

Policy for the recovery of Overpayments and Payment of Underpayments

Human Resources Policy No. HR23

This Policy is currently under review. Continue to use this version until new policy is launched (expected 2024)

Additionally refer to: HR07 Disciplinary Policy for Doctors and Dentists
HR36 Disciplinary Procedure
HR58 Fraud and Corruption

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1. Policy Statement

- 1.1 This policy sets out the steps that will be taken to recover overpayments from employees and the payment of underpayments to employees by the Trust.

2. Scope

- 2.1 This policy will apply to all employees and ex-employees of the Trust whether full time or part time, permanent or temporary including those employed by the Trust via the Temporary Staffing Department.
- 2.2 This policy does not apply to individuals employed by agencies or other contractors.
- 2.3 In implementing this policy, managers must ensure that all employees are treated fairly, equitably and within the provisions and the spirit of the Trust's Equality and Diversity Policy HR01. Special attention should be paid to ensuring the policy is understood when using it for employees new to the NHS or Trust, by employees whose literacy or use of English is weak or for persons with little experience of working life.

3. General Principles

- 3.1 The Trust acknowledges that occasionally errors occur and employees are either under or overpaid salary, allowances or benefits. As public monies are involved, the Trust has a responsibility to ensure that overpayments are not made but where they are to ensure that they are recovered. The Trust also has a responsibility to ensure that all staff are paid correctly for the work undertaken. Where employees had reasonable belief that the overpayment was correct, the situation should be discussed with Human Resources to agree how to proceed.

4. Roles and Responsibilities

- 4.1 Managerial Responsibilities - Managers are responsible for
 - Ensuring that pay-related records sent by them to Pay Services or entered directly into automated time and attendance systems are accurate and reflect the hours actually worked
 - Ensuring that, where available, salary payments are checked monthly on finance reports and reporting/correcting any errors as soon as possible;
 - Ensuring that Pay Services are notified of any change in employee circumstances which impact upon pay promptly and in accordance with payroll cut off dates.
- 4.2 Employee Responsibilities – Employees are responsible for
 - Accurately claiming for authorised hours worked
 - Submitting claims for travel or subsistence or time sheets in accordance with relevant policy and within Pay Services deadlines;
 - Checking their payslip and alerting their manager to any over/underpayment;
 - Immediately reporting any pay discrepancy identified on their payslip to their line manager;
 - Repaying any identified overpayments within an agreed timeframe, as agreed between the employee and Finance;

- Seeking clarification if they are unsure of the amount or any payments indicated on their payslip;

4.3 Pay Services Responsibilities – Pay Services are responsible for

- The accurate and timely processing of all pay and expense related instructions/claims submitted to them
- Ensuring that once overpayments are highlighted they are communicated to Finance and the Trust employee in a timely manner. Wherever possible this will be done in advance of pay day;
- Ensuring the relevant manager is informed of the overpayment and made aware of the repayment plan put in place;
- Ensuring that overpayments are recovered in line with the attached appendices;
- Ensuring that underpayments are rectified as soon as possible;
- Informing staff and managers of payroll cut off dates.

5. Recovery of Overpayments

5.1 An overpayment of salary to an employee normally arises as the result of either an error or as a result of incorrect, insufficient or late notification of a change to the individual's circumstances or contract of employment.

5.2 The Trust will always take steps to recover overpayments. Recovery of any identified overpayment will be undertaken wherever possible with the co-operation of the employee.

5.3 Appendix 1 sets out the process to be implemented for the recovery of an overpayment made to an employee in post.

5.4 Appendix 2 sets out the process to be implemented for the recovery of an overpayment made to an ex-employee of the Trust.

6. Payment of Underpayments

6.1 Where an underpayment is identified (by an employee, manager or Pay Services) the underpayment will be rectified in the next available pay run. Unless they are notified by the 10th of the month, Pay Services will not normally be able to rectify an underpayment in that pay month.

6.2 In exceptional circumstances, or if the error is not as a result of employee action, Pay Services can arrange for an interim payment to be made to the employee. Discussions will be required between the employee and finance in relation to the impact of the shortfall in the net pay. A significant shortfall in net pay may be deemed to be a shortfall of greater than 25% of the previous month's net pay or where the employee can demonstrate financial hardship. Where the error has occurred as a result of a managers action or omission a £25 fee is chargeable to the relevant department.

6.3 An interim payment will NOT be made where the shortfall in pay is caused by the employee submitting timesheets or travel claims to payroll after the published deadlines.

