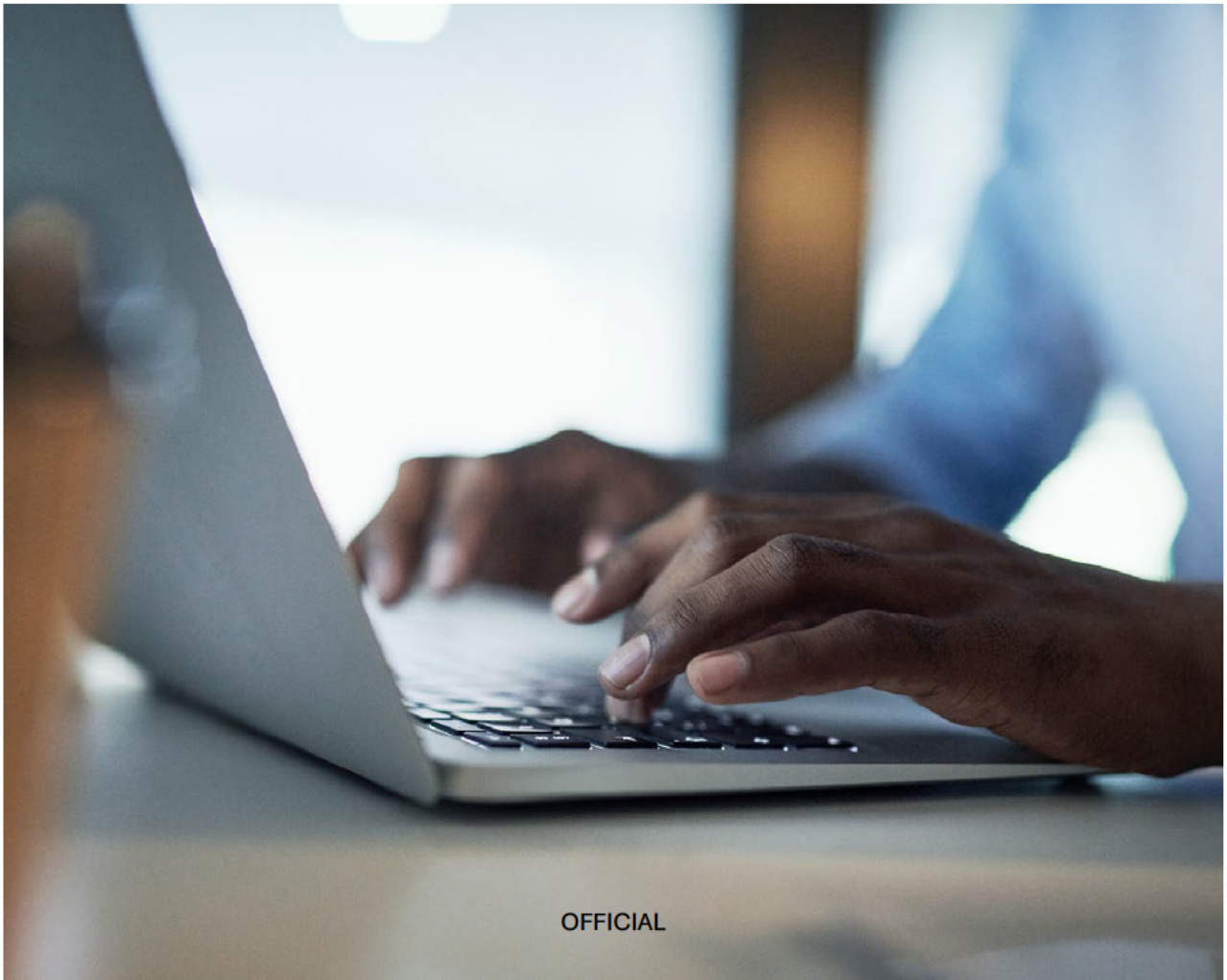
Liaison Agreement between Scottish Local Authorities, Social Care and Social Work Improvement Scotland ('the Care Inspectorate') and the Health and Safety Executive

April 2026



Contents

Section 1- Introduction

1.1 This agreement is not legally binding but is intended to facilitate effective working relationships between the Health and Safety Executive (HSE), Local Authorities[1] (LAs) in Scotland, and Social Care and Social Work Improvement Scotland — "the Care Inspectorate" (CI) on areas of mutual interest.

1.2 The overall aim of the agreement is to improve standards of health and safety and quality of care within the social care sector in Scotland, by using respective resources and expertise effectively. The agreement has been developed to assist staff by:

- encouraging appropriate information to be shared in a timely manner
- establishing and maintaining liaison arrangements
- promoting co-ordination of relevant investigations, where appropriate, into incidents where more than one signatory to this agreement may have an interest.

1.3 Health and safety is a reserved matter under the terms of the Scotland Act 1998. This agreement does not transfer regulatory responsibilities to CI to act in a reserved area.

