NATIONAL MEMORANDUM OF UNDERSTANDING (MoU)

BETWEEN

THE POLICE SERVICE OF SCOTLAND

AND

ALL GEOGRAPHIC NHS BOARDS IN SCOTLAND

(Collectively described as ‘NHS SCOTLAND’ for the purposes of this MoU)

FOR THE PROVISION OF HEALTHCARE AND FORENSIC MEDICAL SERVICES FOR THOSE IN THE CARE OF POLICE SERVICE OF SCOTLAND

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**Reviewers:**

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**Approvals:**

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1. INTRODUCTION

In July 2011 the Director General of NHS Scotland, NHS Board Chief Executives and representatives of ACPOS agreed to move towards a partnership arrangement for Custody Healthcare and Forensic Medical Services, whereby the services provided in the past by Police Forces under the Scottish Home Department Circular 7362 dated March 1950, should now be jointly enabled by Police and Health and delivered by NHS Boards in accordance with the letter to the Chief Constable of Police Scotland from the Scottish Government which replaces the above 1950 Circular 7362.

In this context the Cabinet Secretaries for Health and Social Care and for Justice have now agreed the general approach being taken towards a transfer of funding and responsibility for the provision of healthcare and forensic medical services in police custody, based on the following:

- Responsibility for the healthcare in police custody, as a function of Health Boards under the terms of the Health Service (Scotland) Act 1978, will be the function and responsibility of Health Boards;
- Forensic medical services should be delivered by the Health Boards but remain a function and responsibility of the Scottish Police Authority (SPA) under section 31 of the Police and Fire Reform (Scotland) Act 2012;
- Reflecting these responsibilities, healthcare and forensic medical services should be delivered as part of a combined service to ensure efficient and effective public services;
- Funding for healthcare in custody and forensic medical services should transfer from the police to Health Boards, via Scottish Government, at a level fair to both partners and agreed;
- Funding relating to forensic services may be subject to review by both parties, specifically as a result of legislation or technical developments.
- Whilst working towards partnership agreements with Health Boards, the police will continue their current arrangements for the delivery of services.

This Memorandum of Understanding (MoU) is not intended to be legally binding. The Parties enter into the agreement with a common purpose to deliver integrated healthcare and forensic medical service obligations based on good practice, value for money and the statutory requirements of Scottish Government, working towards best practice.

The changes from the 1950 Circular are intended to ensure equity in healthcare where those in police custody and those for any other reason involved in a police incident, and requiring medical assistance, will receive their treatment from NHS Scotland to the standard expected of the general population. In so doing the transfer will uphold European and International standards for the healthcare of those in the care of the police. Similarly, the integrity of evidence to meet the standard of proof required of summary and solemn procedures by the Crown Office and Procurator Fiscal Service (COPFS) will be a principal consideration of the forensic medical services.

This document provides a framework of guidance on the responsibilities of the NHS Scotland and the Police Service of Scotland. It also embraces the requirements set by the Lord Advocate through the COPFS for forensic examinations.

Successful implementation and operation of this MoU will require a commitment from all Parties and at all levels to work co-operatively to implement and develop integrated healthcare and forensic medical services for those in the care of the Police Service of Scotland. In this context Regional and Local Partnership Agreements should be developed and agreed to build on this Memorandum and related national guidance which will result in consistent, effective and efficient local healthcare and forensic medical services within an overarching national framework.
2. SCOPE OF MEMORANDUM

This Memorandum of Understanding (MoU) is between the geographic Health Boards of Scotland and Police Service of Scotland, the Scottish Police Authority. It provides direction and governance for the delivery of healthcare and forensic medical services for those in the care of the Police Service of Scotland. The phrase “The care of the Police Service of Scotland” has been used in this Memorandum to more accurately reflect the delivery of services referred to in the Introduction as “Police Custody”

The parties and signatories to this MoU includes:

NHS Scotland:

NHS Ayrshire and Arran
NHS Borders
NHS Dumfries and Galloway
NHS Fife
NHS Forth Valley
NHS Grampian
NHS Greater Glasgow & Clyde
NHS Highland
NHS Lanarkshire
NHS Lothian
NHS Orkney
NHS Shetland
NHS Tayside
NHS Western Isles

Police Service of Scotland

3. NATIONAL AND LOCAL CONTEXT

The Police Service of Scotland came into force on 1 April 2013 from an amalgamation of the previous 8 Scottish Police Forces. The demand for various healthcare services by Police Service of Scotland, calls for national consistency in dealing with victims, suspects, those in custody, those who have come to the attention of the police through non-criminal incidents and for the provision of forensic evidence and statements for judicial purposes.

The Police Service of Scotland is partnered by 14 local Health Boards working within NHS Scotland. All 32 Local Authorities also work in close collaboration with the Police Service of Scotland and Health Boards on clinically related issues such as Child Protection, Sexual Assault (including through Resource Centres) and Offender Management. The Police Service of Scotland is split into three operational areas, North, East and West, working directly with the Health Boards and Local Authorities at local level.

In 2012, some 200,000 people in custody are processed throughout the Police Service of Scotland on a gender balance of approx 72% male and 28% female. Of those who are arrested, approximately 45% are detained in custody pending an appearance at a custody court on the next lawful day. Half of these custody detentions occur at the weekend causing a significant demand on cell capacity and care and welfare requirements.
Of those who are arrested and brought into custody, approximately 52% present with alcohol and/or drug related health issues. In many of these cases a number also present with mental health issues.

In many instances clinical services are required not only for treatment of the symptoms of underlying health conditions but also to determine the fitness for continued detention in police custody and for fitness to be interviewed, attend court and plead. Where healthcare professionals are deployed in the custody environment someone who is in police care can be reviewed by them as required.

The Police Service of Scotland, working under the direction of the COPFS also require evidential clinical examinations and interventions for a number of different healthcare reasons, most notably acts of violence, sexual assaults, paediatric examinations, mental ill health and for people with a learning disability. Examinations are also required to verify certain unexplained or sudden deaths in the community and healthcare and forensic examinations of people held under the counter terrorism legislation. Internal concealment of drugs or other items also falls within the remit of forensic examinations which may require clinical interventions for evidential purposes as well as interventions for an individual’s health. Any additional requirements in relation to counter terrorism will be jointly agreed and supported by Police Service of Scotland and NHS Boards.

While it is estimated that approx. 15,000 forensic examinations take place annually this does not include examinations undertaken in Accident and Emergency departments and elsewhere within the Health Service, including sexual offences where re-referral takes place.

National Healthcare and Forensic Medical Services Co-ordinating Network

A national Co-ordinating Network Board for forensic medical and healthcare services for people in police care (as laid out in the terms of reference governance structure document) will be convened through NHS National Services Scotland and is designed to facilitate nationally consistent guidance and support. The Network will be supported regionally and locally by the relevant departments from within the Police Service of Scotland and other agencies. The joint aim of local partnerships will be to provide and improve health and forensic medical services to people in police care, and eventually to reduce health inequalities and reduce re-offending.

At a local level, NHS, police managers and other agencies, as appropriate, will meet on a regular basis to ensure effective service provision, joint planning and the monitoring of the range of joint responsibilities. The basis of this will feed into the National Co-ordinating Network as required and be complementary to existing partnership arrangements.

The attached appendix 1 outlines the National Co-ordinating Network Terms of Reference.

National Guidance on the delivery of Police Custody Healthcare and Forensic Medical Services

While this MoU sets out the scope and framework for delivering integrated healthcare and forensic medical services for those coming into contact with Police Service of Scotland, overarching service specifications, individual protocols and agreements may still be required to meet regional and local variations or needs. These will be developed by the multi organisational sub group, together with related protocols, guidance and service level agreements, as required. The National Coordinating Network will give high-level procedural guidance and support in relation to the development of the necessary documentation, which may be revised from time to time to take account of changing circumstances or advice.
4. DEFINITIONS

The broad range of services covered by this MoU are defined below and in more detail in subsequent sections, supplemented as appropriate through the “National Guidance on the delivery of Police Custody Healthcare and Forensic Medical Services” agreed as comprehensive reference guidance by the National Co-ordinating Network and updated as required.

