

OVERPAYMENTS/ UNDERPAYMENTS POLICY

V3.1

Document Summary

This policy provides information and guidance for staff and managers for the prevention and recovery of overpayments and underpayments.

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Accountable director	HR Director and Deputy CEO
Policy author	Head of Payroll Service Development
Applies to	All Trust staff

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Version Control

Version	Date Approved	Brief Summary of Changes	Author (Title)
01	March 2011	Updated policy	Head of Payroll
02	June 2014	Updated policy	Head of Payroll
03	March 2018	Updated Policy to reflect legislative changes, best practice and to provide a set of standard documentation to support the application of the policy	Head of Payroll Service Development

Document Control

Document Number:		Title:	Overpayments/Underpayments Policy
Equality analysis completed?		Sent for 2 week consultation on Trust intranet and to relevant staff:	
Approving body:	Workforce Council	Date of Approval:	
Author:		Status:	
Brief Description of Amendments (if applicable):			
Does the document follow the Trust agreed format?			
Are all mandatory headings completed?			
Does the document outline clearly the monitoring compliance and performance management?			
Approved?			
Approved after minor amendments?			
<i>Any amendments to be submitted to approving body Chair for final sign off</i>			
Not approved?			
Policy author signature:			Date:
Chair of Approving Body	Name /title:	Claire Scrafton	Date: 21st May 2018
	Signature:		
		Review Date:	May 2021

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1 SCOPE

This policy applies to all Trust and Lead Employer employees, currently and previously employed, within St Helens and Knowsley Teaching Hospitals NHS Trust. It is designed to provide clear guidance and a consistent approach to the management of underpayments and overpayments of wages, salary, expenses, salary sacrifice schemes or other emoluments in excess of an employee's contractual entitlement.

2 INTRODUCTION

- 2.1 St Helens and Knowsley Teaching Hospitals NHS Trust's overriding aim in paying its staff is to make payment promptly, accurately and have processes in place to prevent underpayments and overpayments. However, there may be occasion when an underpayment or an overpayment occurs. This policy sets out preventative measures and what to do in the event of underpayments and overpayments. Supporting documents are included in the appendices of the policy to assist with consistency of approach to the recovery of overpayments.
- 2.2 This policy takes into account **The Employment Rights Act 1996, Section 13**, which states that one of three conditions has to be met for the employer to lawfully make deductions from an employee's salary. These are that, the deduction is either:
- 2.2.1 Required or authorised by statute; or
- 2.2.2 authorised by a relevant provision of the contract of employment and the employee has received a copy of the contract and/or appointment letter, prior to the deduction being made; or
- 2.2.3 Prior permission in writing has been given by the employee before the deduction.
- 2.3 Where an employer has made an accidental overpayment of wages, the statutory position is that the employer can recover this by deducting the overpayment from future wages or salary. This is covered by **Section 14 of the Employment Rights Act 1996**, which provides that protection from deductions from wages does not apply to an overpayment of wages or employment-related expenses.
- 2.4 **National Minimum Wage legislation** permits an employer to make deductions in relation to an accidental overpayment, even in circumstances where the deduction leaves the individual receiving less than the National Minimum Wage might otherwise permit.
- 2.5 The **employee's terms and conditions of employment** permits STHK to make deductions in relation to overpayment; specifically stating, 'The Trust reserves the right to make deductions from your salary or to repay money to the Trust in relation to:
- Any money you owe the Trust
 - Excess of holiday taken over entitlement
 - Expenditure claimed in excess of entitlement
 - Any other payment made to you in excess of your entitlements.

3.0 STATEMENT OF INTENT

This policy is designed to provide clear guidance and a consistent approach to the

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prevention and management of advances, underpayments and overpayments of wages, salaries, expenses or other emoluments in excess of an employee's contractual entitlement. In the interests of the management of public funds, immediately identified overpayments will be recovered in the following pay period. All other overpayments will usually be recovered at a rate of 25% of the accrued debt normally within a maximum of twelve months, however see paragraph 6.1.3 below.

4.0 DEFINITIONS

- 4.1 **Prevention** – for the purpose of this policy is when employees, their managers and departments responsible for the processing of any changes to pay, take the timely and accurate required steps to stop an overpayment or underpayment from occurring
- 4.2 **Underpayment** – where an employee, or an ex-employee, is paid an amount less than their contractual entitlement.
- 4.3 **Overpayment** –where an employee, or an ex-employee, is paid an amount in excess of their contractual entitlement. The likely causes of an overpayment include, but are not restricted to:
- 4.3.1 A termination form not being completed, received or actioned on time.
 - 4.3.2 Incorrect or late reported absence.
 - 4.3.3 Employees not returning from maternity/ adoption leave.
 - 4.3.4 An error being made, e.g. incorrect input of salary enhancement.
 - 4.3.5 A late change notification.
 - 4.3.6 Incorrect salary banding and/ or hours worked.
- 4.4 **Advance of Salary** - is a payment made to employees outside of the normal pay day.
- 4.5 If staff think they are, or have been overpaid, they must contact Payroll Services immediately. Failure to notify the continued receipt of pay and/or an allowance that an employee know to be inaccurate, invalid or has ceased to be payable may be gross misconduct and this will be investigated under the Trust's Disciplinary 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 or refusing to repay) they may be guilty of theft.