1.4 The Crown Office and Procurator Fiscal Service (COPFS) investigates all sudden, suspicious, accidental and unexplained deaths. The investigation will usually be undertaken (usually for crimes other than health and safety ones) in the first instance by the police with appropriate direction from the Procurator Fiscal. The police gather evidence to establish whether there is criminality and will subsequently report the result of their investigation to the Procurator Fiscal. Other specialist reporting agencies (SRA) may also be investigating and gathering evidence, depending on the circumstances of the death. If appropriate, they too will report to COPFS.

1.5 The Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Act 2016 is the statutory framework for fatal accident inquiries (FAI).

1.6 A mandatory FAI is required to be held into the death of a person if:

- it was as a result of an accident in Scotland while the person was acting in the course of their employment or occupation
- at the time of the death the deceased was in legal custody or was required to be detained or kept in secure accommodation.

[1] In their role as health and safety regulators under HSWA.

In certain circumstances the Lord Advocate can waive the requirement to hold a mandatory FAI where the circumstances of the death have been sufficiently established in the course of other proceedings.

1.7 The Lord Advocate also has discretion to instruct a FAI when they decide it is in the public interest to hold an inquiry into the circumstances of a death on the grounds that it was sudden, suspicious, or unexplained.

1.8 The investigation into a death is required to be thorough and address the issues that are relevant to both criminality and the FAI. Evidence is required to be obtained in a manner that is comprehensive and in accordance with the legal requirements for obtaining, seizing and securing evidence.

1.9 The areas covered by this agreement are:

- roles of HSE/LAs/CI
- notification; investigations of injuries; work-related deaths; complaints and concerns
- information sharing/disclosure of information
- adult support and protection and child protection
- liaison arrangements/review
- annexes containing further information on HSE/LAs/CI; health and safety enforcing authority allocation; and nominated contacts.

Section 2- Roles

2.1 HSE and LAs are responsible for enforcing the Health and Safety at Work etc. Act 1974 (HSWA) and associated legislation throughout Great Britain. As GB-wide regulators, they aim to reduce death, injury and ill-health by securing the health, safety and welfare of workers and by protecting others, such as patients or service users, who may be affected by work activities.

2.2 The 'Work-related deaths: A protocol for liaison' (WRDP) for Scotland sets out the framework and principles to be applied where a death results from an incident arising out of or in connection with work. The principles in the WRDP also apply to cases where the victim suffers injuries in such an incident that are so serious that there is a clear indication, according to medical opinion, that death is likely.

2.3 HSE/LAs lead on the health and safety of employees. However, they may also consider investigation of patient or service user deaths or serious injuries, where there is an indication that a breach of health and safety law was a probable cause or a significant contributory factor. See Annex 1A for more information. COPFS and the police may undertake investigation where the circumstances indicate that other criminality may be engaged.

2.4 Where appropriate, HSE/LAs report the outcomes of investigations to the COPFS, who investigate all deaths in Scotland and who decide whether or not to initiate criminal proceedings and who to prosecute. COPFS may determine to initiate criminal proceedings, including health and safety breaches, and/or proceed to Fatal Accident Inquiry, where HSE/LAs have declined to report the circumstances. When HSE/LAs investigate work-related deaths, they work closely with the police, in accordance with the WRDP as agreed by COPFS. See paragraphs 4.1-4.3 for more details.

2.5 CI was set up under section 44(1) of the Public Services Reform (Scotland) Act 2010 (PSR Act) as an independent body responsible for the scrutiny and improvement of care, social work and child protection services in Scotland.

2.6 CI has a number of duties and powers, which are specified within the PSR Act, and regulations made thereunder. More detailed information about CI is contained in Annex 1B.

Section 3- Notification and investigation of injuries, diseases and dangerous occurrences

Notification

3.1 The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 2013 require specific incidents[2] to be reported. The legal duty to report is on the 'responsible person', who is normally the employer. In some instances, the police, CI, relatives or others may inform HSE/LA of an incident. Guidance about what needs to be reported in health and social care can be found in HSE's RIDDOR in health and social care guidance HSIS1(rev4).

3.2 All registered service providers are required to notify CI of certain matters, including the death of a person using a care service, as required by CI's guidance on notification reporting for registered care services.

Investigation

(i) Role of HSE/LAs

[2] These include: work-related deaths to workers and other people, specified injuries to workers, non-fatal injuries to non-workers, certain occupational diseases, and specified near-miss events. All incidents can be reported online and there is a telephone service for reporting fatal and specified injuries only.

3.3 HSE/LAs investigate a proportion of reported incidents in accordance with the organisation's own selection criteria[3], conduct investigations and take enforcement action in line with HSE's Enforcement Policy Statement. All fatal accidents to workers are normally investigated. Where an investigation is undertaken in respect of an incident in Scotland, the investigation and the gathering of evidence is undertaken according to the requirements of the Scottish Legal System. HSE/LAs recognise that, should they decide not to investigate then an investigation by the Crown, in which the police will be directed by the Procurator Fiscal, may be carried out. In such a case, consultation between HSE/LA and COPFS is likely to be required to determine the level of co-operation between HSE/LAs and the CI while such an investigation is ongoing, and ensure the integrity of the investigation by the Police.

