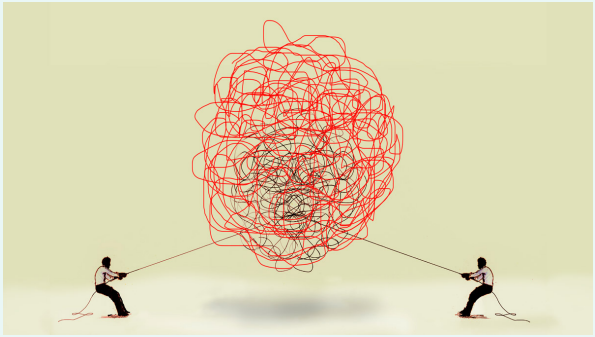
Fraud Counts Newsletter

March 2022

ASW Assurance Webinars

We have produced this newsletter to provide valuable feedback on our webinars and to provide key messages to staff and managers.



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Conflicts of Interest

NHS England guidance is clear that staff should disclose all interests, some of which may not immediately be obvious; gifts, hospitality, secondary employment, intellectual property and the requirement for declarations apply to all staff, agency and external contractors.

The webinar emphasised that it is fundamental that staff should make declarations of gifts, hospitality and outside interests where someone else could perceive (rightly or wrongly) that the gift, hospitality or outside interest could cloud or influence the staff member's judgement on what NHS funds can be used for and how they should be spent. Some staff are in positions where they are much more likely to make or influence purchasing and recruitment decisions than others.

One of the Heads of Procurement shared an initiative that his Trust had recently adopted. This was to include a declaration within Single Tender waiver documents. This is an easy way to make disclosures and help managers decide what action to take for each specific instance.

Some organisations fed into the discussion that the ESR module could be used for conflict of interest declarations so that organisations don't need to create their own databases. All organisations still need a senior person to oversee and manage declarations. This would require an appropriate manager to record their consideration about what action the staff member should take because of their potentially conflicting interest. This is crucial in cases of decision-making staff.

A theme that developed during the webinar was whether all secondary employment should be declared. In brief, the answer is that it should. In some cases, the secondary employer may be in competition with the NHS. Even if no such competition exists, employers are obliged to ensure that Working Time Directive obligations are not breached and employers cannot fulfil this obligation unless they know about other jobs their staff undertake.

Staff and managers may find the following NHS Counter Fraud Authority Quick Guides (available at NHS fraud guidance | Fraud Prevention | NHS Counter Fraud Authority (cfa.nhs.uk)) **of help and interest:**

- Contract reviews https://cfa.nhs.uk/resources/downloads/guidance/fraud-awareness/quick-reference-guides/contract-reviews.pdf?v=2.0
- Suppliers' code of practice: preventing fraud, bribery and corruption https://cfa.nhs.uk/resources/downloads/guidance/fraud-awareness/quick-reference-guides/supplier-code-of-practice.pdf?v=2.0

Abuse of Sick Leave



A key theme that came across at the webinar is that attendance management policies must be clear: express written permission must be given by the line manager before any other work is undertaken. Whilst someone is on sick leave, the line manager should ask the employee if they have been undertaking any other work while they have been off which must also be supported by a fit note (from a GP or Occupational Health). Support for secondary work must aid recovery and not hinder any return to work.

Medical Certificates are key in fraud cases. This is because, when someone submits a certificate to their employer, they are representing that, due to a medical condition, they cannot work. If they undertake an activity that contradicts the certificate then they may be prosecuted under the Fraud Act for a misrepresentation on the certificate or failing to declare information (e.g. that their medical condition has improved).

Managers should fully consider any potential negative impact of secondary employment on the NHS role and whether they are compatible.

In managing sick leave, line managers should take steps to contact their team member at the earliest opportunity and where possible, maintain lines of communication throughout the absence This ensures the employee feels supported as well as making it more difficult to conceal activity that contradicts the illness causing the absence. Detailed records of contact and discussions should be kept and held on records where they are available to those with legitimate access reasons.

Abuse of sick leave affects the whole team: morale, trust and goodwill can all be eroded when a team member is believed to be abusing sick leave, especially for an extended period of time. If they are legitimately continuing their secondary employment, consideration should be given (with the employee's consent) to advising their colleagues that this is the case to avoid feelings of ill will or allegations of impropriety.

Good advice for people genuinely unable to work in one job but able to continue to work in another is for their Med 3 Fit Note to reflect what they can and cannot do. This is an option a GP can consider at any time with their patient. This gives options for redeployment or amended duties or hours to be considered rather the staff member being on sick leave.

