

OFFICIAL



Tackling Fraud, Bribery and Corruption

Economic Crime Strategy

2018-2021



Tackling Fraud, Bribery and Corruption

Economic Crime Strategy

2018-2021

Issue Date:	27 October 2016
First published:	13 September 2019
Version Number:	2.0
Prepared by:	Counter Fraud Lead
Next Review Date:	November 2019
Classification:	OFFICIAL

The National Health Service Commissioning Board was established on 1 October 2012 as an executive non-departmental public body. Since 1 April 2013, the National Health Service Commissioning Board has used the name NHS England for operational purposes.

Equality and Health Inequalities Statement

Promoting equality and addressing health inequalities are at the heart of NHS England's values. Throughout the development of the policies and processes cited in this document, we have:

- Given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited under the Equality Act 2010) and those who do not share it; and
- Given regard to the need to reduce inequalities between patients in access to, and outcomes from healthcare services and to ensure services are provided in an integrated way where this might reduce health inequalities

Information Reader Box	
Directorate	
Medical	Operations
Nursing	Commissioning Development
Patients & Information	Policy
Finance	Human Resources
Publications Gateway	08611
Reference	
Document Purpose	Strategy
Document Name	Tackling Fraud, Bribery and Corruption Strategy
Author	NHS England, Finance Directorate
Publication Date	9 September 2019
Target Audience	All NHS England Officers
Additional Circulation List	n/a
Description	To provide the strategic direction regarding Tackling Fraud, Bribery and Corruption
Cross Reference	n/a
Superseded Document(s)	n/a
Action Required	n/a
Timing/Deadlines	n/a
Contact Details (for further information)	england.counter-fraud@nhs.net
Document Status	
<p>This is a controlled document. Whilst this document may be printed, the electronic version posted on the intranet is the controlled copy. Any printed copies of this document are not controlled.</p> <p>As a controlled document, this document should not be saved onto local or network drives but should always be accessed from the intranet.</p>	

This information can be made available in alternative formats, such as easy read or large print, and may be available in alternative languages, upon request. Please contact 0300 311 22 33 or email england.contactus@nhs.net stating that this document is owned by the Assurance and Counter Fraud Team, Finance Directorate.

Contents

1	Introduction.....	6
1.1	Scope of this strategy	6
1.2	Estimate of the cost of economic crime	6
1.2.1	Estimated cost to the NHS	6
2	Tackling fraud, bribery and corruption	9
2.1	Our mission	9
2.2	Our vision	9
2.3	Our purpose	9
2.4	Our behaviours and values.....	9
2.4.1	The Nolan Principles of Public Life	9
2.4.2	Conflicts of interest	10
2.5	Our strategic objectives	10
2.6	Our strategic priorities	10
2.6.1	Patient exemption fraud	11
2.6.2	Dental contractor fraud	11
2.6.3	Proactive Work Plan	11
2.6.4	Fraud Investigations.....	11
3	Strategic context.....	12
3.1	NHS Constitution	12
3.2	NHS commissioning landscape	12
3.2.1	Health and Social Care Act.....	12
3.2.2	The NHS Five Year Forward View	12
3.2.3	NHS England’s corporate priorities	12
3.3	Commissioning of healthcare	13
3.3.1	Transforming commissioning	13
3.3.2	Devolution	13
3.3.3	Primary care co-commissioning	14
3.4	Counter fraud arrangements in NHS organisations	14
3.5	NHS Clinical Commissioning Groups (CCGs)	15
4	NHS England.....	16
4.1	Economic Crime Strategy	16
4.2	Tackling Fraud, Bribery and Corruption Policy	16
4.3	NHS England Counter Fraud Team.....	16
4.3.1	NHS England Counter Fraud Specialist arrangements	16
4.3.2	Local Counter Fraud Specialist (LCFS)	16
4.4	Payment processing and management information.....	17
4.5	Commissioning Support Units (CSUs).....	17
5	NHS England proactive counter fraud strategy	18
5.1	Proactive counter fraud	18
5.1.1	Background.....	18
5.1.2	Collaboration with key stakeholders.....	18
5.2	Proactive data analytics.....	18
5.2.1	Background and application by NHS England	18
5.2.2	Outputs	19

5.3	Primary Care	19
5.3.1	Priority area for the application of proactive analytics	19
5.3.2	Contract management and Post Payment Verification in primary care ..	20
5.4	Other areas of fraud risk.....	21
5.4.1	Direct Commissioning (excluding primary care).....	21
5.4.2	Generic risks.....	21
5.4.1	Cyber-crime	21
5.5	NHS England fraud risk areas, current work and priorities for future action	22
5.6	Other key proactive areas for action within NHS England.....	30
5.6.1	Communication	30
5.6.2	Awareness	30
5.6.3	Training.....	30
5.6.4	Fraud and future proofing	31
6	NHS England reactive anti-fraud strategy	31
6.1	Fraud Investigations	31
6.2	NHS Counter Fraud Authority.....	31
6.3	Conduct of NHS England fraud investigations.....	32
6.3.1	Referral process.....	32
6.3.1	Legislation and guidance	32
6.3.2	Investigative activity	32
6.4	Approach to NHS England investigations within Primary Care.....	34
7	Sanctions and recovery	37
7.1	Background	37
7.2	Application of sanctions.....	37
7.3	Seeking recovery.....	38
8	Summary and conclusion	39
9	Appendix	40
9.1	Glossary	40
9.2	References	42
9.3	Associated Documents.....	43
9.4	Stakeholders engaged in the production of this strategy	43
9.4.1	NHS England	43
9.4.2	External stakeholders	43

1 Introduction

1.1 Scope of this strategy

NHS England's [Tackling Fraud Bribery and Corruption Policy and Corporate Procedures](#) states that: "All fraud, bribery and corruption (collectively referred to as economic crime) in the NHS is unacceptable and should not be tolerated. It affects the ability of the NHS to improve health outcomes for people in England, as resources are wrongfully diverted and cannot be used for their intended purpose".

The policy also provides a definition of economic crime, which in summary are offences committed under the [Fraud Act 2006](#) or the [Bribery Act 2010](#). In simple terms these are dishonesty offences or where officers have been illegally influenced resulting in a gain, loss or an advantage.

In the context of this document the loss is borne by the NHS, specifically NHS England. These actions divert funds intended for patient care, to others at the detriment of patient services. The NHS Counter Fraud Authority (NHSCFA) is the lead for fraud across the NHS. This document sets out the strategy for losses incurred by NHS England arising from fraud.

The intention of this strategy is to articulate NHS England's response to economic crime until 2021. Whilst the response to fraud is more prominent in this document, bribery related risks are present, particularly in relation to conflicts of interest, procurement and the changing NHS landscape. As such where the terms 'fraud' or 'economic crime' are used it is intended to include fraud, bribery and corruption.

1.2 Estimate of the cost of economic crime

1.2.1 Estimated cost to the NHS

The [NHSCFA 2018/19 Business Plan](#) estimates that £1.29 billion could be lost to economic crime from the NHS in England on an annual basis. This estimate includes losses across NHS Providers and CCGs, as well as NHS England and further detail is provided in the [NHSCFA Strategic Intelligence Assessment \(SIA\)](#).

A breakdown of the £1.29bn total estimate by thematic area and associated degrees of confidence are shown in Table 1. Some of the areas listed below are more relevant to NHS England than others. To illustrate the relevance of each area of estimated loss specifically to NHS England these have been shaded in the column entitled 'Relevance to NHS England'.

The knowledge and understanding of NHS fraud is not uniform. NHSCFA describe this variance in understanding via levels of confidence in their estimates. It should be noted that 78% of the estimated losses that primarily relate to NHS England are categorised in the lowest level of confidence. Increasing confidence in specific estimates is a core business objective in the NHSCFA 2018/19 Business Plan.

The last column of Table 1 entitled 'Strategic Priority' links the estimates of losses and relevance to NHS England to identify three of the four key strategic priorities. The four strategic priorities identified within this strategy are described in section 3.6.

Table 1 - NHSCFA estimate of losses in key areas of NHS spend 2016/17, with explanation as to relevance to NHS England.

Thematic area	Estimated loss to fraud (£ millions)					Relevance to NHS England	Total estimated cost	Explanation of relevance to NHS England	Strategic Priority (section 3.6)
	Confidence level	Almost Certain	Highly Likely	Probable	Realistic Probability				
Help with health costs (patient fraud)	35.3		50.3	256.1	341.7	Primarily relate to NHS England	£745.8m	Patient and primary care contractor fraud are risks that primarily relate to NHS England. Although CCGs also commission considerable services directly from primary care contractors and are allocated drug budgets to manage. Combined estimated losses in primary care represent 58 percent of the total estimated loss for the NHS. Although it should be noted that most of these estimates have been classified by NHSCFA in their lowest level of confidence.	1
Dental contractor fraud				126.1	126.1				2
Optical contractor fraud			79		79				3
Pharmaceutical contractor fraud				111	111				
General Practice fraud				88	88				
Payroll and Identity fraud				94.2	94.2	Relevant to NHS England to an extent	£505.4m	Procurement and commissioning fraud, national tariff and performance data manipulation, fraudulent access to NHS care and NHS Pensions. These present a risk to NHS England, as they would do to any NHS organisation.	
Procurement and commissioning fraud				266	266				
National Tariff and performance data manipulation				108	108				
Fraudulent access to NHS care in England				35	35				

OFFICIAL

Thematic area Confidence level	Estimated loss to fraud (£ millions)					Relevance to NHS England	Total estimated cost	Explanation of relevance to NHS England	Strategic Priority (section 3.6)
	Almost Certain	Highly Likely	Probable	Realistic Probability	Total				
NHS Pensions			2.2		2.2				
NHS student bursary scheme				10.7	10.7	Not relevant to NHS England	£44.7m	NHS student bursaries, European Healthcare Insurance Card and NHS Resolution. This area of fraud risk currently presents minimal risk to NHS England.	
European Healthcare Insurance Card		0.6		21.1	21.7				
Fraud against NHS Litigation Authority administered funds				12.3	12.3				
Total	£35.3m	£0.6m	£131.5m	£1.12bn	£1.29bn				

NB: source of the detailed estimates is the NHSCFA 2018 [Strategic Intelligence Assessment](#), which uses 2016/17 data.

NB: NHSCFA describe loss analysis exercises as being designed solely to identify the nature, scale and cost of activity and trends affecting specific areas of spend within the NHS. Data for loss analysis exercises is obtained and processed for this purpose alone. When determining whether someone acted wrongly to obtain NHS funded services to which they are not entitled, to claim remuneration from the NHS for services they did not provide or receive (either fully or in part), or which were not needed, or which were not correctly recorded on the claim. NHSCFA do not apply the criminal burden of proof (beyond reasonable doubt) as required in criminal cases. Instead the civil burden of proof is used, based on the balance of probabilities. The loss rate and accumulated cost identified in the exercise are extrapolated across the entire area of spend to produce overall estimated financial loss figures within that service area.

2 Tackling fraud, bribery and corruption

2.1 Our mission

NHS England's funds are used to ensure high quality care for the people of England whilst achieving efficiency for the taxpayer, and minimising the loss to economic crime.

2.2 Our vision

Everyone is aware of the risk to patient care presented by economic crime and the impact it has on the ability of NHS England to carry out its business objectives. A culture is embedded where fraud is neither ignored nor tolerated.

2.3 Our purpose

Consistent with the Department of Health and Social Care (DHSC) approach and the [NHSCFA Organisational Strategy 2017-2020](#), the purpose of NHS England's response to economic crime is to:

- **Inform** staff and relevant stakeholders about economic crime and its impact
- **Involve** staff and relevant stakeholders in the response to economic crime
- **Prevent** the occurrence of economic crime wherever possible
- **Deter** economic crime that cannot be prevented
- **Hold to account** those who have committed economic crime
- **Recover funds** lost to economic crime or overpayments wherever possible

2.4 Our behaviours and values

2.4.1 The Nolan Principles of Public Life

NHS England aspires to the highest standards of corporate behaviour and responsibility and expects the same from its staff. [The seven principles of public life](#) (the Nolan principles) are expected from NHS England's workforce:

- **Selflessness** - Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.
- **Integrity** - Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
- **Objectivity** - In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for awards or benefits, holders of public office should make choices on merit.
- **Accountability** - Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- **Openness** - Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their

decisions and restrict information only when the wider public interest clearly demands.

- Honesty - Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- Leadership - Holders of public office should promote and support these principles by leadership and example.

2.4.2 Conflicts of interest

In May 2017 NHS England's updated [Standards of Business Conduct Policy](#) was approved. On 16 June 2017, NHS England published revised [statutory guidance on managing conflicts of interest for CCGs](#). This replaces the 2016 guidance.

These policy and guidance documents were updated to ensure it is fully aligned with the recently published cross system conflicts of interest guidance – [Managing conflicts of interest in the NHS: Guidance for staff and organisations](#).

2.5 Our strategic objectives

In the creation and implementation of this strategy, NHS England has the following strategic objectives:

- Work collaboratively with key internal and external stakeholders in tackling fraud, bribery and corruption. The NHS England anti-fraud resource and work of key partners is appropriately targeted and all relevant information is shared where possible.
- Develop a greater understanding of all information and intelligence available and utilising it to its best effect. Embedding the response to economic crime at all levels within NHS England and its constituent parts.
- Utilising innovative data analytics to target areas of fraud risk. The outputs being used to reduce gaps in intelligence and improve the understanding of the estimated cost of fraud.
- Proactively raise the awareness and understanding of the risk of economic crime at all levels within NHS England, ensuring that these risks are considered in all future developments, technology and new models of care. Also that where responsibilities are shared or unclear, these are clarified.
- Effectively and appropriately investigate all allegations of economic crime that fall within the remit of NHS England. Working with key partners to overcome barriers and understand how changes to the NHS landscape affect accountability and responsibility in relation to investigations.
- Recovering wherever possible all losses in an effective, consistent and coordinated manner.

2.6 Our strategic priorities

To implement this strategy and report progress to the NHS England Audit and Risk Assurance Committee, the four key priorities for action are:

- Patient exemption fraud
- Dental contractor fraud

- Proactive Work Plan
- Fraud Investigations

An update against each of these priority areas will be included within the regular updates to the NHS England Audit and Risk Assurance Committee (ARAC). A brief description of each priority is shown in the sections below.

2.6.1 Patient exemption fraud

Help with health with help costs (patient fraud) has been identified by NHSCFA as the NHS area of greatest estimated loss at £341.7m annually, as shown by Table 1 in section 1.2.1. Potential losses due to patient fraud represent approximately 45% of the total estimated losses which primarily relate to NHS England.

These potential losses relate to patients falsely claiming exemption of prescription, dental and optical charges, as well as fraudulently registering at GP practices.

As described in section 5.5, there are large scale projects under way targeting patient exemption fraud losses in relation to prescription and dental exemption charges. Work to target the fraudulent avoidance of optical charges is planned for 2018/19.

2.6.2 Dental contractor fraud

Dental contractor fraud is the second biggest area that primarily relates to NHS England at £126.1m, as shown by Table 1 in section 1.2.1. This represents approximately 17% of the figure primarily related to NHS England.

The fraud risks associated with dental contractors relate to up-coding, split courses of treatment, phantom appointments and ghost or deceased patients. Again large scale exercises are under way in the form of the Dental Activity Review and Performer Management projects.

2.6.3 Proactive Work Plan

The third priority collates all the remaining primary care risks and other more generic fraud risks that are relevant to NHS England to an extent, as shown by Table 1 in section 1.2.1. These include pharmaceutical and general practice contractors, procurement, and payroll risks.

Section 5.5 describes the current work under way in these areas and all gaps identified to prioritise proactive counter fraud work.

2.6.4 Fraud Investigations

The investigation of allegations of fraud is a key component of the response to economic crime. During 2018 NHS England established a new in-house team of Counter Fraud Specialists whose primary purpose is to investigate allegations of fraud.

Section 6 details the NHS England reactive strategy which articulates in detail the framework, key partners, legislation and the approach in the key area of primary care.

3 Strategic context

3.1 NHS Constitution

An [updated NHS Constitution](#) was published in July 2015 and established the key principles and values which guide the NHS in all it does. It set out rights to which patients, public and staff are entitled, and pledges which the NHS is committed to achieve, together with responsibilities, which the public, patients and staff owe to one another to ensure that the NHS operates fairly and effectively. The Constitution will be renewed every ten years.

The principles set out in the constitution apply equally to NHS England's approach to tackling economic crime. To provide a comprehensive, patient-centred service to all patients based on clinical need, NHS England needs to use its finite resources effectively. This requires working in collaboration with key partners to tackle economic crime, in a sustainable and efficient way to provide value for money to the taxpayer.

3.2 NHS commissioning landscape

3.2.1 Health and Social Care Act

The [Health and Social Care Act 2012](#) introduced changes to the way that the NHS in England was organised. The legislative changes from the Act which came into being on 1 April 2013, included a move to clinically led commissioning, structural changes to the NHS, as well as fair competition for NHS funding independent, charity and third-sector healthcare providers.

3.2.2 The NHS Five Year Forward View

The [NHS Five Year Forward View](#) (5YFV) sets out a vision for the future of the NHS. It was developed by the organisations that deliver and oversee health and care services, including NHS England. The 5YFV described that there would be a gap between resources and patient needs of nearly £30bn a year by 2020/21.

Reducing loss to economic crime and recovering funds wherever possible enables efficiency savings without compromising services. This presents a real opportunity to contribute to the challenging financial environment in the years to come.

