

RECOVERY OF OVERPAYMENTS / INCORRECT PAYMENTS POLICY

Code:	Trust Policy
Policy Sponsor	Deputy Director of HR
Lead Executive	Director of HR
Recommended by:	HR Policy Subgroup
Date Recommended:	10 th June 2014
Approved by:	Workforce Council
Date Approved :	July 2014
Author(s):	Rob Simonds, Head of P&SS
Date issued:	July 2014
Review date:	1 st April 2018
Target audience:	All Trust Staff
Document purpose	Provide structure, guidance and consistent of approach to recovery of overpayment and incorrect payments
Training requirements	None. Managers and staff to be made aware of updated policy. P&SS to be briefed as to operational requirements.
Associated documents and Key References	Employment Rights Act 1996 Theft Act 1968 Theft Act 2006
Financial Resource Implications	None. However, hopefully the revised policy will reduce lead time to fully recover overpayments.

Consultation, Communication and Implementation

Consultation Required	Authorised By	Date Authorised	Comments
Impact Assessment	Emma Ashley	June 2014	
External Stakeholders			
Trust Consultation via Intranet	Start date: June 2014		End Date: June 2014

Describe the Implementation Plan for the Policy (and guideline if impacts upon policy) (Considerations include; launch event, awareness sessions, communication / training via Divisions and other management structures, etc)	By Whom will this be Delivered?

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Monitoring Compliance with the Policy

Describe Key Performance Indicators (KPIs)	Target	How will the KPI be Monitored?	Which Committee will Monitor this KPI?	Frequency of Review	Lead
Reduction in lead time to recover overpayments	3 Months	Review of Overpayments Register	Workforce Council	Quarterly	R Simonds

Performance Management of the Policy

Who is Responsible for Producing Action Plans if KPIs are not met?	Which committee will monitor these action plans?	Frequency of Review (To be agreed by Committee)
Head of P&SS	Workforce Council	Bi-annual

How will Learning occur?	Who is responsible	
Team Briefing	Head of Pay & Staff Services	Bi-annual

Document Version History

Date		Author Designation	Summary of key changes
March 2011	01	Version 01	Updated Policy
June 2014	02	Version 02	Updated Policy Date only
May 2016	03	Version 03	Updated contact number for Annette Craghill
June 2017	04	Version 04	Updated review date from May 2017 to Sep 2017
Sep 2017	05	Version 05	Further extended review date to 01.04.18 in line with version on intranet

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1. Executive Summary

1. Policy Aim

The aim of the policy is to provide a clear understanding of the Trusts right to make deductions from salary where there has been, for whatever reason, an overpayment to salary, expenses or other emoluments in excess of the employee's contractual entitlement.

2. Policy Description

This policy provides information and guidance to staff with regards to overpayment, expenses or other emoluments in excess of the employee's contractual entitlement. In accordance with the principles outlined below which apply to all staff employed by the Trust in line with Sec 14 of the Employment Rights Act 1996 and taking into account the Terms and Conditions of Employment.

2. Introduction

The Trust recognises that it has a duty and responsibility to pay its employees correctly and to ensure that they receive the monies to which they are entitled. Unfortunately, on occasion, incorrect payments do occur, making it necessary to correct the error and pay or recover all monies due.

The Trust's principle aim is always to rectify incorrect payments; however, this should be done in a fair and reasonable way. The term 'payments' includes salary, expenses and any other re-imbursements e.g. Sick pay, Maternity pay. In the case of underpayment, it is important that the reimbursement is made to the employee as soon possible within the limits of operational process.

3. Policy Objectives

- Although employers have the absolute right to recover overpayments it is sensible to have a balanced set of guidelines on how overpayments will be recovered so there is fairness and consistency across the Trust.
- As a general rule, all overpayments regardless of how they occur will be recovered over a period not exceeding 3 months. However, in exceptional circumstances this may be extended. In these instances the employee/former employee may be asked to provide evidence of their inability to meet the repayments which have been set (see 4.4) The maximum recovery period is equal to the length of time over which the overpayment originally occurred or 12 months (whichever is the lesser).

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4. Definitions

- None

5. Duties Accountabilities and Responsibilities

4.1 Manager Rob Simonds, Head of Pay & Staff Services

4.2 Employee

- Where incorrect payments are received, it is the employee/former employee's responsibility to inform the Trust of the error within a reasonable time period. Failure to inform the Trust of any such error may be construed as Theft/Fraud and these matters will be referred to the Trust's Local Counter Fraud Specialist to investigate.

4.3 Pay & Staff Services

Where an overpayment is discovered by the Pay & Staff Services (P&SS) Department, a letter will be sent to the employee's manager with a copy giving:

- Precise details of the overpayment
- The proposed 3 month repayment plan with the deductions that will be made from the employee's pay each month and the date (pay month) from which recovery deductions will start if nothing is heard by back from the manager by a specific date
- If the employee leaves prior to the repayment being completed, they will be required to repay the remainder of the money in full (see 4.7)
- The options open to the employee (see 4.4) including the next step if the employee is not satisfied and the right of appeal

The manager should ensure they consult with the employee prior to the Specified date stated in the letter.

6. Main Body of the Document

5.1 Overpayments

- Overpayments will be recoverable direct from the employee's salary unless the employee has left the Trust. In these instances a letter will be sent from

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the Trusts Accounts Receivable Department requesting repayment and advising them of how repayments can be made.

- P&SS
- Overpayments should be repaid within 3 months unless this would cause undue financial hardship.
- Should the manager advise PSS that the employee wishes to extend the recovery period, the employee and or the manager on their behalf must put their request in writing to the Pay & Staff Services Manager within 14 days of the notification letter. The letter must include the reason for the request including any hardship the employee will suffer. The employee or the manager could illustrate this by bank statements/credit card statements etc at the discretion of the employee. Upon receipt of the letter, recovery will be suspended for one salary payment date to allow the Pay & Staff Services Manager to decide on a recovery period. Upon making their decision, the Pay & Staff Services Manager will notify the employee in writing
- If the employee remains unhappy at the situation, an appeal may be made by writing to the relevant HR Business Partner The appeal can be completed in writing or at the request of the employee can be held by the HRBP with the employee and their Trade union/workplace colleague face to face. This appeal will take into account the employee's concerns and the limits of this policy. The decision of the HR Business Manager is final and will then be the established position. Deductions will commence at the next salary payment date following the HR Business Partner's notification. In all cases the maximum recovery period will be equal to the length over which the overpayment originally occurred or 12 months (whichever is the lesser).
- If it is reasonable to believe that the employee knew about the overpayment occurring and they have failed to notify the Pay & Staff Services Department within a reasonable time period, this may be construed as Theft/Fraud and the Trust reserves the right to request the money is repaid in full **immediately** following the process within this policy.
- Taking into consideration the Theft Act 1968 and the Fraud Act 2006 such cases may be referred to the Trust's Local Counter Fraud Specialist to investigate. If your concern is about fraud and corruption, you are to contact the Trust's Local Counter Fraud Specialist on 0161 206 8162. Additionally; you may wish to consider reporting matters of suspected fraud/corruption by way of the NHS Confidential Fraud Hotline 0800 028 40 60 which allows information to be provided anonymously if necessary.
- In addition, in situations where people fall into this category and do not make a reasonable effort to repay the money promptly, the Trust's Local Counter Fraud Specialist may be consulted to offer advice on what methods of recovery are appropriate.

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- Where an **employee is leaving the Trust**, the overpayment must be repaid in full upon termination of employment. In these circumstances, the sum will be deducted from final pay due at termination, without prior agreement.
- Where an overpayment is discovered following issue of final pay, the Trust reserves the right to pursue recovery of any outstanding amounts through application to the Courts.
- Where an **employee has ceased employment** with the Trust and payments continue to be made due to a mistake by either party, the Trust reserves the right to request that the overpayment be repaid in full immediately.

5.2 Underpayments

- When an underpayment has occurred, arrangements will be made to correct the underpayment and to reimburse the employee in the next pay period. However, where the underpayment causes immediate financial problems, Managers will inform Payroll Services if individual circumstances dictate that an earlier payment being made via a payment method to be agreed with the individual employee. Managers should liaise directly with the Payroll Officer who will discuss the request with the Head of Pay & Staff Services. If the initial request is denied, then the Manager can appeal to the Director of HR / Director of Finance and who's decision will be final.

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7. Equality Analysis

<u>Equality Analysis Stage 1 Screening</u>			
1	Title of Policy:		
2	Policy Author(s):	Head of HR	
3	Lead Executive:	Director of HR	
4	Policy Sponsor	Deputy Director of HR	
5	Target Audience	All management and staff	
6	Document Purpose:	This policy provides structure, guidance and consistency of approach to recovery of overpayment and incorrect payments This policy sets out the procedures for	
7	Please state how the policy is relevant to the Trusts general equality duties to: <ul style="list-style-type: none"> • eliminate discrimination • advance equality of opportunity • foster good relations 	The policy is designed to ensure fairness to all	
8	List key groups involved or to be involved in policy development (e.g. staff side reps, service users, partner agencies) and how these groups will be engaged	Trade union representatives have been consulted along with management and comments invited from members of staff before being reviewed by HR Policy Group and Workforce Council	
<p><i>NB Having read the guidance notes provided when assessing the questions below you must consider;</i></p> <ul style="list-style-type: none"> • Be very conscious of any indirect or unintentional outcomes of a potentially discriminatory nature • Will the policy create any problems or barriers to any protected group? • Will any protected group be excluded because of the policy? • Will the policy have a negative impact on community relations? <p>If in any doubt please consult with the Patient and Workforce Equality Lead</p>			
9	Does the policy significantly affect one group less or more favourably than another on the basis of: answer 'Yes/No' (please add any qualification or explanation to your answer particularly if you answer yes)		
		Yes/No	Comments/ Rationale
	• Race/ethnicity	No	
	• Disability (includes Learning Disability, physical or mental disability and sensory impairment)	Yes	
	• Gender	No	
	• Religion/belief (including non-belief)	No	

	• Sexual orientation	No	
	• Age	No	
	• Gender reassignment	No	
	• Pregnancy and Maternity	No	
	• Marriage and Civil partnership	No	
	• Carer status	No	
10	Will the policy affect the Human Rights of any of the above protected groups?	No	
11	If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable?	Yes positively	The Trust operates the 'Two Ticks' scheme which is approved by H.M. Government.
12	If you have identified a negative impact on any of the above protected groups can the impact be avoided or reduced by taking different action?	No	
13	How will the effect of the policy be reviewed after implementation?	There will be an annual review of outcomes of the policy	
If you have entered yes in any of the above boxes you must contact the Patient and Workforce Equality Lead (0151 430 1042) Annette.craghill@sthk.nhs.uk to discuss the outcome and ascertain whether a Stage 2 Equality Analysis Assessment must be completed.			
Name of manager completing assessment: (must one of the authors)		Rob Simonds	
Job Title of Manager completing assessment		Emma Ashley	
Date of Completion:		June 2014	

8. Training

- The policy principles are clearly set out and as such no formal training is deemed necessary. However, Pay & Staff Services and HR staff will provide support and guidance to managers and staff regarding the application of the policy.

- Annual Team Brief reminders of the policy will be undertaken

APPENDIX A – PAYROLL PROCEDURES

1. General procedures for all Overpayments:

Upon discovery of an overpayment notify the Team Leader / Payroll Operations Manager immediately.

Ensure that the overpayment has ceased and that the correct rate of pay is being applied.

Enter details of the overpayment on the Overpayments Register. Each overpayment will be issued a unique reference number (e.g. OP/Trust/Initials/001etc).

Consider whether it is reasonable to believe that the employee would know about the overpayment. If you suspect that the employee could be expected to know they were being overpaid then report this matter to the Trust's Local Counter Fraud Specialist in the first instance. The contact details for the Local Counter Fraud Specialist are in section 2 of this policy.

2. Specific Procedures:

There are four situations in which overpayments can occur involving current staff and staff who are leaving or have left:

- 2.1 Overpayments made and discovered before the member of staff has been paid
- 2.2 Overpayment made and discovered after payment has been made
- 2.3 Overpayments made whilst still employed but discovered after the employee has left
- 2.4 Overpayment made after the employee has left the Trust

2.1 Overpayments made and discovered before the member of staff has been paid

- 2.1.1 The overpayment would be discovered whilst checking the output at which stage the employee would not have received his/her pay.
- 2.1.2 The procedures for BACS estoppels (stops and recall) and reissue of payments are to be followed.

2.2 Overpayments made and discovered after the payment has been made (current employee)

- 2.2.1 Ensure that the overpayment has ceased and that the correct rate of pay is being applied. Where the overpayment amounts only to a small amount (less than £50), it is reasonable to telephone the employee and subject to his / her agreement the overpayment could be recovered in the following pay period. Please make a notation of the agreement reached on either the claim form, change form, SVL etc including initials and date. If this is not acceptable to the employee after the telephone discussion, the employee should follow this policy as at Paragraph 4.2.

If the overpayment exceeds £50 then a 'notification letter' should be sent to the employee along with a recovery plan informing them of the deductions that will be made from their pay.

- 2.2.2 Complete an overpayment of salary pro-forma

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- 2.2.2 If requested by the employee, the Payroll Officer is to calculate the gross to net impact on pay of:-
- a) The correct reduced monthly payment
 - b) The correct reduced payment (including the agreed recovery amount).
- 2.2.4 Set up the payroll system to recover the overpayment in line with the repayment plan.
- 2.2.5 If an employee terminates their employment before the overpayment is repaid in full, then recover the full amount outstanding from their final salary wherever possible. Update the Overpayment Register.
- 2.3 Overpayment made whilst employed and discovered after employee has left.**
- 2.3.1 Complete an overpayment of salary pro-forma.
- 2.3.2 Calculate the total amount overpaid.
- 2.3.3 Consider whether it is reasonable to believe that the employee would know about the overpayment. If you suspect that the employee could be expected to know they were being overpaid then report this matter to the Trust's Local Counter Fraud Specialist in the first instance. The contact details for the LCFS are in section 2 of this policy.
- 2.3.4 Discuss action regarding recovery of overpayment with Head of P&SS / Payroll Operations Manager and Employee's Employing Organisation HR Manager.
- 2.3.5 Once agreement has been reached regarding the repayment period, recovery will commence in line with the instructions agreed with Head of P&SS / Payroll Operations Manager and former employee.
- 2.4 Overpayments made after an employee has left the organisation.**
- 2.4.1 Complete an Overpayment of Salary Pro-forma.
- 2.4.2 Calculate the total amount overpaid.
- 2.4.3 Should the overpayment have come to light as a result of information provided by the former employee within a reasonable time period, and then continue with the normal recovery procedures outlined in section 5.4 and 5.5. Should the information come to light in any other way then the Trust should consider the option to refer the matter to the Trust's Local Counter Fraud Specialist to investigate.
- 2.4.4 The Trust's Local Counter Fraud Specialist will work in conjunction with the Head of Pay & Staff Services to decide the best recovery method. This may include civil/disciplinary/criminal sanction dependant on the evidence gained.

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APPENDIX B – OVERPAYMENT PROFORMA

Ref No: _____

Name: _____

PR: _____ PP: _____ Assignment No: _____

Address: _____

Postcode: _____

Circumstances of overpayment: _____

How Detected: _____

Payments Correct wef: _____ Month _____

Details of Overpayment:

Period of Overpayment: From: _____ To: _____

	Amount Received (£)	Amount Due (£)	Amount Overpaid (£)
Gross Overpayment			
Less Adjustments			
Net Overpayment			

Recovery Procedure:

Initial call to Employee _____ Manager _____

Letter to Employee: _____ Reply Received: Y / N

Repayment: Agreed / Refused 2nd letter: _____

Conclusion:

Amount Overpaid	£
Amount Recovered	£
Amount Written Off	£

Signed: _____ Date: _____

APPENDIX C – LETTER TO MANAGER AND OVERPAID EMPLOYEE

Our Ref:

When calling please ask for

Name
Address
Address
Address
Postcode

Dear

Re: Overpayment of Salary
Name of Employee:
Designation:
Assignment No:

I write to advise you that according to our records, unfortunately, the above named has been overpaid and I set out below the circumstances relating to the overpayment.

Para 2 – briefly explain circumstances of overpayment and include gross / net overpayment figure.

I have attached an analysis of the overpayment for your information / record purposes.

The correct payments based on (include correct details e.g. reduced hours etc) will be made with effect from (insert month) salaries.

In accordance with the Trust’s Incorrect Payment Policy and Procedure, I write to advise you as the line manager of the overpayment and to request that you discuss the matter with (insert employee name) regarding recovery.

I write to advise that I intend to commence recovery of the overpayment via three instalments from the salary due commencing from salary payments due in (insert first month of recovery). Please discuss this with (name) and unless I hear from you by no later than (insert date) the recovery as outlined above will be actioned. A copy of this letter has been sent to (insert name).

If you wish to appeal this recovery period then you must do so within the date specified and any such extension request must be made in writing and addressed to the Head of Pay & Staff Services at the above address.

On behalf of the Trust, I apologise for any inconvenience the overpayment and recovery may cause and I thank you in advance for assistance and understanding in this matter.

Yours sincerely

Payroll Officer

Cc Name of Employee
Human Resources Dept

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Notification of Recovery of Overpayment

Name:

Assignment No:

Department : Designation:

Address:

.....

..... Postcode:

In accordance with the Trusts Incorrect Payments Policy and Procedure I write to inform you of the overpayment recovery plan that will be put in place to recover the net / gross sum of £000.00.

Recovery Deductions will commence in (insert month) and will be made directly from the payments due to you by the Trust at the amount of £000.00 per month for the period (insert from) (insert to).

Should you leave the Trust during this recovery period then you will be expected to continue with the repayment plan or to make a final payment to clear any outstanding overpayment balance.

In accordance with paragraph 4.4 of the Trust Policy, if you wish to appeal against the repayment period then you will need to do so within 14 days of the date of the accompanying letter.

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