(ii) Role of CI

3.4 CI does not have a specific remit to investigate accidents but may investigate the quality of care provided to people who use a care service if an accident/incident or a series of accidents or incidents appears to warrant it. CI may also evaluate the actions care services take to minimise the recurrence of any incidents or accidents in future.

(iii) Working together

3.5 HSE/LAs and CI have a responsibility to fulfil their statutory duties. However, to minimise the burden on care services, there will be occasions when it is appropriate for HSE/LAs and CI to work together. Where HSE/LA investigate an incident, they should consider at the outset if there are any issues in which CI would have an interest. If this is the case, then HSE/LA will inform CI that an investigation has commenced as soon as reasonably practicable.

3.6 For more serious and complex investigations, consideration should be given to holding a meeting between the interested parties to consider the following issues:

- reasons for calling the meeting, including an explanation from the organisation responsible for the meeting
- nature of the incident
- role/responsibilities of the police (where applicable) and/ or HSE/LA and CI
- securing and preserving evidence
- arrangements for coordinating enforcement action that might need to be taken in the short term (to avoid any overlap or duplication)
- passing information to other interested parties, for example in relation to adult support and protection, and child protection (paragraphs 7.1-7.5)
- sharing information, provided that disclosure does not jeopardise any ongoing investigation or future proceedings and is in accordance with the provisions in paragraphs 6.1-6.7

[3] LAs have their own policies for selection and enforcement, which allow for local variations, whilst reflecting the principles of HSE's criteria.

- contacting relatives of the injured person where appropriate
- the need to inform and involve other investigating bodies, for example the Medicines and Healthcare Products Regulatory Agency (MHRA) and other agencies and professional regulatory bodies, the Mental Welfare Commission, the Nursing and Midwifery Council, Scottish Social Services Council.
- handling communications/media
- future handling and co-ordination, including the appointment of a liaison officer from each organisation
- making and keeping a record of key decisions/discussions

3.7 Each regulator will need to fulfil their statutory obligations during an investigation. For instance:

- HSE/LA may need to serve enforcement notices in response to an on-going risk and collate evidence to support possible future legal proceedings
- CI may need to take action if people using the care service are at risk (for example, imposition of conditions of registration and/or cancellation of the registration of the service being provided).

3.8 The steps outlined above provide a framework for co-operation and liaison, which should allow any conflicts to be resolved and should reduce the likelihood of any one regulator compromising any investigation.

Section 4- Investigation of work-related deaths

(i) Role of HSE/LAs/Police/COPFS?

4.1 The COFPS, HSE/LAs and/or the police are involved in investigating work-related deaths, including deaths of people who use care services. For example, where serious systemic failures in the arrangements for delivery of care indicate significant failures to manage health and safety, and where service users were exposed to a high level of risk.

4.2 When this occurs, HSE, LAs and the police will follow the principles contained in the WRDP[4], which sets out the framework for effective liaison between these parties (and others) when investigating work-related deaths. Under the WRDP, the police take the lead, supported by HSE/LAs, in investigating work-related deaths where there is an indication that an offence of corporate homicide or a serious criminal offence (other than a health and safety offence) may have been committed. Once COFPS [5] have concluded that an offence of corporate homicide, or a serious

[4] Although LAs are not signatories to the WRDPS, they support it and work in accordance with its principles.

[5] Within COPFS the Procurators Fiscals (PF) receive and consider reports from the police and many Specialist Reporting Agencies. They decide whether to raise criminal proceedings in the public interest and prosecute in the Sheriff Courts. In addition to their role

criminal offence (other than a health and safety offence) is unlikely, and that a breach of health and safety law may have been committed, primacy for the investigation transfers to HSE/LA.

4.3 Where appropriate, HSE and LAs report breaches of health and safety law to COPFS. HSE/LAs cannot investigate or report offences to COPFS for unlawful killing, or any other criminal offences outside their health and safety remit.

(ii) Role of the Care Inspectorate

4.4 Care services have a duty to advise CI when people die while using a service. CI does not have a specific remit to investigate deaths, but may, through the use of its statutory inspection powers, investigate the quality of care provided to people who use a care service if a particular death (or a series of deaths) appears to warrant it. However, any such inspection would not include an opinion on the extent to which the quality of care may have been implicated in a death. Formal enforcement action may follow such an inspection.

4.5 If appropriate, having regard to any circumstances which may come to light during an inspection, CI may make a referral or referrals to other agencies, including HSE, LAs, the police or other professional regulatory bodies, and may suspend its own inspection, pending the conclusion of inquiries by any other agency.

(iii) Working together

4.6 Investigations should be jointly conducted, with one of the parties taking the lead. The expectation is of a collaborative investigatory body, working under COPFS oversight, bringing together the skills and experience of each organisation to ensure an effective investigation into the work-related death.