3.2.3 NHS England's corporate priorities

NHS England sets out its corporate priorities on an annual basis; these are set out in the [NHS England Business Plan](#). NHS England's corporate priorities translate into action; improving health and wellbeing, securing high quality care, deriving value for money for the public's investment and creating a sustainable future for the NHS.

Economic crime is a hidden cost, diverting valuable resource away from its intended purpose. Models of care are being transformed to focus more on preventative action, to be sustainable, co-ordinated, utilise technology and drive innovation. The NHS England response to economic crime should also follow these same priorities.

3.3 Commissioning of healthcare

3.3.1 Transforming commissioning

To deliver the changes necessary for the 5YFV, NHS England's Business Plan describes the need to design new models for delivering patient services, drive greater integration of services at local level through devolving more activity to local commissioners, and enable patients to have more choice and control over the services they need.

Through the development of [sustainability and transformation partnerships](#) and in some places [integrated care systems](#), NHS organisations, local councils and others are working closely together to design services around the whole needs of patients. In doing this, they draw on the experience of the 50 [vanguard sites](#), which led the development of new care models across the country.

In an integrated care system, NHS organisations, in partnership with local councils and others, take collective responsibility for managing resources, delivering NHS standards, and improving the health of the population they serve. They will improve health and care by coordinating services, with a particular focus on those at risk of developing acute illness and being hospitalised; providing more care in a community and home based setting; and ensuring a greater focus on population health and prevention.

Many GP practices are already working together and at scale through a range of different models. Sustainability and transformation partnerships could accelerate this work, so that every area of the country is covered by a Primary Care Network.

The development of new, collaborative approaches to commissioning, the development of integrated care systems and health devolution arrangements have the power to transform the way healthcare services are commissioned and provided, supporting the implementation of the 5YFV.

3.3.2 Devolution

The [devolution](#) agenda is one part of a wider set of initiatives to improve the integration of care. There are four defined devolution models:

- Model 1: *a seat at the table* – decision-making by function holder, but with input from other bodies;
- Model 2: *joint commissioning* – two or more bodies making decisions together on each other's functions, but retaining individual accountability;
- Model 3: *delegation* – function is given to another body to exercise on behalf of delegating (accountable) body; and
- Model 4: *full devolution* – function and accountability is transferred permanently to another body. This would require a Transfer Order under the [Cities and Local Government Devolution Act 2016](#).

Under models 1, 2 and 3 where accountability and responsibility for NHS England functions remain within NHS England; there would be no change with reference to

anti-fraud responsibilities. For model 4, the devolved area takes on both the responsibility and accountability for the function.

There is an opportunity to proactively assess and contribute to the design of the governance arrangements to ensure anti-fraud arrangements are embedded as the arrangements. Therefore, to ensure there is clarity regarding the anti-fraud roles, responsibilities, governance and accountability, devolution arrangements will require monitoring as an emerging fraud risk.

3.3.3 Primary care co-commissioning

[Primary care co-commissioning](#) is one of a series of changes set out in the 5YFV and gives CCGs greater control and say over general practice commissioning, including full responsibility under delegated commissioning. This aims to support placed based commissioning and is part of the wider strategy to join up care in and out of hospital that will benefit patients and the public.

On 1 April 2018 178 CCGs (91%) have delegated commissioning arrangements for primary medical services. In addition 10 CCGs have a joint commissioning arrangement with NHS England and 7 are operating under the greater involvement model.

NHS England is still the contract holder for commissioned general practice services and as such NHS England is accountable for these services under delegated commissioning arrangements. However, the management of these services is delegated to the CCG, who may be supported by Commissioning Support Units (CSUs). The delegated functions are clearly set out in a delegation agreement which is subject to assurance arrangements to ensure these are carried out effectively. Detailed operational arrangements are subject to standard operating procedures and are required to report on compliance.

In an evolving landscape there is a risk that responsibilities and accountabilities may become less clear, leading to the dilution of management controls and increased fraud risk. The publication of revised conflicts of interest guidance for CCGs intends to mitigate some of these risks.

There is an opportunity to proactively assess, clarify and contribute to the design of co-commissioning governance arrangements to ensure anti-fraud measures are embedded as the arrangements develop. Co-commissioning arrangements will require monitoring as in any changing environment, there is the potential for fraud risks to emerge.

3.4 Counter fraud arrangements in NHS organisations

The Directions to NHS Bodies on Counter Fraud Measures historically described the counter fraud measures required by NHS organisations (although they still apply to NHS Trusts and Special Health Authorities).

Counter fraud requirements are now specified in clause 24 of the [NHS Standard Contract](#) and in the NHSCFA [Fraud, Bribery and Corruption Standards](#) for Providers

and Commissioners. These assist the flow of intelligence to NHSCFA providing a system wide view of the fraud risks facing the NHS.

The legislative and structural changes to the NHS landscape, as well as the regulations and contracts in place, blurred the lines of accountability regarding counter fraud arrangements. This is likely to require further clarification with the introduction of new models of care, devolved arrangements and co-commissioning, where the relationships between primary and secondary care, as well as providers and commissioners, become more intertwined.

Section 6.4 seeks to provide clarity regarding the responsibility to investigate in the different areas of primary care. However it is recognised that there is still a need to monitor these as the different models of co-commissioning and devolution develop.

It is also recognised that as the level of proactive anti-fraud work undertaken increases, this may potentially identify the need to revise the applicable regulations, contracts, the [Drug Tariff](#) and other frameworks to embed and incorporate anti-fraud arrangements throughout areas where NHS England could have an influence. This will not be without challenges but NHS England is committed to working collaboratively with all its key stakeholders to minimise the risk of exposure to fraud.

3.5 NHS Clinical Commissioning Groups (CCGs)

NHS England has a statutory duty to make an annual assessment of each CCG's performance. The [Improvement and Assessment Framework for CCGs](#) reports CCG performance in key areas, including conflicts of interest management. The framework is intended as a focal point for joint work and support between NHS England and CCGs, and draws together the NHS Constitution, performance and finance metrics and transformational challenges. It will play an important part in the delivery of the 5YFV.

In the context of counter fraud, CCGs were required on authorisation to have adequate counter fraud arrangements in place. CCGs are now required to complete a self-assessed return against the Standards for Commissioners and cooperate with NHSCFA assessments.

CCGs are required to investigate allegations of fraud, unless they fall under the remit of NHSCFA or NHS England. The responsibility for the investigation of fraud within primary care is clarified within section 6.4.

4 NHS England

4.1 Economic Crime Strategy

NHS England has a pivotal role to play in the wider health group response to economic crime due to its size, nature and influence. This Economic Crime Strategy was developed with input from key internal and external stakeholders. This strategy is consistent with the Department of Health and Social Care (DHSC) and NHSCFA counter fraud strategies and NHS England will work collaboratively with key stakeholders to implement this strategy.

Section 5 and 6 describe future NHS England proactive and reactive activities, prioritised as part of the implementation of this strategy. The NHS England Audit and Risk Assurance Committee (ARAC) receive regular progress updates. The strategy itself will be reviewed on an annual basis to ensure it evolves as required and progress against the strategic objectives described in a formal written report which will be presented to the ARAC on an annual basis.

4.2 Tackling Fraud, Bribery and Corruption Policy

The [Tackling Fraud Bribery and Corruption Policy and Corporate Procedures](#) describe NHS England's operational response to fraud. All officers are required to report any suspicions of fraud and are encouraged to contact the NHS England Counter Fraud Team to seek advice if they have a concern. This policy is available on both the public facing website and the staff intranet.

NHS England is responsible for investigating allegations of fraud which do not meet the case criteria for an NHSCFA investigation, and ensuring there are effective anti-fraud arrangements in place for all services for which it is accountable.

4.3 NHS England Counter Fraud Team

4.3.1 NHS England Counter Fraud Specialist arrangements

In 2018 NHS England established an in-house Counter Fraud Specialist (CFS) function to investigate allegations of fraud, raise awareness of fraud risks and enhance communication on fraud issues. This is separate to the role performed by NHSCFA.

4.3.2 Local Counter Fraud Specialist (LCFS)

An NHS Local Counter Fraud Specialist (LCFS) or CFS is someone who holds an Accredited Counter Fraud Specialist (ACFS) award, granted by the Counter Fraud Professional Accreditation Board.

Accreditation requires training in offence, procedural and background legislation; investigation and prosecution principles; interviewing skills; as well as key proactive activities. An LCFS function is an NHS organisation's own arrangements to address their fraud risks as they perceive them. It comprises of both proactive and reactive activities.

4.4 Payment processing and management information

NHSBSA is a key partner of NHS England processing claims, payments and producing management information in relation to dental, pharmaceutical services and primary care prescribing. NHSBSA also conducts key fraud, error and debt initiatives on behalf of NHS England as part of the [Pacific Programme](#) and operational service improvements. NHSBSA manages and is developing numerous projects on behalf of NHS England and other probity related services. These are described in more detail in section 5.5.

