xxxx**

Please find enclosed the file in respect of case xx previously requested.

The LSA audit work has been concluded successfully and the case is progressing through the system in line with standard processes.

We would like to thank you for your co-operation in this matter.

Regards

**Legal Services Agency Northern Ireland, Department of Justice**