4.7 The agency which has assumed the lead coordination role is responsible for ensuring that the investigation management team adheres to the WRDP. COPFS has the responsibility to ask all agencies to contribute the relevant skills and knowledge to the investigation team at all stages of the investigation.

4.8 Although CI is not a signatory to the WRDP, it acknowledges the principles contained in it and is supportive of it. CI will support the terms of the WRDP and will aim to work in accordance with its recommendations in so far as they are not inconsistent with CI's own internal policies, procedures and statutory framework.

in prosecuting, they are responsible for investigating all sudden, suspicious, and unexplained deaths in Scotland. This includes conducting a Fatal Accident Inquiry into all deaths that result from an accident in the course of employment or occupation and discretionary inquiries, for example into the death of a care home resident, where they consider it appropriate.

Section 5- Investigation of workplace complaints and concerns

Role of HSE/LAs

5.1 Complaints to HSE about health and safety management issues affecting employees or service users in the social care sector will be dealt with in accordance with HSE's risk based complaints handling procedure. LAs have their own complaints procedures, which will allow them to prioritise, according to risk and local circumstances.

Role of the Care Inspectorate

5.2 Complaints to CI about quality of care at registered care services will be dealt with in accordance with the Care Inspectorate complaints procedure.

Working together

5.3 There may be occasions when a complaint has been referred to the wrong organisation. In some cases, HSE/LAs/CI may need to discuss the most appropriate authority to deal with the matter before the complainant can be re-directed.

Section 6- Data Protection Independent Controller Agreement

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1 Purpose

1.1 The purpose of this declaration is to explain the respective roles that LAs, CI and HSE will play in managing the processing of personal data associated with the Liaison Agreement between HSE, LAs and CI.

1.2 LAs, CI and HSE are considered independent controllers of the data collected, as all parties separately determine the means and purpose of processing personal data as part of the functions defined in the agreement.

2 Independent Controller Responsibilities

2.1 Independent Controllers have the following responsibilities:

2.1.1 Each Controller is individually responsible for compliance with relevant provisions of the Data Protection Act 2018 (DPA) and the UK General Data Protection Regulation (GDPR), in relation to processing of Personal Data which it carries out.

2.1.2 Each Controller is responsible for ensuring that Personal Data which it processes is:

2.1.2.1 adequate, relevant, and only processed in connection with one of the lawful bases; and

2.1.2.2 accurate and, where necessary, kept up to date; having taken every reasonable step to ensure that any inaccurate personal data has been deleted or rectified.

2.2 Each Controller must put in place appropriate Technical and Organisational Measures within their organisation to protect any personal data they are processing. This includes protection against any unauthorised or unlawful processing, and against any accidental disclosure, loss, destruction or damage.

2.3 Each Controller is responsible for carrying out any required Data Protection Impact Assessment for any element of business or process change subject to this agreement.

2.4 Each Controller is responsible for following all relevant and applicable Data Security Guidance to ensure that the necessary measures are taken to protect personal data.

2.5 Each Controller is responsible for maintaining any Records of Processing Activity for data held on their systems.

2.6 Each Controller is responsible for appointing and managing any Processors required for the processing undertaken as part of the agreement. This includes entering into Data Protection Contracts (DPCs) with any Processors who may be appointed.

3 Processing that falls under this agreement

The table below sets out details of the Processing that falls under this agreement.

Subject matter of the data processing	HSE/LA and CI will benefit from routine information sharing about risks in areas of common interest.
Duration of the Processing	CI has a statutory duty to inform the appropriate LA (in its service procurement capacity) of certain enforcement action. Additionally, CI will inform HSE/LA health and safety enforcing personnel as soon as reasonably practicable where the latter has a relevant interest.

Nature of the Processing	The principle behind disclosing information is to support the respective roles of HSE, LAs and CI e.g. where it will serve a positive health and safety purpose, subject to any legal restrictions. Disclosure of information by HSE/LAs to CI or vice versa must always follow the established laws and internal procedures or guidance. Particular care needs to be taken to ensure disclosure of material into the public domain does not prejudice any future legal proceedings.
Data Minimisation	Personal data and other confidential information must be transferred securely. Each of the parties must ensure that appropriate measures are taken to protect personal data and other confidential information during and after the disclosure process.

Lawful basis/bases relied upon to process this data lawfully	Lawful basis of the Provider is likely to be as follows: UK GDPR Article 6(1)(e): the processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller by virtue of its statutory functions i.e. functions set out in HSWA, any Agency agreement or similar, and/or as set out in this agreement to prevent workplace death, injury or ill health by helping people manage risks at work. Where special category data is processed, HSE rely on Article 9(2)(g): processing is necessary for reasons of substantial public interest. Under section 10(3) of the Data Protection Act 2018 (DPA), this requires a condition in Part 2 of Schedule 1 of the DPA to be met. The relevant condition is paragraph 6 (statutory purpose), as the processing is necessary for the exercise of a function conferred on a person by an enactment or rule of law. Processing is necessary to discharge the functions of HSE. OR Data Protection Act 2018, S35(2)(b) processing is necessary for the performance of a task by a competent authority. Where sensitive processing is undertaken, Schedule 8, Condition 1 (statutory purpose), and/or Condition 4 (safeguarding of children or individuals at risk), will be met, as appropriate. 36 Lawful basis of the Recipient(s) UK GDPR Article 6 (1)(e): processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller by virtue of its statutory functions. For special category data, Article 9(2)(g): processing is necessary for reasons of substantial public interest, supported by Schedule 1, Condition 6 (statutory functions). OR Data Protection Act 2018 Schedule 2, paragraph 2(1)(a) and (b), and paragraph 5(2) as applicable.