Primary Care Support Services (PCSS) was outsourced to Capita in 2015 and is now known as Primary Care Support England ([PCSE](#)). This function supports, calculates payments, processes claims and produces management information in respect of General Practice, Ophthalmic and some Pharmaceutical services. PCSE are also creating a replacement for Open Exeter, this is described in more detail in section 5.5 and 5.6.4 in relation to future work and fraud-proofing respectively.

4.5 Commissioning Support Units (CSUs)

CSUs are part of NHS England and provide a range of services to a wide customer base that includes CCGs, NHS England, NHS Trusts, local authorities and other public sector bodies. These services are transactional and transformational in nature such as data management, IT infrastructure support, GPIT services, cyber security, risk stratification, service reconfiguration, specialised commissioning, primary care redesign, continuing health services, medicines management advice, self-care support, long term conditions management, contract management and procurement advice.

CSUs are income based and do not receive any direct allocations. All income is derived from the services they provide to customers through locally agreed contracts and service level agreements. They have their own internal management measures in place and follow NHS England corporate policies such as the NHS England Tackling Fraud, Bribery and Corruption Policy. CSUs also have their own Operating Frameworks in place which are approved by NHS England and adhere to the Standards for Commissioners.

Allegations of fraud are investigated by the NHS England counter fraud team. NHS England will work with CSUs to support them in the counter fraud services they receive.

5 NHS England proactive counter fraud strategy

5.1 Proactive counter fraud

5.1.1 Background

Proactive counter fraud work is the activities undertaken by an organisation before there is a suspicion that an offence has taken place. It is vitally important to embedding an anti-fraud culture in an organisation. Examples of proactive work include:

- Ensuring appropriate training programmes or materials are available
- Raising awareness of potential fraud risks and the impact on patient care
- Communicating where to report concerns of fraud
- Publicising successfully prosecuted cases to create a deterrence effect
- Fraud-proofing policies and procedures
- Developing a greater understanding of fraud risks
- Conducting proactive detection exercises

Proactive anti-fraud activities mostly comprise of the elements of 'Inform and Involve', as well as 'Prevent and Detect' from the Standards for Commissioners.

5.1.2 Collaboration with key stakeholders

As described in section 5.5, NHS England already has a considerable number of initiatives under way to combat fraud, error and loss. Many of these work streams are conducted in collaboration with key partners and include for example the NHSBSA's [Pacific Programme](#) and the proactive Counter Fraud Work Plan.

5.2 Proactive data analytics

5.2.1 Background and application by NHS England

Data analytics is a term used to describe the process of analysing data to verify and validate transactions, or to identify potential outliers or indicators of fraudulent behaviour. It relies on the sharing of data and fraud intelligence.

Consistent with the NHSCFA strategy to be intelligence-led, there are two elements to the NHS England approach to data analytics:

- Effectively utilise the data or analytics which may already be produced for or by Regional Teams, CSUs or partner organisations. To ensure the most effective use of resources and avoid duplication of effort.
- Where appropriate, deploy innovative data analytics techniques or further develop existing work wherever practical and possible. This will be in response to identified and prioritised fraud risks, as well as considering gaps in intelligence. This work will be a view to prevent fraud through strengthening the control environment and detecting instances of potential fraud. NHS England will consider the input from key partners in scoping any analytics to ensure they are targeted appropriately.

Section 5.5 identifies NHS England's key fraud risk areas, describes work currently under way in relation to these risks and prioritises areas for future action.

5.2.2 Outputs

NHS England will use the intelligence derived from current work to target and prioritise gaps in intelligence, as identified by the NHSCFA SIA. This will contribute to the intelligence picture and further the understanding of the fraud risks faced by NHS England. Outputs of future analytics will be aimed at closing these gaps in intelligence and place a greater emphasis on preventative action.

Where system weakness and failures in control are identified from the application of the proactive analytics work, recommendations will be made to enhance the processes and governance arrangements in place. The improvements made will assist to proactively prevent fraud and reduce the risks faced by NHS England.

The output of the planned proactive analytics work will also assist NHS England to provide a further evidence base to support increased confidence levels relating to estimated losses to economic crime in these areas. It is recognised that the cost of fraud is difficult to measure; the output from these analytics will enable another source of information to corroborate the nature and scale of estimated losses relevant to NHS England, as shown in Table 1 (section 1.2.1).

A collaborative approach will be needed to compliment the current work in progress by NHSBSA, NHSCFA, Regional Teams, third party assurance providers commissioned locally, or NHS England to ensure the effective use of resources and avoid duplication.

The use of proactive data analytics fits in with both the 'Prevent and Deter' and the Hold to Account sections of the Standards for Commissioners to take preventative action to identify and address system weaknesses. If instances of fraud or inappropriate behaviour are detected, appropriate criminal, disciplinary, contractual or civil action will be instigated.

5.3 Primary Care

5.3.1 Priority area for the application of proactive analytics

The majority of NHS England's allegations of fraud relate to primary care contractors. Primary care features heavily in NHSCFA's estimate of the cost of fraud (Table 1, section 1.2.1) and is particularly relevant to NHS England.

In 2017/18 NHS England's expenditure in primary care (not including primary care services delegated to CCGs) totalled approximately £7.1 billion. This was split as:

- £3.1 billion on Primary and Personal Dental services (referred to as Dental throughout this document),
- £1.9 billion on Pharmaceutical services and Prescribing costs (referred to as Pharmacy throughout this document),
- £1.7 billion on Primary care services (referred to as General Practice or GP throughout this document), and

- £523 million on Ophthalmic services (referred to as Optical throughout this document).

Primary care services are provided on the whole by independent contractors, who operate as businesses in their own right. They are commissioned by NHS England and CCGs via a variety of contractual arrangements. These high trust environments present considerable scope for manipulation and sharp practice. There is the potential for differing interpretations in relation to clinical opinion and some areas operate historic paper based claims systems.

There are considerable gaps in intelligence with reference to fraud risks in primary care areas, a significant proportion of current work and future priorities (section 5.5) therefore relate to primary care. This is due in part to the lack of available intelligence and the historical data which shows that fraud does occur in these areas.

Due to the nature of primary care information and the way it is held, there are a number of barriers which need to be overcome to effectively apply proactive analytics within primary care. These include paper based claims and access to data held either centrally by other NHS organisations such as NHSBSA or NHS Digital. This is compounded by contractual as well as data protection and confidentiality issues. A key consideration in implementing this strategy will be the need to establish a collaborative approach, working with key partners to ensure the necessary work is conducted by the most appropriate organisation to overcome these barriers.

5.3.2 Contract management and Post Payment Verification in primary care

Contract management and Post Payment Verification (PPV) activities are the responsibility of Regional Teams (or CCGs with reference to GP) and provide a valuable deterrence effect. As a result of PPV providers are aware they can be sampled, recoveries can be made as part of their contractual arrangements and would again fit into both the 'Prevent and Deter' and the 'Hold to Account' sections of the Standards for Commissioners. Historic practice in these areas is variable. NHS England have commissioned NHSBSA to deliver a consistent national approach to provider assurance for Dental, Pharmaceutical and Optical contractors, which is in the pilot phase.

There are number of local arrangements currently in place where Regional Teams have commissioned third party assurance providers to conduct PPV and forensic reviews of claims within primary care.

PPV, forensic review and provider assurance activities could add valuable intelligence to understand contractor behaviour at a local level. This could be used to target particular areas of risk, as well as understand what information is available and used at a local level. We will seek to build on this by accessing the intelligence resulting from the outcomes of PPV, forensic review and provider assurance activities, which will be even more valuable as it could feed into the intelligence cycle.

In some areas of primary care, there has been national guidance regarding a standardised approach to conduct of PPV activities, for example the Eye Health Policy Book. A fraud-proofed, consistent approach and performance of these activities across all of primary care is desirable and is the aspiration of NHS England.

Whilst these arrangements are a probity function it provides an important deterrent effect and recovers funds where inappropriate claims have been made and links to the Hold to Account section of the Standards for Commissioners. NHS England seeks to ensure any action to recover losses is co-ordinated, consistent and according to an agreed methodology.

5.4 Other areas of fraud risk

5.4.1 Direct Commissioning (excluding primary care)

NHS England also directly commissions Specialist Services, Health and Justice, Armed Forces, Sexual Assault Services and Public Health. Expenditure on these services totalled approximately £25.8 billion in 2017/18.

5.4.2 Generic risks

NHS England is exposed to a variety of risks, which are not specific to the commissioning sector. These include procurement, payroll, off-payroll workers and Human Resources related risks.

The level of risk associated in these areas varies in NHS England compared to other NHS organisations. As an example payroll presents a risk, although with less than 13,000 employees (when including CSUs), applied to the overall NHS England budget has proportionately a much smaller impact when compared to an NHS Trust. As a result they feature on the strategic plan in proportion to the risk, with other areas, such as primary care, featuring more prominently.

