

# Procedures for Management and Handling of Small Claims

**(Loss/Damage/Theft of Personal Property)  
(Valued at less than <£1,000)**

**Warning – Document uncontrolled when printed**

<b>Policy Reference:</b>	<b>Date of Issue: April 2014</b>
<b>Prepared by: Clinical Governance Facilitator (Legal)</b>	<b>Date of Review: April 2016</b>
<b>Lead Reviewer: Dir. Of Finance</b>	<b>Version No: 2</b>
<b>Authorised by:</b>	<b>Date: April 2014</b>

## Distribution:

- |                                  |                                  |
|----------------------------------|----------------------------------|
| ☞ General/Nurse Managers         | ☞ AHP Professional Leads         |
| ☞ Assistant General Managers     | ☞ Clinical Dental Manager        |
| ☞ CHP Lead Nurses/Nurse Managers | ☞ Service Manager, Mental Health |
|                                  | ☞ Ward Manager/Heads of Depts.   |

## Method

CD Rom ✕      Email ✓      Paper ✕      Intranet ✓

**Warning – Document uncontrolled when printed**

<b>Version: 2</b>	<b>Date of Issue: March 2014</b>
<b>Page 1 of 10</b>	<b>Date of Review: April 2016</b>

# Contents:

<b>1.</b>	<b><i>Introduction .....</i></b>	<b>3</b>
<b>2.</b>	<b><i>Small Claims.....</i></b>	<b>3</b>
<b>3.</b>	<b><i>Exclusions .....</i></b>	<b>4</b>
<b>4.</b>	<b><i>Staff Awareness &amp; Responsibilities .....</i></b>	<b>4</b>
<b>5.</b>	<b><i>Patient Awareness &amp; Responsibilities .....</i></b>	<b>6</b>
<b>6.</b>	<b><i>Investigating a Report of Loss or Damage .....</i></b>	<b>6</b>
<b>7.</b>	<b><i>Consideration &amp; Payment of Small Claims .....</i></b>	<b>7</b>
<b>8.</b>	<b><i>Fraud Prevention, Detection and Investigation .....</i></b>	<b>8</b>
<b>9.</b>	<b><i>Appendices.....</i></b>	<b>9</b>

Warning – Document uncontrolled when printed	
Version: 2	Date of Issue: March 2014
Page 2 of 10	Date of Review: April 2016

## 1. Introduction:

- 1.1 NHS Highland requires to ensure that robust procedures are in place for dealing with claims made by patients, relatives, visitors, employees and others, relating to the loss or damage of personal property which has occurred on NHS property and that all claims are investigated and treated fairly and consistently.
- 1.2 This document sets out procedures to assure patients, relatives, visitors and employees that all reasonable steps have been taken to ensure the security of their personal property whilst they are under our care.
- 1.3 This document aims to provide guidance to staff to minimise losses and, where they do occur, on handling small claims. This document should be read in conjunction with the following NHS documents which can be found on the Finance page of the NHS Highland Intranet, under Organisation/Finance/Area Accounting/Finance Technical Guidance:
- *Standing Financial Procedure – Care & Custody of Patients' Property*
  - *Standing Financial Procedure – Fraud Policy*
  - *Standing Financial Procedure – Condemnations, Losses and Special Payments*
  - *Standing Financial Procedure – Lost & Found Property*
- 1.4 All staff have a responsibility to minimise losses and small claims against NHS Highland by ensuring that procedures in relation to the handling of patient monies/valuables and personal property are adhered to.
- 1.5 In no circumstances should an employee accept liability on behalf of NHS Highland for the loss or damage of any personal property.
- 1.6 Updates and changes to this Procedure will be communicated to Directorate and Operational Unit Managers and an up-to-date version will be available on the NHS Highland intranet in the Policies Library.

## 2 Small Claims

- 2.1 Small claims are defined as “*a claim for loss or damage to personal property documented or confirmed to have been with the person and occurred as a direct result of a negligent act or omission by NHS Highland or any employee(s) acting within the course of their duties*”.
- 2.2 Small claims will be defined for the purpose of this policy as claims made against NHS Highland valued at less than £1,000.
- 2.3 NHS Highland will retain a level of discretion to consider higher value claims where it considers that the claim is reasonable and that there is sufficient evidence to support acceptance of liability and payment of the claim. The Clinical Governance Support Team may seek advice from Central Legal Office on any claims where liability is disputed or the value of the claim exceeds £1,000.