4 Data Subject Rights

4.1 Each Controller must, in respect of the Personal Data, provide clear and sufficient information to the Data Subjects, in accordance with (GDPR Article 14 and/or Section 44 of the DPA), of the purposes for which they will process their Personal Data, the legal basis for such purposes and such other information as is required by the Data Protection Law. Each Controller is individually responsible for making this information available to Data Subjects.

4.2 Each Controller is responsible for handling Data Subject Access Requests received, and where data may be held by another Controller, this must be communicated to the Data Subject.

5 Personal Data Breaches

5.1 Each Controller is individually responsible for any damage caused by the processing of personal data by its organisation, which is found to be in breach of the data protection legislation.

5.2 Each Controller is responsible for reporting any Personal Data Breach, as defined by GDPR Article 4(12), to the Information Commissioner's Office (ICO) without undue delay in accordance with DPA, and (where applicable) inform Data Subjects as required by the DPA.

5.3 Each Controller will ensure that any Personal Data Breach that meets the relevant threshold criteria will be reported ICO within 72 hours of notification. This will include informing the affected data subject(s) should the circumstances warrant it. The appropriate Data Protection Officer will be responsible for making the report.

5.4 If financial penalties are imposed by the ICO on a Controller in relation to any data processed under this agreement and if in the view of the ICO, one Controller is responsible for the imposition of those penalties, that Controller shall be responsible for the payment of the penalties imposed.

5.5 If the ICO expresses no view as to responsibility, then each Controller shall bear responsibility for an equal share of the penalty imposed.

5.6 In the event that a Controller becomes aware of any Personal Data Breach by another Controller they will inform that Controller.

5.7 If any Controller is the defendant in a legal claim before a court of competent jurisdiction by a third party in respect of data processed under the agreement, then the Controller determined by the final decision of the court to be responsible for the damage shall be liable for the losses arising from such damage.

5.8 Where all Controllers are liable, the liability will be apportioned between the Controllers in accordance with the decision of the court. If the court does not apportion liability between the Controllers, then each Controller shall bear responsibility for an equal share of the penalty imposed, unless it can prove that it is not in any way responsible for the event giving rise to the damage.

5.9 Nothing in this agreement will prevent the Controllers coming to a mutual agreement as to the apportionment of financial responsibility for any losses, cost claims or expenses arising from the processing of data under the agreement.

6 Data retention

6.1 Each Controller will only retain or process Personal Data for as long as is necessary in accordance with legislation and relevant regulatory guidelines or business standards.

6.2 Each Controller will retain personal data associated with the agreement in accordance with their respective organisational disposal policies. Each Controller is responsible for ensuring appropriate technical and procedural functions are in place to ensure the secure and timely destruction of personal data.

7 Security and Training

7.1 Each Controller will ensure that staff members are appropriately trained to handle and process data in accordance with applicable organisational procedures.

7.2 The Controllers will not transfer any personal data it is processing outside of the UK unless appropriate legal safeguards are in place, such as an adequacy decision or Standard Contractual Clauses, as required by data protection law.

7.3 Each Controller will ensure staff are appropriately trained in how to use and look after personal data and follow approved processes for data handling.

7.4 Each Controller will ensure staff have appropriate security clearance to handle personal information subject to the agreement.

8 Freedom of Information 2000 (FOI), Freedom of Information (Scotland) Act 2002, and Environmental Information Regulations 2004 (EIR) requests

8.1 Each Controller will ensure that data is managed and controlled in accordance with the requirements of the FOI, FOISA and EIR.

8.2 Any Controller may receive a request for information from a member of the public or any other person under the various pieces of information disclosure legislation (GDPR, DPA, EIR, FOI or FOISA).

8.3 Each Controller is ultimately responsible for making the final decision on disclosure, non-disclosure or application of any exceptions and exemptions in relation to any request they receive, ensuring all resulting responses are lawful.

8.4 Each Controller will consider all requests on a case-by-case basis, ensuring that public interest tests are conducted and documented where required.

8.5 Each Controller receiving a request for information that has been supplied by another Controller, will consult the Controller supplying the information as early as possible and before any information is disclosed in response to the request to enable sufficient time for the views of the information supplier, including any objections to disclosure, to be taken into account when determining whether the information is to be disclosed or withheld.

