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ANNEX 4.10 LOSSES AND WRITE OFFS

This annex sets out what is expected when departments and NDPBs make losses or write off assets, including notifying Parliament. Some rules are specific to NDPBs.

A.4.10.1 As Parliament does not include advance provision for losses when voting money or passing specific legislation, such transactions are subject to greater control than other payments. Public sector organisations should only consider writing off losses after careful appraisal of the facts (including whether all reasonable action has been taken to effect recovery), and should be satisfied that there is no feasible alternative. In dealing with individual cases, departments must always consider the soundness of their control systems, the efficiency with which they have been operated, and take any necessary steps to put failings right.

Levels of delegation

A.4.10.2 Box A.4.10A groups losses into categories to help decide how individual cases should be handled and notified to Parliament. Departments have delegated authority to deal with all losses falling into group 1. The Treasury retains control over losses falling into group 2, subject to any specific delegation arrangements agreed bilaterally.

Consulting the Treasury

A.4.10.3 When departments identify losses and write-offs, they should consult the Treasury, irrespective of any delegated authorities or the amount of money concerned, if they:

- involve important questions of principle;
- raise doubts about the effectiveness of existing systems;
- contain lessons which might be of wider interest;
- are novel or contentious;
- might create a precedent for other departments in similar circumstances;
- arise because of obscure or ambiguous instructions issued centrally.

A.4.10.4 Similarly, NDPBs should consult their sponsor departments about similar cases. In turn departments may need to consult the Treasury.

A.4.10.5 Where losses do not fall into these categories but exceed the relevant delegated limit, departments also need to consult the Treasury, setting out the facts in box A.4.10B and seeking permission to write them off. If the Treasury is not satisfied that a case has been appropriately managed (including imposing financial penalties or disciplinary measures, as appropriate), it may withhold approval. The Treasury brings any such refusal to sanction write-off to the notice of the C&AG. The C&AG in turn notifies the PAC, who may call the Accounting Officer to justify and defend the department's actions in the case.

box A.4.10A Classification of losses

type	description	delegation group
A	Losses	
i.	cash losses: physical losses of cash and its equivalents (e.g. bank notes, credit cards, electronic transfers, payable orders)	1
ii.	bookkeeping losses: <ul style="list-style-type: none"> • unvouched or incompletely vouched payments, including missing items • charges to RfRs to clear inexplicable or erroneous debit balances 	1
iii.	exchange rate fluctuations: losses due to fluctuations in exchange rates or revaluations of currencies	1
iv.	losses of pay, allowances and superannuation benefits paid to civil servants, members of the armed forces and NDPB employees <ul style="list-style-type: none"> • overpayments due to miscalculation, misinterpretation, or missing information • unauthorised issues, e.g. inadmissible payments • losses arising from other causes, e.g. non-disclosure of full facts by the beneficiary, short of proven fraud 	1 1 2
v.	losses arising from overpayments of social security benefits, grants, subsidies, etc. arising from miscalculation, misinterpretation or missing information	2
vi.	losses arising from failure to make adequate charges for the use of public property or services	2
B	losses of accountable stores	
i.	proven or suspected fraud, theft, arson or sabotage, or any other deliberate act (including repairable damage caused maliciously to buildings, stores, etc. even where a legal claim is not possible)	1
ii.	losses arising from other causes	1
C	fruitless payments and constructive losses	1
D	claims waived or abandoned	2

Notification to Parliament

A.4.10.6 Losses should be brought to Parliament's attention at the earliest opportunity, normally by noting the department's resource account, whether or not they may be reduced by subsequent recoveries. For serious losses, departments should also consider the case for a written statement to Parliament. Departments should not hesitate to notify Parliament of any losses which it would be proper to bring to their attention.

box A.4.10B Cases exceeding delegated limits

Departments should consult the Treasury as soon as possible, outlining:

- the nature of the case, the amount involved and the circumstances in which it arose;
- the reasons for the proposed write-off, including any legal advice;
- whether fraud (suspected or proven) is involved;
- whether the case resulted from dereliction of duty;
- whether failure of supervision is involved;
- whether appropriate legal and/or disciplinary action has been taken against those involved including supervisors, and, if not, why not;
- whether those primarily involved will be required to bear any part of the loss; and
- whether the investigation has shown any defects in the existing systems of control and, if so, what action will be taken.

Losses and claims records

A.4.10.7 Public sector organisations should maintain a record of losses, in which losses of all kinds should be recorded as soon as possible. The record should show:

- the nature, gross amount (or estimate where an accurate value is unavailable), and cause of each loss;
- the action taken, total recoveries and date of write-off where appropriate; and
- the resource account in which each loss is to be noted.

A.4.10.8 A losses statement is required in resource accounts where total losses exceed £250,000. Individual losses of more than £250,000 should be noted separately. Losses should be reported on an accruals basis.

A.4.10.9 Where efforts are still being made to secure recovery of cash losses formally written off, charged to the accounts and noted, public sector organisations should consider including them in a record of claims to ensure that recovery is not overlooked.

Accounting for cash losses

A.4.10.10 Cash losses should initially be accounted for as debtors in resource accounts pending recovery or write-off.

A.4.10.11 Once cash losses are definitely identified, they should be charged to the appropriate RfR subheads. Missing cash received as an appropriation in aid which was lost after receipt (but before being brought to account), should be charged as incidental expenses with a contra credit to appropriations in aid.