5.0 Duties, Accountabilities and Responsibilities

- 5.1 Overpayment of salary or allowances can be identified by the recipient, a manager, Payroll Services or by a pay audit. This policy sets out the duties, accountabilities and responsibilities for Finance, Payroll Services, HR, Managers, Managers and Employees.
- 5.2 Due to the potential adverse financial impact on both the Trust/patients and employees, late notification of payroll changes received by Payroll Services by line managers will be monitored. Managers will be informed that should a further late notification occur, this will be escalated to their senior manager.

5.3 Responsibility of Payroll Services

- 5.3.1 Irrespective of how the error occurred, St Helens and Knowsley Teaching Hospitals NHS Trust is obliged to seek recovery of the overpayment. It is the responsibility of Payroll Services to:

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- Ensure that information, that Payroll Services is responsible for is put into the Electronic Staff Record (ESR) in an accurate and timely manner.
- Ensure any payment errors are resolved following agreed payroll procedures for both Trust and Lead Employer employees. In the case of Lead Employer, to follow the agreed internal SOP
- Ensure any payment errors are identified and the employee advised in a timely manner.
- Follow this procedure in resolving payment errors.
- Recover all overpayment errors for current staff.
- Communicate and publish payroll cut-off dates on the STHK intranet site and by email to HR/Line Managers.
- Ensure letters and payment plans are produced and sent to current employees in line with the policy and current standard documentation. See appendices B-C.
- Follow the Salary Sacrifice Scheme policy for ex-employees.
- Produce and review policies and procedures in relation to prevention/ management of overpayments and underpayments.
- Update and maintain the Overpayment Trackers, as appropriate, for current employees
- Produce the Performance Table on Overpayments for current staff and leavers for the Gatekeepers (see section 5.9 – (Gatekeepers)).
- Monitor late notifications from managers. Escalate repeated late notifications to the line manager’s senior manager.

5.4 Responsibility of Debtors Office, Finance Department.

5.4.1 It is the responsibility of the Debtors Officer, Finance Department to:

- Ensure notification of all debt to the Trust’s standard debt collection service in order for them to issue the invoice and make full recovery. Notification should be made within 2 working days of receipt of the tracker
- Update and maintain the Overpayment Trackers each month with payment status details.
- Monitor the performance of the Trust’s standard debt collection service in the recovery of all debt

5.5 Responsibility of Employment Services (Trust and Lead Employer)

5.5.1 It is the responsibility of the Employment Services to:

- Ensure preventative measures are taken to avoid overpayments by ensuring payroll change information is input into ESR/payroll tracker (Lead Employer), in an accurate and timely manner within the agreed and published timetable (payroll cut-off dates are available on the STHK’s intranet site).
- Ensure Staff Variation Lists (SVLs) and E-Rostering reports are submitted to Payroll Services in an accurate and timely manner (payroll cut-off dates are available on the STHK intranet site).
- In the case of Lead Employer, Employment Services to follow the agreed internal SOP
- Ensure that the overpayments/underpayments performance table is discussed at their regular business area/Care Group/Directorate meetings
- Where hardship is cited in respect of repayment of debt, deal with these as part of their case management

5.6 Responsibility of Line Manager

5.6.1 The table below contains information, which is hoped will assist line managers to know what to send, when to send it and to whom they should send it. For Lead Employer, you should continue to use your usual communication process to notify the changes below.

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Type of Change	What should I do?	When should I do this?
Contractual Changes E.G Change of post, hours, etc.	Complete ESR Contractual Changes form and submit to Payroll Services	Within 48 hours of the change being agreed. As soon as the employee submits their resignation or is dismissed
Termination	Complete Initial Notification of Termination form and submit to Employment Services at employment.services@sthk.nhs.uk	As soon as the employee resigns or is dismissed.
Redundancy	Initial Notification of Termination form is completed by Employment Services and sent to Payroll Services.	
Sickness/ Any Other Absence	If on HealthRoster, enter the details of the absence on the day your employee informs you that they are unable to come to work. Do not enter the same details into ESR as this will cause payroll failures. If not on HealthRoster, on the day that your employee informs you that they are unable to come to work enter and authorise the absence onto the ESR system.	On the 1 st day of absence.
	On the date that your employee returns to work insert the end date onto the ESR system or on HealthRoster – again not in both systems	On the return day.
Completed Bank shifts	Finalise all Bank shifts via HealthRoster on a weekly basis	Upon completion of the shift. Must be finalised before 12 midday every Monday to ensure shifts are processed for payment to be paid on the Friday for weekly pay.
ESVLs	Ensure all are completed and authorised	By 8 th of each month

5.6.2 Managers must make themselves aware of Payroll Services cut-off dates. These are available on the STHK intranet site.

