



**Aneurin Bevan University Health Board**

# **Financial Control Procedure Losses and Special Payments**

*N.B. Staff should be discouraged from printing this document. This is to avoid the risk of out of date printed versions of the document. The Intranet should be referred to for the current version of the document.*

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## 1. Introduction

This procedure sets out the delegation limits for losses and special payments detailing how payments are approved, accounted for and reported within the organisation.

## 2. Policy Statement

Losses and special payments are items that Welsh Government (WG) would not have contemplated when it agreed funds for the health service or passed legislation. By their very nature they are items that ideally should not arise. They are, therefore, subject to a special Financial Control Procedure compared with the generality of payments.

## 3. Aims

To ensure that all Health Board employees are aware of the reporting requirements in relation to Medical Negligence and Personal injury incidents and all other minor losses incurred within ABUHB.

## 4. Objectives

This document sets out the process to be adhered to within the Health Board when reporting a loss to the organisation to ensure:

- Staff have a clear understanding of their responsibilities with regards to the security of ABUHB assets.
- Losses and special payments are recorded when identified.
- Payments are approved that constitute a loss (e.g. clinical injury compensation payments).
- Losses are reported in the Health Board.
- Accounting arrangements.

## 5. Scope

**5.1** All ABUHB employees have a general responsibility for the security of Health Board property and for minimising the risk of loss. Divisional directors have additional responsibilities for the security of patient's property and monies where it has been deposited for safe custody in accordance with the [Patient's Property Financial Control Procedure](#).

**5.2** All employees have a responsibility to report a loss to their manager. Managers have a responsibility to notify the Health Board in writing of all losses using the documentation outlined in this procedure.

**5.3** Much of this Financial Control Procedure is drawn from guidance issued in the Welsh Government IFRS NHS Wales Manual for

Accounts. This procedure covers all losses which are described in this policy over the following categories:

- Medical Negligence (including Redress and General Medical Practitioners Indemnity)
- Personal Injury
- Ombudsman Claims
- Minor losses
  - Category 1 - Loss of Cash
  - Category 2 - Fruitless payments
  - Category 3 - Bad debts and claims abandoned
  - Category 4- Damage to buildings
  - Stock discrepancies and losses
  - Fraud
  - Special Payments

**5.4** This policy should be read in conjunction with:

- IFRS Wales Manual for Accounts – Chapter 6 – Losses and Special payments
- [Standing Orders](#)
- [Standing Financial Instructions](#)

## **6. Roles and Responsibilities**

**6.1** The Director of Finance, Procurement and Value is responsible for:

- Ensuring the appropriate systems are in place to record losses and special payments.
- Ensuring appropriate systems are in place to enable losses and special payments to be accounted for properly and reported to the Board and Welsh Government.
- Ensuring the ABUHB has a nominated and trained Local Counter Fraud Specialist and that cases of fraud, misappropriation or other financial irregularities are investigated. The Counter Fraud Bribery and Corruption Policy sets out detailed procedures for dealing with fraud.

**6.2** The Medical Director is responsible for the processing of claims for medical negligence, personal injury, loss of patient belongings and other patient related losses.

**6.3** All ABUHB staff are responsible for:

- Proper security of ABUHB property and for the avoidance of loss.
- Notifying their line manager of all losses and potential losses.

**6.4** Notifying the ABUHB Local Counter Fraud Specialist if a fraud bribery or corruption is discovered or suspected. General Managers and Directors must ensure that processes are in place to ensure the security of patient’s property where it has been handed in to the ABUHB staff for safe keeping in line with the [Patient’s Property Financial Control Procedure](#).

**6.5** All Managers are responsible for reporting all losses, using the appropriate documentation outlined in this procedure.

**7. Delegated Limits**

**7.1** Losses and special payments above the limits delegated to the ABUHB shown in Appendix 1, must be submitted to Welsh Government for approval prior to any special payment or write off being made. The responsibility for submitting details of the loss to the WG is shown in Appendix 1 depending on the category of loss.

**7.2** The delegation limits for Losses and Special payments in ABUHB are shown in the following table and in the HB [Scheme of delegation](#).

	Clinical Negligence/Personal Injury		Redress	
	Settlements	Legal Fees	Settlements	Legal Fees
>£1,000,000	Welsh Government and Board	Welsh Government and Board	N/A	N/A
>£100,000<£1,000,000	Board	Board	N/A	N/A
>£25,000<£100,000	CEO	CEO	CEO	N/A
>£10,000<£25,000	Head of Legal Services	Head of Legal Services	Head of Legal Services	Head of Legal Services
<£10,000	Head of Legal Services	Claims Manager	Head of Legal Services	Claims Manager

Settlements over £100k are reviewed by the Litigation Committee (A sub-committee of the Board)

