



Department  
of Health &  
Social Care

# Accessing and using documents to counter fraud in the NHS: Code of Practice

(Part 10, National Health Services Act 2006)

<b>DHSC ID box</b>
<b>Title:</b> Accessing and using documents to counter fraud in the NHS: Code of Practice (Part 10, National Health Services Act 2006)
<b>Author: Finance and Group Operations/ Anti-Fraud Unit / DHSC AFU / 14604</b> NB: We require a cost centre number in case we need to produce an accessible/braille/audio version of the document under the Equalities Act 2010
<b>Document Purpose:</b> Policy/Guidance/Transparency
<b>Publication date:</b> 17 May 2018
<b>Target audience:</b> NHS England, Clinical Commissioning Groups, Special Health Authorities, NHS Trusts, NHS Foundation Trusts, health service providers, NHS contractors, statutory health bodies, public health service contractors.
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## Executive summary

Part 10 of the National Health Service Act 2006 (the Act) requires the production of documents in connection with the exercise of the Secretary of State's counter fraud functions. These functions include taking action for the purpose of preventing, detecting or investigating fraud, corruption or other unlawful activities carried out against or otherwise affecting;

- the health service, or
- the Secretary of State in relation to his responsibilities for the health service.

These functions have been delegated to a national body and the Secretary of State has directed that they are to be exercised on its behalf by its authorised officers. This Code of Practice sets out the "best practice" to be followed by the national body and its authorised officers in the use of its delegated powers in relation to:

- the obtaining, handling, using and disclosing of documents by authorised officers, including the treatment of personal records;
- the production of documents to authorised officers;
- the storage, use and retention of documents produced to authorised officers.

The Code was first issued in 2008. It has been revised because the previous code referred to the NHS Business Services Authority which no longer has these delegated function and because it made provision in respect of the Secretary of State's security management functions<sup>1</sup>. The Code is reissued by the Department of Health and Social Care in relation to England under section 200 of the National Health Service Act 2006<sup>2</sup>.

### **The revised Code comes into force on 18 May 2018**

Issue Date: 17 May 2018

Issue No. 2

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<sup>1</sup> On 1 November 2017, the NHS Counter Fraud Authority was established as the national body via the NHS Counter Fraud Authority (Establishment Constitution and Staff and Other Transfer Provisions) Order 2017 (2017/958)

<sup>2</sup> A Code of Practice for the use of powers to counter NHS fraud and security incidents" originally issued by the Department of Health 9 April 2008 following consultation in accordance with section 200(3) of the Act.

# Definition of terms used in this Code

## Accredited Counter Fraud Specialist

A person accredited by the Counter Fraud Professional Accreditation Board or similar organisation providing counter fraud prevention detection and investigation accreditation to government departments. The Board is a non-statutory regulatory body hosted by the University of Portsmouth which delivers professional counter fraud training and continuous professional development to accredited specialists to maintain its professional standards.

## Anonymised data

Information, including personal and clinical records, which does not identify an individual directly, and which cannot reasonably be used to determine identity. Anonymisation requires the removal of name, address, full post code and any other detail or communication of details that might support identification.

## Authorised officers

Officers of the national body specifically authorised by the national body to exercise powers under Part 10 of the National Health Service Act 2006. An officer is someone whom the designated officer considers has the knowledge, skills and experience necessary to exercise the delegated functions and who is an accredited counter fraud specialist. Fraud investigators who are not authorised can be involved in the initial investigatory work but not if Part 10 powers are to be applied.

## Clinical Specialists

People employed or contracted by the national body to assist in an investigation. All clinical specialists are registered practitioners in their field of expertise, with a minimum of five years of recent experience. As well as completing their generic clinical education, they have also developed an expertise in a specialist area of their field. This may include, but is not limited to, dentists, general practitioners, optometrists and pharmacists. Clinical specialists carry out their role in accordance with six principles of good practice; propriety, objectivity, professionalism, expertise, vision and fairness.

## Documents

Anything in which information of any description is recorded. This includes, but is not limited to: reports, analysis, correspondence, memos, appointment books, patient records, patient record cards, x-rays, accounting records, invoices, purchase orders, bank statements, cheque receipts, occupational health records, statutory returns and claims for services or other reimbursement requiring signature or confirmation of claim. It includes information stored on an electronic device capable of being printed to paper or saved to other media such as disks, hard drives, zip drives, USB storage devices, DVD, optical drives.