Warning – Document uncontrolled when printed	
Version: 2	Date of Issue: March 2014
Page 3 of 10	Date of Review: April 2016

### 3. Exclusions

- 3.1 NHS Highland will not accept financial liability for the loss, damage or theft of personal property which patients have requested to retain on their person. Patients who wish to retain their personal property and decline safekeeping, should be asked to sign a disclaimer in respect of all items which they wish to retain. If a patient declines to sign a disclaimer, and wishes to retain their property, this should be documented in their records.
- 3.2 Patients, ***unless deemed temporarily incapable by clinical staff***, remain responsible for their personal property and valuables and are expected to exercise vigilance over the safety and security of their property unless it has been deposited with NHS Highland for safekeeping and a receipt obtained. Separate guidance for patients detained under the Mental Health Act, or in terms of Adults with Incapacity Act should be referred to..
- 3.3 NHS Highland will not accept financial responsibility for the accidental loss, damage or theft of personal property belonging to employees. The only exception to this is where a patient disturbance results in damage to personal property or where there is clear evidence that NHS Highland or an employee whilst acting in the course of their duties has been negligent.
- 3.4 NHS Highland will not accept financial liability for loss, damage or theft of personal motor vehicles or bicycles, etc parked on NHS property unless there is clear evidence that the damage/loss occurred as the result of negligent act or omission by NHS Highland or an employee acting in the course of their duties. **All visitors, staff and patients should be aware that vehicles and their contents are left at the owners' risk.**
- 3.5 NHS Highland will not accept liability for the loss, damage or theft of property which occurred as a direct result of actions or negligence of third parties or employee(s) who were not acting in the course of their duties.
- 3.6 NHS Highland will not accept liability for loss/damage to personal property following discharge from hospital or once the damaged property has been removed from NHS property or premises. Any damage to personal property must be reported to a member of NHS staff prior to removal from NHS property.
- 3.7 Personal Injury claims will not be considered under the Small Claims Procedures.

### 4. Staff Awareness & Responsibilities

#### 4.1 ***General Guidance***

- 4.1.1 Arrangements should be made locally to inform patients prior to planned admissions to hospital that they are discouraged from bring valuables, including jewellery and electrical goods and large sums of money into hospital with them.
- 4.1.2 All employees have a duty to ensure the safety and security of property belonging to NHS Highland, patients and employees and should report any concerns with regard to the safety/security of such property to the Ward/Department or Duty Manager.

Warning – Document uncontrolled when printed	
Version: 2	Date of Issue: March 2014
Page 4 of 10	Date of Review: April 2016

#### 4.1.3 **Disclaimer notices:**

Laminated notices should be displayed in all NHS Highland premises and be displayed at each patient bedside and within all ward/departments areas. Staff must ensure that patients are made aware of NHS Highland Procedures with regard to patients' monies/valuables and ensure that disclaimer notices are completed and signed where the patient wishes to decline safekeeping of such property.

### 4.2 **Wards/Nursing Staff Guidance**

#### 4.2.1 **Temporary Custody of Patient's Property:**

If a patient is away from the ward/unit for a period of time (e.g. to theatre or x-ray department) they should be informed that they can hand in property/valuables for safe keeping which they are keeping with them and they should be encouraged to do so.

4.2.1 Ward staff must consider the security of patients' monies, valuables and property for any patient who is unable or incapable of understanding, e.g. unconscious, intoxicated. Where a patient who is admitted to hospital is **incapable or unconscious** then two staff members should check and document accurately all personal property belonging to that patient, including personal aids. This includes the contents of bags and pockets. Any valuables/monies should be documented and retained in the ward/hospital safe.

4.2.2 Ward staff should enquire with all patients on admission to hospital as to whether they have cash/valuables that they wish to deposit for safekeeping. Patients who decline safekeeping of their valuable belongings for safekeeping must sign a disclaimer if they wish to retain their personal items. (Appendix 1)

4.2.3 Ward staff must ensure that all personal belongings of patients are transferred to other wards with patients. Patients who are admitted through Emergency Departments or other departments should have their belongings documented by the admitting ward staff and the procedure documented. The *Standing Financial Procedure on Care & Custody of Patients' Property* should be followed. A check of all documented belongings should be made on admission and by the receiving ward and for each subsequent transfer.

4.2.4 Care must be taken to ensure that all money/valuables or other property is checked prior to returning to the patient and a signature from the patient, or next of kin, must be obtained on return of their property.

