

Losses and Special Payments

Policy to provide guidance on how the Trust should handle any losses or special payments

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Version Control and Summary of Changes

Version number	Date	Comments (description change and amendments)
1	2012	Historical version
2	2016	Complete update of policy, limits and relevant guidance

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Equality Statement

Leicestershire Partnership NHS Trust (LPT) aims to design and implement policy documents that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others.

It takes into account the provisions of the Equality Act 2010 and promotes equal opportunities for all.

This document has been assessed to ensure that no one receives less favourable treatment on the protected characteristics of their age, disability, sex (gender), gender reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy and maternity.

In carrying out its functions, LPT must have due regard to the different needs of different protected equality groups in their area.

This applies to all the activities for which LPT is responsible, including policy development and review.

Due Regard

The Trust's commitment to equality means that this document has been screened in relation to paying due regard to the Public Sector Equality Duty as set out in the Equality Act 2010 to eliminate unlawful discrimination, harassment, victimisation; advance equality of opportunity and foster good relations.

A due regard review found the activity outlined in the document to be equality neutral because it is procedural in nature, describing internal systems and processes.

1 Purpose of Policy

This policy has been constructed to provide guidance on how staff should deal with any losses or special payments. Losses is used in a general sense to include all Trust assets, both financial and non-financial. The primary users of this policy are envisaged to be budget holders, managers and finance staff.

2 Summary and Key Points

Losses and Special Payments occur because of many different reasons, and as such should be handled in a variety of different ways. In every circumstance staff should inform their manager and finance department.

3 Introduction

Losses and special payments are items that Parliament would not have contemplated when it agreed funds for the health service or passed legislation. By their nature they are items that ideally should not arise. They are therefore subject to special control procedures compared with the generality of payments, and special notation in the accounts to draw them to the attention of Parliament. They are divided into different categories which govern the way each individual case is handled.

The Trust's Standing Financial Instructions (SFI) includes sections on losses and special payments. This guidance defines these in greater detail and describes the action to be taken when they occur.

In considering losses and special payments, it is always important to look beyond whether the proposed write off or payment represents value for money. The need for corrective action must also be carefully assessed to minimise the number (and cost) of future cases.

This guidance applies to losses of money or property belonging to the Trust. The Trust takes steps to minimise the risk of loss, damage to personal effects and property of patients. However, cases will arise justifying payment where there is no legal liability on the Trust's part.

Most of the information included in this policy has been formulated from guidance provided to Trusts by the Department of Health. It has been adapted to ensure that it is relevant to LPT.

4 **Losses guidance**

4.1 **Prevention of Loss**

The prevention of loss is a prime requirement of sound financial control, and control systems should be designed to achieve this. Losses do nevertheless occur. However, internal checks, regular supervision and internal audit must be used to ensure these are minimised.

4.2 **Types of Losses**

Losses are divided into five categories. Reporting requirements vary dependant on the category. These categories are discussed in more detail below:

4.2.1 **Losses of cash**

These may be due to:

- theft, fraud, arson, sabotage, neglect of duty or gross carelessness
- overpayments of salaries, wages, fees and allowances
- other causes, including overpayments other than those included above; physical losses of cash and cash equivalents (e.g. stamps) due to fire (other than arson), accident, or similar causes

4.2.2 **Fruitless payments, including abandoned capital schemes, and constructive losses**

A payment that cannot be avoided because the recipient is entitled to it, even though the health body will receive nothing of use in return, should be classified as a fruitless payment or a constructive loss.

A "fruitless payment" is a payment for which liability ought not to have been incurred (e.g. payment for travel tickets or hotel accommodation wrongly booked), or where the demand for the goods and service in question could have been cancelled in time to avoid liability. In other words, there must have been a degree of blame.

If there is no element of blame the payment should be classified as a 'constructive loss'. Costs associated with abandoned capital works should, however, be treated as fruitless payments if the Trust was at fault in incurring, or not avoiding the liability to make payments. They should not be recorded as a fruitless payment if the work was purely exploratory and intended from the outset to determine whether or not the scheme should be adopted.

4.2.3 **Bad debts and claims abandoned**

These cover cases involving:

- private patients

- overseas visitors
- cases other than private patients and overseas visitors (e.g. bankrupt debtors/customers).

4.2.4 Damage to buildings, their fittings, furniture and equipment and loss of equipment and property in stores and in use

These may be due to:

- Culpable causes, e.g. theft, fraud, arson or sabotage, neglect of duty or gross carelessness.
- Other causes, e.g. fire (excluding arson), weather damage, deterioration in use or in store due to some defect in administration, retention of excess or obsolete stock

4.2.5 Theft of IT equipment

The Trust should ensure that the security of IT equipment is maintained at all times. The Local Security Management Specialist (LSMS) can provide guidance on securing IT equipment. The Trusts LSMS specialist be reached at security@leicspart.nhs.uk .

4.3 Discovery of Loss

With the exception of suspected fraud, any officer discovering or suspecting a loss of any kind should immediately inform their Head of Department. Subsequent action on discovering a loss should include:

- Head of Department promptly reporting the loss in writing on the appropriate form (Appendix 1, 2 or both).
- Notifying the LSMS and submitting an eIRF.
- Immediately ending the loss and attempting to recover it other than where fraud is suspected
- Finding out the cause and taking appropriate corrective action
- Correcting any weakness in controls or supervision
- Establishing responsibility insofar as it involves inadequate supervision, negligence or misconduct, and taking appropriate disciplinary action
- Ensuring that any general lessons are picked up and applied in future
- Seeking approval, regardless of value, from the Department of Health if the case is novel, contentious or repercussive
- Reporting the loss to the Finance & Performance Committee and Audit Committee

4.4 Fraud, Bribery or Corruption

For losses apparently caused by fraud, bribery or corruption the Director of Finance must immediately notify the Board and the External Auditor. The Director of Finance must additionally inform the Local Security Management Specialist (LSMS) at once. Responsibility for informing the police of suspected theft or criminal damage will fall to the Local Security Management Specialist (LSMS).

In all cases of alleged fraud or corruption, the NHS Protect must be informed in accordance with NHS Protect Standards for Providers Fraud, Bribery and Corruption and the NHS Standard Contract. The Trust should also take appropriate disciplinary and recovery action if appropriate.

4.5 Security Incidents and Other Criminal Activity

All other security related incidents of theft or damage must be reported immediately to the Local Security Management Specialist (LSMS) security@leicspart.nhs.uk). Additionally NHS Protect should be made aware of the incident.

If damage to Trust property has been caused by a patient, the line manager of the service where the loss or damage occurs should determine the cost to the NHS and bring this to the attention of the LSMS. The LSMS will then advise on what further action should be taken such as informing the police or attempting to reclaim costs.

4.6 Recording and Reporting Losses

For all losses exceeding £1,000, the Head of Department should complete the checklist at Annex 1 to ensure that all aspects are satisfactorily considered. This will ensure that any lessons learnt are identified and acted upon. The completion of the checklist for losses below £1,000 is not required but managers should apply the principles embodied in the checklist before proposing writing off any losses.

Losses will be entered onto the Losses and Special Payments Register by the Trust's Finance Department and supporting documentation filed within the Losses and Special Payments Register file (further guidance can be found in Section 7.3 of the DH General Accounting Manual 2016-17).

All losses will be annually reported to the Trust's Finance and Performance Committee (along with the special payments data). Any losses over £300,000 will be subject to additional disclosures including a note in the accounts as identified by HMT Document: Managing Public Money 2015.

5 Special payments guidance

Special payments are those payments that fall outside the normal day-to-day business of the health body, or exceptionally, those for which no statutory authority exists. They fall into one of three main categories:

- compensation payments made under legal obligation
- extra contractual payments to contractors
- ex-gratia payments, and

5.1 Compensation payments made under legal obligation

Payments fall into this category only if a clear liability exists as a result of a Court Order or a legally binding arbitration award. This category can include compensation for injuries to persons, damage to property and unfair dismissal.

5.2 Extra contractual payments to contractors

An Extra Contractual Payment is one which, although not legally due under the original contract or subsequent amendments, appears to be an obligation which the Court may uphold.

5.3 Ex-gratia payments

Ex-gratia payments are payments that the Trust is not obliged to make or for which there is no statutory cover or legal liability.

Types of ex-gratia payments are:

- a) loss of personal effects
- b) personal injury
- c) settlements on termination of employment
- d) maladministration cases
- e) Any other type of payment not listed above.

5.3.1 Loss of personal effects

5.3.1.1 Staff Payments

Staff should be warned by public notice and individually when taking up appointment that the Trust accepts no responsibility for articles lost or damaged on its premises.

Ex-gratia payments to staff for the loss or damage to their personal property may be made only where all of the following criteria apply:

- the incident occurs during the course of their employment
- the articles lost or damaged were reasonably carried during the course of their employment
- the articles are sufficiently robust for the treatment they might reasonably be expected to bear
- the loss or damage is not due to the officer's own negligence, and
- the loss or damage is not covered by insurance or by any provision for free replacement.

Where the article can be repaired, the payment should cover the actual cost of repair. If the article cannot be repaired and needs to be replaced, 75% of the replacement cost (taking account of wear and tear) will be paid. The maximum payment for each type of article is detailed below:

Loss of personal effects payments thresholds:

Clothing

Shirts/Blouses - 75% of the cost of replacement to a maximum of £50

Trousers - 75% of the cost of replacement to a maximum of £80

Footwear - 75% of the cost of replacement to a maximum of £80

Coats/Jackets - 75% of the cost of replacement to a maximum of £80

Pullovers - 75% of the cost of replacement to a maximum of £50

Spectacles/ Dentures

For loss or damage, 75% of the cost of replacement to a maximum of £250 for standard lenses / dentures or £350 for varifocal lenses

Damage to Vehicles

A contribution to the carrying excess of a claimant's insurance policy will be considered to a maximum of £100

Valuables (Rings/Watches etc)

Where loss or damage occurs, 75% of the cost of replacement to a maximum of £75

Property Spoiled by Service Users (vomit, blood etc)

Full cost of cleaning or 75% of the cost of replacement to a maximum of £80

As each claim is appraised, the Board may approve compensation above or below the set limits depending on the circumstances of each case

5.3.1.2 Patients Payments

The Trust takes steps to minimise the risk of loss, damage to personal effects and property to patients. However, cases will arise justifying payment where there is no legal liability on the Trust.

Processes should be in place arranging the safekeeping of valuables on the person of unaccompanied patients who are admitted to hospital in an unconscious or not fully conscious state. Responsibility for personal effects and property not handed in for safekeeping under approved procedures should be disclaimed by notices or other means.

5.3.2 Personal injury and other negligence and injury cases

Many personal injury cases are settled out of Court and are, therefore, classified as ex-gratia payments.

These claims are dealt with by the Trust Claims Manager and reported to the Trust Risk Management Group and Audit Committee.

5.3.3 Settlement/Severance Payments on Termination of Employment

Most payments to staff on termination of their employment will be contractual, but ex gratia payments may exceptionally arise (e.g. to settle a claim against the Trust for breach of contract). The Trust has no authority to make such payments and must obtain HM Treasury approval following discussion with NHSI before any offer is made verbally or in writing.

5.3.4 Maladministration

These may arise:

- a) As a result of a recommendation by the Health Service Commissioner
- b) Other cases where the Trust considers that the effect of official failure may justify an ex-gratia payment to compensate for: i) reasonable additional expense incurred in demonstrating that the Trust made an error and ii) fruitless or wasted expenditure or reasonable additional expenditure incurred as a result of maladministration.

5.4 Delegated limits

Details of the delegated limits (authorisation limits) are included in the Trust's Standing Financial Instructions, available on the Trust's intranet site.

5.5 Processing of Special Payments (excluding legal payments and injury benefits)

For claims of less than £1,000 an application for special payment (Appendix 1) should be completed and authorised by the appropriate managers.

For claims exceeding £1,000 the form at Appendix 2 should be completed (in addition to Appendix 1) and authorised in accordance with Trust Standing Financial Instructions. Completed forms should be sent to the Assistant Financial Manager (Sayed.Al-haddad@leicspart.nhs.uk).

5.6 Recording and Reporting Special Payments

Special payments will be entered onto the Losses and Special Payments Register by the Trust's Finance Department and supporting documentation filed as appropriate. All special payments will be routinely reported to the Trust's Finance and Performance Committee (along with the losses data).

APPENDIX 1

Department of Health Checklist For Losses and Special Payments greater than £1,000

Checklist to be used when compiling the summary of the case

<p>Category – Type of</p> <p>case - Reference</p> <p>number -</p> <p>NHS Body (name and code) -</p>
<p>1. Record the amount involved and the reasons why the loss arose.</p>
<p>2. Detail the background of case giving full reason why payment is necessary. Have other alternatives to the payment been investigated? If not, why not? If so, provide details.</p>
<p>3. Was fraud involved? If so complete a fraud report and ensure that the LCFS, the relevant NHS Protect team, Internal and External Auditors, and where relevant the police, are informed of the fraud in accordance with SofS Directions and using the reporting system as specified by NHS Protect. Enter dates of completion of fraud report.</p>
<p>4. Was theft or criminal damage involved? If so have the police been informed? If not, give the reasons why not. All security related incidents must be reported to the Local Security Management Specialist once trained, accredited and in place in accordance with forthcoming guidance issued by NHS Security Management Service.</p>

5. **For abandoned works**, were detailed specifications identified before the scheme went ahead? How did the projected work compare to these detailed specifications? At what level, by whom, and why was the scheme approved? Why was the scheme abandoned and by whom? Could the scheme have been aborted earlier? Was the scheme joint financed? If so, was any agreement signed? Was legal advice taken in the drawing up of an agreement? Is the other party prepared to pay half of the costs of the scheme?

6. **For Bad Debts and Claims Abandoned.** Were invoices raised on a regular basis? Was the debt monitored and chased regularly? Were services withdrawn upon continued non-payment? Enclose report showing when invoices were raised and where relevant paid.

For cases involving businesses – has the business gone into liquidation/receivership? If so, are you listed as a creditor and do you have confirmation of this from the liquidator /receiver? If not, why not? Are any dividends being paid out? Was the financial integrity of the business looked into before goods or services were supplied? If not, why not and have procedures been revised to ensure this is carried out in the future?

7. **For rental cases only** - did the tenant enter into lease agreements prior to occupation? If not, why not? If the lease was faulty investigate whether action can be taken against legal advisors who drew up the agreement? Provide an analysis of rent and services charges.

8. **For private patients** cases was an undertaking to pay signed? If not, why not? Was a full estimate of potential costs given and full deposit taken to cover these costs? If not, why not?

For overseas private patients' cases – have the relevant embassies been contacted for payment (if applicable)? For overseas visitors, are robust procedures in place in the NHS Body to identify and charge liable overseas visitors. If not, why not? Was the overseas visitor informed that he/she would be liable to pay for the full cost of treatment? Was treatment, in a clinical opinion, immediately necessary or urgent? If treatment was not urgent why was it given before obtaining a sizeable deposit?

9. **Stores (only)** - Are any linen losses calculated at 50% of the replacement value? Is this in accordance with the guidance? Is the total loss more than 5% of the total stock value? Confirm that the loss has been valued at book value less net disposal proceeds.

10. **For extra contractual payments to contractors.** Have other alternatives to the payment been investigated? If not, why not? If so, provide details. Provide detailed calculations on which the payment is based.

11. For ex-gratia payments. Have other options been considered? If not, why not? Explain why an ex-gratia payment offers the best value for money. Confirm that the proposed payment does not place the claimant in a better position than if the error had not occurred? If it does, why? In cases of hardship record what evidence exists on this. Provide detailed calculations to support the proposed payment and demonstrate why the proposed sum is in accordance with the relevant paragraphs of this guidance.

For settlements on termination of employment, has relevant central guidance on such payments been followed in all respects? If not, why not?

For clinical negligence and personal injury cases has the relevant central guidance for such cases been followed in all respects? If not, why not?

12. Is the value of the loss reduced by insurance? If so, record the value of the gross loss and the value of the amount recovered by insurance.

13. Have all reasonable steps been taken to recover the loss? Provide details of the attempts that have been made to recover the loss or explain why no action has been taken. Has appropriate legal advice been sought? If not, why not? If advice has been sought, what recommendations were made and have these been followed? If not, why not?

14. Identify any failings in the actions of employees, including supervisors. Having considered this, is there a need for disciplinary action? Record what action has been taken or is proposed, or if no action is to be taken, explain why. Include dates, names of individuals and positions.

15. Was there any apparent breakdown of procedures? Detail weakness or fault in system of control or supervision.

16. What proposed improvements have been put forward to correct defects in the existing systems or procedures? Include the timetable for implementation of the improvements. What monitoring measures have been introduced to ensure the improvements are working effectively?

17. Is it necessary to inform the board/chief executive? If not, why not?

18. Do your SFIs require a Board report for this case? If so, please enclose the report. If not, consider whether in the light of this case your SFIs should be amended to require a Board report in such cases.

19. Having completed the above steps, detail the general lessons that can be drawn from this case. If a system weakness has been identified which has possible implications across the NHS the LCFS or the LSMS should report the problem to NHS Protect using either the intranet fraud prevention referral system for fraud or the Area Security Management Specialist for security matters so that measures can be taken nationally to amend policy or systems.

20. Please give details of name and position of person forwarding this case for Department of Health approval (if applicable). Give the date when this case was first brought to the attention of the Department of Health (if applicable).

Name -

Position -

Date Department of Health notified -

21. I have considered fully each point on this checklist and my findings are recorded in the attached case summary and/or in the spaces above. I confirm that the details recorded above and on the attached case summary are complete and accurate, and that all aspects of the checklist have been properly considered and actioned.

Signed by -

22. I confirm that the above details are complete and accurate and all aspects of the checklist have been properly considered and actioned. I agree that write off of this loss offers the best value for money for this case.

* Note: Delete as appropriate.

* This case is not novel, contentious or repercussive. I therefore agree to write off of the loss.

* This case is novel, contentious or repercussive and I therefore request formal approval from the Department of Health.

Signed by -

Date -

Countersigned by -

Date -

Please note this section must be signed by two senior officers in accordance with the delegated limits set by the board. Please print names and position held in the organisation.

Name -

Position held –

Countersigned by -

Position held -

APPENDIX 2

**LEICESTERSHIRE PARTNERSHIP
NHS TRUST**

LOSSES AND SPECIAL PAYMENTS REPORT / CLAIM FORM

CLAIMANT DETAILS

Name of Claimant Location of Occurrence

Grade (If Staff) Ward (If Patient).....

Address

..... Post Code

Patient's account number (if applicable)

DETAILS OF OCCURRENCE

Date Time Place

..... Incident

Details

.....

Details of Item(s) lost or damaged

Is the damaged article still available for inspection (if applicable)?

Estimated cost of repair or replacement £.....

(Whenever possible a minimum of two estimates should be obtained. Approval by the Service Director must be obtained before repair or replacement is undertaken. A copy of the paid invoice may be required.)

Name of Witnesses

(Please attach supporting statement(s) by witness (es))

INITIAL ACTION

When was the occurrence reported?

To whom was the occurrence reported?

Police notified by? Date

(Police notification is only required in cases where there is a prima facie evidence of theft or arson. If fraud is involved, refer to the Fraud and Corruption procedures.)

**ALL CATEGORY 1 LOSSES OF CASH MUST BE REPORTED IMMEDIATELY TO 360
ASSURANCE ON 225 6119 / 6121**

REPORTED BY: **Tel No:-**

SIGNATURE OF CLAIMANT **DATE**

Report of Head of Department/Hospital Administrator/Service Line Manager on result of investigation, assessment of the Trust's liability, estimate of the cost of replacement or repair, advice given to claimant etc.

.....

Signature Date
 Name.....

Head of Service comments in all instances and recommendations to Chief Executive if over £250 (Including compensation if appropriate. Attach supporting reports if necessary.)

.....

Signature Date
 Name.....

METHOD OF REIMBURSEMENT

For Losses & Special Payments under £250 (to be coded to cccc6835aaaa) please tick as appropriate, attach copies if relevant and sent directly to the Assistant Financial Manager:

Reimbursed through Petty Cash
 (Up to £50.00 Only)

Cheque requested
 (Please attach Urgent Payment Request Form, duly authorised by the Budget Holder)

Forward the completed forms for claims over £1,000.00 to the relevant Divisional Finance Manager, where it will be passed to the Director of Finance, Performance & Information/ for write-off if appropriate.

Losses and Special payments exceeding £1,000.00 require a check list to be completed.

Deputy Director of Finance approval to write off items up to £1,000.

Director of Finance approval to write off items up to £10,000.

Signature Date

FOR OFFICE USE ONLY:

Received	Register Ref Num	ice	e	e	gory	Code

APPENDIX 3

The NHS Constitution

The NHS will provide a universal service for all based on clinical need, not ability to pay. The NHS will provide a comprehensive range of services

Shape its services around the needs and preferences of individual patients, their families and their carers	<input type="checkbox"/>
Respond to different needs of different sectors of the population	<input type="checkbox"/>
Work continuously to improve quality services and to minimise errors	<input type="checkbox"/>
Support and value its staff	<input type="checkbox"/>
Work together with others to ensure a seamless service for patients	<input type="checkbox"/>
Help keep people healthy and work to reduce health inequalities	<input type="checkbox"/>
Respect the confidentiality of individual patients and provide open access to information about services, treatment and performance	<input type="checkbox"/>