Healthcare Services

Refers to all services associated with the direct delivery of first aid and healthcare to those in the care of the Police by healthcare staff, including associated administrative and information technology support, and contracted healthcare services (and any subsequent follow on healthcare in the community). Non-criminal and non-arrest incidents involving members of the public, who require medical support to assist the police to bring an incident to a conclusion, should also be considered in the provision of healthcare services.

Forensic Medical Services

Refers to assessment, collection of information, examination, and collection of relevant samples and reporting of examination and interventions, (as detailed in the National Guidance on the delivery of police custody healthcare and forensic medical services). This includes:

- When required, pronounce life extinct at a scene (only verification of fact of death)
- Undertake examination and collection of forensic samples from alleged perpetrators in police custody, including mental state examination where appropriate
- Undertake relevant examination and collection of forensic samples from complainers (reported victims) of crime
- Undertake relevant examination and collection of forensic samples from children suspected to have suffered abuse including sexual offences
- Providing healthcare and undertaking examination of suspects detained under counter terrorism legislation
- Facilitating the training and support of colleagues to deliver forensic medical services

The compilation of relevant reports in support of the healthcare professional’s responsibility to the criminal justice system in relation to the above services is included in the above definitions.

Responsibilities relating to local Emergencies Coordinating Groups, in respect of contingency planning and incident response to major incidents, continue under existing arrangements.

5. COMMON PURPOSE AND VALUES

This MoU will be used to support the undernoted common purpose and values among partners to provide integrated healthcare and forensic medical services for those coming into the care of the Police Service of Scotland. This builds on the operational purpose and values outlined in the National Guidance on the Delivery of Police Custody and Healthcare and Forensic Medical services
Common Purpose

- The maximising of NHS and Police Service of Scotland potential to deliver healthcare and forensic medical services for those coming into contact with Police Service of Scotland
- The provision of seamless healthcare to those in the care of Police Service of Scotland by greater integration of partnership resources
- The effective provision of forensic medical examinations and the collection and recording of forensic samples
- The agreement of the required training of healthcare practitioners and forensic medical examiners
- The delivery of efficiency gains through the co-development of services, including disinvestment, and joint working
- The reduction of health inequalities, the improvement of health through facilitating referrals to other relevant services and contributing to the prevention of repeat offending
- The effective and safe provision of services to people in police care through the application of appropriate oversight and governance in the development and delivery of national, regional and local models of healthcare and forensic medical services.

Common Values

- Joint ownership of the outcomes of joined up and partnership led services
- Providing open, consistent and accountable public services
- Integrity, fairness and respect
- Encouraging mutual respect for stakeholders and partners through the partner’s own healthcare and staff governance structures
- Ensuring openness in disclosure of all necessary information in the public interest
- Encouraging partnership in strategy and planning, and operational deliver of integrated healthcare in custody suites and forensic medical services for those coming into contact with Police Service of Scotland
- Providing quality person centred services to those reporting crimes or offences to Police Service of Scotland
- Best value, partnership working with a focus on building capacity of service delivery through integration of partnership resources
- Promoting an ethos of continuous service improvement and in the delivery of healthcare and forensic medical service delivery together with agreed quality and productivity indicators and common outcomes

Key Success Factors

The following factors, as developed through the Network Board by local partnerships, are key to the success of this agreement:

- To provide people in police custody with access to an appropriate range and quality of NHS healthcare services according to their needs
- Effective collaboration, communication and trust between both partners;
- Increased access to, and delivery of, healthcare with clear outcomes, in line with the agreed local and national times, locations, quality and productivity requirements.
- Demonstrating contributions towards outcomes, such as reducing inequalities, improving health and reducing re-offending
- Sound governance for all elements of Healthcare and Forensic Medical Services for those in the care of the Police Service of Scotland
- Evidence of commitment to continuous improvement by sharing good practice and agreeing joint solutions to challenging issues, including through the National Co-ordinating Network.
- Local and national plans are agreed, implemented and monitored by all relevant parties.
6. RESPONSIBILITIES

This MoU outlines the “principal” responsibilities of partners, including key areas of joint responsibility relating to healthcare and forensic services for those coming into contact with Police Service of Scotland.

The following responsibilities are not exhaustive and will be delivered, as appropriate on a National, Regional and Local basis, taking into account the “National Guidance on the delivery of Police Custody Healthcare and Forensic Medical Services”

NHS Scotland through Geographic and Special NHS Boards

In the context of people referred by the Police Service of Scotland NHS Scotland will be responsible for:

- The strategic planning and operational delivery of general healthcare services for people referred by police in their care
- Delivery of forensic medical services for people referred by police in their care
- The recruitment, management and development of competencies, training and support of directly employed healthcare staff, and/or contractors including support functions
- Ensuring that the services are delivered (jointly, where required) by staff with the appropriate skills to meet locally and nationally agreed quality and productivity requirements and outcomes, including performance management, appraisals and other regulatory requirements.
- Maintaining appropriate NHS contracts and contracted services associated with the delivery and support of healthcare and forensic medical services
- Clinical staff to support the delivery of clinical functions as agreed
- Providing expert advice to police custody staff on immediate custody healthcare and associated preventative healthcare interventions and support mechanisms at agreed times and locations
- Ancillary health services as required to support clinical activities, excluding ancillary support services that are noted as responsibility of Police Service of Scotland, e.g. custody support staff and cleaning staff.
- Information management and technology and information governance to support custody healthcare function and forensic medical services from the perspective of the NHS, including telehealth and telecare.
- Provision of statement recording and administration processes relevant to the services delivered by the NHS (this may include statements on injuries, fitness to be detained and interviewed, etc.)
- The investigation, oversight and governance of healthcare complaints
- Clinical Governance including performance management and monitoring
- Providing performance management information, which will be jointly agreed locally, regionally and nationally
- Supplying medical supplies, sundries and consumables for custody and those coming into contact with Police Service of Scotland for healthcare purposes (see supporting documentation for detail)
- Interaction, if required, with relevant organisations, such as local authorities to achieve the most effective services for people within the care of Police Services of Scotland
- National, regional and local Health Board collaboration to provide effective and efficient integrated and coordinated service delivery
Police Service of Scotland

The Police Service of Scotland and Scottish Police Authority will be responsible for:

- The strategic responsibility and oversight for forensic medical services
- The provision, at agreed times and locations, of on-site NHS standard accommodation and infrastructure to support the operation of healthcare and forensic medical service delivery in a custodial setting, including facilities and cleaning to agreed NHS and forensic standards as appropriate
- Custody environments that protect and promote health and good hygiene, including facilities management and cleaning services to agreed standards within the custodial environment
- Security, safety and good order within custody medical facilities
- General care, welfare and support of those in police care with health problems, including collaboration to deliver care regimes, availability of medication and associated planning and delivery
- Escorting functions for security purposes, both within and outwith police facilities as appropriate
- The investigation, oversight and governance of non-healthcare related complaints
- The training of clinical staff for purposes of working effectively and safely within the custody and forensic setting
- The management and training of non-clinical staff to support the delivery of healthcare and forensic medical services delivery
- The risk assessment, safety and security of partners’ staff under the care of Police Service of Scotland
- Providing agreed performance management information, which will be agreed locally, regionally and nationally
- The provision of immediate emergency or first aid response in circumstances where no health workers are in attendance or are unable to respond to such situations and incidents
- Supply of all agreed forensic consumables and kits
- The provision of non-clinical fixture and fittings to rooms to allow for the provision of healthcare and forensic services (see supporting documentation for detail).
- Interaction with relevant organisations, such as COPFS and local authorities
- The provision of statement recording and administration processes relevant to the service delivered by Police Service of Scotland
- The provision of translation and interpretation services.
- Information management and technology and information governance to support custody healthcare function and forensic medical services from a police perspective, including telecare.

