

# Employment agency fraud

Guidance on reducing risks

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## Version control

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# Table of contents

<b>1. Introduction .....</b>	<b>4</b>
What are the fraud risks .....	4
<b>2. Employment Agency Fraud Risks.....</b>	<b>6</b>
Pre-employment checks.....	6
Recommendations .....	7
<b>3. Employment agency invoicing.....</b>	<b>9</b>
Recommendations .....	9
<b>4. Supplier fraud.....</b>	<b>12</b>
Recommendations .....	12
Other threats and vulnerabilities.....	12
Recommendations .....	13
Reporting suspected fraud .....	14
<b>5. Case examples .....</b>	<b>15</b>
Anomaly detection software .....	15
ID scanners .....	16

## 1. Introduction

- 1.1 Employment agency fraud (also referred to as 'agency fraud') remains one of the key fraud risks facing the NHS.
- 1.2 This guidance is intended for NHS staff, particularly those with responsibility for procuring agency staff, approving agency invoices, and those supervising agency staff whilst on NHS premises.
- 1.3 This document focuses specifically on the prevention of agency fraud and provides information and recommendations on pre-employment checks, agency invoicing and other emerging threats to help organisations deal with these risks. Organisations should follow these recommendations as it will help to demonstrate compliance with NHS Counter Fraud Authority (NHSCFA) fraud, bribery and corruption standards.

### What are the fraud risks

- 1.4 Employment agency fraud is a very broad category, which sometimes overlaps with other fraud types such as invoice fraud and payroll fraud<sup>1</sup>. Individuals may use false or forged identity, right-to-work or qualification documents to fraudulently gain employment in the NHS or with an Independent Healthcare Provider providing services to the NHS under the standard contract. This type of fraud can have very serious patient safety implications, besides the financial and reputational risks to targeted organisations. This risk exists for staff directly employed by the organisation, staff provided through employment agencies, and may apply to volunteers and subcontractors undertaking work for the organisation.
- 1.5 NHSCFA has highlighted significant risks of fraud in employment agency invoicing as well as fraud vulnerabilities within agency staff recruitment to the NHS. This includes the risk of insufficient or incorrect information being provided on agency workers' timesheets, leading to overcharging and framework and an off-framework agencies colluding to increase prices to the NHS.
- 1.6 Various measures have been introduced by the government to reduce NHS spending on temporary staff, improve transparency on this area of spend, bring greater assurance on the quality of agency supply and encourage staff to return to permanent or bank working. These measures, now part of NHS England's

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<sup>1</sup> [NHSCFA's guidance documents 'Invoice and mandate fraud: Guidance for prevention and detection' \(updated in 2022\)](#), and ['Payroll fraud: Guidance on prevention, detection and investigation' \(updated 2022\)](#)<sup>1</sup>.

'Agency Rules'<sup>2</sup>, include limits on organisations' total agency spend, hourly rate caps and a requirement to procure all agency staff through approved framework agreements. We have sought to take these measures into account when developing the guidance, though it is too early to assess their impact on the issues covered here.

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<sup>2</sup> See [Agency rules - changes for 2019.pdf \(england.nhs.uk\)](#) The page provides additional guidance and resources on applying the rules, including a list of approved framework agreements.

## 2. Employment Agency Fraud Risks

### Pre-employment checks

- 2.1 When contracting agency workers, organisations should assure themselves that the agency carries out comprehensive and systematic pre-employment checks in line with General Condition 5.11 of the NHS Standard Contract, and guidance issued by NHS Employers, NHSCFA and the Home Office.
- 2.2 The NHS Employers '[Employment Check Standards](#)' set out the key checks that NHS organisations in England are required to carry out in the appointment and ongoing employment of staff in the NHS<sup>3</sup>. As of March 2022, NHS Employers updated their '[Pre-employment checks](#)' standards to make it easier to reference and provide clarification of requirements. Compliance with the standards is a requirement for all providers of NHS funded services (including subcontractors) under the requirement under the NHS Standard Contract (General Condition 5.11).
- 2.3 When contracting staff from an agency or other external third-party providers, organisations must assure themselves that the agency carries out pre-employment checks in compliance with the NHS Employment Check Standards:

“The overarching responsibility for assuring the appropriate screening of workers has been conducted sits with the employing organisation. Employers must therefore seek the necessary assurances that agencies and third party staffing or service providers they contract with, have robust and effective appointment processes which are aligned to the NHS Employment Check Standards. Assurances should be sought through any scheduled auditing and monitoring of the provider's operating procedures and should be an intrinsic part of any contractual arrangements”<sup>4</sup>.