<b>Ombudsman Claims</b>	Per normal Scheme of Delegation approval limits.
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<b>Approvals of Losses &amp; Special payments</b>			
<b>Category</b>	<b>&lt;£10</b>	<b>Up to delegated limit (see appendix 1)</b>	<b>Over Delegated limit</b>
Category 1 – Loss of Cash	n/a	Claims & Litigation sub-group	Welsh Government
Category 2 – Fruitless Payments	n/a	As per scheme of delegation	Welsh Government
Category 3 – Bad debts and claims abandoned	AFD	Audit, Risk and Assurance Committee	Welsh Government
Category 4 – Damage to buildings	n/a	As per scheme of delegation	Welsh Government
Category 5 – Compensation payments made under legal obligation	n/a	As per table in section 7.2 above in line with scheme of delegation	Welsh Government
Category 6 – Extra contractual payments to contractors	n/a	As per scheme of delegation	Welsh Government
Category 7 – Ex gratia payments	n/a	Head of Legal Services	Welsh Government
Category 8 – Extra statutory, extra regulatory payments	n/a	n/a*	Welsh Government

\* The Health Board has no delegated limit.

All losses irrespective of value are reported to the Audit, Risk and Assurance Committee.

## **8. Reporting Incidents of Loss and Potential Loss**

- 8.1** Any member of staff identifying a potential loss shall report the incident details to their Head of Department who will immediately take action to recover the loss if possible. The circumstances in which the loss arose should be investigated and where necessary tighter controls put in place.
- 8.2** In the case of losses arising from clinical negligence or personal injury the Policy for the [Management of Clinical Negligence and Personal Injury Litigation](#) should be referred to.
- 8.3** The Head of Department must complete the relevant losses form from the Appendices to this policy and forward it to the address set out on the form. The police must be contacted as appropriate.

- 8.4** All details relating to the “write-off” will then be forwarded to the Assistant Director of Finance - Financial Systems and Services (or their representative) who shall enter the details in the ABUHB Losses and Special Payments Register (LaSPaR).
- 8.5** In the case of fraud or suspected fraud, the Head of Counter Fraud will seek authorisation to prosecute from the Director of Finance, Procurement and Value once the enquiry has been completed. [The Counter Fraud, Bribery and Corruption Policy](#) should be referred to for all suspected cases of fraud.
- 8.6** It is the responsibility of individual employees to safeguard public funds and resources and to report fraud or suspicion of fraud directly to the [Local Counter Fraud Specialist](#).
- 8.7** Cases of overpayment of salaries and wages are subject to the [Recovery of Overpayment to Employees Policy](#).

## **9. Approval of Payments**

Appendix 2 shows the approval processes in diagram form for all losses. This section describes the process for each category of loss in detail.

### **9.1 Clinical Negligence & Personal Injury**

The process for approving payments in cases of clinical negligence and personal injury is described in *the* [Policy for Management of Clinical Negligence and Personal Injury Litigation](#). All payments are subject to the delegated limits set out in section 7 above.

Where concerns are pursued and the possibility of a qualifying liability is identified, confirmation of such is through the Redress Panel. Where these cases are expected to settle for less than £25K they are subject to the WG [‘Putting Things Right’ framework](#). These cases are considered through the Redress Panel but are still subject to the delegated limits set out in section 7 above. Where cases are received as a medical negligence or personal injury claim they are investigated as a claim regardless of the value in line with the [Policy for the Management of Clinical Negligence and Personal Injury Litigation](#).

The budget and costs for clinical negligence and personal injury costs are held by the Medical Director. The Health Board are liable for the first £25k with any expenditure over £25k being reimbursed by the Welsh Risk Pool.

Redress payments for settlements and medical expert fees are fully reimbursed by the Welsh Risk Pool as and when incurred by the Health Board.

## **9.2 Ombudsman Cases**

Where the Ombudsman makes a recommendation to make a compensation payment the payment is approved by and charged to the appropriate divisional or locality budget.

## **9.3 Other Losses**

Other losses may include theft, fraud, arson, and sabotage, neglect of duty or gross carelessness.

## **9.4 Category 1 – Losses of Cash**

(a) Overpayments of salaries, wages, fees or allowances.

Other causes including un-vouched or incompletely vouched payments, overpayments other than those in (b) above, physical losses of cash and cash equivalents such as stamps caused by fire, accident or similar causes.

Staff identifying any loss should immediately report this to their senior manager.

In all of the above cases a “loss of cash” form, attached in Appendix 3, must be completed by the manager of the department that incurred the loss. The form must then be submitted to the relevant department as identified on the bottom of the form for processing.

## **9.5 Category 2 – Fruitless payments, including abandoned capital schemes and constructive losses.**

These are defined as payments that a potential recipient is legally entitled to even though the ABUHB will receive nothing in return. Examples are:

- (a) Forfeiture under contracts as a result of error or negligence by the ABUHB.
- (b) Payment for travel or hotel accommodation wrongly booked, or for goods or services incorrectly ordered or accepted.
- (c) The cost of rectifying design faults due to lack of diligence or defective professional practices.