7. FINANCIAL ARRANGEMENTS and PERFORMANCE MANAGEMENT

There is general acceptance that the NHS can, within its powers, deliver healthcare to people in the care and custody of the police. There is therefore an acceptance of the transfer of responsibility for and the delivery of healthcare, together with an agreed level of funding from the police to the NHS.

The Police Service of Scotland has a common law and legislative duty of care to those in its care. The Police Service of Scotland and the SPA will continue to have a responsibility for forensic medical services by virtue of the terms of section 31 of the Police and Fire Reform (Scotland) Act 2012.

There may be a requirement for Police Service of Scotland and/or COPFS to fund required developments to forensic medical service provision as a result of any future legislative or technical changes.
Costing these services and the transfer of funds will be achieved in consultation with all parties and the Scottish Government, taking account of detailed work on previous, current and estimated future costs.

NHS Scotland and the Police Service of Scotland and SPA will jointly and regularly consider matters of accountability, resources, and value for money together with the relevant Scottish Government departments. In this context monitoring and performance management processes will be agreed at the appropriate level (locally, regionally and nationally) and put in place, as appropriate.

Future developments which have cost and/or other resource implications, additional recurring expenditure, additional non-recurring expenditure and/or savings, including disinvestment and economies of scale through appropriate regional or national joint working will be fully discussed and agreed prior to implementation.

8. INFORMATION SHARING

An Information Sharing Framework will be provided to outline the terms and conditions agreed between relevant partners under which identifiable information, including personal clinical information (which is covered by the Data Protection Act), can be shared and the safeguards that must be implemented for the disclosure. The agreement will ensure that data can be shared in a safe and secure way which satisfies both the legal and professional obligations of the partners, their respective staff and the legitimate expectations of the data subjects, including where appropriate Local Authorities and the third sector. Local Information Sharing Protocols will require to be developed between all relevant parties.

9. DISPUTE RESOLUTION

Any disputes or service delivery disagreements will normally be resolved amicably at a local level (i.e. between Local NHS Board and local police or Custody and Specialist Crime Division representatives, including the NHS Board Chief Executive and the relevant senior police officer, should this be of major significance). The National Co-ordinating Network Board and/or the appropriate regional group can assist in dispute resolutions, if requested by the respective Board and Police Scotland, if the issues cannot be resolved at a local level. Processes will be put in place for such purposes which will be fair and transparent, with matters kept to a local level as far as possible (i.e. between Local NHS Board and local police or Custody Division representatives) and based on the following process where appropriate:

- For complex issues - discussion and agreement on the nature of dispute, and the best avenue for resolution with regional assistance and oversight as appropriate
- An escalation process if there is failure of resolution, or if there is a risk of the dispute persisting with a significant impact across several locations or Health Boards
- Criminal enquiries will be carried out by the police in line Police Service of Scotland guidelines
- Misconduct and discipline procedures in line with Police Service of Scotland and NHS guidelines.

When a serious or significant issue cannot be resolved locally or with the assistance of the National Co-ordinating Network Board (only if requested to assist), the parties will seek resolution through the offices of the Chief Constable and the NHS Chief Executives. The Scottish Government and the Joint Improvement Team may also be able to facilitate the resolution as and when required.
10. MoU REVIEW

This Memorandum of Understanding will initially be reviewed after one year via the National Co-ordinating Network Board and thereafter at intervals as agreed jointly by NHS Scotland and the Police Service of Scotland via the Board after the initial review.

11. ASSOCIATED DOCUMENTATION

The following provides the supporting documentation to this MoU, however this list is not exhaustive.

