

Losses and Special Payments Policy

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

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Policy on a Page

Summary and aim

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.

Target audience

Trustwide

Training

Not applicable

Key requirements

None in addition to policy

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1 Introduction and Purpose

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.

2. Policy Requirements and Objectives

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.

3. Losses Guidance

3.1 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.

3.2 Types of Losses

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

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3.2.1 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

3.2.2 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.

3.2.3 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).

3.2.4 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.

3.2.5 Theft of IT Equipment

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The Trust should ensure that the security of IT equipment is maintained at all times. The Security Management Advisor (SMA) can provide guidance on securing IT equipment. The Trusts SMA specialist can be reached at lptsecurity@nhs.net.

3.3 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 Security Management Advisor 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
- Finance team to seek approval, regardless of value, from NHS England if the case is novel, contentious or repercussive or the gross value exceeds £95,000.
- Finance team to report the loss to the Audit and Risk Committee.

Entities must report losses and special payments as required by HM Treasury's [Managing public money - GOV.UK](#). Annexes 4.10 and 4.13 of Managing Public Money contain guidance on the definitions of losses and special payments.

3.4 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 Counter Fraud and the Security Management Advisor at once. Responsibility for informing the police of suspected theft or criminal damage will fall to the Security Management Advisor.

In all cases of alleged fraud or corruption, the NHS Counter Fraud Authority must be informed. The NHS Counter Fraud Authority is a special health authority charged with identifying, investigating and preventing fraud and other economic crime within the NHS. The Trust should also take appropriate disciplinary and recovery action if appropriate.

3.5 Security Incidents and Other Criminal Activity

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All other security related incidents of theft or damage must be reported immediately to the Security Management Advisor at atlpt.lptsecurity@nhs.net. Additionally, the NHS Counter Fraud Authority 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 SMA. The SMA will then advise on what further action should be taken such as informing the police or attempting to reclaim costs.

3.6 Recording and Reporting Losses

For all losses exceeding £1,000, the Head of Department should complete the checklist at Appendix 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 the Department of Health and Social Care General Accounting Manual.

All losses will be annually reported to the Trust's Audit and Risk 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 – May 2023.

<https://www.gov.uk/government/publications/managing-public-money>

4 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

Payments in the form of donations or grants will not be made to external organisations and/or charities, without the approval of the Director of Finance.

4.1 Compensation Payments Made Under Legal Obligation

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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.

4.2 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.

4.3 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.

4.3.1 Loss of Personal Effects

Loss of Personal Effects Payments Thresholds:

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, 100% of the replacement cost (taking account of wear and tear) will be paid, up to the following thresholds:

Clothing

The maximum amount that may be claimed for a single item of clothing is £75.

Spectacles/ Dentures

For loss or damage to spectacles/dentures, the maximum amount that may be claimed is £300.

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/Mobile phones etc)

Where loss or damage occurs, the maximum amount that may be claimed is £250.

Property Spoiled by Service Users (vomit, blood etc)

Full cost of cleaning or the cost of replacement as per above thresholds.

As each claim is appraised, the relevant Service Director may approve compensation above or below the set limits depending on the circumstances of each.

4.3.1.1 Payments to Staff

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.

4.3.1.2 Payments to Patients

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. In line with staff payments, the same loss of personal effects payment thresholds applies to service users.

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.

In all cases it is recommended that staff and service users are discouraged from bringing expensive valuables onto Trust premises. In doing so, they do so at their own risk. Reimbursement in one incident of loss does not set a precedent for future cases.

4.3.1.3 Costs Incurred due to Treatment / Diagnosis

The Trust accepts no responsibility for any loss of income or expenses incurred as a result of a medical diagnosis. This includes the diagnosis process and any loss of income incurred while attending medical appointments.

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4.3.2 Private Treatment Costs

The Trust has no obligation to pay for any private treatment costs of patients. The responsibility for payment lies entirely with the patient and/or their insurance provider.

Exceptions may only occur if they are agreed in advance by the Trust's Divisional Director and Finance Team and appropriate legal advice has been sought. These may be authorised as ex-gratia payments in line with delegated approval limits.

4.3.3 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 Audit & Risk Committee.

4.3.4 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 NHSE before any offer is made verbally or in writing.

4.3.5 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.

4.4 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.

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

For claims of less than £1,000 an application for special payment (Appendix 2) should be completed and authorised by the appropriate managers.

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For claims exceeding £1,000 the form at Appendix 1 should be completed (in addition to Appendix 2) and authorised in accordance with Trust Standing Financial Instructions. Completed forms should be sent to the Finance Manager at lpt.financialaccounting@nhs.net

4.6 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 Audit and Risk Committee (along with the losses data).

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5 Monitoring Compliance and Effectiveness

Monitoring tools must be built into all procedural documents in order that compliance and effectiveness can be demonstrated.

