

LOSSES AND SPECIAL PAYMENTS

2016

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Name of Policy:	Losses and Special Payments
Date Issued:	16 th November 2016
Date to be reviewed:	16 th November 2017

LOSSES AND SPECIAL PAYMENTS (FINANCE) V2.0

Policy Title:	Losses and Special Payments	
Supersedes: (Please List)	All previous versions of Losses and Special Payments policies	
Description of Amendment(s):	Reformatting to new policy template/ rewording as necessary / review of impact analysis	
This policy will impact on:	All Employees	
Financial Implications:	No Change	
Policy Area:	Finance	
Version No:	2.0	
Issued By:	Danny Storr, Deputy CFO	
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Contents

Section	Page
1. Policy Statement	4
2. Principles	4
3. Impact Analysis	4
4. Monitoring & Review	5
5. Responsibilities	5
6. NHS Constitution	5
7. Reporting Losses and Requests for Special Payments	6
8. Procedure for a Loss or need for a Special Payment	6
9. Associated Documents	7
Appendix A Checklist	8
Appendix B Equality Impact Analysis	16

1. Policy Statement

During the course of the CCGs day-to-day business, the need to make payments in respect of losses and special items which fall outside the normal day-to-day business of the CCG may arise.

As per NHS England guidance “Such transactions include payments misappropriated through fraud, payments made without legal authority, loss or damage to property.”

This policy will ensure that the CCG complies with the requirements of CCG Annual Reporting Guidance from NHS England

This policy supplements Appendix A (Prime financial policies) of the Constitution and guidance contained in the CCG Annual Reporting Guidance which is published by NHS England annually. It is important that these payments are identified, authorised and recorded correctly.

The purpose of this document is to provide guidance to staff on how to document the criteria and procedure for making a payment to a third party under the category of ‘Losses and Special Payments’.

This policy applies to all employees of the CCG, any staff who are seconded to the CCG, contract and agency staff and any other individual working on CCG premises.

2. Principles

This policy is available for all staff on the internet.

Guidance and support will be provided as and when required by the finance team.

3. Impact Analysis

Equality

The CCG is committed to:

- Eliminating discrimination and promoting equality and diversity in its policies, procedures and guidelines, and
- Designing and implementing services, policies and measures that meet the diverse needs of its population and workforce, ensuring that no individual or group is disadvantaged.

Bribery Act 2010

The CCG follows good NHS business practice as outlined in the Business Conduct Policy and has robust controls in place to prevent bribery.

Under the Bribery Act 2010, it is a criminal offence to:

- Bribe another person by offering, promising or giving a financial or other advantage to induce them to perform improperly a relevant function or activity, or as a reward for already having done so; and
- Be bribed by another person by requesting, agreeing to receive or accepting a financial or other advantage with the intention that a relevant function or activity would then be performed improperly, or as a reward for having already done so.

Due consideration has been given to the Bribery Act 2010 in the development of this policy document and consistent application of this policy will mitigate bribery in relation to this policy.

4. Monitoring and Review

Compliance of this policy will be monitored by the Integrated Audit and Governance Committee via a standing agenda item.

These guidelines will be reviewed on an annual basis from the date of implementation

5. Responsibilities

All Staff

All staff are responsible for reporting a loss or request for a special payment to the Chief Finance Officer / Deputy Chief Finance Officer

Directors

Directors are responsible for authorising the checklist which records the details arising from the loss or special payment.

Finance team

Embed are responsible for processing the payment request, accurate coding of the transaction and maintaining a register of all payments with full supporting documentation.

6. NHS Constitution

The CCG is committed to:

- The achievement of the principles, values, rights, pledges and responsibilities detailed in the NHS Constitution, and
- Ensuring they are taken account of in the production of its Policies Procedures and Guidelines.

This policy supports the NHS Constitution by committing to use NHS resources responsibly and fairly and providing best value for taxpayer's money.

7. Reporting Losses and Requests for Special Payments

All losses and requests for special payments must be reported to the Chief Finance Officer / Deputy Chief Finance Officer immediately.