- (d) Payment for bank charges incurred by ABUHB employees as a result of late payment of wages where it has been proven that the Health Board is at fault (Appendix 4)

In all cases there must have been an element of blame by a member of ABUHB staff.

Many degrees of error might be involved. The criterion is not whether the error is considered serious enough to warrant disciplinary action but simply whether the ABUHB was at fault in incurring, or not avoiding, the liability to make the payment.

As fruitless payments will be legally due to the recipient they are not regarded as special payments. However, as due benefit will not have been received in return, they should be regarded as losses.

In relation to capital schemes, the delegated limit from WG to the HB is £250,000.

A written report must be completed for all incidents and sent to the Director of Finance, Procurement and Value so that appropriate action can be taken.

## 9.6 Category 3: Bad Debts and claims abandoned

Bad debts and claims abandoned should be entered in the losses register when it has been determined that the loss is irrecoverable.

Bad debts can only be written off when all reasonable action has been taken to recover the debt.

Debts must be approved for write off by the Audit, Risk and Assurance Committee.

The Audit, Risk and Assurance Committee has given Delegated Authority for write-offs, depending on the value of the Bad Debt. Each debt will be fully reviewed by the responsible officers, before being presented for approval for write-off by the delegated authority. The below table sets out the Delegated Authority levels.

DELEGATED AUTHORITY LEVEL	From £	To £
Assistant Head of Financial Services	-	10
Head of Financial Services & Accounting	10	50
Assistant Director of Finance (Financial Systems & Services)	50	2,500
Director of Finance & Performance	2,500	25,000
Audit, Risk & Assurance Committee	25,000	50,000
Welsh Government	50,000	-

Any such loss written off will be charged to the originating budget.

### **9.7 Category 4 - Damage to buildings, including fittings, furniture, equipment and loss of equipment and property in stores and in use**

Examples of this are:

- (a) Culpable causes e.g. theft, fraud, arson or sabotage, neglect of duty or gross carelessness
- (b) Losses by fire (other than arson)
- (c) Losses by weather damage or accident
- (d) Losses due to deterioration in use or deterioration in store due to defects in administration such as over-provisioning or obsolescence.

In all of the above cases a “report of loss” form, attached in Appendix 5, must be completed by the manager of the department that incurred the loss. The form must then be submitted to the Assistant Director of Finance – Financial Systems and Services.

### **9.8 Stock discrepancies and losses**

If stock becomes obsolete the responsible department must notify the Assistant Director of Finance – Financial Systems and Services in writing so that arrangements can be made for it to be written off.

A stock take of all items will be taken at year-end in accordance with the [Stocks and Stores procedure](#). All losses arising and their value should be clearly identified on the stock taking sheets which are completed on an annual basis. Any loss due to obsolete stock incurred during the year should be formally notified to the Assistant Director of Finance – Financial Systems and Services, in writing so that the appropriate action can be taken. All obsolete stock losses are recorded on the Losses and Special Payments Register

## **10 Fraud, Bribery and Corruption**

All suspected cases of Fraud, Bribery and Corruption within the Health Board must be reported immediately and in accordance with the [Counter Fraud, Bribery and Corruption Policy](#).

## **11 Special Payments**

Claims for compensation fall into one of the following three classifications:

### **11.1 Category 5 Compensation payments made under legal obligation:**

- These are identified as those where a clear liability exists as a result of a court order or a legally binding arbitration award. Payments into court and out of court settlements are not payments made under legal obligation\*.
- Claims must be submitted to the Director of Finance, Procurement and Value for a decision. The advice of the Chief Executive will be sought as appropriate.
- No acceptance of liability must be given when a claim is received, only an acknowledgement that the claim is receiving attention.

\* Legal obligation include employment tribunal rulings. Any settlement on legal advice outside of the tribunal must be treated as ex-gratia payments within the relevant delegated limit.

## **11.2 Category 6 - Extra contractual payments to contractors.**

These are payments which, although not due legally under an original contract, appear to be obligations which a court might uphold. Any such payment must be justified on value for money grounds.

## **11.3 Category 7 Ex Gratia Payments**

Ex Gratia payments are payments, which the ABUHB is not obliged to make or for which there is no statutory cover, or legal liability. There are five separate types of Ex Gratia payment:

- i. Maladministration,
- ii. Loss of personal effects,
- iii. Clinical negligence and personal injury,
- iv. Settlements on termination of employment,
- v. Other cases.

Appendix 6 details the policy and procedure for all cases of claims for Ex Gratia Payments.

In all of the above cases an “ex gratia” form, attached in Appendix 7, must be completed by the manager of the department that incurred the loss. The form must then be submitted to the relevant department for processing as identified on the bottom of the form. Where the likely loss is in excess of £50K the form in Appendix 8 must be completed and submitted to the relevant department to be submitted to Welsh Government for further approval to write off the loss within the Health Board.