5.4.1 Cyber-crime

Cyber-crime is a term which is used to cover a large number of criminal activities that take place online including harassment, illegal trade of goods and fraud.

Estimates taken from [Crime Survey for England and Wales \(CSEW\) 2017](#), available on the Office for National Statistics website suggest that in the year ended December 2017 that there were 3.2 million instances of fraud. In addition to fraud there were 1.4 million incidents of crime falling under the [Computer Misuse Act 1990](#), these included incidents such as where the victim's computer or other internet enabled device was infected by a virus; it also included incidents where the respondent's email or social media accounts had been hacked.

NHS England and its partners hold considerable amounts of sensitive personal and commercial data. The legal framework governing the use of personal confidential data in health care is complex. It includes the [NHS Act 2006](#), the [Health and Social Care Act 2012](#), the [Data Protection Act 2018](#) and the [Human Rights Act 1998](#).

As NHS England's business environment increasingly utilises technology, with an agile workforce, paperless working and the use of online portals and tools, the risks posed by cyber-crime are likely to always be present. NHS England will need to be aware of these risks in the changing NHS landscape and work with internal and external stakeholders to ensure that anti-fraud measures are present.

5.5 NHS England fraud risk areas, current work and priorities for future action

Table 2 below describes the key NHS England fraud risks, current work and priorities for future action, in areas of risk where NHS England has a budgetary responsibility. Some of these are within the scope of the NHSBSA [Pacific Programme](#), a co-ordinated programme of efficiency and waste reduction projects. Some of the initiatives are focused on the reduction of fraud and loss, primarily concentrating on the transactions processed by the NHSBSA. The other exercises are/were conducted by NHSCFA as part of their remit, or Deloitte on behalf of NHS England.

The order in which the risk areas appear in Table 2 and the quantification of the impact is based on the NHSCFA estimated level of losses (as per Table 1, section 1.2.1). These start with primary care and then continue with the more generic NHS risks.

Table 2 - NHS England fraud risk areas, current work and priorities for future action

Risk area	Impact	Specific risk(s) examples	Work currently under way	Conducted by and timing	Gaps in intelligence	Priority for future action
Patient Exemption Fraud (Prescriptions)	Approximately 1.1 billion prescription items are dispensed annually, 90% of these are dispensed exempt of payment. Potentially £256m is lost annually.	Patients fraudulently or inappropriately claiming exemption of prescription charges.	<p>The Prescription Exemption Checking Service (PECS) recovers charges for inappropriate exemption claims. PECS targets £125m savings by 2020/21. In 2017/18 approximately 1m letters were issued.</p> <p>Real Time Checking plans to verify patient eligibility at the point of dispensing.</p> <p>Loss Measurement</p>	<p>NHSBSA, with input from NHS England, NHSCFA and DH. Commenced September 2014 and is ongoing.</p> <p>As above.</p>	<p>Yes but intelligence picture should improve with continuation of current work.</p> <p>Yes but expected</p>	High

OFFICIAL

Risk area	Impact	Specific risk(s) examples	Work currently under way	Conducted by and timing	Gaps in intelligence	Priority for future action
			Exercise A fraud prevention solutions review is planned.	NHSCFA in 2013 and 2018. NHSCFA, commencing 2018.	to improve with updated exercise.	
Patient Exemption Fraud (Dental)	Approximately 50% of dental activity is exempt from NHS charges. £50.3m could be lost annually.	Patients fraudulently or inappropriately claiming exemption of dental charges.	The Dental Patient Benefit Eligibility Checking Service (BECS) and Dental Exemption Checking Service (DECS) recovers patient charges where exemptions have been inappropriately claimed. A fraud prevention solutions review is planned.	NHSBSA on behalf of NHS England. BECS commenced 2003 and is ongoing. DECS commenced in 2016. NHSCFA, commencing 2018.	Yes but intelligence picture should improve with continuation of BECS.	High
Patient Exemption Fraud (Optical)	£35.3m could be lost annually.	Patients fraudulently or inappropriately claiming exemption from optical charges.	Exemption checks planned to commence in 2018. Optical fraud prevention solutions review.	PCSE on behalf of NHS England. NHSCFA in 2017 and 2018.	Yes but intelligence picture should improve once operational.	High
Patient Fraud (General)	Fraudulent access to NHS	Registration with a GP	Trusts employ Overseas Visitor Managers to	N/A.	Yes.	Low

OFFICIAL

Risk area	Impact	Specific risk(s) examples	Work currently under way	Conducted by and timing	Gaps in intelligence	Priority for future action
Practice)	care is estimated at £35m annually but relates primarily to secondary care.	Practice(s) to enable fraudulent access to secondary care or to obtain drugs	challenge residency status.			
Dental (Independent Contractor)	£126.1m could be lost annually	Up-coding, Split courses of treatment, phantom appointments and ghost or deceased patients.	<p>The Dental Activity Review challenges and seeks recovery from dental providers, with the aim of maximum disruption of the identified risky behaviours across all dental contracts. Building on the success of this work a subsequent 5 year Dental Performance Management project commenced in 2016.</p> <p>NHS England aim to achieve £50m savings by 2020/21.</p>	NHSBSA, with input from NHS England, NHSCFA and DHSC.	Yes but intelligence picture should improve with continuation of current work.	High
Pharmaceutical Services	£111m could be lost annually.	Claiming for prescriptions not dispensed, larger pack	A number of analytics reviews were undertaken as part of the Proactive Work Plans.	Deloitte as LCFS provider in 2016-18.	Yes but there is an opportunity to use intelligence obtained to	High

OFFICIAL

Risk area	Impact	Specific risk(s) examples	Work currently under way	Conducted by and timing	Gaps in intelligence	Priority for future action
(Independent Contractor)		sizes, services not performed, inflated drugs costs, excessive handling charges and contract balancing.	Provider Assurance activities with a focus on supporting providers to improve their processes and reduce errors but has also been used to improve the contract management of some advanced services e.g. Medicine Use Review (MUR) and New Medicine Services (NMS).	NHSBSA supporting Regional Teams, 2016-18	enhance.	
General Practice (Independent Contractor)	£88m could be lost annually.	List inflation, claiming for services not provided, quality payments manipulation, conflicts of interest, self-prescribing.	A number of analytics reviews were undertaken as part of the Proactive Work Plans. PPV pilot programmes.	Deloitte as LCFS provider in 2016-18. NHS England, being explored in 2018	Yes.	High
Optical (Independent Contractor)	£79 m could be lost annually	Early recalls, inflating voucher values, unnecessary tints,	Inappropriate claiming of optical contractors has been identified as an area of potential loss by numerous NHS England Regional Teams.	NHS England Regional Teams and third party NHS assurance providers commissioned	There is an opportunity to align this work and use intelligence obtained to improve the	High

OFFICIAL

Risk area	Impact	Specific risk(s) examples	Work currently under way	Conducted by and timing	Gaps in intelligence	Priority for future action
		<p>inappropriate domiciliary visits, phantom appointments and ghost or deceased patients.</p>	<p>Forensic reviews and extended PPV activities in relation to claiming patterns are conducted and recoveries pursued.</p> <p>A new system is being created to process optical claims and will include an intelligent scanning solution. This will enable patient level data of all optical vouchers and an opportunity to deploy data analytics.</p> <p>Loss Analysis and Measurement Exercise identified the current loss estimate and patterns of behaviour. An optical project and fraud prevention solutions review was instigated as a result of the loss exercise.</p>	<p>locally; currently under way.</p> <p>NHS England currently working with Capita, increased data granularity planned for 2018/19.</p> <p>NHSCFA with the assistance of NHS England, 2015-18</p> <p>Deloitte as outsourced LCFS provider in 2015-18</p>	<p>intelligence picture.</p> <p>Increased granularity of data will enhance.</p> <p>Risks better understood as a result of exercise and project.</p>	

OFFICIAL

Risk area	Impact	Specific risk(s) examples	Work currently under way	Conducted by and timing	Gaps in intelligence	Priority for future action
			<p>Reviews were undertaken as part of the Proactive Work Plans.</p> <p>Optical Provider Assurance PPV pilot</p>	<p>Deloitte (Internal Audit & LCFS provider) 2015-16.</p> <p>NHSBSA, with input from NHS England, NHSCFA and Regional Teams. Jun to Dec 2018.</p>		
<p>Co-Commissioning and Devolved arrangements</p> <p>(Independent Contractor and Governance)</p>	<p>Although these are very different areas, the risks are presently unclear but are identified as areas to monitor for emerging risks.</p>	<p>Conflicts of interest initially but as arrangements develop potentially within any delegated or devolved function.</p>	<p>Conflicts of interest work conducted by NHS England (and its internal auditors) with participation of the wider NHS.</p> <p>NHS England requested delegated CCGs self-report on compliance against standard medical care operating procedures and policies.</p> <p>NHS England has developed a framework to introduce primary medical care into</p>	<p>NHS England and Internal Audit, 2015-2017.</p> <p>NHS England and delegated CCGs 2018.</p> <p>NHS England and delegated CCGs 2018-2021.</p>	<p>Yes.</p>	<p>High.</p> <p>Will require continual monitoring as they evolve.</p>

