

Employment agency fraud

Guidance on reducing risks

July 2019

Version 1.0



**NHS fraud.
Spot it. Report it.
Together we stop it.**

Version control

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Table of contents

1. Executive summary	4
2. Introduction	5
Background	5
3. Pre-employment checks	7
4. Employment agency invoicing	8
5. Supplier fraud	9
6. Recommendations	9
Pre-employment checks	9
Employment agency invoicing	10
General recommendations	12
7. Reporting suspected fraud	13
8. Appendices	14
Appendix 1 - Case examples	14

1. Executive summary

- 1.1 Employment agency fraud (also referred to as 'agency fraud') remains one of the key fraud risks facing the NHS.
- 1.2 The guidance in this document focuses specifically on two areas of agency fraud risk, pre-employment checks and agency invoicing, and it provides a number of recommendations to help organisations deal with these risks.
- 1.3 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 also have very serious patient safety implications, besides financial and reputational risks for the organisations involved. The risks exist for both directly employed staff and agency workers.
- 1.4 When contracting agency workers, organisations should assure themselves that the agency carries out comprehensive and systematic pre-employment checks in line with General Condition 5.10 of the NHS Standard Contract, and guidance issued by NHS Employers, NHSCFA and the Home Office.
- 1.5 The NHSCFA has highlighted significant risks of fraud in employment agency invoicing. This includes the risk of insufficient or incorrect information being provided on agency workers' timesheets, leading to overcharging.
- 1.6 This guidance provides a number of recommendations to help organisations deal with fraud risks relating to pre-employment checks on agency workers and agency invoicing. Key recommendations include (the list is not exhaustive):
 - obtaining assurance from employment agencies and agency workers about pre-employment checks having been carried out
 - incorporating provisions on audit and assurance regarding pre-employment checks in their contracts with agencies
 - including a number of features in agency workers' electronic or paper timesheets, as well as agency invoices, so that fraud risks (e.g. around fraudulent overbilling) are reduced
 - carrying out periodic checks on employment agency invoices and timesheets, including by reconciling them with booking records
 - establishing strong communications between all those involved in dealing with agency fraud
 - raising awareness of agency fraud risks among staff and providing training on fraud detection

- reporting any suspicions of fraud to the relevant framework provider and the NHSCFA

- 1.7 Two case examples illustrating measures used by NHS organisations to deal with fraud risks around invoicing and pre-employment checks are provided in Appendix 1.
- 1.8 In addition, NHS Employers have produced a variety of tools and case studies to help organisations reduce spending on agency staff and make better use on available resources, based on a review of good practice around the NHS. While these resources are not focused on agency fraud, the resources may assist organisations to prevent fraud and share practise on reducing agency spend. The resources can be found at <https://www.nhsemployers.org/search-results?q=agency+fraud>

2. Introduction

Background

- 2.1 The NHS Counter Fraud Authority (NHSCFA) is a special health authority charged with the identification, investigation and prevention of fraud within the NHS. The NHSCFA is the single expert intelligence led organisation providing centralised intelligence, investigation and solutions capacity for tackling fraud in the NHS in England. The NHSCFA acts as the repository for all information related to fraud in the NHS and wider health group, and has oversight of and monitors counter fraud work across the NHS. We provide strategic and tactical solutions to identified fraud risks, counter fraud standards and assessment of performance through the provision of comparative data.
- 2.2 The NHSCFA's departmental sponsor is the Department of Health and Social Care Anti-Fraud Unit (DHSC AFU), which holds the NHSCFA board to account for the delivery of its strategy.
- 2.3 Working collaboratively with Local Counter Fraud Specialists (LCFSs) and other stakeholders, we drive improvements to counter fraud work that is undertaken across the NHS. Our remit for intelligence activities also includes the DHSC's non-departmental public bodies and executive agencies.
- 2.4 From data gathered in 2017-18 we estimated that fraud losses within the NHS exceeded £1.27 billion per annum. This should be seen in the context of a total NHS budget of over £109 billion.
- 2.5 The term 'fraud' refers to a range of economic crimes, such as fraud, bribery and corruption or any other illegal acts committed by an individual or group of individuals to obtain a financial or professional gain.

- 2.6 Employment agency fraud (also referred to as 'agency fraud') remains one of the Key fraud risks facing the NHS.
- 2.7 This guidance builds on work undertaken by our predecessor organisation NHS Protect to identify and tackle agency fraud following a national proactive exercise (NPE) on employment agency invoicing carried out in 2009-10, which highlighted significant levels of fraud risk.
- 2.8 In 2010 NHS Protect issued guidance to assist organisations in reducing fraud risks relating to employment business invoicing and timesheet procedures. This presented the findings of the NPE and included recommendations on administering payments and overpayments to agencies.
- 2.9 In 2016 NHS Protect issued updated guidance on employment agency fraud, which focused on pre-employment checks and agency invoicing. This document is a reissued version of that guidance.
- 2.10 The guidance in this document is intended as a framework for organisations to develop or adapt their own policies, procedures and systems for dealing with agency fraud. As well as a brief introduction on the issues covered, the document provides links to various other sources which include more detailed information on specific aspects of dealing with agency fraud risks.
- 2.11 Various measures have been introduced by the government since our work started 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 Improvement's 'Agency Rules'¹, 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 the measures into account while developing the guidance, though it is too early to assess their impact on the issues covered here.
- 2.12 Agency fraud is a very broad category, which sometimes overlaps with other fraud types such as invoice fraud and payroll fraud. This document should be used in conjunction with [NHSCFA's guidance documents 'Invoice and mandate fraud: Guidance for prevention and detection' \(February 2019\)](#), and ['Payroll fraud: Guidance on prevention, detection and investigation' \(March 2019\)](#)² both available on the NHSCFA's website.