## **11.4 Category 8 - Extra statutory payments.**

These are payments which the Secretary of State is not empowered by statute to make. Any proposal to make such a payment must be agreed jointly by the Director of Finance, Procurement and Value and WG.

## **12. Accounting for Losses and Special Payments**

The accounting of losses and special payments is set out in the WG IFRS NHS Wales Manual for Accounts. The Director of Finance, Procurement and Value is responsible for ensuring details of losses and special payments are entered into the Losses and Special Payments Register (LaSPaR). Day to Day responsibility for accounting for losses and special payments is delegated to the Assistant Director of Finance - Financial Systems and Services.

## **13 Reporting of Losses & Special Payments in The Organisation**

All losses are reported to the Audit, Risk and Assurance Committee in accordance with the Annual, Risk & Assurance work plan and terms of reference by the Assistant Director of Finance – Financial Systems and Services. The report will include a section setting out the recorded “loss” for the year to date alongside where the category of expense is considered and scrutinised within the Health Board. The purpose of the report to the Audit, Risk and Assurance Committee is to provide details of the financial impact of losses and also to provide the Committee with assurance that processes are in place to review and learn from all incidents.

## **14 Further Information**

Enquiries regarding this procedure should be directed to either the Director of Finance, Procurement and Value or the Assistant Director of Finance - Financial Systems and Services

## **15 Audit**

The procedure will be subject to internal audit review on an ad hoc basis.

## **16 Review**

This procedure will be reviewed every three years unless a requirement arises earlier.

## APPENDIX 1

### ***Delegated Limits for “Write Off”***

It is the responsibility of the Director of Finance to seek Welsh Government approval for claims that exceed the thresholds identified below with the exception of all clinical negligence and personal injury claims where the responsibility lies with the Medical Director

<b><u>CATEGORY OF LOSS/SPECIAL PAYMENT</u></b>	<b>DELEGATED LIMITS</b>
--	-------------------------

£

#### **A Losses (except in respect of primary care provider services)**

1. Loss of cash due to:	
a. theft, fraud, etc.	50,000
b. overpayment of salaries, wages, fees and allowances	50,000
c. other causes, including un-vouched or incompletely vouched payments, overpayments other than those included under 1(b); physical losses of cash and cash equivalents e.g., stamps due to fire (other than arson), accident and similar causes	50,000
2. Fruitless payments (including abandoned capital schemes)	250,000
3. Bad debts and claims abandoned:	
a. private patients (Sections 65 and 66 NHS Act 1977)	50,000
b. overseas visitors (Section 121 NHS Act 1977)	50,000
c. cases other than a-b	50,000
4. Damage to buildings, their fittings, furniture and equipment and loss of equipment and property in stores and in use due to:	
a. culpable causes eg. theft, fraud, arson or sabotage whether proved or suspected, neglect of duty or gross carelessness	50,000
b. other causes	50,000

**DELEGATED LIMITS**

£

**B Special payments (except in respect of primary care provider services)**

5.	Compensation payments made under legal obligation	FULL *
6.	Extra contractual payments to contractors	50,000
7.	Ex-gratia payments	
a.	to patients and staff for loss of personal effects	50,000
b.	for clinical negligence (negotiated settlements following legal advice) where the guidance relating to such payments has been applied	1,000,000 including Claimant's costs *
c.	for personal injury claims involving negligence where legal advice obtained and relevant guidance has been applied	1,000,000 including Claimant's costs *
d.	other clinical negligence cases and personal injury claims	50,000 *
e.	other, except cases for maladministration where there was <u>no</u> financial loss by claimant	50,000
f.	maladministration where there was <u>no</u> financial loss by claimant	NIL
g.	patient referrals outside the UK and EEA guidelines	NIL

**\* For all clinical negligence and personal injury cases (including court cases) the use of periodical payments should be considered for any settlement (exclusive of legal costs) involving costs to the NHS of £250,000 or more, or for lower awards when this represents good value for money. Proposed out of Court periodical payment awards require approval from the WG H&SSG FD.**

8.	Extra statutory and extra regulatory payments	NIL
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### C Losses and special payments in respect of provision of primary care provider services

<b>Losses</b>		<b>Limit</b>
		<b>£</b>
9.	a. Losses due to overpayments to practitioners of fees, allowances or salary	
	i. involving fraud	1,000
	ii. other	1,000
	b. Un-vouched or incompletely vouched payments	1,000
10.	Claims abandoned	1,000