- Health Service (Scotland) Act 1978
- The Police and Fire Reform (Scotland) Act 2012
- Faculty of Forensic and Legal Medicine Standards and Guidance
- Information Sharing Protocols and Information Assurance Policy
- COPFS Investigatory Standards
- National Co-ordinating Network Remit and related Governance Structure
- National Guidance on the delivery of Police Custody Healthcare and Forensic Medical Services
- The Human Rights Act 1998
- The Equalities Act 2010
- The Criminal Procedure (Scotland) Act 1995
- Mental Health (Care and Treatment) (Scotland) Act 2003
- Adults with Incapacity (Scotland) Act 2000
- The Vulnerable Witnesses (Scotland) Act 2004
- Protecting Vulnerable Groups (Scotland) Act 2007
- Children (Scotland) Act 1995
- The Road Traffic Act 1988
- Fatal Accidents and Sudden deaths Inquiry (Scotland) Act 1976
- Terrorism Act 2000
- Immigration and Asylum Act 1999
- The Data Protection Act 1998
- The Common Law of Scotland (duty of confidentiality)
- Scottish Home Department Circular 7362, March 1950
- Public Records Act Scotland 2011
- Freedom of Information (Scotland) Act, 2002
- Computer Misuse Act 1990
- Caldicott Principles and Guidance
12. SIGNATORIES TO MoU

Signed on behalf of NHS Ayrshire and Arran…………………………………….. Date…………..

Signed on behalf of NHS Borders………………………………………………….. Date…………..

Signed on behalf of NHS Dumfries and Galloway…………………………… Date…………..

Signed on behalf of NHS Fife……………………………………………………….. Date………….

Signed on behalf of NHS Forth Valley…………………………………………….. Date…………..

Signed on behalf of NHS Grampian………………………………………………. Date……………

Signed on behalf of NHS Greater Glasgow & Clyde…………………………….. Date…………..

Signed on behalf of NHS Highland…………………………………………………. Date……………

Signed on behalf of NHS Lanarkshire…………………………………………….. Date…………..

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Signed on behalf of NHS Shetland………………………………………………. Date……………

Signed on behalf of NHS Tayside………………………………………………….. Date…………..

Signed on behalf of NHS Western Isles………………………………………….. Date……………

Signed on behalf of Police Service of Scotland………………………………….. Date………….
APPENDIX 1

National Co-ordinating Network Terms of Reference

1. The National Co-ordinating Network for Forensic and Healthcare services for People in Police Care is a collaboration of agencies, working towards a joint purpose of improving health and forensic services to people in police care.


3. It was agreed at a stakeholder workshop on 30 May 2013 that a Network would be an inclusive way of engaging with staff at all levels. In order to drive the Network’s ambitions, a high level steering group - the “Network Board” - would be established to govern and oversee the work of the Network which would be taken forward by a number of either standing groups or short life working groups. A draft structure is appended (Annex A).

4. The proposed Terms of Reference of the Co-ordinating Network are to:

- ensure partnership arrangements are in place for the delivery of forensic and healthcare services for people in police custody by NHS Boards in all NHS Boards/Regional collaboratives by 1 April 2014.
- oversee the transfer of funds from Police Scotland to NHS Scotland by 1 April 2014.
- extend the work in local / regional partnerships to improve health, reduce care inequalities, and integrate care within community pathways.
- extend partnerships to encompass areas beyond healthcare and forensic services for people in custody suites, to include other people in police care – for example child sex abuse, adult sexual assault.
- support the development of the models of care to achieve a cost effective, high quality service at local, regional and national level.
- establish quality standards for the delivery of care and forensic medical services in appropriate facilities.
- establish consistent data collection, audit and research that will develop an evidenced based approach.
- develop the workforce, training and education based on competency frameworks.
- form appropriate links with other relevant Networks such as the National Prisoner Healthcare Network and the Forensic Mental Health Network, and to ensure minimal duplication of effort.