

EX-GRATIA POLICY

		Policy	
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	x		
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Lead Division/ Directorate	Corporate		

Lead Specialty/ Service/ Department	Trust wide	
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1. Safeguarding And Custody of Patients Property Policy	Under review March 2022	
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APPENDICIES

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1.0 INTRODUCTION

The purpose of this policy is to outline the process for managing claims in relation to loss and damages that could occur to patients, relatives and staff whilst on the premises of Sherwood Forest Hospitals NHS Foundation Trust (SFHFT)

The Trusts position in regard to responsibility and liability will be identified in regard to claims for patient property and valuables. It will take into consideration the claim process and will give advice on suggested monetary amounts, should a claim arise. An appeals process will be set out within the policy giving guidance to the divisions around the next steps and expectations should they have declined a claim (see appendix 1).

2.0 POLICY STATEMENT

At SFHFT we recognise that patients may lose their property and valuables whilst on any of our hospital sites. Recognition is also given to the fact that in exceptional circumstances staff could also sustain loss or damages to personal property or valuables.

The Trust will accept no responsibility or liability for any damages or losses experienced by patients, staff and visitors, except in exceptional circumstances
These circumstances include:

- Loss or damage to a patient's personal property with evidence proving that the loss or damage is not covered by insurance or for free replacement under the NHS.
- The item of property was handed in for safe keeping, providing a receipt for evidence.
- The loss or damage is a result of negligence or failing on the part of the Trust/Trust employee.
- The Trust failing to take steps to arrange the safe keeping of valuables of a person who was admitted to hospital in an unconscious state.
- If refusing the claim would cause genuine hardship or functional difficulty to the patient. The types of items that may be considered include spectacles, dentures, hearing aids.

In these circumstances the Trust will consider payment for individual cases within its Ex-gratia policy.

An ex gratia payment is one in which the Trust has no statutory or legal obligation to make, such payments are made as a gesture of goodwill.

3.0 DEFINITIONS/ ABBREVIATIONS

Ex-gratia is an amount of money in which you are paid as a gesture of goodwill without any obligations.

Personal property and valuables are any items in which the patient, visitor or staff member brings onto the hospital premises; this includes jewellery, wedding rings, earrings and watches.

Liability is being legally responsible for losses.

Responsibility is something for which a person is responsible for, in this instance personal property and valuables owned by patients, visitors and staff who may visit any of the premises of Sherwood Forest Trust Hospitals.

4.0 ROLES AND RESPONSIBILITIES

The Lead for Patient Experience will be responsible for the policy and its process, if the lead is unavailable this will be delegated to an appropriate staff member for management in their absence.

Divisional Heads of Nursing/ Divisional Managers will support with the investigation of the claim and will agree whether it is appropriate to make the ex-gratia payment.

Ward and Department Sisters/Charge Nurses will assist with early recognition of loss or damages. Completing a DATIX report and supporting patients with the process of a claim.

Head of Finance will support with the payments after confirmation of amounts from the appropriate division.

5.0 APPROVAL

Nursing, Midwifery and Allied Health Professionals Committee.

6.0 PROCESS FOR HANDLING EX-GRATIA CLAIMS

Once a complaint has been received on the ward or via the complaint's procedure, the claimant will be directed to the Patient Experience Team. The team will acknowledge the claimant within 3 working days of receiving the complaint; they provide information around making a claim for lost or damaged property and will provide a claim form, this can be sent to the claimant or be completed at the time by the Patient Experience Team.

Patients will be made aware that this is available in other languages, large print or Braille should they require any of these options.

Upon receipt of the written claim, it will be sent to the divisional Head of Nursing and divisional managers to ensure the appropriate investigations are completed at ward level before making a decision around payment of the claim under the ex-gratia policy.

Once the divisions have all the required information they will inform the claimant of the outcome, should this be declined the claimant has the right to appeal. If a claim is successful, it will be sent to the Finance Department for payment.