8.6 Each Controller receiving a request for information that it holds and knows or believes the information is also held by the other party, will consult the other Controller as early as possible and before any information is disclosed in response to the request. The purpose of this consultation is to ensure that:

8.6.1 the Controller that received the request is able to share any concerns about information that might be disclosed to the requester,

8.6.2 that the Controller holding the information is able to take those concerns fully into account in its decision-making, and

8.6.3 that the Controllers can co-ordinate their handling of requests.

8.7 Each Controller will provide to the other Controller(s) any information in its possession that may be reasonably requested by the other, subject to necessary confidentiality constraints, safeguards and statutory rules on disclosure.

8.8 Each Controller will seek the approval of the other Controller(s) before externally publishing any information resulting from the use of information received from the other Controller(s), and such approval will not be unreasonably withheld.

8.9 Each Controller shall treat all confidential information belonging to the other Controller as confidential and safeguard it accordingly and shall not disclose any confidential information belonging to the other Controller to any other persons without the prior written consent of the other Controller.

8.10 Each Controller acknowledges and agrees that each may disclose commercial information for purposes connected with the exercise of the Government's functions, including:

8.10.1 any audit or examination of the Government's accounts or the use of its resources, and/or

8.10.2 scrutiny by the authorised body of the exercise of the Government's functions.

8.11 Nothing in this agreement shall prevent either Controller from disclosing any information required to be disclosed pursuant to any applicable law, government regulation or decision of any court or tribunal of competent jurisdiction.

9 Review and Governance Arrangements

9.1This agreement will remain in force until terminated following a review as at 9.2.

9.2 The HSE will initiate an annual review of these arrangements. An immediate review of the arrangements may be initiated. The Controllers may decide to continue, amend or terminate the arrangements depending on the outcome of any review.

9.3 The review set out at 9.2 will involve:

9.3.1 Assessing whether the purposes of Processing are still lawful and whether the purposes should be revised

9.3.2 Assessing whether the legal framework governing data quality, retention, and Data Subjects' and individuals' rights are being complied with

9.3.3 Assessing whether Personal Data Breaches have been handled in accordance with these Arrangements and the relevant legal framework

9.3 The Controllers will provide reasonable assistance as is necessary to facilitate the conduct of any review in an efficient and expeditious manner.

Data Protection Officers

The contact details of the parties Data Protection Officers are:

Controller	**Data Protection Officer**
The HSE Health and Safety Executive Redgrave Court Merton Road, Bootle Liverpool	Data Protection Officer Health and Safety Executive Mallard House, Kings Pool, York, YO1 7PX Email: Data.Protection@hse.gov.uk
Scottish Local Authorities	Find your local council in Scotland - mygov.scot
Care Inspectorate	infogovernance@careinspectorate.gov.scot

Section 7- Adult support and protection and child protection

7.1 Care inspectors and HSE/LA inspectors may come across situations where they believe that persons using care services are being abused or neglected. For the avoidance of doubt CI, HSE or LA health and safety enforcing authority personnel have no remit to investigate matters of child or adult support and protection. CI works in accordance with the Scottish Government National Guidance for Child Protection in Scotland 2021 and the Adult Support and Protection (Scotland) Act 2007: Code of Practice.

7.2 In terms of the Adult Support and Protection (Scotland) Act 2007 (ASPA), the statutory requirement to undertake adult protection investigations lies with the

appropriate LA*/Integration Joint Board (IJB) and the police. Direct referral should be made to the LA*/IJB where the adult at risk resides.

7.3 There is a requirement under ASPA for certain public bodies to co-operate with the LA*/IJB making enquiries. CI is specifically prescribed but HSE is not. Nevertheless, there is an additional requirement that a public body or office holder, who knows or believes that a person is an adult at risk and that action needs to be taken to protect them from harm, must report the matter to the LA*/IJB.

7.4 In specific circumstances, an HSE/LA inspector or a care inspector will wish to liaise with their local counterparts, to establish whether any wider action under the auspices of the HSE/LA/IJB or CI requires to be taken, for example, regulatory activity with the service, within which the adult at risk of harm had been placed.

7.5 The statutory requirement to undertake investigations of child protection matters lies with the appropriate LA*/IJB and the police. Where CI knows and believes that a child is at risk, the matter will be reported to the relevant LA* or to the police in accordance with established CI policy. For child services, HSE/LA inspectors apply the same principles to protection issues as for adult safeguarding matters.

*** Reference to LAs in this context concerns their other (non HSWA Enforcing Authority) functions, for example. as commissioners, procurers of services.**

Section 8- Liaison arrangements

(i) General

8.1 There are four Regional Groups in Scotland (West of Scotland; North Scotland; Central Scotland and Lothian and Scottish Borders), who meet regularly and provide a forum for LA health and safety enforcement officers and HSE to support consistent enforcement practice and uniformity within Scotland. They enable the exchange of information and promotion of joint initiatives regarding health and safety.

8.2 The Regional Groups provide an existing forum where HSE, LAs and CI can meet together to discuss liaison arrangements. In addition, representatives from the Regional Groups and HSE meet once a quarter as the Health and Safety Coordinating Group (HASCOG). CI regularly attends the quarterly HASCOG meetings. COPFS is represented on the HASCOG and Regional Groups.