- 2.4 The NHS Employment Check Standards are embedded in the Crown Commercial Service National Agency Framework Agreement.

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<sup>3</sup> The employment check standards have been developed by NHS Employers in partnership with the Department of Health and Social Care, the Centre for the Protection of National Infrastructure, and employers in the NHS. These standards include, covering identity checks, professional registration and qualification checks, employment history and reference checks, right to work checks, work health assessments and criminal record checks.

<sup>4</sup> NHS Employers, Background information on the employment checks, available on the NHS Employers website at <https://www.nhsemployers.org/your-workforce/recruit/employment-checks/resources/background-information-on-employment-checks#1>

- 2.5 As of April 2021, the Government Functional Standard 013: Counter Fraud (Functional Standard) replaced the previous NHS specific Standards for Fraud, Bribery and Corruption (Standards). Together with stakeholders, the NHSCFA developed new NHS Requirements to meet the Functional Standard.
- 2.6 Pre-employment checks is now covered under **GovS 013 component 10: Undertake detection activity** and has been Amalgamated into [NHS Requirement 10](#) (GovS 013 ref: 5.6). For more details, please see the [Functional standard](#) on the NHSCFA website.
- 2.7 Providers of NHS funded services and commissioner organisations are required to implement Prevent and Deter arrangements in their organisation in line with NHSCFA's fraud, bribery and corruption standards. One of these functional standards (NHS requirement 10) requires organisations to ensure that all new staff are subject to the appropriate level of pre-employment checks, as recommended by NHS Employers, before commencing employment within the organisation. Assurance must be sought from any employment agencies used that the staff they provide have been subject to adequate vetting checks, in line with guidance from NHSCFA, NHS Employers and the Home Office.

## Recommendations

- 2.8 Providers of NHS funded services and commissioner organisations should familiarise themselves with the NHS Employment Check Standards and ensure that they follow the requirements set out in them. This will help to prevent and deter agency fraud and mitigate related reputational risks for organisations. It may also lead to lower agency spend as losses to fraud are reduced.
- 2.9 Organisations must require the agency worker to produce, on their first working day, their passport or other ID together with evidence of professional registration. This is to confirm that the worker is in fact the person contracted through the agency.
- 2.10 Organisations may also require the agency worker to produce evidence of pre-employment checks carried out by the agency. This will help to provide assurance that the checks have in fact been carried out before the worker commences employment. The organisation may produce a template (e.g., an agency worker placement form) and recommend its use by the agency.
- 2.11 Organisations may require agencies to provide evidence of pre-employment checks carried out on staff, in line with the NHS Employment Check Standards. Evidence should be provided at regular intervals (e.g., every quarter) and it should cover a suitable sample of staff provided by the agency.
- 2.12 Organisations should consider including a statement in the contract with the

agency to the effect that they retain the right to audit the agency's employment checking processes. This will help to clarify expectations as set out in the NHS Employers guidance from the outset.

- 2.13 In seeking assurance about pre-employment checks, organisations may wish to consider the result of audits confirming that checks have been completed and that the appropriate documentation is held on file (and endorsed/signed as required). Any such evidence may provide greater confidence in the agency's processes for pre-employment checks.
- 2.14 Organisations may also consider using appropriate equipment to check identification documents (such as ID scanners) when obtaining assurance from agencies, as this will help to demonstrate that the agencies are carrying out identity checks to the required level.
- 2.15 Where an organisation uses ID scanners as part of pre-employment checks, publicising their use may help deter individuals, including agency workers, from seeking employment by using false documents.
- 2.16 Publicising cases where people have not been employed as a result of pre-employment checks may help organisations to deter individuals, including agency workers, from seeking work by using false documents.



### 3. Employment agency invoicing

- 3.1 Suppliers of goods or services to the NHS may attempt to mislead the relevant organisation in order to obtain payments that are not properly due. This falls under the general category of invoice fraud, and it may be carried out in different ways, e.g., duplicate invoicing, including hidden or incorrect fees, or invoicing for services that were not supplied.
- 3.2 Previous work by the NHSCFA has highlighted significant levels of fraud risk in employment agency invoicing. This includes the risk of insufficient or incorrect information being provided on agency workers' timesheets, leading to overcharging by the agency.

