

# Policy:

## HR 029 - Overpayments

Executive or Associate Director lead	Director of Human Resources
Policy owner	Director of Human Resources
Policy author	HR Adviser

Document type	Policy
Document version number	VERSION 1
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Approved by	Executive Directors' Group
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### Summary of policy

**Implemented in 2019 and expands on the Finance Income Collection Policy.**

The Overpayments Policy is a brand new policy which explains the process in relation to overpayment and underpayment of salary, allowances and benefits for current employees and leavers. It is the Trust's contractual obligation to pay employees correctly, however it is acknowledged that occasionally errors occur and employees are either over or underpaid salary. The Trust has a responsibility to ensure that all overpayments are recovered using due process as outlined in the policy.

Target audience	All Trust employees
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Keywords	Overpayment, salary, incorrect, form, eForm, error, payments, repayment
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### Storage

This is Version 1 and is stored and available through the SHSC Intranet/Internet.

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### Version Control and Amendment Log

<b>Version No.</b>	<b>Type of Change</b>	<b>Date</b>	<b>Description of change(s)</b>
1	New policy	July 2019	New policy

## 1. Introduction

This Policy explains the process in relation to overpayment (and underpayment) of salary, allowances and benefits for current employees and leavers.

It is important that employees are paid correctly at all times. It is an employee's contractual responsibility to check that their pay is correct and to inform the Trust immediately if they are either overpaid or underpaid.

It is the Trust's contractual obligation to pay employees correctly, however it is acknowledged that occasionally errors occur and employees are either over or underpaid salary. As the Trust is funded by public monies it has a responsibility whenever possible, to ensure that all overpayments are recovered.

## 2. Scope

This Policy covers all employees who have a contract of employment with the Trust. It also covers those individuals on a bank contract.

In addition, this policy applies to former employees who have left the Trust.

The Trust is committed to treat all employees and workers with compassion and fairness. In terms of this policy, that means we will create repayment plans that are tailored to individual circumstances.

## 3. Definitions

There are a number of ways in which an employee can be incorrectly paid, including, but not restricted to:

- An overpayment of salary
- An underpayment of salary
- Payment of incorrect travel or non-travel expenses
- Duplication of payment
- Deduction or payment made in error

### Overpayment

The definition of an overpayment is where an employee is paid an amount in excess of their contractual entitlement. The likely causes of overpayments include, but are not restricted to:

- A termination form not being completed, received or processed on time
- Late or no notification of sickness absence / unpaid leave
- Employees not returning from maternity leave
- Employees having exceeded their annual leave entitlement when leaving employment
- An error being made by the Payroll / Workforce Information / Recruitment Team
- The late or incorrect completion of an electronic change form
- Incorrect salary banding

- Incorrect application of payment for enhancements
- Incorrect application of payment for allowances
- Incorrect application of payment for expenses
- Incorrect payment of overtime

#### Identification of payment errors

Payment errors can be identified in several ways:

- A member of the HR team identifies that an error has occurred
- A member of the payroll team identifies that an error has occurred
- The employee upon receipt of salary identifies that an error has occurred
- The budget manager identifies that an error has occurred
- Verification checks/audit identify that an error has occurred

When an error in payment has been identified, action should be taken as quickly as possible to rectify the error, update ESR and recover the overpayment.

#### **4. Purpose**

The purpose of this policy is to provide employees with all the necessary information relating to their statutory and occupational requirements in relation to under/overpayments of salary, allowances or benefits. This policy will also ensure that there is consistency in dealing with such matters throughout the Trust.

#### Legal Position

Section 13 of the Employments Rights Act 1996, states:

*Right not to suffer unauthorised deductions*

*(1) An employer shall not make a deduction from wages of a worker employed by him unless:-*

- (a) the deduction is required or authorised to be made by virtue of a statutory provision or a relevant provision of the worker's contract, or*
- (b) the worker has previously signified in writing his agreement or consent to the making of the deduction.*

Section 14 states that:

*Section 13 does not apply to a deduction from a worker's wages made by his employer where the purpose of the deduction is the reimbursement of the employer in respect of:-*

- (a) an overpayment of wages, or*
- (b) an overpayment in respect of expenses incurred by the worker in carrying out his employment.*

#### Trust Standard Terms & Conditions of Employment

Section 25 covers “Deduction from Wages” and states “I authorise the Director of Finance to deduct from my salary, wages or training allowances, the amount which shall at the time be due from me in respect of rent, lodgings, meals or other deductions authorised under the national Terms & Conditions, and any charges for private telephone calls or other debts outstanding to the employing authority”

The Trust therefore has the right to recover any salary overpayment from an employee irrespective of how it occurred. However, the Trust (or Payroll provider) will always notify the employee when an overpayment has been made and formulate a repayment plan, if required, in conjunction with the relevant parties before repayment commences.

## **5. Broad overview of the Policy**

The Overpayments Policy is a brand new policy which explains the process in relation to overpayment and underpayment of salary, allowances and benefits for current employees and leavers. It is the Trust’s contractual obligation to pay employees correctly, however it is acknowledged that occasionally errors occur and employees are either over or underpaid salary. The Trust has a responsibility to ensure that all overpayments are recovered using due process as outlined in the policy.

