

LOSSES AND SPECIAL PAYMENTS

NOVEMBER / 2019

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Date to be reviewed:	12 th November 2021

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1. INTRODUCTION

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.

These transactions include payment misappropriated through fraud, payments made without legal authority and 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 E (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.

2. SCOPE

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 including financial service employees (currently hosted by NHS East Riding CCG)

This policy is available on the CCG website.

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

3. POLICY PURPOSE AND AIMS

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'.

4. IMPACT ANALYSIS

4.1 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.

4.2 Bribery Act 2010

NHS Hull Clinical Commissioning Group has a responsibility to ensure that all staff are made aware of their duties and responsibilities arising from The Bribery Act 2010.

The Bribery Act 2010 makes it a criminal offence to bribe or be bribed by another person by offering or requesting a financial or other advantage as a reward or incentive to perform a relevant function or activity improperly performed. The penalties for any breaches of the Act are potentially severe. There is no upper limit on the level of fines that can be imposed and an individual convicted of an offence can face a prison sentence of up to 10 years.

For further information see <http://www.justice.gov.uk/guidance/docs/bribery-act-2010-quick-start-guide.pdf>.

If you require assistance in determining the implications of the Bribery Act please contact the Local Counter Fraud Specialist on telephone number 01482 866800 or email at nikki.cooper1@nhs.net.

Due consideration has been given to the Bribery Act 2010 in the review of this policy of this policy document and no specific risks were identified.

5. NHS CONSTITUTION

5.1 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.

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

6. ROLES / RESPONSIBILITIES / DUTIES

6.1 **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

6.2 Directors

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

6.3 Finance Team

Financial Services are responsible for processing the payment request, accurate coding of the transaction

NHS Hull CCG finance will maintain a register of all payments and losses with full supporting documentation.

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, neglect of duty or gross careless, 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. An individual debtor is a case, not every single invoice.
- 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 – clear 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, patient referrals outside the UK and EEA, extra statutory or extra regulatory payments 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. Losses over £300,000 must be listed under the following categories:

- Cash and other losses (including overpayments, physical losses, un-vouched payments and theft)
- Fruitless payments and constructive losses
- Claims waived or abandoned (excluding cases between DHSC group bodies)
- Stores losses and damage to property

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.

There are amended checklists available for the following categories where the checklist in Appendix A is not appropriate/applicable at

<http://www.info.doh.gov.uk/doh/finman.nsf/181c702d79584a960025673e003e9576/3555cc02698446ca80256a030059f896>

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. 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

10. ASSOCIATED DOCUMENTATION

CCG Annual Reporting Guidance. Available at www.gov.uk

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

Local anti-fraud, bribery and corruption policy

APPENDIX 1

Checklist for NHS Body Use

Checklist to be used when compiling the summary of the case

<p>Category –</p> <p>Type of case -</p> <p>Reference 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? Provide details of referral to NHS Protect and action taken.</p>
<p>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.</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?

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 –

APPENDIX 2 – EQUALITY IMPACT ANALYSIS



Hull

Clinical Commissioning Group

Please refer to the EIA Overview & Navigation Guidelines located in Y:\HULLCCG\Corporate Templates and Forms\Equality and Diversity Information before completing your EIA)

HR / Corporate Policy Equality Impact Analysis:	
Policy / Project / Function:	Financial Policy – For Losses and Special Payments
Date of Analysis:	19 th September 2019
Completed by: (Name and Department)	Victoria Rimmington Finance Manager
What are the aims and intended effects of this policy, project or function?	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'.
Are there any significant changes to previous policy likely to have an impact on staff / other stakeholder groups?	No significant changes
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 will the policy, project or function affect?	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 including financial services employees.
What engagement / consultation has been done, or is planned for this policy and the equality impact assessment?	Previous version to IAGC
Promoting Inclusivity and Hull CCG's Equality Objectives.	This policy applies to all regardless of any protected characteristic.
How does the project, service or function contribute towards our aims of eliminating	This policy is available on the internet and is available in different formats and languages if

<p>discrimination and promoting equality and diversity within our organisation?</p> <p>How does the policy promote our equality objectives:</p> <ol style="list-style-type: none"> 1. Ensure patients and public have improved access to information and minimise communications barriers 2. To ensure and provide evidence that equality is consciously considered in all commissioning activities and ownership of this is part of everyone's day-to-day job 3. Recruit and maintain a well-supported, skilled workforce, which is representative of the population we serve 4. Ensure the that NHS Hull Clinical Commissioning Group is welcoming and inclusive to people from all backgrounds and with a range of access needs 	<p>necessary.</p>
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Equality Data	
<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> <ol style="list-style-type: none"> 1: Recruitment data, e.g. applications compared to the population profile, application success rates 2: Complaints by groups who share / represent protected characteristics 4: Grievances or decisions upheld and dismissed by protected characteristic group 5: Insight gained through engagement 	<p>Yes <input checked="" type="checkbox"/></p> <p>No <input 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). If you answered No, what information will you use to assess impact?</p> <p>Please note that due to the small number of staff employed by the CCG, data with returns small enough to identify individuals cannot be published. However, the data should still be analysed as part of the EIA process, and where it is possible to identify trends or issues, these should be recorded in the EIA.</p>

Assessing Impact

Is this policy (or the implementation of this policy) likely to have a particular impact on any of the protected characteristic groups?

(Based on analysis of the data / insights gathered through engagement, or your knowledge of the substance of this policy)

Protected Characteristic:	No Impact:	Positive Impact:	Negative Impact:	Evidence of impact and, if applicable, justification where a <i>Genuine Determining Reason</i> ¹ exists (see footnote below – seek further advice in this case)
<p>It is anticipated that these guidelines will have a positive impact as they support policy writers to complete meaningful EIAs, by providing this template and a range of potential issues to consider across the protected characteristics below. There may of course be other issues relevant to your policy, not listed below, and some of the issues listed below may not be relevant to your policy.</p>				
Gender	✓			This has been considered and has no impact. This policy applies equally to all regardless of gender
Age	✓			This has been considered and has no impact. This policy applies equally to all regardless of age
Race / ethnicity / nationality	✓			This has been considered and has no impact. This policy applies equally to all regardless of race, ethnicity or nationality
Disability	✓			This has been considered and has no impact. This policy applies equally to all regardless of disability
Religion or Belief	✓			This has been considered and has no impact. This policy applies equally to all regardless of religion or belief

1. ¹ The action is proportionate to the legitimate aims of the organisation (please seek further advice)

Sexual Orientation	✓			This has been considered and has no impact. This policy applies to all regardless of sexual orientation
Pregnancy and Maternity	✓			This has been considered and has no impact. This policy applies to all regardless of pregnancy and maternity
Transgender / Gender reassignment	✓			This has been considered and has no impact. This policy applies to all regardless of transgender / gender reassignment
Marriage or civil partnership	✓			This has been considered and has no impact. This policy applies to all regardless of marriage or civil partnership

Action Planning:

As a result of performing this analysis, what actions are proposed to remove or reduce any risks of adverse impact or strengthen the promotion of equality?

Identified Risk:	Recommended Actions:	Responsible Lead:	Completion Date:	Review Date:

Sign-off

All policy EIAs must be signed off by Mike Napier, Associate Director of Corporate Affairs

I agree with this assessment / action plan

If *disagree*, state action/s required, reasons and details of who is to carry them out with timescales:



Signed:

Date: 27.09.19