

Due diligence

NHS fraud prevention quick guide

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The purpose of this quick guide is to highlight NHS organisations' role and responsibilities with regard to preventing fraud, bribery and corruption in the procurement of goods and services supply chain.

What is due diligence?

Due diligence is an essential tool in a risk management framework and it helps identify and manage fraud risks that may arise in transacting or dealing with a third party or supply chain (e.g. a supplier or subcontractor).

The purpose of due diligence is to understand the credibility and status of a third party's business and how it fits with your organisation. By doing this, the NHS organisation is able to ensure its supply chain delivers its prescribed goods and services in an honest and ethical manner.

Who is this quick guide for?

This guidance is intended for NHS procurement teams who engage with and manage supplier relationships.

Types of due diligence

There are various types of due diligence that will provide NHS organisations with the confidence and knowledge to empower their organisation's decision making process.

There are three main types of due diligence for NHS organisations to consider.



Financial

Financial due diligence is the process an NHS organisation undertakes to verify the financial information provided to it and to assess the underlying performance of a potential supplier. The benefit of undertaking financial due diligence is that organisations gain knowledge of the current and historical performance of a potential supplier and their viability to perform the services required.

Commercial

Commercial due diligence considers the market in which a business sits, providing a full overview of the business's internal and external environment, an assessment of competitors and a full analysis of the structure and performance of the business. All of this is intended to assist the NHS organisation in making an informed risk management decision as to whether they should engage with the supplier or not.

Third party due diligence

Third-party due diligence is the process an organisation undertakes to validate and mitigate risk when looking at outsourced work to an external company.

Following the launch of the Bribery Act 2010, there is a requirement placed on organisations to provide evidence that they have sufficient anti-bribery measures in place.

How and when to perform due diligence checks

Due diligence is critical to ensuring that NHS organisations enter into a healthy professional relationship with a supplier. It is crucial that NHS organisations have a standard operating procedure (SOP) in place setting out how due diligence checks should be carried out within the organisation.

Undertaking a due diligence exercise will usually begin with a desk-based review of publicly available information about the prospective supplier, as well as information the NHS organisation has requested directly. Should there be a need to follow up on the initial desk-based review; further clarity might be sought by way of site visits and interviews with the prospective supplier.

Conducting effective due diligence should provide NHS organisations with an understanding on:

- Whether prospective suppliers are genuine and legitimate.
- The financial stability of a prospective supplier, through:
 - » **Credit checks** – results obtained from these checks can supply data referring to county court judgments, trade payment performance, statutory information from Companies House and any insolvency events.
 - » **Fraud databases** – allowing fraud data to be shared amongst agencies with an agreement in place.
 - » **Companies House** – information can be obtained on directors and statutory filings

specifically on date of incorporation, recent filing history and address changes.

- The capability of prospective suppliers and sub-contractors to undertake agreed courses of works or supply of goods.
- The prospective supplier's governance and internal controls framework. This framework plays a pivotal role in how the organisation deals with issues such as risk, fraud, bribery, corruption, safeguarding, and transparency, amongst others.
- The legitimacy and financial status of all major subcontractors that the potential supplier intends to use in order to fulfil the organisation's contract.
- Any conflict of interest between potential suppliers and staff members within the organisation that sit with the procurement process.
- The reputation/public perception of the potential supplier, through checks on social media, employment history and other search engines. This will help identify any negative press associated with the potential supplier, or its directors or senior managers.
- Whether anti-money laundering checks need to be undertaken.

It is important that these due diligence components are reflected in the NHS organisation's procurement and organisational SOPs and form part of its business as usual practices when on-boarding new suppliers or procurement projects.

Assurance needs to be obtained by various checks undertaken during the tendering process, when contracts have been awarded or when changes are made during the contractual period and throughout the contract lifecycle. Effective due diligence provides a level of assurance and can identify any potential risks in respect of a prospective supplier. This is not an exhaustive list of due diligence procedures and should be subject to review on a regular basis.

Due diligence dos and don'ts

Staff should adhere to the following dos and don'ts:

When undertaking due diligence, **DO:**

- Take a proportionate and risk-based approach to due diligence.
- Make third parties aware of the NHS organisations due diligence policies and seek compliance.
- Use available information sources to undertake the necessary checks on third party suppliers and subcontractors providing a service on behalf of the organisation.
- Ensure regular checks are conducted on a frequent basis throughout the relationship with third party suppliers and subcontractors.

- Retain a log of all due diligence enquiries conducted.
- Ensure appropriate due diligence has been undertaken on subcontracted organisations.
- Compile a list of recommended suppliers that have been vetted and approved by the NHS organisation.
- Before a contract is awarded, final checks need to be conducted to ensure the contractor can deliver what is agreed and there has been no change in the supplier's structure, financial status, working practices etc.
- Enlist professional due diligence organisations to undertake checks where there is a greater risk involved or information is not easily obtainable.

When undertaking due diligence, **DON'T**:

- Ignore concerns raised by employees and suppliers.
- Accept suppliers and employees at their word alone.
- Accept changes in contractual terms and conditions without proper justification and without internal approval or legal advice.
- Consider due diligence as a tick-box exercise.
- Treat the due diligence process as a 'one-off' task.
- Ignore changes in behaviour or a restructure of a supplier or subcontractor.
- Allow one person to investigate, administer and make the final decision on whether to transact business with a supplier.

Legal considerations

Due consideration should be given to data protection, privacy, anti-bribery, and anti-money laundering legislation when undertaking due diligence exercises and handling any information gained as a result. It is therefore crucial that NHS organisations have a SOP in place setting out how these checks should be undertaken.

Undertaking due diligence may uncover personal or legally sensitive information. These considerations should be covered within the NHS organisation's data protection policy, with guidance being sought directly from the Information Commissioner's Office where necessary.

If you suspect fraud

If fraud is suspected the organisation's escalation process should be followed immediately and the Local Counter Fraud Specialist contacted for advice (see also how to report fraud below).

How to report fraud

Report any suspicions of fraud to NHS Counter Fraud Authority online at <https://cfa.nhs.uk/reportfraud> or through the NHS Fraud and Corruption Reporting Line **0800 028 4060** (powered by Crimestoppers). All reports are treated in confidence and you have the option to report anonymously.

You can also report fraud to your nominated Local Counter Fraud Specialist.

Why take action?

A robust due diligence process can help NHS organisations to prevent and detect fraud, bribery and corruption in the supply chain. Implementing the actions within this quick guide will assist NHS procurement teams in making informed risk management decisions on whether to engage with suppliers. This will provide value for money and protect NHS resources for patient care.

Further information

- <https://cfa.nhs.uk/fraud-prevention/fraud-guidance>
 - » Suppliers' code of practice: preventing fraud, bribery and corruption
- For further information visit the NHSCFA website www.cfa.nhs.uk
- Details of your Local Counter Fraud Specialist:

Organisation name:

Name:

Job Title:

Email:

Telephone:

Mobile:

Address: