

Recovery of Overpayments and Payment of Underpayments Policy

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Additionally refer to:

W31 Handling concerns about Doctors' and Dentists'
HR36 Disciplinary Procedure
HR58 Fraud and Corruption

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Policy on a page

- The Trust has a responsibility to ensure that all staff are paid correctly for work undertaken.
- The Trust acknowledges that errors can occur resulting in employees being under or overpaid salary, allowances or benefits.
- The policy defines the roles and responsibilities of managers', employees' and pay services to ensure that a transparent, fair, and consistent approach is followed when an incorrect salary payment is made.
- It is Trust policy to recover all overpayments and managers must ensure that the individual's terms and conditions are considered before any steps are taken to recover an overpayments as contractual terms may vary.
- When an underpayment is made the pay of the affected employee will normally be rectified in the next available pay run or immediately dependent on circumstances. There will be an adjustment made to estimated tax and NI if immediate.
- An overpayment normally arises as a 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.
- The employee will be informed of the mistake in writing. The terms of any deduction will aim to minimise financial hardship, but any amounts owed will need to be paid in full.
- The process for the recovery of an overpayment to an employee and ex-employee is set out in Appendix A and B.

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. This policy also aims to define where responsibilities for repayment lie and aims to ensure that a transparent, fair, and consistent approach is followed when an incorrect salary payment is made.

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.
- 2.4 Managers must ensure that the individual's terms and conditions are considered before any steps are taken to recover any overpayments as contractual terms may vary.

3. General Principles

- 3.1 The Trust acknowledges that errors can occur resulting in employees being under or overpaid salary, allowances or benefits. The Trust also has a responsibility to ensure that all staff are paid correctly for work undertaken.
- 3.2 The Trust makes every effort to avoid overpayments and underpayments; however, the Trust is duty bound to recover all overpayments.

4. Roles and Responsibilities

- 4.1 Managerial Responsibilities - Managers are responsible for:
- Ensuring that pay-related records for their staff sent by them to Pay Services or entered directly into automated time and attendance systems (e roster) in a timely way, 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 or anomalies as soon as possible.
 - Ensuring Pay Services are notified in a timely manner of any change in employee circumstances which impact upon pay and in accordance with Pay Services cut off dates.
- 4.2 Employee Responsibilities – Employees are responsible for:
- Ensuring that they understand their salary entitlement.
 - Accurately claiming for authorised hours worked.
 - Submitting travel or subsistence claims with receipts or time sheets in a timely manner to meet Pay Services deadlines.
 - Checking their payslip and alerting their manager to any over or underpayment.

- Immediately reporting any pay discrepancy identified on their payslip to their line manager.
- Repaying any identified overpayments within a timeframe agreed between the employee and Pay Services.
- Seeking clarification if they are unsure of the amount or any payments indicated on their payslip.
- Ensuring that the Trust has up to date contact details including address and phone numbers.
- Understanding that the Employment Rights Act 1996 (Section 14) outlines employers' right to recover a salary overpayment without that deduction constituting an unauthorised deduction from wages.

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 affecting their employee.
- 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 Pay Services cut off dates.

4.4 Audit and Risk Committee – Audit and Risk Committee are responsible for:

- Reviewing the annual report on salary overpayments annually and making recommendations where necessary.

4.5 People and OD Assurance Committee – PODAC are responsible for

- Reviewing the quarterly report on salary overpayments and making recommendations where necessary.

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 endeavour to recover by deduction, from an employee's salary, for overpaid sums. This may include but is not limited to wages, notice pay, holiday pay and any sick pay, in addition to deductions required by law, including all debts owed by the employee to the Trust. This may also include the balance of any outstanding loan, advances on wages, wages overpayments and payments for holiday taken in excess of the employee's entitlement.

5.3 If an overpayment of wages occurs, the employee will be informed of the mistake in writing. The terms of any deduction will aim to minimise financial hardship, but any amounts owed will need to be paid in full in accordance with the procedures outlined in Appendix 1 and 2.

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

- 5.5 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) before the tenth day of the month the underpayment will normally be rectified in the next available pay run, or immediately dependent on circumstances. There will be an adjustment made to estimated tax and NI if immediate.
- 6.2 An interim payment will NOT be made where the shortfall in pay is caused by the employee submitting timesheets or travel claims to Pay Services after the deadline of the tenth day of the month.