A.4.10.12 Where a cash loss is wholly or partly recovered by reducing the amounts of pay or pension¹ which would otherwise be due, or under statutory or other specific powers² only the resulting outstanding balance is treated as a loss for writing-off. The sum(s) are charged to the relevant RfR as if they had been paid to the individual concerned who then used the money to pay the claim.

A.4.10.13 Similarly, where the loss is wholly or partly met by voluntary payments by the person responsible or by a payment from an insurance company or other non-public source, only the net loss is written off. If, however, there are no powers to apply the sums withheld by non-issue of pay etc, the gross amount of the loss is written off.

A.4.10.14 Generally, no note is necessary if the net loss is nil by the time the resource account is finalised. There may, however, be exceptions (eg losses arising from culpable causes) where the circumstances of the loss are such as to make it proper to bring them to the notice of Parliament by inclusion in the Losses Statement.

Stores losses

A.4.10.15 Stores losses are, in effect, money spent without the authority of Parliament. In establishing the amount of the loss, and hence whether the resource account should be noted, the net value of the loss after crediting any sums recovered will be the determining factor.

A.4.10.16 Losses of stores arising from culpable causes should be noted in departmental records, in accordance with normal practice. Such losses should also be noted in the resource account, to ensure that such losses are brought to the attention of Parliament in the appropriate manner, and to aid departmental management in managing and accounting for stores.

A.4.10.17 Where there is an identifiable claim against some person, the loss need not be noted immediately. However, if the department subsequently decides to waive the claim, or finds that it cannot be presented or enforced, the loss should be treated as an abandoned claim (see paragraph A.4.10.24) and noted accordingly.

A.4.10.18 Any loss recoverable from a third party, but in respect of which recovery is waived because of a knock for knock agreement, should be noted as a stores loss.

A.4.10.19 Where stores are to be written off, gifted, or transferred to other departments, they should be valued in accordance with the FReM, unless circumstances justify exceptional treatment, or other arrangements have been agreed³.

Fruitless payments

A.4.10.20 A fruitless payment is a payment which cannot be avoided because the recipient is entitled to it even though nothing of use to the department will be received in return. Some examples are in box A.4.10C.

A.4.10.21 As fruitless payments will be legally due to the recipient, they are not regarded as special payments. However, as due benefit has not been received in return, they should be treated as losses, and brought to the attention of Parliament in the same way as stores losses.

¹ Tax must be deducted from pay or pension subject to PAYE withheld in settlement of a loss, to arrive at the amount attributed to debt repayment.

² For example, Queen's Regulations.

³ Stores held by the Ministry of Defence may be valued according to their estimated supply price.

box A.4.10C examples of fruitless payments

A **fruitless payment** is a payment for which liability ought not to have been incurred, or where the demand for the goods and services in question could have been cancelled in time to avoid liability, for example:

- forfeitures under contracts as a result of some error or negligence by the department;
- payment for travel tickets or hotel accommodation wrongly booked, or for goods wrongly ordered or accepted;
- the cost of rectifying design faults caused by a lack of diligence or defective professional practices; and
- extra costs arising from failure to allow for foreseeable changes in circumstances.

Constructive losses

A.4.10.22 A constructive loss is a similar form of payment, but one where procurement action itself caused the loss. For example, stores or services might be correctly ordered, delivered or provided, then paid for as correct; but later, perhaps because of a change of policy, they might prove not to be needed or to be less useful than when the order was placed.

A.4.10.23 Constructive losses need not be noted in the Losses Statement in the resource accounts unless they are significant.

Claims waived or abandoned

A.4.10.24 Losses may arise if claims are waived or abandoned because, though properly made, it is decided not to present or pursue them. Some examples are in box A4.10D.

box A.4.10D examples of waived and abandoned claims

- where it is decided to reduce the rate of interest on a loan, and therefore to waive the right to receive the amount of the reduction;
- claims actually made and then reduced in negotiations or for policy reasons;
- claims which a department intended to make, but which could not be enforced, or were never presented;
- failure to make claims or to pursue them to finality, e.g. owing to procedural delays allowing the Limitations Acts (annex 4.11.1) to become applicable;
- claims arising from actual or believed contractual or other legal obligations which are not met (whether or not pursued), e.g. under default or liquidated damages clauses of contracts;
- amounts by which claims are reduced by compositions in insolvency cases, or in out-of-court settlements, other than reductions arising from corrections of facts;
- claims dropped on legal advice, or because the amounts of liabilities could not be determined;
- remission of interest on voted loans.

A.4.10.25 The following should not be treated as claims waived or abandoned:

- any claims wrongly identified or presented, whether in error or otherwise. A claim should not, however, be regarded as withdrawn where there is doubt as to whether it would succeed if pursued in a court of law, or if the liability of the debtor has not or cannot be accurately assessed;
- waivers or remission of tax. HMRC have special rules about remissions of tax. Other departments should consult the Treasury about treatment when a case arises; or
- a claim for a refund of an overpayment which fails or is waived. This should be regarded as a cash loss.

A.4.10.26 Waivers should be noted in resource accounts in accordance with the FreM. In addition:

- a claim not presented should normally be noted at its original figure;
- where more than one department is involved, each should note its records to the extent of its interest, without attempting spurious accuracy.

A.4.10.27 There is no need to note resource accounts if claims between departments are waived or abandoned. These are domestic matters.