This process can be used when processing claims made by patients, families, carers and staff members.

6.1 Criteria for assessing Ex-gratia claims (patients or a third party)

On admission patients and their next of kin should be advised that the Trust does not accept liability for any items including valuables and personal items that could be lost or damaged whilst on any of the Trust premises. A disclaimer will be attached to Nerve Centre allowing for a digital record to be kept on each individual's patient record. The disclaimer will be agreed with patients on admission, or on behalf of anyone incapable of managing own affairs, it will describe to the patient the Trusts position in relation to not taking any responsibility or liability and that the accept this by agreeing to the disclaimer.

Valuables and personal property will remain the responsibility of the patient or relative, in cases where capacity has been assessed and the patient is unable to take good proper care of property and valuables this shall be taken under care of the Trust. If an adult patient is unable to look after their own property (e.g. if they lack capacity) a two stage test must be undertaken and if capacity is lacking then action should be planned and taken in their best interests until their discharge or until capacity is regained.

Valuable items should be removed for safe keeping, recorded in the Patients Property Book, signed by two members of the ward staff and taken along with the completed property record to the General Office, this corresponds with the Safeguarding and Custody of Patient's Property Policy.

The Trust will not consider claims where the agreement had been made and the patient had agreed to take care of own personal property and valuables, unless there is evidence to suggest that this had changed during their hospital stay.

In exceptional circumstances the Trust may consider an ex-gratia payment where there is evidence to prove losses are not covered under personal insurance policy, it has been lost after being handed in for safe keeping, and where there are no free replacement options, for example an NHS prescription item such as glasses, dentures, spectacles or hearing aids.

6.2 Consent for claims made on behalf of patients

If a relative, next of kin or patient representative wants to make a claim on behalf of a patient then written consent must be provided from the patient as standard. If this is not possible verbal consent will be accepted. If verbal consent is the only option a Datix should be raised giving all information around the loss and gaining of consent.

6.3 Claims involving deceased patients

In cases where the claimant passes away mid investigation or where a claim has been made retrospectively by a representative or by the patient prior to their death, cases will be considered pending a review of the application.

6.4 Criteria for Ex-gratia claims by Trust employees

Employees will be informed when commencing a role within the Trust it that will not accept responsibility or liability for any losses or damages that could occur to personal property and valuables whilst on any of the Trust premises.

Employees will be encouraged not to bring items of value onto work premises and where this cannot be avoided they will be informed that they do so at their own risk.

In exceptional circumstances the Trust will consider ex-gratia claims if there is evidence to prove that:

- the items lost or damaged were reasonably carried during the course of their employment.
- it is not due to the employee's own negligence.
- it is proved to be fault or failing on the part of the Trust.
- it cannot be claimed through a personal insurance policy and the cost of the employee.
- the claims should be made within a months' time frame from when occurring the losses.

6.5 Exclusions from Ex-gratia

A claim should be made within one month of losses being noted. Late claims will not be considered.

The following exclusion criteria will apply:

- if the total amount being claimed is above £250.00 these claims will not be considered unless it is in relation to an NHS replaceable item.
- claims made by another NHS establishment for loss of their equipment.
- if allegations of theft have been raised; ward/department leaders should be informed following the Trust policy for reporting.
- clothing or toiletries unless they have been handed in for safe keeping of the Trust.
- personal injury, accident claims, stress related.

6.6 Process for payment

Once a claim has been confirmed and accepted by the divisional Head of Nursing and the divisional management team the information will be sent to the finance team who will make payment of the amount agreed to the claimant within, 10 working days of receiving the request.

6.7 Times for response to claim

When a claim is received acknowledgement will be sent within three working days to the claimant by the Patient Experience team, this can be sent via post, text or email. It will inform the claimant or claimant's representative that it will take approximately 35 days from receiving the claim to the outcome being received; this will not take into consideration the appeal process in which a response should be communicated to the claimant within a further 10 days.

