

# **BIRMINGHAM & SOLIHULL MENTAL HEALTH NHS FOUNDATION TRUST**

## **Ex Gratia Payment Guidance**

### **Purpose**

This Guidance is managed by the Trust's Legal Department.

Its purpose is to offer financial compensation to staff, service users and visitors for hardship, or for loss or damage to personal property resulting from an act or failure of the Trust whilst the individual is on Trust premises or engaged in official Trust business. Compensation will be offered in circumstances where, whilst there is no liability or legal obligation to do so, it is considered that there is a strong moral obligation to do so and as a gesture of goodwill.

For the avoidance of doubt, should compensation be paid, this will not represent an acceptance by the Trust of any legal liability in respect of the circumstances leading to the loss, damage or hardship.

### **Limitations**

Although an ex gratia payment claim can be freely submitted, the right to compensation is not absolute and payments are discretionary, subject to analysis and investigation of the claim by the Trust's Legal Department.

The existence of this Guidance does not in any way remove the obligation upon Trust staff, service users and visitors to ensure that they adhere to all other Trust policies and guidance.

Below are some examples of when a claim might be rejected:

- if the loss or damage has been caused due to the applicant's own negligence or carelessness;
- if the loss or damage can be covered by relevant insurance or by any provision for free replacement;
- in respect of Trust staff, if the item lost or damaged is deemed unsuitable for the performance of their work duties (e.g. wearing expensive glasses/clothing/accessories whilst performing a clinical role involving close physical contact with service users who can become violent or aggressive);

### **Authorisation**

In accordance with Standing Financial Instruction (SFI) 16.2 'Reservation of Powers to The Board & Delegation of Powers', approved by the Trust Board in June 2015, any payments made under the Ex Gratia Payment Policy will be authorised as follows:

- under £1,000: authorised by Director of Nursing;
- between £1,000 and £25,000: authorised by Executive Director of Resources;
- over £25,000: authorised by Trust Chief Executive.

## **PROCEDURE FOR MAKING A CLAIM**

### **1. Timings**

Claims by staff:

- should be submitted promptly and no more than **3 months** after the date on which the property was lost or damaged, or hardship suffered.

Claims by service users and visitors:

- should be submitted promptly and no more than **6 months** after the date on which the property was lost or damaged, or hardship suffered.

The Legal Department will only consider claims outside of the above time limits in exceptional circumstances.

### **2. Form completion**

The claim form template can be found at *Appendix 1* of this Guidance. It can also be obtained as follows:

- From Connect, the Trust's intranet site  
<http://connect/corporate/legal-services/Policies/Forms/AllItems.aspx>
- By contacting the Legal Department on 0121 301 1086.

Section A: to be completed by the person making the claim or by someone on their behalf.

Section B: to be completed by the relevant ward manager or line manager.

- All parts of the claim form at Sections A and B should be fully completed. If any parts do not apply, please state 'N/A'. The claim form may not be processed if insufficient information is given and may be returned. The Legal Department is not responsible for obtaining missing information.
- If the claim is being made for lost or damaged property, original documentation showing proof of purchase and value must be sent with the claim form, e.g. receipts, invoices, Copies will not be accepted unless there is good reason for not providing the originals.
- All damaged items must be retained, in case they are requested by the Legal Department for inspection, until a decision about the claim has been made and communicated.
- If there are relevant incident reports and/or medical records entries, these must be included with the claim form.

Section C: to be completed by the Trust Company Secretary once the claim has been reviewed by the Legal Department.

Sections D & E will be completed appropriately should the value of the claim exceed £1,000.

### 3. Form submission

Please send the form to the Legal Department by the following routes:

- Post: BSMHFT, Legal Department, B1 – Unit 1, 50 Summer Hill Road, Birmingham, B1 3RB
- Email: [Legalteam.Secretary@bsmhft.nhs.uk](mailto:Legalteam.Secretary@bsmhft.nhs.uk)
- Fax: 0121 301 1303

### Investigation and Approval Process

#### Section B of the form:

Once the relevant Trust manager (ward or line manager) has received the claim form, before signing it, they must be satisfied that they have all necessary information to make a decision about whether the loss, damage or hardship has occurred as stated by the applicant at Section A.

The Trust manager should assist the applicant (staff member/service user/visitor) where appropriate to collate all relevant documentation which needs to be submitted with the form.