## **6. Duties**

Line Managers are responsible for:

- Reviewing all salaries and related payments charged to their cost centre and to inform Finance and HR of any discrepancies and creating a log of events.
- Ensuring appropriate Trust forms and ESR amendments are submitted on time for processing to avoid any overpayments/underpayments.
- Informing HR and payroll in a timely manner of any variation to contracts for employees, providing all information required.
- Submitting Termination of Employment forms at least 2 weeks prior to the employees last day in service, wherever possible.
- Managers have a responsibility to support HR and payroll when reclaiming an Overpayment.

Employees are responsible for:

- Checking their payslips to ensure that they are receiving the correct payment and benefits.
- Bringing any issues immediately to the attention of Payroll, their line manager or Human Resources.

Staff Side are responsible for:

- Working with the Trust to ensure that the provisions of this policy and procedure are communicated throughout the Trust
- Representing employees responsibly and consistently, in line with this policy and procedure.

Human Resources are responsible for:

- Providing advice and guidance on this Policy.
- Ensure information is input into ESR in an accurate and timely manner in agreed timescales.

Finance is responsible for:

- Collating data on overpayments recovered via Payroll and invoices.
- Reporting total overpayments to HR.

Payroll is responsible for:

- Recovering all overpayments in a timely manner where employees remain with the Trust, in line with this Policy.
- They notify finance of the net overpayment for any employees that have left the Trust.
- Ensuring that information is input into ESR in an accurate and timely manner within agreed roles and responsibilities.
- Ensuring any payment errors are identified and the manager/employee is advised in a timely manner.
- Ensuring repayment does not commence until a repayment plan is in place, if required.
- Notifying Finance where recovery is not possible in the next pay month.
- Providing Finance and Human Resources with statistical information.

Counter Fraud:

- All NHS Trusts are duty bound by the Public Accounts Committee to recover overpayments in full. Where appropriate the Local Counter Fraud Specialist will be asked to consider the case as suspected fraud in accordance with the Trust's Counter Fraud, Bribery and Corruption policy.
- The Theft Act 1968 indicates that although an individual may not set out to obtain the additional salary intentionally, by keeping it and treating it as their own (i.e. spending it) they may be guilty of theft. This is also referred to under Section 3 of the Fraud Act 2006 "Fraud by failing to disclose information".
- There is a requirement under Trust Standing Orders and Standing Financial Instructions to ensure all losses are appropriately reported. The Trust's Local Counter Fraud Specialist may review overpayment records to ensure that criminal action has been considered when appropriate.

## **7. Procedure**

Where an overpayment of salary has occurred, payroll will contact the employee in the first instance to notify them and will provide written notice of the background to the overpayment and the overpayment amount.

### **7.1 Overpayment of salary for current employees**

Following initial contact from payroll to the employee (as described above) payroll will also notify HR, the line manager and finance describing the overpayment and specifying the overpayment amount.

Payroll will then make contact with the employee to confirm next steps in terms of collecting the overpayment. The default position is that once an overpayment has been identified, payroll will attempt to recover the monies over the same period that the overpayment was accrued.

A payment plan will be suggested to the employee by payroll at this point, based on the above principles. If for whatever reason the employee is not agreeable to the default position, they should confirm to payroll, who will then contact Finance and HR in order to organise a repayment plan meeting.

### **7.2 Repayment Plan**

Where the employee is not happy to repay the monies over the same period as the overpayment accrued, a meeting will be scheduled between the employee, the HR Director (or a nominated deputy) and the Deputy Director of Finance (or a nominated deputy) to discuss and agree a repayment plan.

The employee would also be entitled to be accompanied at this meeting by a union representative or work colleague. It is important that prior to holding this meeting the employee is fully aware of the circumstances surrounding the overpayment and the amount they have been overpaid, which should have been communicated with them via payroll.

The aim of the meeting is to discuss the overpayment and the employee's individual circumstances with a view of agreeing a repayment plan that is acceptable to all parties, taking into account individual financial circumstances. As a general principle, a good starting point in negotiations is to consider a repayment plan based over the same length of time as the period of overpayment accrued.

The Trust accepts that any repayment plan should not reduce the employee's salary to a figure which is below the Foundation Living Wage. Likewise, the monthly repayment amount should not be more than 30% of the employee's average net monthly pay.

Once a repayment plan has been agreed by all parties at this meeting, it should be confirmed to the employee in writing, signed by the employee and on behalf of the organisation and will then form the basis of a binding agreement. Payroll will also need to be notified so that repayment can begin.

If during the length of the repayment plan a situation arises whereby the employee is in receipt of back pay due to cost of living increases or promotion for example, then the entire amount of any back pay due may be offset against the outstanding repayment plan balance.

Employees who leave the Trust before the end of the repayment plan will have the remaining monies deducted from their final salary or if the amount is greater it will be referred as a debt to Finance who will raise an invoice to the individual and monitor in line with the Income Collection Policy.