(ii) Corporate providers of social care services

8.3 To ensure consistent advice is provided when interventions reveal deficiencies of potential national significance:

- HSE and LA inspectors should contact HSE's Engagement and Policy Division by email for advice centralsupportteam@hse.gov.uk.
- CI operates a Relationship Manager system with all LAs, health boards and larger national private and independent providers. Specific information can be found on the Care Inspectorate website.

(iii) Wider collaboration

8.4 CI, HSE and LAs will explore opportunities to work with each other on wider issues where appropriate. Such collaboration may include:

- joined up working and investigations
- speaking at conferences and other public discussions
- disseminating good practice in relation to each other's work, including through participation in the Scottish Social Care Partners Forum
- advance notice of public relations work, which may have an effect on the work of the other organisations.
- consideration of joint training and development opportunities.

Section 9- Review of the agreement

9.1 HSE/LAs and CI will endeavour to ensure their staff are aware of the content of the agreement, the responsibilities it places on staff and the liaison arrangements that should apply.

9.2 Every three years or sooner if requested by any party hereto, the Chief Executive of CI, the HSE Chief Executive or representatives, and a nominated LA representative via the Society of Chief Officers of Environmental Health in Scotland and the Royal Environmental Health Institute of Scotland will arrange to:

- review the effectiveness of the agreement
- consider improvements in the light of experience
- recommend action.

Signatories[6]

The duly authorised representatives of the Parties affix their signatures below. We agree to and accept all the terms and conditions of the above Liaison Agreement.


Signed on behalf of the Care Inspectorate

Name: Jackie Irvine

Position: Chief Executive

Date: 24 March 2026

Signed on behalf of the Health and Safety Executive

Name: David Murray

Position: Director of Planning, Finance and Procurement

Date: 26 March 2026

[6] Although Scottish LAs are not signatories to this protocol, it has been endorsed by the Society of Chief Officers of Environmental Health in Scotland. Its members support it and will aim to work in accordance with its principles.

Annex 1 – Additional information about HSE, LAs and the Care Inspectorate

HSE and LAs working together

1 Organisational structure

1.1 HSE is the regulator for workplace health and safety in Great Britain. Its operations function includes Inspector teams who cover workplaces in Scotland. Responsibility for national policy relating to health and social care rests with HSE's Engagement and Policy Division.

1.2 There are teams of health and safety inspectors for every LA in Scotland. Each LA is an autonomous, democratically elected body, accountable to its local community and therefore organisational structures and health and safety priorities vary.

1.3 HSE's Local Authority Unit has national policy responsibility to help achieve consistency between HSE and LAs in the enforcement of health and safety legislation.

2 Relevant health and safety lead policy responsibilities

2.1 The allocation of enforcement responsibility between HSE and LAs is set out in the Health and Safety (Enforcing Authority) Regulations 1998. Regulation of health and safety in care homes is divided between HSE and LAs depending on whether the facility provides residential accommodation or nursing care. This distinction does not apply in terms of the Public Services Reform (Scotland) Act 2010 and the regulations made under it.

2.2 For those services registered with CI, the health and safety enforcement allocation between HSE and LAs is summarised in Annex 2.

3 Role of HSE and LAs in patient and service user investigations

3.1 Under Section 3 of the Health and Safety at Work etc. Act 1974 (HSWA), HSE/LAs may consider investigation (in accordance with the organisation's own policy and incident selection criteria) of patient or service user deaths or serious injuries where there is an indication that a breach of health and safety law was a probable cause or a significant contributory factor.

3.2 When HSE/LAs investigate work-related deaths, they work closely with the police, in accordance with the WRDP for Scotland. This can result in enforcement action (which includes reporting offences to COPFS) of an employer under HSWA Section 3 or, more rarely, an individual employee under HSWA Section 7.

3.3 HSE/LAs will not, in general, investigate matters related to clinical judgement or quality of care as others regulate in these areas, for example the General Medical Council, the Care Inspectorate. See 'Who regulates health and social care'. for further information on this policy.. Such matters may form the basis of separate investigation by COPFS and Police Scotland in terms of the investigation of a death and potential criminality, including contraventions of health and safety legislation where HSE has declined to investigate.

4 HSE/LA Inspector’s powers/ work activities

4.1 HSE/LA Inspectors are involved in front line activities, which includes giving advice and guidance, investigating incidents and complaints, inspecting workplaces (NB see paragraph 4.2) and taking enforcement action. They hold written warrants and have the legal right to enter premises and talk to relevant staff during visits. They carry out investigations and take enforcement action in line with HSE’s Enforcement Policy and Enforcement Management Model.

4.2 HSE and LAs prioritise inspections and regulatory interventions in higher risk sectors (for example construction, major hazards industries**,** high volume warehousing.) and concentrate on serious breaches of health and safety law. In general, HSE/LAs do not conduct routine, proactive inspections in the health and social care sector, but may do so when they have reason to, for example intelligence of poor health and safety management standards, and in the case of LAs, as local circumstances dictate. Such matters may form the basis of separate investigation by COPFS and Police Scotland in terms of the investigation of a death and potential criminality, including contraventions of health and safety legislation where HSE has declined to investigate.