Categories of Loss:

- Loss of cash – due to theft, fraud, arson, overpayment of salary, fees and allowances and other causes including accidents.
- Fruitless payments – a fruitless payment can't be avoided because the recipient is entitled to it, even though the CCG will get nothing in return. In assessing a fruitless payment, there will always be a degree of blame. For example, payment for travel tickets or accommodation that has been wrongly booked.
- Bad debts – refer to the CCG's Writing off Bad Debts procedure.
- Damage to buildings, fittings, furniture and equipment – examples of losses under this category are: losses by fire (other than arson) and losses by weather damage or accident beyond the control of any responsible person.

Categories of Special Payment

- Compensation payments made under legal obligation – liability under a Court Order or legally binding arbitration award. This includes compensation for injuries to persons, damage to property and unfair dismissal.
- Extra contractual payments to contractors – these are payments which are not legally due under the original contract but where there appears to be an obligation which the courts may uphold.
- Ex-gratia payments – these are payments the CCG is not obliged to make or for which there is no legal liability. Examples of ex-gratia payments are: loss of personal effects, clinical negligence/personal injury, and settlement on termination of employment and maladministration cases.
- Special Severance Payments – these are paid to employees, contractors and others outside of normal statutory or contractual requirements when leaving employment in public service whether they resign, are dismissed or reach an agreed termination of contract

Where an individual payment or loss exceeds £300,000 this must be disclosed in the year end accounts.

Further detailed guidance on any of the above categories is available in the CCG Annual Reporting Guidance.

8. Procedure for a Loss or Need for a Special Payment

Establish the category of the loss or special payment.

Report the loss or request for special payment to the Chief Finance Officer / Deputy Chief Finance officer

If the value exceeds £1,000, the appropriate checklist should be completed to ensure that all information is recorded – this checklist is available on Appendix A

For amounts under £1,000 the same principles should be used but there is no requirement to complete the checklist. It is however, good practice to do so and is encouraged.

A checklist should be authorised by the appropriate Director and passed to the CCG Finance team.

The CCG's Finance team will raise a payment request if appropriate and ensure that the appropriate financial code is used – see separate procedure on making payments using a payment request form. A separate section in the Chart of Accounts relates to Losses and Special payments. It is very important that this coding is correct to ensure that the expenditure is picked up correctly in the Annual Accounts.

The CCG Finance team will reference and record all payments under this category in a register and will keep copies of all supporting documentation.

All losses and special payments are subject to Internal and/or External Audit review.

The Accounting and Investment branch of the Department of Health may, at any time, ask for details of CCG losses and special payments and may also decide to re-open cases where relevant guidance has not been followed.

Any queries regarding this procedure should be referred to a member of the CCG

9. Associated Documents

CCG Annual Reporting Guidance. Available at www.england.nhs.uk

'NHS Hull CCG Constitution, available on the NHS Hull CCG staff intranet.

Local anti-fraud, bribery and corruption policy

APPENDIX A

Checklist for NHS Body Use

Checklist to be used when compiling the summary of the case

Category –

Type of case -

Reference number -

NHS Body (name and code) -

1. Record the amount involved and the reasons why the loss arose.

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.

3. **Was fraud involved?** Provide details of referral to NHS Protect and action taken.

4. **Was theft or criminal damage involved?** If so have the police been informed? If not, give the reason why not. Provide details of referral to NHS Protect and action taken.

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?

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 patient's 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? What review is proposed for further breakdowns before improvements are implemented?

17. Is it necessary to inform the Governing Body/Chief Executive/Accountable Officer? If not, why not?

18. Do Standing Financial Instructions require a Board report for this case? If so, attach report. If not, consider whether a report would be appropriate, and whether Standing Financial Instructions should be amended to require such a report in future.

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 wider than the clinical commissioning group have these been raised with relevant bodies (NHS England, NHS Protect, etc.)?

20. 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.

Name -

Position -

Date Department of Health notified –

21. 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 / payment of this special payment [delete as appropriate] offers the best value for money for this case.