### D Special Payments

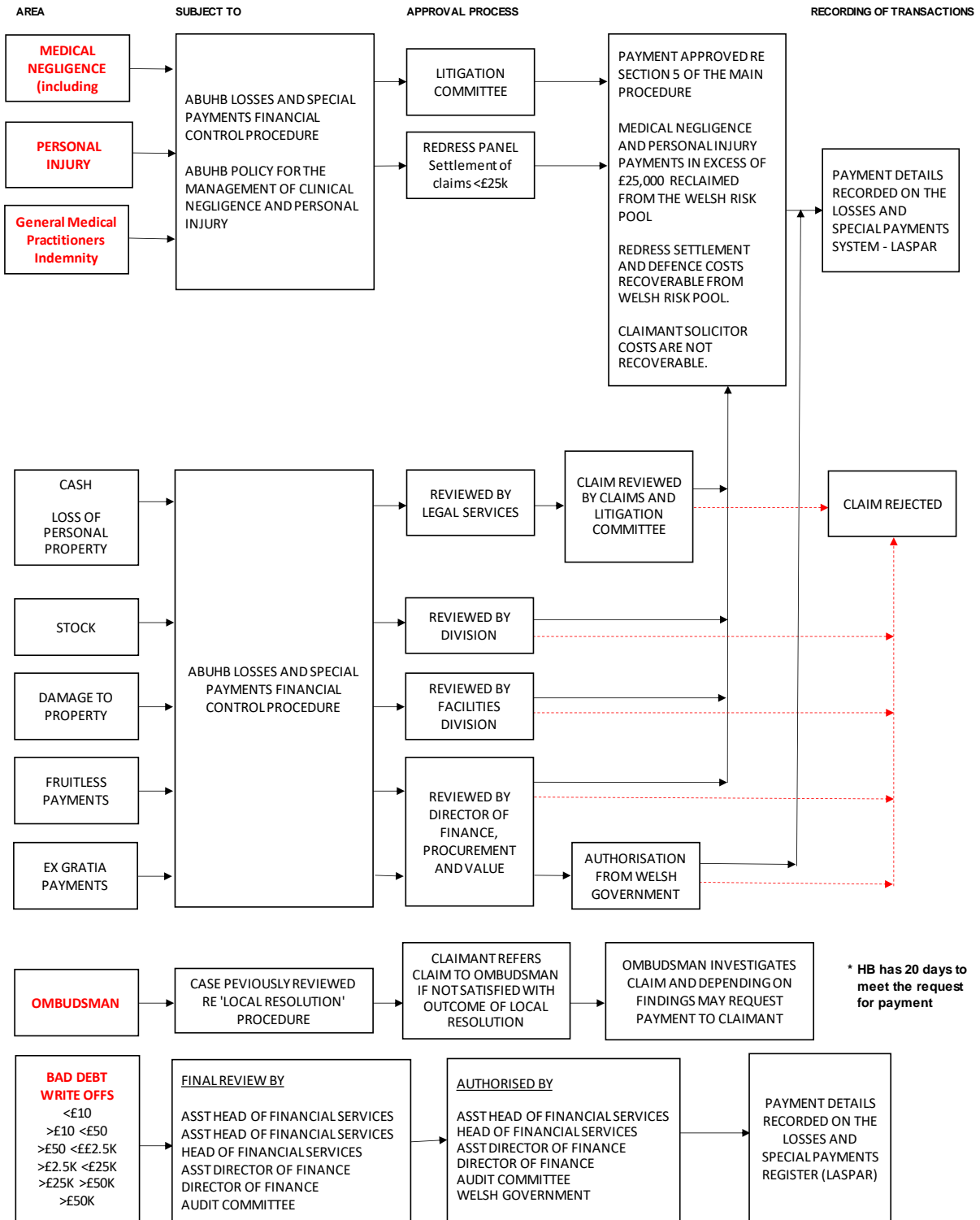
11.	Ex gratia payments	1,000
12.	Extra statutory and extra regulatory payments	
	a. to pharmacist contractors for drugs supplied in good faith in respect of forged, etc., prescriptions forms	1,000
	b. excusal of statutory charges for replacement dentures in certain circumstances	up to appropriate maximum statutory charge
	c. other	NIL

### **E Losses: Fraud cases under investigation**

13.	a.	Losses in cases investigated by the health body in respect of prescription fraud.	1,000
	b.	Losses in cases investigated by the health body in respect of dental fraud.	1,000
	c.	Losses in cases investigated by the health body in respect of ophthalmic fraud.	1,000

All ombudsman and bad debt write off payments are charged to the budget of the department where the incident arose.

## Appendix 2



For all Medical Negligence & Personal Injury claims please also refer to the IFRS NHS Wales Manual for Accounts – Chapter 6 Losses & Special Payments

For all Redress claims please also refer to the WG 'Putting Things Right' Framework.