#### Recommendations

- 3.3 When booking agency workers, organisations should keep a written record of the terms of the booking (e.g., a purchase order), so this can later be reconciled against invoices or timesheets for the purposes of preventing and detecting fraud.
- 3.4 Organisations should periodically conduct random spot checks on invoices and timesheets to identify losses or overbilling. This has been shown to help reduce fraudulent claims (please see the case studies in Appendix 1 for more details).
- 3.5 Where electronic timesheets are used by agency workers, organisations may want to ensure that the timesheet system:
- provides each agency worker and each authorising officer with a unique username and password to log into the system
  - requires passwords to be changed on a regular basis
  - locks users out after a set number of incorrect attempts
  - logs the user out when it has not been used for a specified length of time
  - requires workers to input the hours they have worked on a daily basis
  - requires the timesheet to be authorised and submitted to the employment business by the authorising officer
  - enables the authorising officer to view temporary workers' timesheets at any time
  - ensures only procuring organisation staff can access systems when uploading agency workers timesheet shifts

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- is no longer accessible to workers once their contract has finished (the agency system administrators should be required to immediately prevent further access)
  - more detail can be found in the NHSCFA's guidance on [Payroll fraud](#).
- 3.6 Taken together, these measures will help prevent opportunistic access to a payment system, reduce the risk of fraudulent alteration of data on the timesheets and enable easier reconciliation with hours worked.
- 3.7 Where paper timesheets are used, organisations may want to ensure that:
- original timesheets are provided before any payment is made
  - timesheets should be kept in line with the organisation's retention policy'
  - authorised signatory lists are kept up to date
  - clear procedures are in place with respect to agency workers' rest breaks
  - agencies are required to provide as much information as possible on timesheets.
  - more detail can be found in the NHSCFA's guidance on [Payroll fraud](#).
- 3.8 Taken together, these measures will reduce the risk of fraudulent alteration of timesheets, provide clarity about what time can be claimed and ensure evidence is available for auditing and any fraud investigations.
- 3.9 Organisations should regularly undertake the following checks (please see the case studies in Appendix 1 for more details):
- a sample reconciliation check of booking confirmations, invoices and timesheets
  - checks on a sample of invoices against the latest agreed contract prices
  - checks to identify duplicate invoices
- 3.10 These measures will help organisations to detect fraud (especially fraudulent overbilling) or obtain assurance about the integrity of the invoicing process.
- 3.11 When procuring agency staff, organisations should ensure that staff are only provided from an agency that is on the approved framework. This will help ensure compliance with NHS Improvement guidance stating that agency workers should only be contracted through approved frameworks, either directly or indirectly.

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- 3.12 As a general principle, employment businesses used by bodies providing services to the NHS under the NHS Standard Contract, should be required to provide as much information as possible on their invoices. This will assist organisations in detecting fraudulent claims.
- 3.13 Authorising officer lists should be kept up to date.

## 4. Supplier fraud

- 4.1 Supplier invoice fraud includes any act whereby a supplier or purported supplier deliberately takes steps to mislead a health body with a view to obtaining payments that were not properly due. NHSCFA has identified a number of substantial risks of overpayments due to:
- duplicate invoicing
  - including hidden or incorrect fees, such as ‘handling fees’, ‘on-costs’ and ‘administration fees’
  - over-inflated agency commission above contracted rates
  - VAT fraud, such as VAT charged on invoices without a VAT registration number
  - invoicing for services that were not supplied.

### Recommendations

- 4.2 All services needing an invoice should be crossed checked in order to reduce the risk of duplication and services supplied should always be confirmed
- 4.3 All VAT registration numbers should be checked in order to reduce risk of VAT fraud.

### Other threats and vulnerabilities

- 4.4 The cost of covering non-clinical and unregistered shifts for trusts costs the NHS millions each year. Frameworks were developed to provide the NHS with a list of vetted agencies which could supply fully trained, temporary staff, to fill NHS vacancies. NHS England / Improvement sets price caps on the hourly rates of agency staff to limit the expenditure of each trust. However, if patient safety is considered to be at risk, then the trust can override the hourly rate cap and procure off the framework<sup>5</sup>, this is referred to as the ‘break glass’<sup>6</sup> process.
- 4.5 NHSCFA has assessed the potential threat from a new area of agency fraud which potentially occurs when a framework agency and an off-framework agency colludes to increase the price the NHS pays for a member of agency staff, whilst splitting the profit. It is considered to be a threat to the NHS where agencies on the framework profit from off-framework subsidiaries. It is possible that the off-framework agency is a subsidiary of the framework agency, but not

<sup>5</sup> Agency rules Framework agreement approval: guidance for framework operators February 2017 NHS Improvement

<sup>6</sup> Agency rules June 2019 NHS Improvement

an official sub-contractor. Subcontractors are also obliged to follow the same main requirements as the framework agencies.

- 4.6 The NHS is vulnerable as risks to patient safety can be exploited for profit. These threats are not always easily identified; therefore, NHS organisations and their staff must remain vigilant and escalate their suspicions to their LCFS or NHSCFA.