OFFICIAL

Risk area	Impact	Specific risk(s) examples	Work currently under way	Conducted by and timing	Gaps in intelligence	Priority for future action
			delegated CCGs internal audit responsibilities.			
Other Directly Commissioned Services (Provider and Governance)	Unclear but potentially £108m in the NHS as a whole regarding national tariff and performance data manipulation.	Unclear.	Reviews were undertaken as part of the Proactive Work Plans and Internal Audit programme.	Deloitte (Internal Audit & LCFS provider) 2015-18.	Yes.	Medium
Procurement (Staff, Contractor & Supplier)	£266m could be lost in the NHS as whole, unclear how that relates to NHS England.	Conflicts of Interest, bribery offences, contract splitting, bid rigging and tender manipulation.	Reviews were undertaken as part of the Proactive Work Plans and by Internal Audit. The Procurement Improvement Programme of commercial and procurement improvements	Deloitte (Internal Audit & LCFS provider) 2015-18. NHS England 2015 and 2016.	Yes.	Medium
Invoicing & Payment (Staff, Contractor and	See above.	Supplier fraud, insider fraud and mandate fraud.	Reviews were undertaken as part of the Proactive Work Plans and by Internal Audit.	Deloitte (Internal Audit & LCFS provider) 2015-18. Cabinet Office with	Yes.	High

OFFICIAL

Risk area	Impact	Specific risk(s) examples	Work currently under way	Conducted by and timing	Gaps in intelligence	Priority for future action
Supplier)			The National Fraud Initiative (NFI).	voluntary participation by NHS England, 2015 onwards.		
Agency & Temporary Workers (Contractor and Supplier)	See above.	Duplicate timesheets, work not done, inflated rates, expenses and identity fraud.	Reviews were undertaken as part of the Proactive Work Plans and by Internal Audit. 2014/15 Cabinet Office Random Sampling exercise.	Deloitte (Internal Audit & LCFS provider) 2015-18. Deloitte as outsourced LCFS provider in 2015-16	Yes.	Medium.
Payroll and Identity Fraud (Staff)	£94.2 million could be lost in the NHS, unclear how that relates to NHS England.	Salary overpayments, working whilst sick, ghost employees and expenses.	Reviews were undertaken as part of the Proactive Work Plans and by Internal Audit. See NFI above.	Deloitte (Internal Audit & LCFS provider) 2015-18. See NFI above.	Yes.	Medium.
Cyber-crime	1.4 million instances of Computer Misuse Act offences	Unauthorised access to sensitive information which could be used to commit fraud.	NHS England Data and Cyber Security initiatives	NHS England Corporate ICT	N/A.	High

5.6 Other key proactive areas for action within NHS England

5.6.1 Communication

The NHS England already works collaboratively with key external partners such as the DHSC, NHSCFA, NHSBSA, NHS Digital, NHS counter fraud providers, professional bodies and PCSE in tackling fraud. These relationships are to be developed further to fill the gaps in the knowledge and understanding of fraud risks.

Working collaboratively with other key internal stakeholders such as the Finance, Direct Commissioning (including Primary Care), Communications, Payroll, Procurement, Governance, Human Resources, National Directorates and Regional Teams will become increasingly important as the proactive function develops. Using the expert knowledge of these staff groups to appropriately focus proactive exercises, interpret the results of analytics and identify potential areas of concern.

The decision to establish an in-house counter fraud team is key to embed awareness of fraud risks, how to report fraud and ensure a counter fraud culture permeates throughout NHS England. In early 2018 the visible presence of the Counter Fraud Team is already developing communication networks with internal and external stakeholders and this is expected to be enhanced with time.

5.6.2 Awareness

Since 2015 NHS England has had a fraud awareness programme incorporating SharePoint (the NHS England intranet), Engage (the weekly staff newsletter), externally facing bulletins the NHS England website and LCFS presentations. This forms part of the 'Inform and Involve' section of the Standards for Commissioners.

As the new team is embedded this will be strengthened and formalised to create an annual fraud awareness and communications plan, utilising all available intelligence and with local input, to actively target areas of need. This will include NHS England Regional Teams, National Directorates and CSUs. This would prioritise, for example, teams with low completion rates of the e-learning module or have been identified for increased awareness on particular topics, through learning from reactive or proactive work.

5.6.3 Training

Training also relates to the Inform and Involve section of the Standards for Commissioners. The NHS England Counter Fraud e-Learning module forms part of Mandatory and Statutory Training which all staff must complete on an annual basis. NHS England will strive for continual improvement in completion rates.

The e-learning module was created by NHSCFA when NHS England was created and will be updated in 2018/19 and on a regular basis. Wherever relevant and possible, the creation of any new e-learning modules will be co-ordinated to reinforce the anti-fraud culture of NHS England, for example NHS England packages such as the Conflicts of Interest, or the Optical Fraud module produced by NHSCFA.

CSUs are responsible for their own mandatory training. NHS England will assist and support CSUs to make available any resources, such as e-Learning modules wherever possible.

5.6.4 Fraud and future proofing

NHS England will always aim to fraud proof and design out weakness from new or existing policies and this relates to the Prevent and Deter section of the Standards for Commissioners. A good example of this is the conflicts of interest work described in section 2.4.2 which aims for whole system change.

The same applies to new systems. A replacement ophthalmic claims system is being developed. Counter fraud is being considered as part of this process aiming to strengthen the arrangements in place. An intelligent scanning solution for ophthalmic claims will enable greater proactive data analytics and more efficient PPV activities.

This also applies to new governance arrangements, such as in Co-commissioning and Devolved arrangements. These developments will be monitored and LCFS resource will be deployed as required.

NHS England intends its counter fraud arrangements to be embedded across the organisation and to incorporate change, both internally and externally.

6 NHS England reactive anti-fraud strategy

6.1 Fraud Investigations

NHS England has a responsibility to appropriately investigate all allegations of fraud in compliance with all relevant legislation and NHSCFA guidance. This is specifically described in the 'Hold to Account' section of the Standards for Commissioners and in sections 6.3 and 6.4 below.

NHS England aims to investigate allegations of fraud in a responsive, timely and efficient manner; to effectively target its reactive resource and always striving to obtain value for money. Pivotal to this is the establishment of a directly employed in-house team. NHS England has taken full control of the design and composition of the function; it now draws on a wide range of investigative and NHS experience from complimentary backgrounds and sectors. A suitably qualified and experienced CFS function is essential in NHS England's response to the threat it faces due to fraud.

To further develop the counter fraud service holistically, learning and intelligence from allegations of fraud, is and will be, used to feed into proactive work. This will be used to prioritise awareness activities, identify system weaknesses, make corrective action, identify trends and drive improvement.

6.2 NHS Counter Fraud Authority

NHS England works in collaboration with NHSCFA as the NHS anti-fraud lead. NHSCFA considers and develops intelligence received by the Crimestoppers fraud reporting hotline before allocating to the relevant NHS body for investigation.

According to established case acceptance criteria (which is available on FIRST), the NHSCFA are responsible for the investigation of certain cases. These include instances where the allegations are particularly serious, organised criminal activity or are of significant complexity. They may also investigate fraud affecting multiple organisations, matters of a national significance or that require the use of investigative powers only available to NHSCFA. These include powers contained within the Regulation of Investigatory Powers Act 2000 and Health Act 2006.

6.3 Conduct of NHS England fraud investigations

6.3.1 Referral process

Fraud allegations are mostly received by NHSCFA via the FCRL (**0800 028 40 60**) or the online reporting tool (www.reportnhsfraud.nhs.uk). All information in respect of potential NHS fraud is required to be entered to the NHSCFA Fraud Information and Reporting System Toolkit (FIRST). This feeds the intelligence picture and ensures all NHS fraud investigations are captured in one place.

The NHS England CFS team can receive referrals directly, it is expected that as the team becomes more embedded the proportion of referrals received directly by the team will increase. In the first few months this pattern is already apparent.

6.3.1 Legislation and guidance

The investigation of fraud allegations by NHS England's CFS team is required to be conducted to the same standard as that of the NHSCFA or an external agency such as the police.

These investigations would primarily relate to allegations of offences as described by the [Fraud Act 2006](#) and the [Bribery Act 2010](#). Other offences may also be considered such as the [Theft Acts of 1968](#) and [1978](#), the [Computer Misuse Act 1990](#) and the [Criminal Law Act 1977](#).