**APPENDIX 3**



**LOSS REPORT – CATEGORY 1 LOSSES OF CASH**

Name	
Title of Reporting officer	
Department	
Date	
Type of Case	
Reference	

**Checklist/report**

Detail the amount involved and the reasons why the loss arose	
If applicable, provide detailed breakdown of salary or other errors. What were the errors made?	
Can the loss be recovered? Provide details of the attempts that have been made to recover the loss (including legal action) or explain why no action has been taken.	
In fraud cases, obtain and complete a fraud report from the ABUHB Local Counter Fraud Specialist. Enter dates of completion of fraud.	
Consider whether the police should be informed of other category 1 losses. If no police involvement is necessary please give reasons. If appropriate please forward the police report (if available) to the WAG HFM Division	
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	

<p>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.</p>	
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<p>What monitoring measures have been introduced to ensure the improvements are working effectively?</p>	
--	--

<p>Having completed the above steps, detail the general lessons which can be drawn from this case.</p>	
--	--

<p>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.</p>	
<p>Signed: .....</p>	<p>Printed: .....</p>
<p>Position: .....</p>	<p>Date: .....</p>

<p>Is it necessary to inform the Board/Chief Executive?</p>	
<p>Yes <input type="checkbox"/></p>	<p>No <input type="checkbox"/></p>
<p>If no, please give reason:</p>	

--

<p>Do the SFI's require a Board report for this case? If so enclose the report. If not consider whether in the light of this case your SFI's should be amended to require a Board report.</p>	
---	--

<p>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 the write off of this loss offers the best value for money in this case.</p>	
<p>* <i>Delete as appropriate</i></p>	
<p>* This case is within the delegated authority of this Health body and is not novel, contentious or repercussive. I therefore agree to write off the loss.</p>	
<p>* This case is above the delegated authority of this Health Body and is novel, contentious or repercussive and I therefore request formal approval from the WG Health Department</p>	
Signed: .....	Printed: .....
Position: .....	Date: .....
Countersigned by: .....	Printed: .....
Position: .....	Date: .....
<p>This section must be completed by two senior officers in accordance with the delegated limits set by the Board.</p>	

**Once completed this form should be returned to:-**

**Head of Legal Services  
Headquarters  
St Cadocs Hospital  
Caerleon  
NP18 3XQ**

## Appendix 4



GIG  
CYMRU  
NHS  
WALES

Bwrdd Iechyd Prifysgol  
Aneurin Bevan  
University Health Board

### LOSSES FORM

#### BANK CHARGES REIMBURSEMENT (Due to late payment of salary)

Name of Employee .....

Payroll Number .....

Amount claimed £.....

Evidence of charges incurred - 3 months bank statements  (✓ if received)  
- copy of letter from bank  (✓ if received)

Period Covered .....

Employee Error \* Yes/No

Manager Error Yes/No

Payroll Error Yes/No

\* If employee error no reimbursement to be made

#### Details of incident that led to charges being incurred

Prepared by:

Approved by:

Name .....

Name .....

Title .....

Title .....

Signature .....

Signature .....

Financial Code to be charged 040-xxxx- 37300

**APPENDIX 5**



**GIG**  
 CYMRU  
**NHS**  
 WALES

Bwrdd Iechyd Prifysgol  
 Aneurin Bevan  
 University Health Board

**LOSS REPORT – CATEGORY 4 DAMAGE TO BUILDINGS, THEIR FITTINGS, FURNITURE AND EQUIPMENT AND LOSS OF EQUIPMENT AND PROPERTY IN STORES AND IN USE**

Name	
Title of Reporting officer	
Hospital/Clinic	
Department/Ward	
Date/Time	

**Checklist/report**

Please provide details of the loss/theft/criminal damage/arson:	
Please detail the total value of items. Is the value of loss reduced by insurance? If so, please record the value of the gross loss and the value of the amount recovered by insurance	
Account Code	040-
Have the Police been informed?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If the Police have been informed, please provide details of the notification.  <i><b>Important Note:</b> Details of the outcome of police investigations must be notified to the Finance Director as soon as they become available</i>	
Please detail:  • Any identified failings in the actions of employees, including supervisors and whether there is a need for disciplinary action	

<ul style="list-style-type: none"><li>Any apparent breakdown of procedures</li></ul>	
Please state any future security measures or other corrective action which you feel should be implemented to help prevent a similar incident. If none, please state "None".	

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 are complete and accurate and that all aspects of the checklist have been properly considered and actioned.

Signed: ..... Printed: .....

Position: ..... Date: .....

**Once completed this form should be sent to:-**

**Assistant Director of Finance – Financial Systems and Services  
Finance Department  
Block C  
Mamhilad House  
Mamhilad  
NP4 0YP**

## APPENDIX 6



### POLICY & PROCEDURE FOR EX GRATIA PAYMENTS

#### 1. INTRODUCTION

1.1 This appendix details the policy and procedure for ex gratia claims, in respect of cases not pursued as civil law negligence claims. It provides guidance to both managers and claimants to ensure swift and fair adjudication of claims.

#### 2. INVESTIGATION

2.1 A standard form (appendix 7) must be used where a claim for compensation is being made for special payment (ex-gratia) to patients, visitors and staff for loss/damage.