### 4.3 **Dentures & Other Personal Aids**

4.3.1 Ward staff must ensure that great care is taken to ensure the safe keeping of property belonging to patients, particularly dentures and hearing aids, where the patient is incapable of looking after these. Dentures are very much part of the patient and essential for maintaining self esteem as well as aiding speech and nutrition.

4.3.2 Where NHS Highland is liable for the loss of personal aids, these may be replaced by the relevant NHS Highland service (ie, audiology, dental services) where appropriate. Where NHS Highland provides a replacement using NHS Highland services, these items will be free of standard NHS charges to the patient. If services to replace lost items such as digital hearing aids, dentures are purchased through a private contract, then NHS Highland may only contribute the cost of the service provided by the NHS.

Warning – Document uncontrolled when printed	
Version: 2	Date of Issue: March 2014
Page 5 of 10	Date of Review: April 2016

## 5. Patient Awareness & Responsibilities

- 5.1 As part of the admissions process, arrangements should be in place locally to inform patients in advance of a planned admission that they should not bring valuables into hospital and that NHS Highland will not be held liable for the loss or damage to any monies/valuables or personal property unless it is documented and handed in to ward staff for safekeeping.
- 5.2 Patients who wish to bring valuable mobile electrical devices into hospital with them, such as mobile phones, personal laptop computer, iPads/tablets, iPod/MP3 players etc, are encouraged to have appropriate insurance cover against the loss, damage or theft of such items. Patients who wish to bring such equipment into hospital with them should be asked required to sign a Disclaimer. Should patients decline safekeeping and fail to sign a disclaimer this should be documented in the patient's notes. NHS Highland will not be liable for loss, damage or theft to such equipment unless there is evidence that this was as a direct result of an accidental/negligent act by NHS Highland or its employees. ***(Please also seek guidance from Estates Department to ensure compliance with PAT testing of electrical appliances which are brought into hospital by patients.***
- 5.3 Patients, unless incapable or unconscious, in terms of the Adults with Incapacity (Scotland) Act 2000 should be made aware by ward staff, notices, etc that they remain responsible for all their personal property and that they are expected to exercise vigilance over the safety and security of their belongings, unless they are deposited to ward staff for safekeeping.

## 6. Investigating a Report of Loss/Damage

- 6.1 Loss or damage to personal property should reported by the patient, the patient's representative or member of staff to ward/department staff, security staff or Duty Manager, as soon as it is discovered.
- 6.2 The Ward/Department Manager should immediately commence an investigation into the circumstances of any alleged theft, loss or damage, i.e. search of area if lost property or inspection of damage and document what actions have been taken. Other staff involved should be interviewed and statements should be taken. Where appropriate, the Ward/Department Manager should notify the Police of any suspected theft.
- 6.3 All incidents relating to theft, loss or damage to property should be reported via the Datix incident reporting system.
- 6.4 The investigation should also establish whether there are any defects in the existing system or control and, if so, what corrective action is proposed.
- 6.5 If following local investigation, and providing that the loss falls within the terms of the Small Claims Procedures, the person suffering the loss/damage should be given a small claim form by the Ward/Department Manager to complete and to return to the relevant ward/department **within 30 days** of loss/damage occurring. Staff should explain the terms of the policy when issuing small claim forms.

Warning – Document uncontrolled when printed	
Version: 2	Date of Issue: March 2014
Page 6 of 10	Date of Review: April 2016

- 6.6 Where the loss is due to fraud or theft the Ward manager/Head of department should notify the Operational Unit Manager/General Manager. Where fraud is suspected, they should contact **NHS Fraud Liaison Officer**, Finance Department, Assynt House, Beechwood Park, Inverness and refer to NHS Highland Fraud Policy.