## Establishment order

The NHS Counter Fraud Authority (Establishment, Constitution and Staff and Other Transfer Provisions) Order 2017 (SI 2017/958).

## Forensic computing specialists

Specialists employed by the national body to assist in investigations by accessing information stored on computers or other electronic storage media. All forensic computing specialists are also Accredited Counter Fraud Specialists.

## Fraud

This collectively includes refers to fraud, bribery, corruption, money laundering and other kinds of economic crime.

## National body

The national body is a Special Health Authority who for the time being lawfully exercise functions delegated to them by the Secretary of State under the NHS Act 2006.<sup>3</sup>

## Personal records

Has the same meaning as in section 12 of the Police and Criminal Evidence Act 1984. It refers to documentary and other records concerning an individual (whether living or dead) who can be identified from them and relating to any of the following:

- physical or mental health;
- spiritual counselling or assistance given or to be given to an individual; and

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<sup>3</sup> As at 1st April 2018 it is the NHS Counter Fraud Authority. NHS Counter Fraud Authority (NHS CFA) took over delivery of the Secretary of State's counter fraud functions for the health service previously carried out by NHS Protect (also known as the NHS Counter Fraud and Security Management Service) a division of the NHS Business Services Authority. NHS Protect ceased to exist on the date that the NHS CFA came into force (1 November 2017).

- counselling or assistance given or to be given to an individual, for the purposes of personal welfare, by any voluntary organisation or by any individual who either because of their occupation has responsibility for that person's personal welfare or who is required to supervise them under the terms of a court order.

### Secondary legislation

Article 4(3) and Schedule 1 of The NHS Counter Fraud Authority (Establishment, Constitution and Staff and Other Transfer Provisions) Order 2017 (SI 2017/958). Under sections 197 and 198 of the National Health Service Act 2006 Act, the Secretary of State has powers to require compulsory disclosure of information in connection with health service fraud matters. These powers may be delegated to a special health authority in accordance with section 199 of that Act<sup>4</sup>.

### The Act

This refers to the National Health Service Act 2006.

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<sup>4</sup> The provisions in NHS COUNTER FRAUD AUTHORITY Order are made under Section 105 of the Deregulation Act 2015 to combine enabling powers which would otherwise require to be made in the form of regulations.

# 1. Introduction

## Delegated powers

1.1. Part 10 of the Act, together with secondary legislation<sup>5</sup> provides the national body with the statutory framework to exercise the Secretary of State's power to require the production of documents in order to prevent, detect or investigate fraud, corruption or other unlawful activities carried out against or otherwise affecting the health service or the Secretary of State in relation to his responsibilities for the health service. The delegation of these functions to the national body means that in specified circumstances it has the power to require the production of documents from all NHS bodies, statutory health bodies, health service providers and public health service NHS contractors.

## Purpose of the Code

1.2. Section 200 of the National Health Service Act 2006 allows the Secretary of State to issue a Code about the use of powers to require documents to be produced under section 197 or 198 of the Act by or on behalf of a designated national body and the procedures to be followed in relation to the disclosure and use of information obtained under those powers.

1.3. The Code sets out "best practice" on how the powers are expected to be used. In particular:

- the obtaining, handling, using and disclosing of documents by authorised officers, including the treatment of personal records;
- the production of documents to authorised officers;
- the storage, use and retention of documents produced to authorised officers.

1.4. The Code of Practice is admissible as evidence in criminal or civil proceedings but failure to observe any provision within this Code does not itself make a person liable to any criminal or civil proceeding<sup>6</sup>.

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<sup>5</sup> At the date of publication the relevant secondary legislation is Article 4(3) and Schedule 1 of The NHS Counter Fraud Authority (Establishment, Constitution and Staff and Other Transfer Provisions) Order 2017 (SI 2017/958). This established the NHS Counter Fraud Authority as the national body.

<sup>6</sup> Part 10, Section 200 (7) of the NHS Act 2006. about a Code which relates to the exercise of functions under section 197 or 198 by or on behalf of a SHA and information obtained by or on behalf of a SHA.



1.5. The Code should be used:

- to define the practice to be followed by the national body and its authorised officers, and provide a reference point against which that practice can be checked;
- by those who are required to produce documents, to provide them with information about what to expect from the national body and its authorised officers, and to provide assurance that the documents will be used correctly.

1.6. This first issue of the Code of Practice has been developed in consultation with key stakeholders in the NHS<sup>7</sup>. In the opinion of the Secretary of State that the Code is not substantially changed by this revised Code and so no consultation of the revised code is required. In developing this Code of Practice, due regard has been given to issues of equality.

1.7. A full Equality Impact Assessment specifically for this Code of Practice is not considered necessary at this stage, but will be kept under review in accordance with the monitoring arrangements described in paragraph 7.1.

## Principles of the code

1.8. All authorised officers who ask for documents to be produced to them are required to follow the principles of a national body by:

- limiting such requirements to the minimum necessary;
- requiring anonymised patient information wherever possible; and
- seeking information for defined purposes only.

1.9. The Act (section 201) also requires that all documents received by the national body under these powers will only be disclosed for the purposes provided for in the Act. In addition to this requirement, the national body will aim to seek patient consent whenever patient identifiable information needs to be disclosed.

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<sup>7</sup> Department of Health carried out a consultation on the “A Code of Practice for the use of powers to counter NHS fraud and security incidents” originally issued on 9 April 2008.

## 2. Receiving an allegation of fraud

- 2.1. Allegations of fraud, corruption or bribery may be received by the national body from a number of sources. These include referrals from NHS commissioners and providers, a concerned healthcare professional, member of the public, or through the NHS Fraud and Corruption Reporting Line and online fraud reporting tool.
- 2.2. Information relevant to the alleged fraud will be collected. If it is deemed that there is some substance to the allegation and so Health Act powers may be applied, the case will be assigned to an authorised officer.
- 2.3. The authorised officer will need to gather further relevant information, some of which may require the production of documents, using the powers provided in the Act.

## 3. Serving the notice

- 3.1. Where there are reasonable grounds for suspecting that documents containing relevant information are in the possession or under the control of any NHS body, statutory health body, health service provider, public health service contractor or NHS contractor (section 196(5)), and that information is relevant for the prevention, detection or investigation of fraud against the NHS, the authorised officer will require the production of documents by serving a notice to a named person who they have reasonable grounds for suspecting is accountable for those documents (section 197(2 and 3)).
- 3.2. The notice must be served on a person listed in section 197(3) and this includes any member, officer or director of the relevant organisation; any other person who takes part in the management of the affairs of that organisation; any person employed by that organisation; and in the case of a health service provider, a public health service contractor or where the NHS contractor is an individual, that individual. This person must be accountable for the documents and the Act defines a person as 'accountable' if he has either day-to-day, or an overall, responsibility for the custody or control of the documents (section 197(10)).
- 3.3. An authorised officer will usually make contact with a senior manager of the relevant organisation in the first instance because they normally have overall accountability for the documents. However, if the senior manager is unavailable or does not have specific responsibility for the required documents, other staff with day to day accountability for the documents will be contacted and the notice may be served upon them.
- 3.4. Where documents are required to be produced, the authorised officer may telephone the person who is accountable in advance to arrange a time and place for the production. The written notice (section 197(9)) may then be served by post (section 203(2)(c), at which point it becomes effective.
- 3.5. Alternatively, the notice may be delivered in person or by leaving it at their proper address (section 203(2)).
- 3.6. When the notice is served, the authorised officer will provide evidence of their authority to issue that notice. If evidence of authority is not produced to the person served with the notice, they are not bound to produce the documents specified or described in the notice (section 198(7)). The authorised officer will provide a copy of this Code of Practice when serving a notice or collecting the produced documents, including details of where further copies can be obtained.