In professionally investigating allegations the CFS would have due regard for the relevant procedural legislation such as the [Criminal Procedure and Investigations Act 1996](#), [Police and Criminal Evidence Act 1984](#) and the [Regulation of Investigatory Powers Act 2000](#). To support them in their investigations the LCFS would also consider the NHSCFA Anti-Fraud Manual and the Investigation File Toolkit, as well as any supplementary guidance produced or circulated by NHSCFA.

6.3.2 Investigative activity

During the course of a criminal investigation in order to prove or disprove an allegation, the CFS would be required to analyse data, interview witnesses, collect and exhibit evidence, take witness statements, interview subjects under caution. Where appropriate prosecution files would be submitted to the Crown Prosecution Service for consideration, via NHSCFA.

The investigation of allegations of fraud, particularly within primary care is not without its challenges. There has been lack of clarity in relation to the division of responsibilities between NHS England and CCGs, section 6.4 attempts to clarify. The various and complicated contractual arrangements and right of access to independent contractor's premises are barriers. NHS England will continue to work

with its legal team and NHSCFA to address these issues now and as they may develop in the future with the changing NHS commissioning landscape and relationships.

6.4 Approach to NHS England investigations within Primary Care

As described in section 4.4, since the creation of NHS England the responsibility for conduct of fraud investigations within primary care has lacked clarity in certain instances. Table 5 below, describes the dynamic between the contractual relationships and budgetary responsibility regarding primary care contractors, also considering the impact of co-commissioning and devolved arrangements. This is with a view to clarifying the organisation that holds the responsibility to investigate allegations of fraud, where they do not satisfy the case acceptance criteria of NHSCFA (the criteria is available on FIRST). It is also recognised that the Devolution agenda is wider than simply primary care and this will also need to be closely monitored.

Table 5 is intended as a guide for relevant stakeholders regarding the investigative responsibility in key risk areas within primary care and to assist where referrals should be directed for investigation. However it is recognised that there will be instances where discussion will be necessary between NHS England, CCGs and/or NHSCFA to determine who will investigate dependant on the particular circumstances of individual allegations. This is due to the complexities of the commissioning arrangements within primary care, the changing nature of the commissioning landscape and the fact that investigations may include multiple risk areas.

Table 1 - Conduct of fraud investigations within primary care

Primary Care Area	Risk Area	Contractual relationship	Budgetary responsibility	Investigative Responsibility	Impact of Co-Commissioning	Impact of Devolution
Dental	Patient Exemption	N/A	NHS England deducts patient charges from payments to contractors	NHS England	None	Whilst this is dependent on model of devolution adopted, the impact would be limited unless accountability and responsibility for function is transferred to another legal body.
	Contractor	NHS England	NHS England	NHS England	None	

OFFICIAL

Primary Care Area	Risk Area	Contractual relationship	Budgetary responsibility	Investigative Responsibility	Impact of Co-Commissioning	Impact of Devolution
Optical	Patient	N/A	NHS England	NHS England	None	Whilst this is dependent on model of devolution adopted; the impact would be limited unless accountability and responsibility for function is transferred to another legal body.
	Contractor (General Ophthalmic Services)	NHS England	NHS England	NHS England	None	
	Contractor (Enhanced Services)	Potentially NHS England, CCG or a Local Authority (LA)	Potentially NHS England, CCG or a Local Authority	The organisation holding the contractual and financial liability	None	
Pharmacy	Patient Exemption	N/A	NHS England deducts patient charges from payments to contractors	NHS England	None	
	Patient (fraudulent prescriptions)	N/A	Loss is borne by the CCG prescribing budget	CCG or police with CCG liaison regarding controlled drugs	None	
	Contractor (Mandatory services)	NHS England	NHS England in relation to pharmaceutical payments CCG regarding drug costs	NHS England	None	
	Contractor (Enhanced Services)	Potentially NHS England, CCG or a LA	Potentially NHS England, CCG or a Local Authority	The organisation holding the contractual and financial liability	None	

OFFICIAL

Primary Care Area	Risk Area	Contractual relationship	Budgetary responsibility	Investigative Responsibility	Impact of Co-Commissioning	Impact of Devolution
General Practice	Contractor (Global Sum)	NHS England	NHS England unless it has been delegated to another body	NHS England	None as CCGs are only ever delegated the management of commissioning, NHS England is still accountable.	Whilst this is dependent on model of devolution adopted, the impact would be limited unless accountability and responsibility for function is transferred to another legal body.
	Contractor (Quality and Outcomes Framework)				As above, although this may be subject to change if local arrangements are agreed.	
	Contractor (Premises Costs)	NHS England	NHS England	NHS England	None	
	Contractor (Enhanced Services and Out of Hours services)	Potentially NHS England, CCG or a Local Authority	Potentially NHS England, CCG or a Local Authority	The organisation holding the contractual and financial liability	None	
All	Other clinical and non-clinical practice staff	Directly employed or contracted by the primary care contractor	Potentially NHS England, CCG or the employer as a private enterprise.	The particular circumstances of each individual case would require consideration.	None	None

7 Sanctions and recovery

7.1 Background

An important element of the response to fraud is ensuring sanctions are appropriately applied to those who have committed fraud or been involved in inappropriate activities. Seeking appropriate recoveries ensures that any funds fraudulently or inappropriately obtained are recovered to be used by the NHS.

Applying sanctions and obtaining redress are outputs of investigative and proactive detection work but also makes a significant contribution in the deterrence and prevention of fraud. When effectively communicated it demonstrates action is taken, there are consequences and encourages those who may be tempted, to reconsider.

Applying sanctions and seeking redress compliments detection and investigative activity in the 'Hold to Account' section of the Standards for Commissioners. This links to Prevent and Deter, as well as the Inform and Involve sections.

7.2 Application of sanctions

The NHSCFA document [Applying appropriate sanctions consistently – Policy statement](#) describes NHSCFA's approach to pursuing sanctions. It outlines the range of available sanctions, specifying that these should be considered at the earliest opportunity in cases of suspected fraud, bribery or corruption affecting the NHS. The document states that any or all of these types of sanctions may be pursued where and when appropriate.

NHS England is committed to apply the full range of sanctions available to it wherever possible to tackle economic crime; this includes criminal, civil, disciplinary, contractual, regulatory and professional body action.

To publicise investigation outcomes, NHSCFA has a [NHSCFA News](#) page on its website. NHS England publicises successfully prosecuted cases by NHS England or NHSCFA using SharePoint (staff intranet) and will use all appropriate media and channels which are available to increase awareness throughout NHS England.

The communication of successfully applied sanctions also features in the CFS presentations, tailored for the audience to ensure relevance and maximum effect. This creates a deterrent effect, as well as updating and reassuring stakeholders appropriate action is being taken to safeguard resources intended for patient care.

7.3 Seeking recovery

NHS England is committed to seeking and supporting appropriate recovery for the fraudulent or inappropriate diversion of NHS funds to those who were not entitled. Where appropriate or necessary recoveries will be sought using every means possible including but not limited to:

- agreement
- compensation or confiscation awarded by a court (including recoveries obtained using the Proceeds of Crime Act),
- contractual or civil recovery,
- access to any NHS Pension funds accrued.

Where a case might not pass the threshold for prosecution, NHS England will hold the contractor to account by seeking a recovery any amounts overpaid. The NHS England Legal Team will assist in this regards.

In some of NHS England's business areas, such as primary care, the contractual arrangements are particularly complex and identifying and quantifying the loss endured or potential overpayments made is not without its challenges. The NHS England Counter Fraud Team will work with its Region and National Teams, as well as the Legal Team to coordinate and develop this work as efficiently as possible, ensuring a consistent approach across business areas and nationwide.

As described in section 5.5 there are numerous large scale initiatives under way to seek to recover NHS England funds. These include the Prescription Exemption Checking Service (PECS), Dental Patient Benefit Eligibility Checking Scheme (BECS), Dental Exemption Checking Service (DECS) and the Dental Activity Review, which is focussed on dental contractors.

The recovery of funds lost to fraudulent or inappropriate behaviour, as with the application of sanctions is vitally important to return those funds to the NHS but also assists in creating a deterrence effect. It contributes to modifying the behaviour through increased awareness of the consequences of their actions.

8 Summary and conclusion

Fraud, bribery and corruption are complex, hidden crimes that represent losses to NHS England and therefore impact the care which can be provided to patients. Whilst the nature and extent of the losses are not fully understood, it is clear that any loss as a result of dishonesty is too much. This is of particular relevance in a time of economic challenges when the NHS is redesigning the delivery of services to make the required efficiencies to provide a sustainable future. This strategy describes the context in which NHS England's response to economic crime sits.

NHS England and its key partners already have initiatives under way which are targeting fraudulent and inappropriate behaviour. It is recognised that a much more collaborative approach is necessary to effectively tackle the risks posed to patient care by economic crime. A key element of this is the sharing of information and the most effective use of the information that is already available.