## 7. Consideration of Small Claims

- 7.1 Small claims should be investigated by the Ward/Department Manager or Operational Unit/General/Nurse Manager. Where it is considered that responsibility for the loss should be accepted, the Ward/Department Manager should complete Section 2 of the Claim form and include their IDA/TP Number to where the claim will be charged.
- 7.2 All claims for loss/damage to personal property are chargeable to the department/ward where the loss occurred. No central budget exists for payment of such claims
- 7.3 Completed claims should be forwarded to Clinical Governance Support Team for consideration and reimbursement/payment claims.
- 7.4 Claims should only be accepted where the loss/damage occurred as a result of a negligent act or omission by NHS Highland or an employee whilst acting in the course of their duties have been negligent with regard to the loss, damage or the property was placed into safekeeping and a receipt obtained.
- 7.5 Claimants should provide documentary evidence in support of their claim or make an appropriate deduction to reflect the actual physical condition and current market value of any item when providing estimating the value (ie. age and condition of item). **NHS Highland reserves the right to make an appropriate deduction for wear and tear from any valuation where it is considered appropriate if proof of purchase is not available.**
- 7.6 If the claim is accepted consideration should be given to the level of payment due to the claimant in respect of the loss. A decision to make an ex-gratia payment to compensate an individual, or organisation, does not indicate any acceptance of liability on the part of NHS Highland. Any person accepting the payment does so, on this basis and may be required to sign a disclaimer to this effect.
- 7.7 If the claimant's own actions or failure to act have contributed to the loss or damage then the amount paid may be reduced to reflect the extent to which the claimant is deemed to be responsible for the loss or damage.
- 7.8 Where a claim relates to the cost of services available under the NHS (e.g. services from a dentist or optician) then the claimant must take up his/her full entitlement to free or reduced rate NHS treatment. Please refer to HC 11 Booklet "*Help with Health Costs*" when claiming.
- 7.9 The Claimant must submit proof of purchase/receipts showing any expenditure already incurred due to the loss/damage or quotations/valuation certificates in respect of any asset that has still to be replaced. If the claimant requires prolonged treatment, eg for replacement dentures, then the claim form should be submitted and any invoiced receipts forwarded to after treatment has been completed.

Warning – Document uncontrolled when printed	
Version: 2	Date of Issue: March 2014
Page 7 of 10	Date of Review: April 2016

- 7.10 Once a claim has been considered and payment agreed, claimants should be notified in writing and, if not already done so, asked to provide proof of purchase of replacement items or sign a disclaimer in respect of ex-gratia payments.
- 7.11 In the event that a small claim is unable to be resolved within the operational unit or under the Small Claims Procedure, the Claimant may make a formal complaint and should be advised on the procedure for this.

## 8. Fraud Prevention, Detection and Investigation

- 8.1 NHS Highland, as a public service organisation has a duty to ensure the proper use of public funds. It is therefore important that all those who work in the public sector are aware of the risk of and means of enforcing the rules against theft, dishonesty, fraud and similar illegal acts.
- 8.2 Any suspicions of fraudulent claims for loss or damage to property made against NHS Highland should be notified to NHS Highland's Fraud Liaison Officer who will commence investigations into allegations in line with NHS Highland's Fraud Policy.

## 9. Appendices

Appendix 1 - Disclaimer Notice

Appendix 2 - Disclaimer Form

Appendix 3 –Form SC1 - Guidance Notes for Claimants/Small Claims Form

Warning – Document uncontrolled when printed	
Version: 2	Date of Issue: March 2014
Page 8 of 10	Date of Review: April 2016



## **DISCLAIMER NOTICE**

### **IMPORTANT NOTICE TO PATIENTS**

**Please remember that while you are in hospital you remain responsible for the safety and security of all your personal belongings/property.**

**We strongly advise that you do not bring valuables into hospital with you. If you have any valuables, including jewellery, these items should be deposited for safekeeping and a ward receipt obtained. Your belongings can be held securely on your behalf until you need them or until you are ready to leave hospital.**

**If you wish us to look after any personal belongings/valuables whilst you are in hospital, please contact your named nurse or Senior Charge Nurse.**

**NHS Highland cannot accept liability for the loss or damage to any valuable items which you bring into hospital and are not deposited for safekeeping.**



Warning – Document uncontrolled when printed	
Version: 2	Date of Issue: March 2014
Page 9 of 10	Date of Review: April 2016

## DISCLAIMER OF LIABILITY FOR PATIENT'S CASH/VALUABLES

WARD/DEPARTMENT: .....

PATIENT'S NAME: .....

PATIENT'S ADDRESS: .....

.....

.....

I, the above named, wish to retain the undernoted item(s) in my personal possession whilst a patient in \_\_\_\_\_ Hospital, and acknowledge that the NHS Highland will not be liable for any loss or damage to the said item(s) Including (1) items identified in clothing list Receipt Number ..... and (2) items brought in after admission date.

SIGNED: .....

WITNESS: .....

DESIGNATION: .....

DATE: .....

ITEM(S): 1.....

2.....

3.....

4.....

5.....

6.....

Warning – Document uncontrolled when printed	
Version: 2	Date of Issue: March 2014
Page 10 of 10	Date of Review: April 2016