[Delete as appropriate:]

This case is not novel, contentious or repercussive and is not a special severance payment. I therefore agree to the write off of this loss / the making of this special payment [delete as appropriate].

This case is novel, contentious or repercussive or is a special severance payment and approval has been obtained from HM Treasury via NHS England for the write off / special payment [delete as appropriate]. I therefore agree to the write off of this loss / the making of this special payment [delete as appropriate].

Name:

Signature:

Position:

Date:

Name:

Signature:

Position:

Date:

APPENDIX B

Equality Impact Analysis:									
Policy / Project / Function:	Financial Policy – For Losses and Special Payments V2.0								
Date of Analysis:	01 November 2016								
This Equality Impact Analysis was completed by: (Name and Department)	Victoria Rimmington Finance Manager Resources								
What are the aims and intended effects of this policy, project or function?	This policy supplements Appendix A (Prime financial policies) of the Constitution and guidance contained in the CCG Annual Reporting Guidance published by NHS England. It is important that these payments are identified, authorised and recorded correctly.								
Please list any other policies that are related to or referred to as part of this analysis	Local anti-fraud, bribery and corruption policy								
Who does the policy, project or function affect ? Please Tick ✓	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 5px;">Employees</td> <td style="text-align: center; padding: 5px;"><input checked="" type="checkbox"/></td> </tr> <tr> <td style="padding: 5px;">Service Users</td> <td style="text-align: center; padding: 5px;"><input type="checkbox"/></td> </tr> <tr> <td style="padding: 5px;">Members of the Public</td> <td style="text-align: center; padding: 5px;"><input type="checkbox"/></td> </tr> <tr> <td style="padding: 5px;">Other (List Below)</td> <td style="text-align: center; padding: 5px;"><input type="checkbox"/></td> </tr> </table>	Employees	<input checked="" type="checkbox"/>	Service Users	<input type="checkbox"/>	Members of the Public	<input type="checkbox"/>	Other (List Below)	<input type="checkbox"/>
Employees	<input checked="" type="checkbox"/>								
Service Users	<input type="checkbox"/>								
Members of the Public	<input type="checkbox"/>								
Other (List Below)	<input type="checkbox"/>								

Equality Impact Analysis:

Local Profile/Demography of the Groups affected (population figures) Relevant data can be found in the attached Knowledge Management Toolkit (Employee data as at January 2016)

General	Total number of employees in the CCG is 78
Age	73.07% of staff are aged 30-55 20.51% of staff are over 55 6.41% of staff employed are aged 30 or under
Race	94.87% of staff employed in the CCG declared themselves white 3.85% of staff are not stated/undefined 1.27% of staff declared themselves Asian
Sex	70.51% of staff employed are female 39.49% of staff employed are male
Gender reassignment	No Information available
Disability	57.69% of staff employed declared themselves as having no disability 38.46% of staff did not declare /undefined 3.85% of staff declared a disability
Sexual Orientation	56.41% of staff described themselves as heterosexual 43.59% did not wish to respond /undefined No staff described themselves as gay, lesbian or bisexual
Religion, faith and belief	47.44% were undefined or did not wish to declare – the largest group 35.90 of staff declared themselves Christian 11.54% declared themselves Atheist 5.13% of staff declared their faith as 'other' Zero staff declared as Islam, Buddhism, Hindu, Judaism or Sikhism
Marriage and civil partnership	64.10% of employees are married. 25.64% are single 7.69% are divorced/legally separated 2.56% are undefined 0% of employees are in a civil partnership
Pregnancy and maternity	No information yet as the CCG has not been established long enough to build meaningful data