If there are any changes in personal circumstances that mean the employee is unable to continue with the repayment plan or needs to renegotiate the terms of the repayment plan, then it is important they contact the HR Director (or a nominated deputy) and Deputy Finance Director (or a nominated deputy) immediately to raise their concerns. For example, the employee's salary is affected by maternity leave, half pay due to sickness absence or no pay for any other reason.

If no agreement is reached with the employee at the repayment plan meeting, the HR Director / Deputy Finance Director may decide to instead determine an appropriate repayment plan without the need for employee agreement. If this is the case, the employee will be written to with details of the repayment plan, including monthly amounts to be deducted and length of repayment plan, prior to any repayments being processed by payroll.

To be clear, this is only as a last resort in the eventuality that a mutual agreement on the repayment plan cannot be made with the employee.

### **7.3 Overpayment of salary for employees who have left the Trust**

It is the responsibility of the Line Manager to ensure termination forms are sent to HR/Payroll as soon as they are aware of an employee leaving the Trust. However, if an overpayment occurs and the employee has already left the Trust, Payroll will write to the individual informing them of the overpayment. Alternatively leavers must promptly inform Payroll as soon as they realise they have been overpaid.

In these situations the individual will be advised in writing of the details of the overpayment. Payroll will notify Finance for a Debtor invoice to be raised to the individual. The Finance Department will raise the invoice and make efforts to recover the overpayment with the former employee immediately but regard will be given to personal circumstances where possible. The Income Collection Policy will be followed.

Finance will refer to the Trust's Debt Collection Agency if repayment is not received within the appropriate timescales as detailed in the Income Collection Policy.

### **7.4 Underpayment of salary**

Any underpayments identified will be repaid to the employee in the next available payroll run, which will usually be in the following month wherever possible, unless this is a financial detriment to the employee and an advance payment can then be requested.

If an underpayment is identified by the employee's Line Manager, the aforementioned manager should send an appropriate email to HR and ~~Payroll~~ to correct the error and contact Payroll so the underpayment can be rectified preferably in the next available payroll run.

In exceptional circumstances a salary advance can be applied for via the Trust's Hardship Salary Advances Policy.

## **8. Development, consultation and approval**

Version 1 - Individuals consulted in the development of this Policy:

- Dean Wilson, Director of Human Resources
- Caroline Parry, Deputy Director of Human Resources
- Finance colleagues
- Head of Victoria Pay Services
- Robert Purseglove, Local Counter Fraud Specialist (May/June 2019)
- This policy was verified by the Joint Policy Group on 7<sup>th</sup> May 2019 and noted at the Joint Consultative Forum [5<sup>th</sup> June 2019 and 31<sup>st</sup> July 2019].
- Policy Governance Group and Executive Directors' Group to approve the policy in July 2019.
- The Equality Impact Assessment will be undertaken and stored separately in conjunction with Corporate Governance and the Head of Equality and Inclusion.

## 9. Audit, monitoring and review

<b>Monitoring Compliance Template</b>						
Minimum Requirement	Process for Monitoring	Responsible Individual/group/committee	Frequency of Monitoring	Review of Results process (e.g. who does this?)	Responsible Individual/group/committee for action plan development	Responsible Individual/group/committee for action plan monitoring and implementation
appraisal	Appraisal/supervision	Line managers	Annual	Line managers	Directorates	Directorates

**Policy Review Date – 31<sup>st</sup> July 2023**

## 10. Implementation plan

Action / Task	Responsible Person	Deadline	Progress update
Policy to be uploaded onto the Trust intranet and Trust internet. Previous version removed / archived	Director of Corporate Governance to arrange this via the Communications Team	Within 5 working days of ratification	TBC
A communication will be issued to all staff via Connect			TBC
A communication will be sent to the Education, Training and Development department to review training provision where necessary	Director of Corporate Governance in conjunction with the author as applicable	Within 5 working days of issue	TBC

**11. Dissemination, storage and archiving (version control)**

<b>Version</b>	<b>Date on website (intranet and Internet)</b>	<b>Date of entry in Connect (staff communication)</b>	<b>Any other promotion / dissemination (include dates)</b>
1	July 2019	July 2019	

This is Version 1 and is stored and available through the SHSC Intranet/Internet.

All versions of HR policies are stored on the HR Shared Drive by the policy author and PA to the Director of Human Resources.

Word copies of final versions of policies can be obtained from Policy Governance via the PA to the Director of Human Resources.

**12. Training and other resource implications**

Human Resources offer training and support to managers in the implementation of HR policies. There is no additional training required for this Policy.

**13. Links to other policies, standards, references, legislation (associated documents) and national guidance**

Income Collection Policy  
Hardship Salary Advances Policy  
Counter Fraud, Bribery and Corruption Policy  
Leaver Guidance  
Management guidance  
Health and Wellbeing`  
Standing Financial Instructions / Standing Orders

**14. Contact details**

<b>Job Title</b>	<b>Name</b>	<b>Email</b>
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