7. Fraud

- 7.1 If an overpayment is considered to have been brought about fraudulently the matter will be reported to the Trust's Local Counter Fraud Specialist (LCFS) for investigation to be carried out in accordance with HR Policy HR58 Fraud and Corruption. This may lead to Disciplinary action in accordance with HR Policy HR36 Disciplinary Procedure.
- 7.2 If an overpayment of salary is caused because the employee has wilfully misrepresented facts or relevant data, all possible steps must be taken to effect immediate recovery. The LCFS will decide whether to carry out an investigation that may culminate in criminal proceedings and/or disciplinary action being commenced/taken against an employee in the event of a failure to disclose an overpayment. Full recovery will be sought and a repayment plan will NOT be an option in these circumstances.
- 7.3 Managers requiring guidance should contact their HR advisory team.

8. Audit and Monitoring

- 8.1 Records of overpayments and underpayments will be maintained by Pay Services.
- 8.2 Monthly reviews of under- and over-payments made and repayments under repayment plans will be reported by the Head of Pay Services and the Credit Control Manager to the Assistant Director of Finance – Financial Accounts, who will report quarterly to the Finance Director.
- 8.3 Overpayments are reported through the Audit and Risk Committee regularly.

9. Training

- 9.1 Training required to fulfil this policy will be provided by the Head of Pay Services and Credit Control Manager.

10. Review Process

- 10.1 The Trust will review this policy every 3 years, unless there are significant changes at either national policy level, or locally.

11. Equality Impact Assessment (EQIA)

- 11.1 This policy applies to all employees equally and does not discriminate positively or negatively between protected characteristics.

12. Process for Monitoring Compliance

Aspect of compliance or effectiveness being monitored	Monitoring method	Responsibility for monitoring	Frequency of monitoring	Group or Committee that will review the findings and monitor completion of any resulting action plan
Records and action taken to be audited yearly	Records to be reviewed against policy steps	Pay Services	Yearly	Finance & Performance Committee

13. References

Legislation

Employment Rights Act 1996

Section 13 – Right not to suffer unauthorised deductions

Section 14 – Excepted deductions

Theft Act 1968 section 24a

Other references

ACAS Guidance - <http://www.acas.co.uk/index.aspx?articleid=1501>

Process for the Recovery of Overpayments from an Employee in Post

1. In the event of an overpayment being identified the Pay Services Department will contact the employee directly at the earliest opportunity and advise them of the Trust Policy for the Recovery of Overpayments.
2. In the event of an overpayment being identified by an employee, they must contact Pay Services and their manager immediately.
3. Once identified Pay Services will then liaise with the employee and the Credit Control Manager to resolve the matter to reclaim the full amount in accordance with this policy. These discussions will occur initially via telephone and, where possible, through discussions the process listed below may be amended to arrange the repayment where this is agreed with the employee. Payment not via the following months pay run, as outlined below, will be possible via cheque.
4. Where repayment is not recovered immediately via informal discussions, a repayment plan will be required. The process for formally negotiating this payment plan is defined below.
5. Process for Reclaiming Overpayment for an Employee in Post
 - 5.1 The overpayment will be confirmed in writing to the employee (Appendix 3), confirming the background of the overpayment and the planned reversal. The employee's address used will be the last known home address held on ESR; it is the employee's responsibility to ensure that this is correct.
 - 5.2 If the letter (Appendix 3) detailing the repayment plan is sent prior to the 15th of the month the reversal will automatically occur in the following month's payroll (i.e. the repayment plan is detailed in a letter dated the 10th January the overpayment will be reclaimed in February pay run).
 - 5.3 If the letter (Appendix 3) is sent between 16th and 31st of the month the reversal will automatically occur in the second month's payroll (i.e. the repayment plan is detailed in a letter dated the 19th January the overpayment will be reclaimed in March pay run).
 - 5.4 If an employee considers that due to exceptional circumstances the timing of the reversal is not possible (i.e. that it will cause financial hardship or they dispute the overpayment) they have the responsibility to contact the Pay Services or Credit Control department before the 5th working day of the appropriate month to suspend the reversal of overpayment until a mutual repayment plan is agreed by the Pay Services/Credit Control Manager. The Pay Services Team or Credit Control Manager will attempt to agree a mutual repayment plan and confirm in writing with the employee (Appendix 4).
 - 5.5 In cases where the automatic correction causes the employee's net pay to reduce by over 25% of the previous month's correct net pay, the automatic reversal will be limited to 25%. Repayments will continue each month until the overpayment is repaid in full.
 - 5.6 Where an employee claims financial hardship and no reasonable repayment plan can be agreed they will be required to complete a Financial Statement with supporting information, i.e. bank statements, council tax bill, utility bills. Documents must be provided within 10

working days when requested. Where an employee fails to provide relevant documentation automatic recovery of the overpayment in accordance with Credit Control Procedures.