The claim will be passed on to the Heads of Nursing for the required division who will allocate this to the appropriate ward/department leader for investigation within 7 days of receiving.

The division will investigate the claim and make a decision if the claim is coverable under the ex-gratia policy. The claimant will then be informed of the outcome before or including the 35th day from making the claim.

If the outcome indicates requirement for payment the division will give direction to finance for payment to be made.

If the Divisional Head of Nursing does not agree that the claim is recoverable under the Ex-gratia Policy a letter of outcome will be sent to the claimant or claimant's representative.

6.8 Valuing/Caps to Ex gratia payments

All claims made and investigated through the policy should not see the claimants in a better position should the loss not have occurred in the first instance. It should not exceed the NHS cost of replaceable items, if a claim is in relation to an NHS replaceable item where cost can be verified the value of the item will be paid. Items that would usually fall under this category are spectacles, hearing aids and dentures. If the items are replaced as per NHS item any short falls from the initial claim will not be considered as part of the appeals process.

The payments under the ex-gratia policy are as follows

- There will be an overall cap of £250.00 where an NHS value cannot be identified. A receipt or written quote for the item being claimed for will need to be provided before any payments are made.
- Mobile phones £75.00
- ipads, tablets, laptops £75.00

Where the damaged item can be repaired these costs should be covered but with an overall cap of £250.00, evidence in the form of a quote or receipt should be provided.

If the item is beyond repair unless an NHS item which is fully recoverable the above caps should be applied as applicable.

The Trust will not take into consideration any claims that can be made under an insurance policy at the cost of the claimant.

In a case in which the patient passes away during a claim this will be dealt with on a case-by-case basis.

6.9 Appeals Process.

In the event of a claim not being upheld by the divisions and where the claimant wishes to appeal this decision, they must write to the Patient Experience Team within 10 working days so that a review can be arranged.

Disagreement with the outcome of the original claim will not be considered a valid reason for an appeal.

For an appeal to be considered the claimant must ensure that they provide the following.

- receipts/proof of original purchase of items.
- original photographs of items.
- if an item was stolen – the crime/incident reference number

It should include information and grounds in which the claimant believes an appeal is required. The outcome of the appeal should be communicated to the claimant within 10 working days from receipt of the appeal claim.

7.0 MONITORING COMPLIANCE AND EFFECTIVENESS

Minimum Requirement to be Monitored (WHAT – element of compliance or effectiveness within the document will be monitored)	Responsible Individual (WHO – is going to monitor this element)	Process for Monitoring e.g. Audit (HOW – will this element be monitored (method used))	Frequency of Monitoring (WHEN – will this element be monitored (frequency/ how often))	Responsible Individual or Committee/ Group for Review of Results (WHERE – Which individual/ committee or group will this be reported to, in what format (eg verbal, formal report etc) and by who)
Financial Monitoring	Finance Department	Reports/Individual Ex-gratia claims Total outlay monetary value	Quarterly	Finance committee
Themes of claims	Patient Experience Team Heads of Division	Data collection Review of individual claims	Quarterly	Corporate Matron, Patient Experience for Estates and Facilities, reporting to Nursing, Midwifery and AHP Committee

8.0 TRAINING AND IMPLEMENTATION

All staff should familiarise themselves with the content of this policy. If any queries arise with the application of the policy in practice, staff are advised to liaise with senior colleagues for support and guidance.