Technology has a pivotal role to play in the future development of the NHS. The proactive use of innovative data analytics, used to target gaps in intelligence of known risk areas to increase the intelligence available and increase our understanding of the risks and the extent of potential losses is key.

In order for NHS England's response to economic crime to be effective it needs to be truly embedded through the whole organisation. The NHS is transformational in nature and the focus of everything it does is to increase the quality of care received by patients. Ensuring that anti-fraud measures are incorporated or considered within new models of care, initiatives and technology at an early stage will be essential.

Where fraud occurs NHS England need to be able to respond and to professionally investigate, as appropriate. The consistent application of sanctions and the recovery of NHS funds wherever possible will always be vitally important not only from a moral standpoint but also to create a deterrence effect with a view to prevention.

NHS England worked with its key internal and external stakeholders in the creation of this strategy. NHS England understands that collaboration with all its stakeholders will be necessary to implement this strategy in the medium and long term, which shall strengthen the arrangements already in place to combat economic crime.

9 Appendix

9.1 Glossary

Term	Definition in the context of this document
Audit and Risk Assurance Committee (ARAC)	A sub-committee of the NHS England Board
Armed Forces Healthcare	Healthcare services or facilities for members of the Armed Forces or their families.
Arm's Length Bodies (ALBs)	Standalone organisations funded by the Department of Health and Social Care, but work closely with the local NHS, social care services and other ALBs to regulate the system, improve standards, protect public welfare and support local services.
Cabinet Office	A ministerial department which supports the Prime Minister in the effective running of government. The Cabinet Office is also the corporate headquarters for government.
Clinical Commissioning Groups (CCGs)	Statutory NHS bodies which commission local healthcare services
Co-commissioning	The commissioning of general practice services with the involvement of, or delegation of responsibilities to CCGs.
Commissioning	The purchasing of healthcare services
Commissioning Support Units (CSUs)	Non-statutory organisations hosted by NHS England and provide support services to NHS and non-NHS bodies.
Conflict of Interest	Interests which could impair or influence the judgement of an individual in performing a particular role
Data analytics	The process of analysing data to verify and validate transactions, or identify potential outliers or indicators of fraudulent behaviour
Dept. of Health and Social Care (DHSC)	A ministerial department, supported by 15 Arm's Length Bodies and a number of other agencies and public bodies.
DHSC Anti-Fraud Unit (AFU)	A unit based within DHSC which leads on anti-fraud matters across the health group
Delegated Commissioning	The delegation of the commissioning of general practice services to CCGs.
Devolution	Joint working or delegation of health functions across health bodies and local government
Direct Commissioning	Healthcare services commissioned directly by NHS England
Forensic Reviews	A detailed review of transactions or claims and supporting documentation
Governance	How organisations are managed and decisions are made
Health Group	The Department of Health, NHS and their associated Arm's Length Bodies
Independent Contractor	A contract holder who provides primary care services (interchangeable with Primary Care Contractor).
Information	A framework for handling personal information in a

Term	Definition in the context of this document
Governance	confidential and secure manner to appropriate ethical and quality standards.
Integrated Care Systems	NHS organisations, in partnership with local councils and others, take collective responsibility for managing resources, delivering NHS standards, and improving the health of the population they serve.
Regional Teams	The regional/sub-regional teams of NHS England.
NHS Improvement	The operational name for an organisation that brings together: Monitor, the National Trust Development Authority, Patient Safety, Advancing Change Team and the Intensive Support Teams.
NHS Counter Fraud Authority (NHSCFA)	A Special Health Authority formed on 1 November 2016 and replaces NHS Protect as the lead anti-fraud organisation in the NHS
NHS Business Services Authority (NHSBSA)	A Special Health Authority and an Arm's Length Body of the Department of Health who provide services to NHS organisations, NHS contractors, patients and the public.
Open Exeter	Open Exeter is a web-enabled viewer which gives access to patient and financial data held on the National Health Application and Infrastructure Services (NHAIS).
Pacific Programme	NHS BSA leads the Pacific team which works collaboratively with NHS Bodies to deliver sustainability for the NHS by saving £1 billion for patients, improving health and wellbeing and increasing the quality of patient care.
Patient Exemption	Where a patient claims exemption of health costs due to the receipt of a benefit or another qualifying reason.
Primary Care Support England (PCSE).	Outsourced provider of key administrative and payment services, to managing supplies, performers list and market entry applications through to moving medical records. Provides services to GPs, Dentists, Opticians and Pharmacists as well as those working in the teams around them and associated disciplines.
Primary Care Support Services (PCSS)	The term used for the services delivered to primary care prior to outsourcing of PCSE on 1 September 2015.
Post Payment Verification	A retrospective assurance activity to verify the validity of a claim for payment to supporting documentation.
Primary Care	General Practice, Dental, Pharmaceutical and Eye Health services
Primary Care Contractor	A contract holder who provides primary care services (interchangeable with Independent Contractors).
Proactive Anti-Fraud	Anti-fraud work conducted that is not as a result of an allegation but seeks to raise awareness, prevent, detect or deter fraud.
Procurement	The process conducted and act of buying goods or services.
Providers	NHS Trusts or other organisations providing healthcare services
Public Health	Helping people to stay healthy and protecting them from threats to their health.

Term	Definition in the context of this document
Reactive Anti-Fraud	Investigative work conducted as a result of an allegation or information.
Secondary Care	Healthcare provided in hospitals. It includes accident and emergency departments, outpatient departments, antenatal services, genitourinary medicine and sexual health clinics.
Sexual Assault Services	Health services for people who experience sexual assault or rape.
Specialist Services	Services provided in relatively few hospitals, accessed by comparatively small numbers of patients but with catchment populations of usually more than one million.
Standards for Commissioners	Standards developed by NHSCFA to support commissioners to implement appropriate measures to tackle fraud, bribery and corruption.
Standing Financial Instructions (SFIs)	Financial responsibilities, policies and procedures adopted by an NHS organisation.
Strategic Intelligence Assessment (SIA)	The NHSCFA view of the current and emerging crime risks and issues impacting upon the NHS's ability to care for the nation's health. The assessment seeks to highlight the nature and extent of the identified crime problems and those business areas where the picture is less clear and in need of enhancement.

9.2 References

[Fraud Act 2006](#)

[Bribery Act 2010](#)

[NHSCFA 2018/19 Business Plan](#)

[NHSCFA Strategic Intelligence Assessment](#)

[NHSCFA Organisational Strategy 2017-2020](#)

[The Seven Principles of Public Life](#)

[Computer Misuse Act 1990](#)

[NHS Act 2006](#)

[Health and Social Care Act 2012](#)

[Human Rights Act 1998](#)

[NHS Constitution for England](#)

[Five Year Forward View](#)

[NHS England Business Plan](#)

[Cities and Local Government Devolution Act 2016](#)

[Drug Tariff](#)

[Crime Survey for England and Wales 2017](#)

[Data Protection Act 2018](#)

Directions to NHS Bodies on Counter Fraud Measures

[Regulation of Investigatory Powers Act 2000](#)

[Health Act 2006](#)

[Theft Act 1968](#)

[Theft Act 1978](#)

[Computer Misuse Act 1990](#)

[Criminal Law Act 1977](#)

[Criminal Procedure and Investigations Act 1984](#)

[NHSCFA Anti-Fraud Manual](#)

[NHSCFA Investigation File Toolkit](#)

[Standards for Commissioners: Fraud, bribery and corruption](#)

[Standards for Providers: Fraud, bribery and corruption](#)

[Proceeds of Crime Act 2002](#)

9.3 Associated Documents

[Tackling Fraud Bribery and Corruption Policy and Corporate Procedures](#)

[NHS Standard Contract](#)

[Improvement and Assessment Framework for CCGs](#)

[Standards of Business Conduct Policy](#)

[Statutory guidance on managing conflicts of interest for CCGs](#)

[Managing conflicts of interest in the NHS: Guidance for staff and organisations](#)

[Improvement and Assessment Framework for CCGs](#)

9.4 Stakeholders engaged in the production of this strategy

9.4.1 NHS England

- Chief Financial Officer
- Director of Financial Control
- Head of Assurance
- Local Anti-Fraud Coordinators
(finance representatives from the NHS England Regional Teams and CSUs)
- Strategic Finance
- Primary Care Commissioning
- Operations and Information: Assurance and Regulation
- Commissioning Strategy
- Commissioning Policy
- System Transformation
- Corporate IT
- Legal Team
- CCG Assurance
- CSU Finance
- NHS England Counter Fraud Specialists

9.4.2 External stakeholders

- NHS Counter Fraud Authority
- NHS Business Services Authority
- NHS employed CCG counter fraud providers (section 6.4)
- TIAA Limited (section 6.4)
- National Audit Office
- Deloitte LLP (as outsourced counter fraud provider re: version 1.0 and internal audit provider re: version 2.0)
- DHSC Anti-Fraud Unit