¹ See NHS Improvement, 'Agency rules' (May 2018), <https://improvement.nhs.uk/resources/reducing-expenditure-on-nhs-agency-staff-rules-and-price-caps>. The page provides additional guidance and resources on applying the rules, including a list of approved framework agreements.

² This document provides Local Counter Fraud Specialists (LCFSs) with guidance to use to support work to prevent, detect and investigate the most common kinds of payroll fraud at a local level. It reflects the NHSCFA's current understanding of the key threats facing the NHS and includes advice on raising awareness of payroll fraud.

- 2.13 The guidance in this document focuses specifically on two areas:
- assurance being sought from the employment agencies used that the staff they provide have been subject to adequate pre-employment checks, in line with General Condition 5.10 of the NHS Standard Contract, and guidance issued by NHS Employers, NHSCFA and the Home Office.
 - ensuring that employment agencies are invoicing the correct amount of money for the work of their agency staff to the NHS.

3. Pre-employment checks

- 3.1 Individuals may use false or forged identity, right-to-work or qualification documents to 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. The risks exist for both directly employed staff and agency workers.
- 3.2 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.
- 3.3 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 NHS³. 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 5.10).
- 3.4 When contracting staff from an agency or other external body and service 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

³ The 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. There are six standards, covering identity checks, professional registration and qualification checks, employment history and reference checks, right to work checks, work health assessments and criminal record checks.

part of any contractual arrangements”⁴.

- 3.5 The NHS Employment Check Standards are embedded in the Crown Commercial Service National Agency Framework Agreement.
- 3.6 Pre-employment checks are also covered in standard 3.4 of NHSCFA’s counter fraud, bribery and corruption standards for providers of NHS services, which reference both the NHS Standard Contract and the NHS Employment Check Standards. For more details, please see the [standards section](#) on the NHSCFA website.
- 3.7 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 standards (standard 3.4) 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.
- 3.8 Nineteen organisations were assessed through our quality assurance assessments in 2017-18 on this standard, revealing that 26% of organisations inspected received a red performance rating, meaning non-compliance with the standard, while 11% were partially compliant and 63% were fully compliant.
- 3.9 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.
- 3.10 More details on seeking assurance from employment agencies about pre-employment checks are provided in the Recommendations section below.

4. Employment agency invoicing

- 4.1 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.

⁴ 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>

- 4.2 As mentioned above, 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.
- 4.3 Guidance on dealing with fraud risks relating to employment agency invoicing is provided in the Recommendations section below. Additionally, it may be useful to refer to NHSCFA guidance on [Invoice and mandate fraud](#) and on [Payroll fraud](#).

5. Supplier fraud

- 5.1 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. Previous analysis by the NHSCFA's predecessor organisation 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

6. Recommendations

- 6.1 This section includes a number of recommendations for organisations on dealing with employment agency fraud, with a focus on pre-employment checks on agency workers and agency invoicing. Following these recommendations will help organisations to demonstrate compliance with NHSCFA fraud, bribery and corruption standards.
- 6.2 The recommendations should be read alongside related guidance by the NHSCFA on [Payroll fraud](#) and [Invoice and mandate fraud](#).

Pre-employment checks

1. Organisations may 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 the organisation contracted

through the agency.

2. 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.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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.
8. 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.

Employment agency invoicing

9. 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.
10. 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).

11. 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 upload agency workers timesheet shifts
- 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](#)

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.

12. 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](#)

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.

13. 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

These measures will help organisations to detect fraud (especially fraudulent overbilling) or obtain assurance about the integrity of the invoicing process.

14. When procuring agency staff from an approved framework, organisations should ensure that staff are not provided through another agency that is not on the 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.
15. 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.
16. Authorising officer lists should be kept up to date.

General recommendations

17. 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.
18. 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.
19. If organisations suspect any irregularities, they should report these to their framework provider and to the NHSCFA.

7. Reporting suspected fraud

- 7.1. The NHSCFA receives allegations of fraud from a number of sources. Referrals will normally be made through the NHS Fraud and Corruption Reporting Line or directly by an LCFS or a health body. However, they may also come from a number of other sources, such as the police, other law enforcement agencies, members of the public, and NHS employees.
- 7.2. If members of the public or staff have concerns about a suspected fraud in the NHS, they can:
- call the NHS Fraud and Corruption Reporting Line (powered by Crimestoppers) on **0800 028 40 60**
 - fill in the online fraud reporting form at www.reportnhsfraud.nhs.uk
 - ask their Local Counter Fraud Specialist for advice. Contact details are available from the relevant NHS organisation.

8. Appendices

Appendix 1 - Case examples

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 (see recommendations in section 5 above for more details).

Anomaly detection software

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.

Alternatively, there are commercially available software packages that can identify duplicate invoices and flag these up for further checks.

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.

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