Shared good practice included requesting mandatory declarations of interest or secondary employment as part of any employment contract, policy or Standard Operating Procedure for staff and their line managers which should be renewed or updated on an annual basis.

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Nigel Price, a Counter Fraud Specialist within the Welsh NHS Counter Fraud Service shared an investigation that illustrates that this type of fraud is not just about people working in other jobs whilst on sick leave. It is all about whether they have falsely represented their incapability of work.

Nigel's investigation involved a senior NHS manager on sick leave after injuring her back in a fall from her horse. The manager was prosecuted for fraud following an investigation which proved she had competed in several equestrian events (including show jumping) during her time off work.

During a 4-month absence in 2016 the manager attended sickness reviews using Nordic walking sticks to help her walk when, on at least two occasions, she had been competitively eventing in the days leading up to those meetings. Witnesses reported that she was unable to walk without the aid of the sticks and was visibly unsteady on her feet.

The fraud was uncovered when, more than a year later, and having left the NHS, the former employee contacted the Health Board to request removal of her personal data from their records. A simple Google search conducted by the employing Health Board found evidence of her dishonesty in the form of professional photographs and British Eventing results listings.

During the investigation and trial the former employee stated her GP had advised her to undertake gentle exercise to aid her recovery and suggested that the photographs of her found online had been edited.

She was handed a 12-week prison sentence suspended for 12 months, ordered to carry out 180 hours of unpaid work and told to pay more than £10,500 in compensation and prosecution costs.

Staff and managers may find the following NHS Counter Fraud Authority Quick Guide of help and interest:

- Payroll fraud
  Guidance on prevention, detection and investigation - https://cfa.nhs.uk/fraud-prevention/fraud-guidance#payrollFraud



If you have any suspicions or concerns,
You can call us anonymously on
0800 028 40 60
POWERED BY **CRIMESTOPPERS**

Or search 'NHS Fraud' online for more information
The NHS Counter Fraud Authority leads on fighting fraud, bribery and corruption in the NHS and the wider health group

NHS Counter Fraud Authority

Department of Health & Social Care

Timesheet and Expenses Fraud

It is clear that organisations are moving away from paper claims to electronic processes. This raises the question of whether the electronic process increases risks to organisations compared to a paper-based system. Payroll staff are very much reliant on managers being aware of what their staff are able to claim and whether the time or expense claimed was genuinely incurred. We agreed with our guest Payroll Managers that part of the management role in authorising a timesheet or expense claim is assuring the organisation that the claim is correct and should be processed by Payroll colleagues.

There appears to be a developing theme with electronic rostering of some managers not finalising their rosters in a timely manner. One roster team spend a lot of time sending out reminder emails to make sure that the were 'locked down' by the cut off dates. If a manager has not 'locked down' the roster by the date for payment this then means that payroll have to make manual payments to a whole department for their missing enhancements and overtime.

Overtime claims
Key areas to help minimise fraud in overtime claims include:

✓	Organisations need to have one system that covers all areas of expenses and overtime for all staff.
✓	Keeping line manager details up to date to help payroll raise concerns with the correct individual.
✓	Accountability is given to the manager with reviewing and signing off overtime and expenses and not to pass the level of responsibility to lower banded staff. Systems and processes should preclude staff from assigning and/or approving their own overtime, leave or shift changes.
✓	Have the roster submitted in time for payment to ease pressures on payroll staff and ensuring staff receiving the enhanced payments they are due.
✓	Managers must sign off timesheets at the end of the week and confirm all shifts have been worked.

Expenses

Although with at least one system, there is a notice/warning on the online expenses system informing the manager that the required MoT/insurance checks are out of date, the claims can still be submitted for payment.



There is an option on the system allowing the manager to confirm they have seen the individuals MOT and insurance to remove the warning.

We explored what action can be taken to minimise fraud from a Payroll Manager perspective.

The pressure of time and availability of managers to carry out checks is strained. Currently the onus is on payroll to conduct checks for payments being processed, however the accountability of checks is with the managers.

The development of the online system needs to be robust to carry out checks of expenses in future.

The following key messages were identified:

- Managers must check staff have the correct car insurance which includes business use in order to claim business miles.
- Onus is on line managers to check expense claims and be accountable.
- Training must be provided to managers to ensure they are aware of their responsibilities and accountability with signing off expenses.
- Expenses should be checked weekly in order to confirm the information is correct, accurate and more manageable.
- Sample checks of claims should be carried out to ensure accuracy.
- Provided the organisation's policy permits it and the technology is in place, it is reasonable for managers to use tracking data to verify travel claims and hours worked.