2.2 The incident of loss or damage must be thoroughly investigated by someone of sufficient seniority to establish all of the relevant facts.

2.3 Any claimant who wishes to pursue legal damages should be referred to the Legal Services Department.

#### 3. RESOLUTION BY GENERAL MANAGER OR EXECUTIVE DIRECTOR

3.1 The formal recommendation to agree or reject compensation will be made by the General Manager (i.e. ABUHB second-in-line managers) or Director and recorded on the claim form. A recommendation for compensation may not be delegated to another manager.

3.2 The General Manager or Director may recommend to reject a claim, or agree full or partial compensation. Compensation must be based upon the second hand value of the item. Full replacement value may be offered where it can be shown that the item was purchased relatively recently.

#### 4. PAYMENT

4.1 Completed claim forms (approved and rejected) will be forwarded to Head of Legal Services at Headquarters, St Cadocs

4.2 The Head of Legal Services will then make a final decision as to whether to confirm the offer of compensation or rejection of the claim. This is formally recorded on the Claim form, signed and approved within authorisation limits. If the offer is accepted, the claimant must complete and sign a Form of Discharge (Indemnity form) relating to the specific claim. Following receipt of this form signed by the claimant a cheque or BACS payment will be released from the finance department.

4.3 If the claimant wishes to appeal against the decision, appeals should be made to the Head of Legal Services. The matter will then be heard at the next Litigation Committee.

## 5. GUIDANCE ON COMPENSATION

### 5.1 General Loss and Damage

Compensation should be agreed where the investigation reveals on the balance of probability that there has been a failure of the ABUHB duty of care or of ABUHB procedures. Examples include patient property lost or damaged by staff; property lost or damaged after being handed in for safe keeping; and damage to staff property or clothing caused in the legitimate pursuit of their duties, providing that they were not themselves acting negligently e.g. not wearing protective clothing provided, or operating machinery or equipment against advice.

A judgement often has to be made about the state of capability or capacity of the patient. The ABUHB duty of care increases in respect of any patient, who is unconscious, has impaired mental capacity or is otherwise disabled in a way which compromises their ability to be responsible for their own affairs and security.

There may also be rare instances where, although the LHB cannot be described as negligent, justification may exist to support an ex-gratia payment to a claimant.

### 5.2 Lease Cars

A number of claims have been received in the past from lease car drivers seeking recompense for the excess insurance sum following an accident occurring during normal duties. To be consistent with the above general guidance, claims from any driver (lease car or owner driver) should be approved only where evidence exists that the damage relates to a failure on the part of the ABUHB or its staff. Accident claims against any third party for damage to a vehicle or contents should be pursued routinely via the driver's insurer, and will not therefore need to be considered by General Managers within the Losses procedure.

## 6. LITIGATION GROUP

The Litigation Group is chaired by the Chair of the Board and comprises of the Chief Executive, Medical Director, Two independent members with attendance by –The Head of Legal Services

### 6.1 The role of the Litigation Group will be:

- To monitor consistency of claims decisions against Health Board Guidance.
- To review the case of any claimant wishing to appeal against a decision not to offer compensation or the amount offered. No further formal route of appeal will be available.
- To ensure that payments are made.
- To review and monitor the whole of the losses process and to provide advice to General Managers and Executive Directors

**APPENDIX 7**



**GIG  
CYMRU  
NHS  
WALES**

Bwrdd Iechyd Prifysgol  
 Aneurin Bevan  
 University Health Board

**Report No.**

(for Office Use Only)

This form should be used to make a claim for compensation for:

- Financial loss resulting from an act or failure for Health Board or its staff which does not give rise to legal liability e.g. damage/loss to property belonging to a patient, staff member or visitor
- Hardship caused to persons by official failure or delay e.g. reimbursement of travel expenses following an appointment error

Sections A to J (excluding G) to be completed by staff member receiving the incident report

Section G to be completed, signed and date by Claimant (if present)

Section K to be completed by relevant Senior Manager

Section L to be completed by General Manager/Director

Section M to be completed by The Head of Legal services

--

Full name: : .....	Occupation & Band: .....	Division .....
Ward/Department .....	Contact No: .....	Date/Time reported: .....

--

Inpatient	<input type="checkbox"/>	Outpatient	<input type="checkbox"/>	Day patient	<input type="checkbox"/>	Employee	<input type="checkbox"/>	Visitor	<input type="checkbox"/>	Contractor	<input type="checkbox"/>
Full Name: .....											
	Male	<input type="checkbox"/>	Female	<input type="checkbox"/>	Age	<input type="text"/>	D.O.B.	<input style="width: 100%;" type="text"/>			
Address: .....											
.....											
Contact No. ....						Bleep/Pager No. ....					
If Staff:											
Occupation .....						Band: .....					