3.7. Each notice will include:

- Details of the documents required
- The name and address of the individual or NHS body that is suspected to be in possession or control of the documents required
- The job title, and if known, the name of the person who is accountable for the documents
- A reference to Part 10 of the Act
- Details of the arrangements for the production of the documents, including the time and place at which the documents are to be produced. This will be at a reasonable hour (section 197(6) and (7))
- Details of the penalties for failing to comply with a notice
- The name, business address and signature of the authorised officer serving the notice
- The name and logo of the national body

3.8. There may be circumstances when in the opinion of the Authorised Officer, documents need to be produced immediately. This may occur when the case is particularly urgent and sensitive, or when there is a risk that documents will be destroyed. There may also be circumstances where the accountable person will prefer to produce the documents immediately, for example, if they are planning to be away for the remainder of the week.

3.9. Where immediate production is not required, where possible, the time and date will be agreed with the person who is to be served the notice. The production of documents will only be required at a reasonable hour (section 197(6)).

3.10. What is reasonable in any particular circumstance will vary. It would usually be considered reasonable for production to be required during normal working hours. However, where the person who is served the notice has a direct involvement with frontline patient care and no advance warning has been given, it would not be considered reasonable for the production of documents to interrupt that care. It would then be appropriate to arrange a time either prior to the clinical practice opening for the day or once it has closed, or at a break during the clinic. Patient care will not always be a factor, for example where documents are required from a head office or contractor.

3.11. There may be circumstances when a person who is served the notice requests more time to comply with the requirements of the notice (section 197(8)). If they do, they will need to state clearly the reasons why they are

requesting an extension. The authorised officer will carefully consider their request, and take into account the following key factors:

- Was the original timescale given reasonable?
- Were there any factors affecting the original timescale (e.g. the person served with the notice was off work unexpectedly)?
- Is the requested extension reasonable?
- Are there any factors indicating the request for extension is for an inappropriate reason?
- Will the extension have an adverse impact on the investigation?

3.12. For example, if the request for an extension is required because compliance with the notice will have a direct impact on frontline patient care, it is likely to be extended, subject to consideration of the other key factors above. If the person requests an extension as they wish to discuss production of documents with their manager or a third party during a break during their clinic, an extension is likely to be granted. However, if the extension they request is for an extended period of time, for example several weeks, it is unlikely to be given.

3.13. The officer should make a record of the reason for the requested extension and the grounds on which it was agreed to vary the notice or why the request was declined.

3.14. If the authorised officer agrees that an extension can be granted, a revised written notice will be issued with a new date and time for production (section 197(9)), and the reason for the extension will be recorded.

3.15. If the recipient of a notice refuses to produce the required documents or gives false or misleading information, they should be warned in plain language that failure to comply with the requirement without reasonable excuse is a criminal offence that could result in prosecution, imprisonment and/or a fine.

## 4. Production of documents

- 4.1. In all cases, the powers to require the production of documents should be exercised courteously and with respect for the persons and property of those concerned.
- 4.2. Once a notice has been served and the documents provided, the authorised officer may remove any material produced in compliance with the notice (section 198(2) (a)) or take copies of, or extracts from the documents (section 198(2) (b)).
- 4.3. The authorised officer may also ask the person producing the documents to provide an explanation of them (section 198(2)(c)). The questions asked by the authorised officer should relate to the nature of the documents produced, for example the difference between a pink form and a white form, rather than the reason for specific entries on the forms. If the person fails to give an explanation without a reasonable excuse, they may commit an offence (section 204(1)).
- 4.4. The person producing the required documents may ask for a copy of the documents. If the authorised officer believes this request is reasonable, for example, there is a legitimate business need for them, copies will be made. Where practical, copies should be made on site, however, if this cannot occur, the document will be removed to be copied and returned as soon as possible (section 198(3)).
- 4.5. All reasonable steps should be taken to accommodate an interested person's request to be present during the production of documents, provided the request is reasonable and subject to the need to prevent interference with, or unreasonable delay to, the investigatory process. For example, if a notice is served on an administrator who has control of the records that are required for production, that person may wish to speak to another more senior person within an organisation or business to request their attendance. It may be reasonable to allow a short delay to facilitate this. The length of this delay will take into account the same factors outlined in paragraph 3.11.
- 4.6. Information may be stored on computers or other electronic storage media. In these circumstances, forensic computing specialists may be used to access the necessary information. If possible this will be done on site without the removal of equipment. If it is not possible to access the necessary information on site, the equipment will be removed from the premises by the forensic computing specialists and will be stored and accessed in a secure laboratory.