9.0 IMPACT ASSESSMENTS

- This document has been subject to an Equality Impact Assessment, see completed form at Appendix 2.
- This document is not subject to an Environmental Impact Assessment

10.0 EVIDENCE BASE (Relevant Legislation/ National Guidance) AND RELATED SFHFT DOCUMENTS

Evidence Base:

HM Treasury, Managing Public Money (2021).
<https://assets.publishing.service.gov.uk>

NHS England, Funding and Efficiency.
www.england.nhs.uk/five-year-forward-view

NHS Foundation Trust Annual Reporting Manual 2021/22
www.england.nhs.uk

Parliamentary and Health Service Ombudsman. Ombudsman introduction to the principles
www.ombudsman.org.uk

Related SFHFT Documents:

Standing Financial Instructions
Incident Reporting Policy
Scheme of delegation

11.0 KEYWORDS

Belongings, evidence, goods, ownership

12.0 APPENDICES

Appendix 1 Process of claim

Lost Property Claims Process.

Concerns regarding lost property received on the ward /department area or via the complaint's procedure.

Directed as required to the Patient Experience Team.



The Patient Experience Team will acknowledge the claimant within 3 working days.
A claim form will be sent to the patient/ patient's representative or will be completed by the Patient Experience Team at the time that the concerns/claim is made.
Should this be from a patient representative consent will be gained at this point from the patient in written format or verbal to progress the claim.



Upon receipt of completed claim form it will be sent to the appropriate Divisional Team. Divisional Head of Nursing/Divisional Manager to forward on to the required ward/department leader for the investigation, ensuring a Datix record has been completed relating to the claim.



If the Divisional Head of Nursing/ Divisional Managers agrees with the claim, consider the ex-gratia policy as appropriate; forward the claim form direct to Finance for payment.
If the Divisional Head of Nursing/ Divisional Managers do not agree with the claim then a letter will be sent to the claimant advising of the outcome, within 35 days.
If an appeal is requested, evidence should be provided, and a response should be communicated to the claimant within 10 working days.

APPENDIX 2 - EQUALITY IMPACT ASSESSMENT FORM (EQIA)

PLEASE COMPLETE ALL SECTIONS

Name of service/policy/procedure being reviewed:			
New or existing service/policy/procedure: Ex-gratia Policy			
Date of Assessment: 19/7/2022			
For the service/policy/procedure and its implementation answer the questions a – c below against each characteristic (if relevant consider breaking the policy or implementation down into areas)			
Protected Characteristic	a) Using data and supporting information, what issues, needs or barriers could the protected characteristic groups' experience? For example, are there any known health inequality or access issues to consider?	b) What is already in place in the policy or its implementation to address any inequalities or barriers to access including under representation at clinics, screening?	c) Please state any barriers that still need to be addressed and any proposed actions to eliminate inequality
The area of policy or its implementation being assessed:			
Race and Ethnicity	No potential for disadvantages	Not applicable.	None
Gender	No potential for disadvantages	Not applicable.	None
Age	No potential for disadvantages	Not applicable.	None
Religion / Belief	No potential for disadvantages	Not applicable.	None
Disability	No potential for disadvantages	Not applicable.	None
Sexuality	No potential for disadvantages	Not applicable.	None
Pregnancy and Maternity	No potential for disadvantages	Not applicable.	None
Gender Reassignment	No potential for disadvantages	Not applicable.	None
Marriage and Civil Partnership	No potential for disadvantages	Not applicable.	None

Socio-Economic Factors (i.e. living in a poorer neighbourhood / social deprivation)	No potential for disadvantages	Not applicable.	None
What consultation with protected characteristic groups including patient groups have you carried out? <ul style="list-style-type: none"> None 			
What data or information did you use in support of this EqIA? <ul style="list-style-type: none"> None 			
As far as you are aware are there any Human Rights issues be taken into account such as arising from surveys, questionnaires, comments, concerns, complaints or compliments? <ul style="list-style-type: none"> None 			
Level of impact From the information provided above and following EQIA guidance document Guidance on how to complete an EIA (click here), please indicate the perceived level of impact: Low Level of Impact For high or medium levels of impact, please forward a copy of this form to the HR Secretaries for inclusion at the next Diversity and Inclusivity meeting.			
Name of Responsible Person undertaking this assessment: Sally Whittlestone			
Signature: S. Whittlestone			
Date: 19/7/2022.			