Suspicions of Fraud and Bribery may be reported anonymously by telephoning the NHS Reporting Line in confidence - 0800 028 40 60 or www.reportnhsfraud.nhs.uk

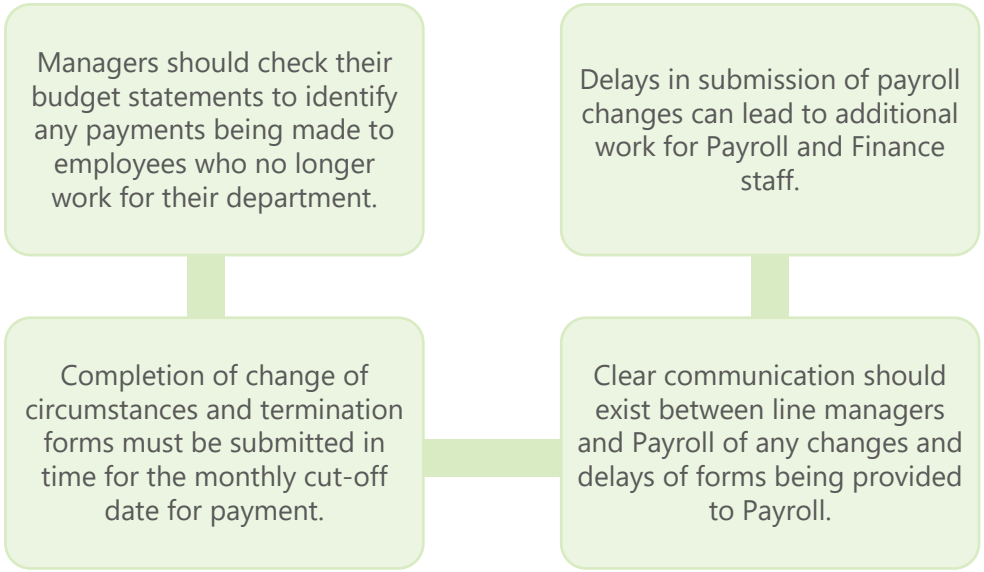


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Recovery of Salary Overpayments

A lot of overpayments relate to change of circumstances forms or termination forms not being processed in a timely manner. If the member of staff is still an employee who has moved to a new job within the organisation, payroll will contact the employee and request that the money is paid back over an agreed period of time. If the individual has left employment, Payroll will write to the individual stating they have been overpaid and the overpayment will be recovered through the organisation's debt recovery process.

Key messages from this session include:



Staff and managers may find the following NHS Counter Fraud Authority Quick Guide of help and interest:

- Payroll fraud
  Guidance on prevention, detection and investigation - https://cfa.nhs.uk/fraud-prevention/fraud-guidance#payrollFraud

We are extremely grateful to our guests at these events:

- Sian Millard, Company Secretary, Royal Cornwall Hospitals NHS Trust.
- Karen Senior, Company Secretary, University Hospitals Plymouth NHS Trust.
- Nina Gibson, Company Secretary, Livewell Southwest.
- Victoria Legrand Taylor, Interim Head Of Employee Relations And Medical Staffing, Royal Devon & Exeter NHS Foundation Trust.
- Nigel Price, Local Counter Fraud Specialist, Cardiff and Vale University Health Board.
- Caroline Griffiths, Payroll Manager, Royal Cornwall Hospitals NHS Trust.
- Jenny Hurrell, Payroll Manager, University Hospital Bristol and Weston.
- Bryan Logan, Payroll Manager, Torbay and South Devon NHS Foundation Trust

We also wish to thank all those that joined us on the webinars and shared their views and experiences for everyone's benefit.

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OUR LOCAL COUNTER FRAUD TEAM

Our Local Counter Fraud Specialists are fully accredited with the University of Portsmouth. We aim to prevent and deter fraud and hold those to account who commit fraud against the NHS. Counter Fraud Services are provided by ASW Assurance (www.aswassurance.co.uk), an NHS consortium providing counter fraud and internal audit services to NHS and healthcare organisations. If you would like to know more about our Counter Fraud work or arrange for your department to receive a Fraud Awareness Presentation, please contact your Local Counter Fraud Specialist (LCFS) below.



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