- 4.7. An authorised officer should complete a list of the documents removed and make an appropriate written record. This may include generic descriptions for large quantities of documents, or specific descriptions for individual documents. For example, accountancy files for the period 2012-2017 would not be individually listed but the appointment record for the week commencing 27 July 2017 would be. The log will include a record of any requests for copies of the documents taken, and the decision made. Where copies are made, the log will record whether these have been left with the person on whom the notice was served. A copy of this record will be given to the person on whom the notice was served before the authorised officer leaves the premises.
- 4.8. Any documents produced in accordance with the notice may be reviewed at the site or taken away to another secure location to be reviewed. All documents will be transferred in a safe and responsible manner, and access will be strictly limited to those individuals who need it in accordance with the five conditions imposed by section 201 of the Act.
- 4.9. Legal professional privileged documents should not be required to be produced. However, in the unlikely event that they inadvertently are, the person requested to produce documents has the right to withhold them (section 198(8)). The phrase 'legal professional privilege' is a privilege recognised by the courts to protect the confidentiality of communications between a solicitor and their client. If in the documents produced to the authorised officer he identifies a document as 'legal professional privileged', he may not remove that document and will return it to the person who produced it.
- 4.10. If a person required to produce documents fails to comply with the notice, the authorised officer may require that person to state, to the best of their knowledge, where those documents are (section 198(6)). The authorised officer will provide evidence of their authority to require such a statement. If evidence of authority is not produced at the time this explanation is required, that individual does not have to make a statement.
- 4.11. If, during the production of documents, a person knows they are giving a false or misleading statement or recklessly gives a false or misleading statement, this may commit an offence. For example, if a person fails to produce the documents and states that they are held in storage at a different location that they do not have access to, when in fact the documents are held in the original location and they do have access (section 204(4)).

- 4.12. If the person required to produce the documents fails to do so, they may be invited to attend a formal interview under caution with the authorised officer at an agreed time and location. Any interview will be conducted in accordance with the Police and Criminal Evidence Act (1984) Codes of Practice. Details of the possible penalties for offences committed under Part 10 of the Act are set out in Annex 3.



## 5. Personal records

5.1. The majority of investigations undertaken by authorised officers relate to financial irregularities where personal records may not be relevant to an investigation. However, there may be circumstances when personal records are needed to ensure that all the relevant facts can be taken into account and for an investigation to proceed. For example, a contractor could claim payment for more expensive products or services than were actually provided. In this case, it may be necessary to identify which patients received the services. Personal records may also for example be required if NHS England<sup>8</sup> or a Clinical Commissioning Group contacts the national body about irregularities in forms submitted from a clinical practice. In this instance, it may be necessary to compare clinical patient records with patients' accounts of the treatment they received.

5.2. In order to ensure that patient care and confidentiality is not jeopardised in any way, the following safeguards have been developed in consultation with stakeholders where personal records are required:

- An authorised officer will seek prior specific authorisation from a designated officer of the national body before personal records can be required<sup>9</sup>.
- To grant an authorisation, the designated officer needs to be satisfied that there are reasonable grounds for requiring personal records. Key considerations are:
  - The description of the documents required
  - The reasons for the application
  - Whether or not each of the documents are necessary for the purposes of the exercise of the counter fraud functions.
  - The description of the proposed arrangements for safeguarding the documents whilst in the possession or under the control of the national body.

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<sup>8</sup> NHS England is legally referred to as the National Health Service Commissioning Board

<sup>9</sup> At the date of publication of this Code, the term “designated officer” was defined in the Establishment Order as the person responsible for considering and authorising an application to obtain personal records.

5.3. The application and the decision to approve or reject the request will be recorded on the form provided by the national body for the purpose. When the authorised officer has a specific authorisation to obtain personal records, they will produce evidence of their authority to issue that notice at the time of serving the notice or when requiring the person to state, to the best of their knowledge and belief, where the documents are.

5.4. A clinical specialist may be brought in to assist with an investigation when personal records are required. If they are required, the clinical specialist's role is to:

- facilitate co-operation between the authorised officer and the person who has been served the notice to ensure the investigation does not compromise patient care
- sift the personal records which have been produced to the authorised officer to identify and to interpret which records are relevant to an investigation where this is possible.