- 5.7 Where an employee submits a notification of exceptional circumstances which is received by the 5th of the appropriate month, a meeting may be convened at the employee's request to discuss the repayment plan with the Head of Pay Services and/or Credit Control Manager and the Employees Manager. An employee may be accompanied at such a meeting by their Trade Union representative or by a colleague from within the Trust.
- 5.8 If during the repayment plan period the employee's contract is terminated (by the employee or by the Trust) the final balance will be deducted from the employee's last salary payment. If there is a shortfall the residual sum will be subject to Appendix 2 – Process for the Recovery of Overpayments to an Employee who has left the Trust.
- 5.9 If during the repayment plan period the employee's salary is affected by maternity leave, half pay due to sickness absence or no pay for any other reason, then the repayment plan may be renegotiated. Employees must contact pay services by the 5th of the month to notify that a renegotiation is required.
- 5.10 The Trust may consider changes to any agreed repayment plan if an individual's personal circumstance is substantially affected by incidents outside of their control (e.g redundancy within the household).

Process for the Recovery of Overpayments from an Employee who has left the Trust

1. In the event of an overpayment being identified the Pay Services Department will notify the Credit Control Manager at the earliest opportunity and advise them of the overpayment. Standard Debt Recovery Procedures will be implemented and where appropriate Counter Fraud guidance will be sought.
2. In the event of an overpayment being identified by an ex-employee, they must contact Pay Services and their manager immediately. Pay Services will inform the Credit Control Manager who will liaise with the ex-employee to resolve the matter to reclaim the full amount.
3. Ex-employees may contact the Credit Control Manager for them to consider an application for repayment by instalments. This will require approval by the Assistant Director of Finance, Finance Accounts (for total repayments under £5000) or the Finance Director (for repayments over £5000).

Standard Letter – Notification of Overpayment

Trust Headed Paper – Pay Services Contact details including phone extension

In Strict Confidence
Title and Name
Home address

Date

Dear xxx

Notification of Salary Overpayment

I write to confirm as discussed on xxx that a salary overpayment relating to incorrect payment of (type not amount)xxxxx during the period of xxxx has recently been discovered; this has resulted in a gross overpayment of £xxxx.

Either - In accordance with Trust policy we are required to correct this overpayment and therefore we will deduct £xxx from your xxx salaryand £ xxxxx per month in xxxxx to xxxxx inclusive .

Or – As agreed with you, we will deduct £xxxx from your xxx salary....and £ xxxxx per month in xxxxx to xxx inclusive

If you consider that due to exceptional circumstances, the timing of the recovery of overpayment is not possible or if you dispute the overpayment, you must write to xxx before the 5th xxxxx to suspend the recovery of the overpayment pending discussions on an alternative repayment plan. If you are unable to repay the overpayment at the proposed rate you must complete a Financial Statement and provide evidence of financial hardship i.e. bank statements, council tax bill, utility bills

Should you leave employment before the overpayment has been fully recovered, the balance outstanding will be deducted from your final salary or any arrears subsequently due to you. In the event that there is a shortfall an invoice will be raised to recover any outstanding amount.

(where error made by the Trust)Please accept my apologies for this error and any inconvenience.

Should you require any further information please do not hesitate to contact me.

Yours sincerely

Name

Pay Services Team

Cc Credit Control Manager

Standard Repayment Plan Letter

Trust Headed Paper – Pay Services Contact details including phone extension

In Strict Confidence
Title and Name
Home address

Date

Dear xxx

Further to your request to suspend the recovery of overpayment of £xxxx on the grounds of xxxxx, I am writing to confirm the final repayment plan agreed in discussion with you.

Please find below the details of the final repayment plan.

Month	Salary Deduction	Outstanding Overpayment
	£	
	£	
	£	
	£	

If you have any questions regarding the repayment plan please do not hesitate to contact me

Yours sincerely

Name

Pay Services Department

Cc Credit Control Manager