Equality Impact Analysis:	
<p>Is any Equality Data available relating to the use or implementation of this policy, project or function ?</p> <p>Equality data is internal or external information that may indicate how the activity being analysed can affect different groups of people who share the nine <i>Protected Characteristics</i> – referred to hereafter as '<i>Equality Groups</i>'.</p> <p>Examples of <i>Equality Data</i> include: (this list is not definitive)</p> <p>1: Application success rates <i>Equality Groups</i></p> <p>2: Complaints by <i>Equality Groups</i></p> <p>3: Service usage and withdrawal of services by <i>Equality Groups</i></p> <p>4: Grievances or decisions upheld and dismissed by <i>Equality Groups</i></p>	<p>Yes <input type="checkbox"/></p> <p>No <input checked="" type="checkbox"/></p> <p>Where you have answered yes, please incorporate this data when performing the <i>Equality Impact Assessment Test</i> (the next section of this document).</p>
<p>List any Consultation e.g. with employees, service users, Unions or members of the public that has taken place in the development or implementation of this policy, project or function</p>	
<p>Promoting Inclusivity How does the project, service or function contribute towards our aims of eliminating discrimination and promoting equality and diversity within our organisation</p>	<p>This policy applies to all employees of the CCG, any staff who are seconded to the CCG, contract and agency staff and any other individual working on CCG premises.</p>

Equality Impact Assessment Test:

What impact will the implementation of this policy, project or function have on employees, service users or other people who share characteristics protected by *The Equality Act 2010* ?

Protected Characteristic:	No Impact:	Positive Impact:	Negative Impact:	Evidence of impact and if applicable, justification where a <i>Genuine Determining Reason</i> exists
Gender (Men and Women)	✓			This has been considered and has a neutral impact. The policy applies equally to all staff regardless of gender.
Race (All Racial Groups)			✓	Potential Language barrier. Policies can be translated as necessary by using the “policies in different format” form available on the intranet
Disability (Mental and Physical)			✓	Potential Visual Impairment barrier. Policy and forms can be changed into suitable format using “policies in different format” form available on the intranet.
Religion or Belief	✓			This has been considered and has a neutral impact. The policy applies equally to all staff regardless of religion or belief.
Sexual Orientation (Heterosexual, Homosexual and Bisexual)	✓			This has been considered and has a neutral impact. The policy applies equally to all staff regardless of sexual orientation
Pregnancy and Maternity	✓			This has been considered and has a neutral impact. The policy applies equally to all staff.
Transgender	✓			This has been considered and has a neutral impact. The policy applies equally to all staff.
Marital Status	✓			This has been considered and has a neutral impact. The policy applies equally to all staff regardless of marital status.
Age	✓			This has been considered and has a neutral impact. The policy applies equally to all staff

Action Planning:

As a result of performing this analysis, what actions are proposed to remove or reduce any risks of adverse outcomes identified on employees, service users or other people who share characteristics protected by *The Equality Act 2010* ?

Identified Risk:	Recommended Actions:	Responsible Lead:	Completion Date:	Review Date:
Potential language barrier where employees first language is not English.	The CCG's Communication Team has developed the 'portal' to signpost individuals to alternative formats	CCG Communication s Team	End 2014	End 2016
Potential disability barrier where employee has visual impairment	The CCG's Communication Team has developed the 'portal' to signpost individuals to alternative formats	CCG Communication s Team	End 2014	End 2016

Equality Impact Findings:	
Analysis Rating:	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> Red Red Amber Green
Red – Stop and remove the policy	Red: As a result of performing the analysis, it is evident that a risk of discrimination exists (direct, indirect, unintentional or otherwise) to one or more of the nine groups of people who share <i>Protected Characteristics</i> . It is recommended that the use of the policy be suspended until further work or analysis is performed.
Red Amber – Continue the policy	Red Amber: As a result of performing the analysis, it is evident that a risk of discrimination exists (direct, indirect, unintentional or otherwise) to one or more of the nine groups of people who share <i>Protected Characteristics</i> . However, a genuine determining reason may exist that could legitimise or justify the use of this policy and further professional advice should be taken.
Amber – Adjust the Policy	Amber: As a result of performing the analysis, it is evident that a risk of discrimination (as described above) exists and this risk may be removed or reduced by implementing the actions detailed within the <i>Action Planning</i> section of this document.
Green – No major change	Green: As a result of performing the analysis, the policy, project or function does not appear to have any adverse effects on people who share <i>Protected Characteristics</i> and no further actions are recommended at this stage.

Other Comments:	
Confirmed by (Manager): (Name and Title)	
Date:	03.11.16