5.5. For example, if specific information from a small number of individuals records are required, it may not be considered necessary for a clinical specialist to be requested to assist, however where a large volume of material from personal records is requested it may be appropriate for a clinical specialist to be asked to assist in order to ensure that only relevant documents are retained.

## 6. Storage, use and retention of records

- 6.1. All documents produced in compliance with a notice will be transported and stored securely. Robust systems will be in place to ensure that all documents can only be accessed for the purposes for which they were seized.
- 6.2. Relevant documents will be retained by the national body in accordance with relevant legislation, for example, the General Data Protection Regulation 2016 ((EU) 2016/679), the Data Protection Act 1998 and Criminal Procedures Investigation Act 1996.
- 6.3. During the course of an investigation, the authorised officer must ensure that information relating to the case is not disclosed to other individuals or organisations unless the specific conditions provided for in the legislation are satisfied (section 201). If these conditions are not adhered to and the authorised officer wrongly discloses information obtained through these powers, they may commit a criminal offence. A person found guilty of this offence will be liable to imprisonment, a fine, or both (section 205). Cases will be reviewed by line managers at least once a month to ensure authorised officers are acting in compliance with the legislation.
- 6.4. Information obtained from personal records is 'protected information' if it is disclosed for the purposes of civil, criminal or disciplinary proceedings and the identity of the individual in question can be ascertained from the information itself. Information is also 'protected information' when the person disclosing it reasonably believes it is possible for the individual's identity to be ascertained when this information is combined with other disclosed information obtained in compliance with a notice served under section 197 or 198 (section 202(1)).
- 6.5. All reasonable steps must be taken to ensure that protected information (both original documents and copies) is not further disclosed to someone who does not need to have it for any purpose connected with the proceedings. This will include a statement on the top of the protected information, which clearly identifies it as 'protected information' and advises of the restrictions on onward disclosure (section 202(2)).

6.6. Documents will be returned as soon as possible to the body from which they were obtained in accordance with the national body's retention and destruction policy. It should be noted that there are legal obligations to retain documents following legal proceedings.

## 7. Reviewing this code of practice

7.1. This Code of Practice will be kept under review and may be updated if necessary (section 200(2)). If a substantial revision to the Code of Practice is needed, further consultation with stakeholders will be undertaken (section 200(4)).

# Annex 1: Key features of the National Health Service Act 2006 Part 10, S. 195 - 210

1. Part 10 (sections 195-210) of the Act, confers powers to require the compulsory production of documents for the purpose of preventing, detecting or investigating fraud, corruption or other unlawful activity in the health service (section 195(1)).
2. Sections 7 and 199 of the Act provide for the delegation of these functions. Through article 4(3) and Schedule 1 of the Establishment Order, the NHS Counter Fraud Authority is directed to manage these functions.
3. By virtue of these provisions, an authorised officer (section 210(1) and (5)) can serve a notice (section 197(2)) requiring the production of documents that relate to an alleged fraud in the NHS.
4. The notice can be served for the prevention, detection and investigation of a fraud matter where there are reasonable grounds for suspecting that documents containing relevant information are in the possession or under the control of any NHS body, statutory health body, health service provider, public health contractor or person contracted to provide NHS services (sections 197(1) and 196). The notice will be served on individuals that are accountable for the documents (section 197(1)(b) and (3)).
5. Section 201 protects information from disclosure with certain exceptions, and outlines the circumstances in which information obtained using the powers can be disclosed by, or on behalf of, the appropriate national authority. Information obtained by the use of these powers must not be disclosed unless it is required for at least one of the five specific conditions set out in the Act, or the patient has given their consent.

6. Section 202 of the Act provides for the protection of personal records disclosed for the purposes of proceedings from which the identity of the individual that they are about can be ascertained. This would include identification from that information alone, or if the discloser has reasonable cause to believe that any person who may receive the information, either directly or indirectly, will be able to identify an individual by using that information together with other information obtained by the appropriate national authority through the use of powers under this Chapter and disclosed by or on behalf of that national authority.
7. When a notice has been served, failure to provide the documents required within the timeframe specified on the notice may result in criminal prosecution (section 204).
8. If a person is prosecuted and they are found guilty of the offence, they could be sentenced to imprisonment, fined, or both (section 204(2)). Following conviction, if the person continues to fail to provide the documents required, that person will commit a further offence and also be subject to an additional daily fine.
9. A person also commits a criminal offence if, whilst claiming to comply with the requirements of the notice served on them they knowingly or recklessly makes a false or misleading statement (section 202(4)). In order for a person to be convicted the Court will need to determine if a person has acted knowingly or recklessly.
10. Section 205 of the Act includes criminal offences for the improper disclosure or use of information obtained through the use of these powers.