5 Enforcement tools

5.1 HSE/LA inspectors use a variety of enforcement tools to secure immediate and sustained compliance with the law. These enforcement tools range from the provision of advice, to the service of enforcement notices and the reporting of offences to COPFS as necessary.

Social Care and Social Work Improvement Scotland (‘Care Inspectorate’)

6 Roles and responsibilities

6.1 The statutory duty of CI is to secure further improvement in the quality of social services in Scotland.

6.2 CI regulates.

6.3 Section 45(1) of the PSR Act also specifies a set of principles which must inform the manner in which CI carries out its duties and functions:

- the safety and wellbeing of all persons who use, or are eligible to use social services are to be protected and enhanced
- the independence of those persons is to be promoted
- diversity in the provision of social services is to be encouraged to promote choice
- good practice in the provision of social services is to be identified, promulgated and promoted.

6.4 The PSR Act provides for the publication, by Scottish Ministers, of National Care Standards for a range of care services. The system of regulation adopted by CI takes account of these standards.

6.5 CI ensures that prior to being granted registration to provide a care service, applicants can demonstrate that they are able to comply with the relevant regulations. CI may:

- grant registration, subject to conditions or unconditionally, and refuse registration
- impose, remove or vary conditions of registration, grant or refuse requests for variation of conditions, or cancel registration
- report care service providers, who have committed specific offences under the PSR Act or regulations to COPFS for prosecution, such as operating a care service without being registered.

7 Inspection

7.1 CI inspects registered care services and also social work services provided byLAs, according to plans approved by Scottish Ministers. It publishes reports of these

inspections. It also carries out joint inspections with other regulators to check how well different organisations in local areas are working to support adults and children.

8 Enforcement

8.1 CI has power under the PSR Act to take enforcement action against regulated care services to help them improve or where service users are at serious risk. It has no power to take enforcement action against social work services. In particular CI may:

- issue Improvement Notices where care services are not complying with the relevant requirements
- cancel the registration of a regulated care service where an Improvement Notice has not been met within the required timescales
- add, vary or remove any of the conditions of registration of a regulated care service, including the addition of a condition on an emergency basis where the absence of that condition poses a serious risk to the life, health or wellbeing of persons
- make an application to the sheriff for an order cancelling the registration of a regulated care service where there is a serious risk to the life, health or wellbeing of persons.

Annex 2 - Relevant health and safety enforcing authority for services registered with the Care Inspectorate

CI registered services	**Health and safety enforcing authority**	
	HSE	**LA**
Support services – care at home	For activities undertaken in domestic premises	
Support services – adult day- care	For LA controlled day-care centres	For independent (non-LA) controlled day-care centres
Care home services	Where main activity is provision of nursing care Where the residential accommodation with personal care is under control of the LA	Where main activity is residential accommodation with personal care in independent (non-LA controlled) premises

	Where both residential and nursing care provision are provided at the same location, enforcement allocation should be decided locally	
School care accommodation services	HSE	
Nurse agencies	For nursing activities in domestic settings	For office-based activities
Childcare agencies	For nursing activities in domestic settings	For office-based activities
Secure services	HSE	
Offender accommodation services	HSE	
Adoption services	For peripatetic work; work in domestic premises for example home visits; LA office-based activity	For office based activities of (non LA) organisations providing fostering/ adoption services
Childminders	For activities in domestic premises	
Day care of children	Where the service is provided in premises under the control of the LA or where the service is provided in separate premises within a school, under control of an independent operator	Where the service is in non-domestic premises that are not part of a school and is independently run
Housing support services	HSE for activities in domestic premises	

Annex 3 – Glossary of Abbreviations

ASPA Adult Support and Protection (Scotland) Act 2007

CI Care Inspectorate

COPFS Crown Office and Procurator Fiscal Service

DPA Data Protection Act 2018

EMM HSE’s Enforcement Management Model

EPS HSE’s Enforcement Policy Statement

FOD HSE’s Field Operations Directorate

FOIA Freedom of Information Act 2000

FOISA Freedom of Information (Scotland) Act 2002

HASCOG Health and Safety Coordinating Group

H&SEAR Health and Safety (Enforcing Authority) Regulations 1998

HRA Human Rights Act 1998

HSE Health and Safety Executive

HSWA Health and Safety at Work etc. Act 1974

ICO Information Commissioner

LAs Scottish Local Authorities

MHRA Medicines and Healthcare Products Regulatory Agency

PSR Act Public Services Reform (Scotland) Act 2010

RIDDOR Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013

SSCPF Scottish Social Care Partners’ Forum

SCSWIS Social Care and Social Work Improvement Scotland (‘Care Inspectorate’)

UK GDPR UK General Data Protection Regulation

WRDP Scottish Work Related Deaths Protocol

Further information

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