Page / Section	Minimum Requirements to monitor	Method for Monitoring	Responsible Individual / Group	Where results and any associated action Plan will be reported to, implemented and monitored; (this will usually be via the relevant governance group). Frequency of monitoring
Page 8 Section 4.6: Recording and reporting losses	All losses will be annually reported to the Trust's Audit and Risk Committee (along with the special payments data).	Report	Financial Controller	Audit and Risk Committee. Annually

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Checklist for Losses and Special Payments greater than £1,000

Incident			
Name of Claimant			
Staff	Yes / No	Service User	Yes / No
Location of Occurrence			
Date of Incident			
Record the amount involved and why the loss arose.			
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.			
Was fraud involved? If so, LPT’s Chief Finance Officer must immediately notify the Board, external auditors, Security Management Advisor (SMA), Local Counter Fraud Specialist (LCFS) and the NHS Counter Fraud Authority. Responsibility for informing the police will fall with the SMA. Enter dates of completion of fraud report.			
Was theft or criminal damage involved? If so, have the police been informed? If not, give the reasons why not. All security related incidents of theft or damage must be reported immediately to the SMA at lpt.lptsecurity@nhs.net . Additionally, NHS Counter Fraud Authority should be made aware of the incident.			

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For abandoned works: Were detailed specifications identified before the scheme went ahead? How did the projected work compare to those 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?

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?

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

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?

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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?

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.

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

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 paragraph 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 relevant central guidance for such cases been followed in all respects? If not, why not?

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<p>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.</p>
<p>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?</p>
<p>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.</p>
<p>Was there any apparent breakdown of procedures? Detail weakness or fault in system of control or supervision.</p>
<p>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?</p>

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Is it necessary to inform the Board / Chief Executive? If not, why not?

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.

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 SMA should report the problem to the NHS Counter Fraud Authority so that measures can be taken nationally to amend policy or systems.

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

Name;

Position;

Date NHS England;

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;

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

*This case is novel, contentious or repercussive, or the gross value is above £95,000 and I therefore request formal approval from NHS England,

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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 positions held in the organisation,

Name; Position;

Countersigned by; Position;

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APPENDIX 2

**LEICESTERSHIRE PARTNERSHIP NHS TRUST
LOSSES AND SPECIAL PAYMENTS REPORT / CLAIM FORM**

To be completed by LPT staff only

CLAIMANT DETAILS

Name of Claimant Location of Occurrence
Grade (If Staff) Ward (If Patient)
Home Address
..... Post Code

DETAILS OF OCCURRENCE

Date Time

Place

Incident Details

.....

Details of Item(s) lost or damage

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?.....

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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 LOCAL COUNTER FRAUD SERVICES

REPORTED BY: **Tel No:**

SIGNATURE OF CLAIMANT..... **DATE**.....

Head of Department/Ward Matron/Service Manager to provide details of incident, the result of the 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 to make recommendations to prevent future incidents.

Attach supporting report, if necessary, e.g., E-IRF.

.....
.....

Signature Date

Name

METHOD OF REIMBURSEMENT

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For Losses & Special Payments under £1,000 (to be coded to xxxx/6835/xxxx) please tick as appropriate, attach copies if relevant and send directly to lpt.financialaccounting@nhs.net

Reimbursed through Petty Cash
(Up to £50.00 Only)

BACS 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 for write-off if appropriate.

Losses and Special payments exceeding £1,000 require a separate check list to be completed (see Appendix 1)

Approval to write off items and make special payments:

- Assistant Finance Manager up to £250
- Financial Controller up to £1,000
- Deputy Director of Finance up to £5,000.
- Chief Finance Officer up to £10,000.
- Chief Executive and Chief Finance Officer up to £100,000 *
- Board over £100,000 *

Signature of approver

Date

* Proposed special payments that are either (i) above £95,000 and/or (ii) considered potentially novel, contentious or could cause repercussions elsewhere in the public sector, should be submitted to england.assurance@nhs.net for HM Treasury approval.

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APPENDIX 3: Governance

Version Control and Summary of Changes

Version number	Date	Description of key change
1	2012	Historical version
2	2017	Complete update of policy, limits, and relevant guidance
3	2021	Policy refresh, updated guidance, changes in governance responsibilities
4	2024	Policy refresh, changes to approval limits
5	2025	Policy refresh including private treatment guidance

For further information on the contents of this policy please contact:

Jackie Moore Jackie.Moore12@nhs.net

Responsibilities

Responsibility	Title
Executive Lead	Chief Finance Officer
Policy Author	Financial Controller
Advisors	
Policy Expert Group	

Governance

Governance Level	Name
Level 1 Assurance Oversight	Audit and Risk Committee
Level 2 Delivery Group for policy approval and compliance monitoring	N/A

Compliance Measures

KPI (only need 1-2 KPI's per policy)	Where will this be reported and how often
% of claims processed in accordance with policy – Target 100%	Audit and Risk Committee. Annually

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Roles and Responsibilities

Roles and responsibilities including duties of relevant individuals and groups.

- Lead Executive Director
- Executive Management Board
- Governance Group level 1 and 2
- Policy Team
- Policy Authors
- Operational leads
- Staff

Consent

Clinical staff must ensure that consent has been sought and obtained before any care, intervention or treatment described in this policy is delivered.

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