# Annex 2: Offences under Part 10 of the NHS Act 2006

## **S.204(1) - Failing to Produce documents**

If the person who is responsible for the documents fails to produce the listed documents without reasonable excuse they are liable to be prosecuted. A person guilty of an offence is liable on summary conviction to:

- imprisonment for a term not exceeding 51 weeks;
- a fine not exceeding level 3 on the standard scale; or
- both.

## **s.204(4) - False or misleading statements**

If a person, in apparent compliance with the requirements imposed under s198 of the Act, knowingly or recklessly makes a materially false or misleading statement they may be liable to prosecution. This offence may in certain apply to authorised officers and to those served with a Notice. The offence relates to “any requirement” imposed by section 198, which includes requirements on Authorised Officers. A person guilty of an offence is liable:

- on conviction on indictment -
  - imprisonment for a term not exceeding 2 years;
  - an unlimited fine; or
  - both
- on summary conviction -
  - imprisonment for a term not exceeding 51 weeks;
  - a fine not exceeding the statutory maximum; or
  - both.

## **s.205 - Wrongful disclosure by the Authorised Officer**

The Authorised Officer is liable to be prosecuted if information obtained through these powers is wrongly disclosed. If found guilty of the offence he is liable to:

- on summary conviction -
  - imprisonment for a term not exceeding 51 weeks;
  - a fine not exceeding the statutory maximum; or
  - both.
- on conviction on indictment -
  - imprisonment for a term not exceeding 2 years;
  - an unlimited fine; or
  - both.



## Annex 3: Complaints

If you have any complaints about the information in this code or the conduct of an authorised officer when using the powers, please contact:

By letter (marked "private and confidential"):

Head of Business Support  
NHS Counter Fraud Authority  
Fourth floor  
Skipton House  
80 London Road  
London SE1 6LE

By telephone: 020 7895 4500

(Lines are open from 08:30 to 17:00, Monday to Friday, excluding bank holidays)

By email: [complaints@nhscfa.gsi.gov.uk](mailto:complaints@nhscfa.gsi.gov.uk)

A copy of the NHS Counter Fraud Authority's complaints policy can be requested by e-mail or post from the above address downloaded from their website at:

<https://cfa.nhs.uk/about-nhscfa/contact-us>

If you're not happy with how your complaint has been dealt with, and would like to take the matter further, you can contact the Parliamentary and Health Service Ombudsman. The Ombudsman makes final decisions on complaints that have not been resolved by the NHS, government departments and some other public organisations. Their service is free for everyone.

To take a complaint to the Ombudsman, go to [www.ombudsman.org.uk](http://www.ombudsman.org.uk) or call 0345 015 4033.

## Annex 4: Further information and contacts

The Code of Practice can be obtained at the Department of Health and Social Care website ([www.dh.gov.uk](http://www.dh.gov.uk) xxxx). The Code and an example of the compulsory disclosure notice and associated correspondence can be found at NHS Counter Fraud Authority website at <https://cfa.nhs.uk> or on request to the address below.

If you would like further information on this Code of Practice please write to:

NHS Counter Fraud Authority  
Fourth Floor  
Skipton House  
80 London Road  
London  
SE1 6LE

Tel: 020 7895 4500

email: [generalenquiries@nhscfa.gsi.gov.uk](mailto:generalenquiries@nhscfa.gsi.gov.uk)

or if preferred

Department of Health and Social Care Anti-Fraud Unit  
Skipton House  
80 London Road  
London  
SE1 6LE

Tel: 0207 210 4850

email: [Fraudenquiries@dh.gsi.gov.uk](mailto:Fraudenquiries@dh.gsi.gov.uk)

(open Monday to Friday, 9am to 5pm)