## Recommendations

- 4.7 NHS organisations should in the first instance seek to fill shifts from bank staff and use agencies as a last resort.
- 4.8 It is further recommended that NHS organisations sign up to at least one framework and discourage engagement with staff outside of the agreement. This will encourage off-framework staff to either move onto the framework, gain a substantive contract, or register with a staff bank. It would also encourage any framework cap regarding wages to be adhered to and that all staff supplied are compliant.
- 4.9 It is recommended that any communication between agencies and organisations regarding staff is carried out via Human Resources department or the organisation's approved recruitment authority. Agencies should not be directly contacting wards or departments regarding the recruitment of staff.
- 4.10 In the circumstance where agreed price caps need to be overridden, the 'break glass' process should be evoked. Organisations must adhere to the escalation process and weekly returns must be submitted to NHS England / Improvement and signed off by a voting board member. It is however, recommended that trusts use a framework entirely and steer away from this practice.
- 4.11 It should be made clear to framework agencies that trusts will carry out annual audits on the recruitment of all agency staff. Annual audits should include (but not be limited to); pre-employment checks, value for money, the cost of supply, complying with price caps, and key subcontractors or subsidiaries.
- 4.12 Organisations should encourage strong relationships and communication between those responsible for dealing with agency fraud risks, including HR, LCFSs, the NHSCFA and the police, to ensure suspected fraud is dealt with effectively.
- 4.13 Organisations should raise awareness of agency fraud risks among their staff, through training modules, meetings, publications etc. This should include

training for staff on how to identify false documentation (for example, where ID scanners are used training should be provided to all staff operating them). Fraud awareness and training programmes can assist in improving fraud reporting, act as a deterrent and help prevention.

- 4.14 If organisations suspect any irregularities, they should report these to their framework provider and to the NHSCFA.

## Reporting suspected fraud

- 4.15 If fraud is suspected the organisation's escalation process should be followed immediately and the LCFS contacted for advice.

- 4.16 Staff should report any suspicions of fraud to the NHSCFA, either:
- call the NHS Fraud and Corruption Reporting Line (powered by Crimestoppers) on **0800 028 40 60**.
  - fill in the online fraud reporting form at [reportfraud.cfa.nhs.uk](https://reportfraud.cfa.nhs.uk) All reports are treated in confidence, and you have the option to report anonymously.
  - ask their LCFS for advice. Contact details are available from the relevant NHS organisation.

## 5. Case examples

- 5.1 The two case examples below illustrate measures used by NHS organisations to deal with fraud risks around invoicing and pre-employment checks respectively. While these measures do not specifically relate to agency fraud, they may successfully be applied to dealing with risks in these areas.

### Anomaly detection software

- 5.2 Many companies offer anomaly detection software which highlights deviations from established patterns (e.g., in supplier invoicing) that may give rise to suspicions of fraud. These services are delivered on an entirely contingent basis. There is no hourly rate or time-based fee. Charges tend to be based on a percentage of the identified fraud loss and recovered monies and on agreement with the organisation involved.
- 5.3 Alternatively, there are commercially available software packages that can identify duplicate invoices and flag these up for further checks.
- 5.4 Below is an example of a trust which has successfully recovered sums relating to duplicate invoicing. It was suggested that prior to the software being installed, human error was responsible for the high number of duplicate invoices and loss to the trust.

#### **An NHS Foundation Trust**

Purchased software: £14,000 for a three year licence. This software was run twice weekly before payment runs to prevent duplicate payments being made. Figures provided indicated that savings had been considerable with duplicate payments being prevented in the total sums of £200,000 for the year 2012/13, £150,000 for the year 2013/14 and £35,000 for the year 2014/15 to date.

The reduction in the amounts recovered over the 3-year period indicates that a change in processes or procedures can have considerable benefits. The trust has extended the use of their software licence for a further 3 years, in order to maintain the savings.

## ID scanners

### **An NHS Foundation Trust**

In 2010 the trust partnered with an identification and document scanning company. The system has dramatically improved the level of identification checks and streamlined the verification of identity process by enabling the recruitment administrator to verify the authenticity of documents without expert knowledge of their security feature. It has also reduced the administrative time of conducting such checks. The use of this technology led to the arrest and conviction of an individual who worked as a nurse in another organisation and attempted to gain employment at the trust using verification equipment.

The use of this technology enabled human resources to demonstrate their compliance with NHS Employment Check Standards to a higher degree, which, in turn, provided assurance to both the Care Quality Commission and UK Border Agency regarding the trust's recruitment practices.

For more information on other case examples and shared good practice can be found on the [NHS Employers website](#).