Datix Incident Ref (if completed): .....	Provide sketch if applicable
Date of incident                      Time of incident: .....	
Hospital or premises address where incident occurred: .....	

Location: ..... Normal activity carried out where incident occurred: .....	
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*(Please attach copies of any supporting evidence):*

### E Details of Property Stolen, Lost or Damaged

*(Please attach receipts and quotations if available at time of completion)*

Description of items including serial numbers	State whether Organisational or private/personal property	Approximate age of items	Estimated value at time of loss £

**F Has claimant expressed a specific wish to be reimbursed?**

Yes  No  If yes, amount claimed .....

**Are these items covered by personal insurance?**

Yes  No

**G Signature of Claimant** *(if present)*

**I can confirm that the facts on the previous pages are correct:**

Signed: ..... Printed: .....

Date: .....

**H Investigation and recovery action** *(Cross through any question not applicable)*

**Was property witnessed by a member of staff?** Yes  No

Ownership verified by (full name): ..... Position/Band: .....

**Search of ward/department carried out:**

Date: ..... Name: ..... Position/Band: .....

**Check of patients property book:**

Date: ..... Name: ..... Position/Band: .....

**Entry found in property book:** Yes  *If yes, attach copy* No

**Check of central Laundry:**

Date: ..... Checked by: ..... Position/Band: .....

**Police informed?** Yes  No  **Crime No:** .....

Date: ..... Time: ..... Notified by: ..... Position/Band: .....

Date of Police Visit: ..... Name of Police Officer: ..... Police Station: .....

**I Other investigatory action by ward/department** *(Please attach copies of any supporting evidence):*

**J Person completing this report**

**I can confirm that the facts on the previous pages are correct:**

Signed: .....

Printed: .....

Position: .....

Date: .....

**NB:** All structural damage must be reported to the Works & Estates Department. **Send this completed form immediately to the Directorate Manager responsible for the service/location.** Copies of this form can be located on the intranet.

**NOTES:**

- (1) Special payments to staff for the loss of, damage to their personal items may only be made where:
  - (a) the incident occurs during the course of the employment.
  - (b) the articles lost or damaged are such as might reasonable be carried during the course of their employment
  - (c) the articles are sufficiently robust for the treatment they might reasonably be expected to bear.
  - (d) the loss or damage is not due to the staff member(s) own negligence.
  - (e) the loss or damage is not covered by insurance or by provision for free replacement
- (2) Where the article can be repaired, the payment should cover the actual cost of repair, but where it is lost or damaged beyond repair, the value of the property immediately before the incident should be paid. This will be the cost of a replacement less the estimated amount by which the property has depreciated since purchase.
- (3) The claim should be submitted as soon as possible after loss/damage has occurred. Any unreasonable delay could result in the claim being rejected.

### K Senior Managers Report

*(Please attach copies of any supporting evidence)*

*Provide detail of the lessons learnt and action taken:*

#### *Directorate Manager sign-off*

Signature: .....

Printed: .....

Date: .....

### L General Manager/Directors Approval

Yes

No

Cost Centre:

Please give your reasons:

*I confirm that the details recorded are to the best of my knowledge accurate and that all aspects of this report have been properly considered and actioned.*

#### *General Manager/Director sign-off*

Signature: .....

Printed: .....

Date: .....

**M Approval by Chair of the Claims & Litigation Group**

(a)  The claim was considered and rejected

or

(b)  The claim was considered and approved for £ .....

Signed: ..... Printed: .....

Date: .....

**For office use only:**

Receipt/Quote

Memo to Finance

To CCL

Approved

Rejected

**Completed forms should be forwarded to:**

**Head of Legal Services**

**Headquarters**

**St Cadoc's Hospital**

**Lodge Road**

**Caerleon**

**NP18 3XQ**

**If the estimated loss value is in excess of £50K – the Health Board will need to seek approval to write off the loss and as such appendix 8 will also need to be completed and submitted to Welsh Government for approval.**

## APPENDIX 8

### FOR HEALTH BODY USE

Checklist to be used when compiling the summary of the case

<p><b>Category –</b></p> <p>Type of case -</p> <p>Reference number -</p> <p>Health 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. <b>Was fraud involved?</b> If so complete a fraud report and ensure that the LCFS the relevant NHS CFS Wales team, Internal and External Auditors, and where relevant the police, are informed of the fraud in accordance with Welsh Government Directions to NHS Wales health bodies on Counter Fraud Measures and using the reporting system as specified by the NHS CFS Wales. Enter dates of completion of fraud report.</p>
<p>4. <b>Was theft or criminal damage involved?</b> 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 NHS CFS Wales 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 Welsh Government approval (if applicable). Give the date when this case was first brought to the attention of the Welsh Government DH&SS FD (if applicable).

Name -

Position -

Date Welsh Government DH&SS FD 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 Welsh Government DH&SS FD

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 -