7. Fraud and Misconduct

- 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. Disciplinary action may be 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 the 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 Director of Finance.
- 8.3 Overpayments are reported through the Audit and Risk Committee annually and the People and OD Assurance Committee biannually.

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
Details and action taken to be reported annually	Records to be reviewed against policy steps	Pay Services	Yearly	Audit and Risk Committee
Details and action taken to be reported twice a year	Records to be reviewed against policy steps	Pay Services	Quarterly	People and OD Assurance Committee (PODAC)

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>

Appendix 1

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 if necessary, the Credit Control Manager to reclaim the full amount in accordance with this policy.
4. Where repayment is not recovered from the next payroll, a repayment plan will be required. The process for implementing this payment plan is set out below.
5. Process for Reclaiming Overpayment for an Employee in Post
 - 5.1 The overpayment will be confirmed in writing to the employee at their address listed on ESR (Appendix 3), setting out the circumstances of the overpayment and the planned recovery. It is the employee's responsibility to ensure that their address is correct and up to date.
 - 5.2 If the letter (Appendix 3) detailing the repayment plan is sent prior to the 15th of the month the repayment will automatically occur in the following month's payroll (i.e. if the repayment plan is detailed in a letter dated the 10th January the overpayment will be reclaimed in the February pay run).
 - 5.3 If the letter (Appendix 3) is sent between 16th and 31st of the month the repayment will automatically occur in the second month's payroll (i.e. if the repayment plan is detailed in a letter dated the 19th January, the overpayment will be reclaimed in the March pay run).
 - 5.4 If an employee considers that the timing of the repayment will cause financial hardship or they dispute the overpayment, they have the responsibility to contact the Pay Services department before the 5th working day of the appropriate month to suspend the repayment of overpayment until a repayment plan is agreed by the Pay Services/Credit Control Manager and confirmed in writing with the employee (Appendix 4).
 - 5.5 Where an employee claims financial hardship and cannot agree a repayment plan 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 to Pay Services within 10 working days when requested. Where an employee fails to provide relevant documentation, automatic recovery of the overpayment will occur in accordance with Credit Control Procedures.
 - 5.6 Where an employee submits a notification of financial hardship which is received by the 5th of the 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 employee's Manager. An employee may be accompanied at such a meeting by their Trade Union or professional organisation representative or by a work colleague from within the Trust.
 - 5.7 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.

- 5.8 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 request a renegotiation.
- 5.9 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).

Appendix 2

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, i.e. the ex-employee will be contacted to arrange repayment. Where all recovery possibilities have been exhausted, the debt will be referred to a debt collection agency. 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 ex-manager immediately. Pay Services will inform the Credit Control Manager who will liaise with the ex-employee to reclaim the full amount. The repayment will be the gross amount to correct the national insurance/tax/pension contributions.
3. Ex-employees may contact the Credit Control Manager for consideration of the repayments to be made by instalments. This will require approval by the Assistant Director of Finance, Financial Accounts (for total repayments under £5000) or the Director of Finance (for repayments over £5000).

Appendix 3

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 xxxxx during the period of xxxx has recently been discovered; this has resulted in a gross overpayment of £xxxx.

	Should have been paid (£)	Actually paid (£)	To be repaid (£)
Gross pay			
Other payments			
Less deductions:			
- Tax			
- National insurance			
- Superannuation			
- Other deductions			
Net Pay			

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

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

The repayment will be the gross amount to correct the national insurance/tax/pension contributions.

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

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Should you require support you may wish to contact:

- HELP, SaTH's Employee Assistance Provider: confidential, independent and unbiased information and guidance from a team of trained wellbeing and counselling practitioners. You can do this by calling 0800 047 8843 or visiting: <https://sath.workplacewellbeing.com> and <https://sath.optimise.health>
- our health and well-being team who may be able to sign post to further support: sath.ahealthieryou@nhs.net.

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

Yours sincerely

Name

Pay Services Team

Cc Credit Control Manager

Appendix 4

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
	£	
	£	
	£	
	£	

Should you require support you may wish to contact:

- HELP, SaTH's Employee Assistance Provider: confidential, independent and unbiased information and guidance from a team of trained wellbeing and counselling practitioners. You can do this by calling 0800 047 8843 or visiting: <https://sath.workplacewellbeing.com> and <https://sath.optimise.health>
- our health and well-being team who may be able to sign post to further support: sath.ahealthieryou@nhs.net.

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