#### Section C of the form:

The Legal Department is responsible for considering the appropriateness of the claim and making a recommendation, following which the Trust Company Secretary will indicate at Section C whether they do or do not support a payment being made.

The Legal Department will notify the applicant and/or relevant Trust Manager in writing once a decision has been made by the Trust Company Secretary.

**Successful claims:** the Legal Department will notify the applicant and/or relevant Trust Manager that a payment has been approved and will confirm the address details for posting of the payment. Payment will be made by cheque. The Legal Department will liaise with the Trust Finance Department to obtain the payment cheque. Payment can be made by bank transfer upon request.

**Rejected payment:** the Legal Department will notify the applicant and/or relevant Trust Manager in writing that the claim has been rejected with detailed reasons. No further investigation will be carried out by the Legal Department and the matter will be closed. The matter will only be re-opened if new evidence is provided which is significant enough to change the original decision to reject the payment.

**Appendix 1**

**EX GRATIA PAYMENT CLAIM FORM**

This claim form is to be used to request an ex gratia payment in respect of damage or loss to personal property, or for hardship suffered.

**Please read the Ex Gratia Guidance before completing the claim form.**

**Failure to complete the form in accordance with the Guidance may result in your form being rejected.**

**SECTION A - to be completed by the Applicant**

1. Full name of Applicant .....
2. Designation (Staff/Service User/Visitor) .....
3. Address (Trust site if staff or service user)  
.....  
.....
4. Date of incident .....
5. Location of incident .....
6. Description of the incident (if the claim relates to personal property, please state what has been lost or damaged)  
.....  
.....  
.....  
.....
7. Amount claimed £.....
8. Can you supply original documentation to verify the value stated at point 7 above?  
*If yes, please tick 'yes' and list the documents you can provide*  
*If no, please tick 'no' and explain why you cannot provide original documentation and confirm the date of purchase*  
  
Yes   
.....  
.....  
.....

No

.....  
.....  
.....

9 Did you complete an incident form? Yes  No

Eclipse incident form no:..... **(please attach a copy to your claim form)**

**I certify that the above is correct and understand that if I submit a false or exaggerated claim, it may result in the claim being rejected and if relevant, disciplinary action.**

Applicant's Signature .....

Date .....

**Section B overleaf to be completed by relevant Trust Manager (ward or line manager)**

**SECTION B - to be completed by responsible Trust Manager (ward or line manager)**

1. Were you aware of the incident leading to loss, damage or hardship before the ex gratia claim was submitted?

Yes  No

2. If the claim is for lost or damaged patient property, please confirm if the item was listed on a Patient Property Record Sheet (if yes, you **MUST** attach a copy of the property sheet to the claim form)

Yes  No

3. In your opinion, what factors led to the incident occurring?

.....  
.....  
.....  
.....

4. What action was taken at the time, and has any action been taken since the incident to prevent future occurrences?

.....  
.....  
.....  
.....

5. Has any compensation already been given to the applicant? If so, please provide details

Yes  No

.....  
.....  
.....

6. Do you support the claim?

Yes  No

If 'NO' please give reasons (continue on separate sheet if necessary):

.....  
.....

.....  
.....

7. Please provide the cost centre code and expense number for the site where the loss/damage occurred (any approved payments under the Ex Gratia Payment Policy are taken from the budget of the site where the loss/damage occurred)

Cost centre code .....

Expense number .....

Full name .....

Job title .....

Signature .....

Date .....

**Section C overleaf to be completed by Director of Nursing**

**SECTION C - To be completed by Director of Nursing**

I authorise an ex gratia payment of £.....

I do not authorise an ex gratia payment because

.....  
.....  
.....  
.....

Full name .....

Signature .....

Date .....

**Sections D & E overleaf to be completed as appropriate**

**(Section D where payment is between £1,000 and £25,000; Section E where payment exceeds £25,000)**



**SECTION D - To be completed by Executive Director of Resources where payment is between £1,000 and £25,000**

I authorise an ex gratia payment of £.....

I do not authorise an ex gratia payment because

.....  
.....  
.....  
.....

Full name .....

Signature .....

Date .....

**SECTION E – To be completed by Trust Chief Executive where payment exceeds £25,000**

I authorise an ex gratia payment of £.....

I do not authorise an ex gratia payment because

.....  
.....  
.....  
.....

Full name .....

Signature .....

Date .....