5.7 Responsibility of the Employee (and employees who have left STHK)

5.7.1 It is the responsibility of the employee to:

- Ensure that they understand their salary entitlement.
- Check their payslip every pay period to ensure it is accurate (this includes leavers checking that their final salary payment is correct and that they do not continue to receive payments from STHK after they have left).

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- Ensure they notify their Line Manager of any changes e.g. if they are leaving STHK, going on maternity/adoption/paternity leave etc. in line with appropriate policies
- Ensure they notify Payroll Services of any changes to their circumstances in relation to salary sacrifice schemes, training, loans, and change of home address.
- Report any pay anomalies to Payroll Services. NOTE: Where overpayments are not reported these will be reviewed and, where necessary, referred to the Local Counter Fraud Specialist or HR Management/Employment Services to be considered in line with appropriate policies

5.8 Responsibility of the Gatekeepers

5.8.1 The Gatekeepers for St Helens and Knowsley Teaching Hospitals NHS Trust are the Assistant Director of Payroll Services and the Assistant Director of Finance. It is the responsibility of the Gatekeepers to:

- Lead on preventative measures by producing regular Performance Tables for overpayments/underpayment, by Directorate/business area for HRBPs/HR Managers/Line Managers, Assistant Directors and the Senior Management Team. See Appendix H of the Toolkit for Overpayments Performance Table pro-forma. The table/report is to demonstrate the best performing directorates in reducing overpayments, including reporting on directorates where there are zero overpayments. The Performance Table for Open Overpayments and Advances will be produced by the Business Support Analysts within Payroll Services and will be distributed as directed/instructed by the Gatekeepers.
- Ensure the business area/Care Group/Directorates meeting held with each of the HRBPs/HRMs and the senior managers has overpayments as a standing agenda item on the agenda; where the list of those managers who have hit the trigger is discussed and actions agreed and monitored to prevent further overpayments or underpayments. **The trigger is three late changes resulting in overpayments/underpayments.**
- Ensure a suitable designated person (at the right level) is assigned to cover these responsibilities if they are not available to carry out the duties.
- Ensure Payroll Services and the Debtors Office in Finance jointly maintain and update in a timely and accurate manner an Overpayments Tracker for Current Staff and an Overpayments Tracker for Leavers.
- The Assistant Director of Finance is responsible for the decision making process whether the Trust should take civil action for non-payment of any debt.

5.9 Responsibility of the Counter Fraud Service / Internal Audit

All NHS organisations are duty bound by the Public Accounts Committee to recover overpayments in full. The Local Counter Fraud Specialist will investigate all cases of suspected fraud or theft.

6.0 PROCESS FOR RECOVERING OVERPAYMENTS AND RECTIFYING UNDERPAYMENTS

6.1 Resolving overpayments with current staff

6.1.1 For overpayments that occur in month and cannot be recalled will be recovered the following week/month, Payroll Services will notify the employee of the overpayment immediately via telephone/written communication and advise them that the recovery is to be made the following pay period. If staff wish to repay sooner, they should contact the

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General Office, Finance Department on 0151 430 1145 to discuss method of repayment.

- 6.1.2 All other overpayments shall normally be recovered at a rate of 25% of the accrued debt and the maximum repayment terms for any debt will normally be 12 months e.g. with an overpayment amount of £2000, Payroll Services shall deduct 25% (£500) over 4 months until amount repaid; see 6.1.3 below.
- 6.1.3 If the Trust's recovery period would cause undue financial hardship, staff should contact their HR Business Partner or in the case of Lead Employer medical and dental staff, the Head of Employment Services, within seven calendar days of the written notification being sent, to arrange a meeting to agree a repayment plan for the overpayment. Each case must be assessed on an individual basis and regard must be taken to the amount of the overpayment and the period of time the overpayment has accrued or normally 12 months (whichever is the lesser) . A common sense and reasonable approach must be taken by the Trust and the employee. The Human Resources Manager/Head of Employment Services will pass the outcome to Payroll Services to update the Overpayments Tracker and commence the newly agreed recovery plan.
- 6.1.4 The Trust's Hardship Form which can be found at Appendix C of the Toolkit is available to staff to complete. The completion of this form is not compulsory but staff are encouraged to do so as it will act as an aide for the Trust to understand the employee's financial circumstances and is a sensible first step towards reaching an agreement. The form, if used will not be retained by the Trust once a repayment plan has been agreed.
- 6.1.6 In all cases, employees will be advised in writing by Payroll Services, prior to the overpayment being automatically deducted. The letter will set out why there was an overpayment and provide the calculations. See Appendix A of the Toolkit.
- 6.1.7 Payroll Services will maintain the Overpayments Tracker and produce a Performance Table (see Appendix D of the Toolkit) and distribute.

6.2 Resolving overpayments with employees due to the leave STHK or have left STHK

- 6.2.1 Employees due to leave STHK and who have been overpaid, the overpayment balance will be deducted from their final salary by Payroll Services who will notify the employee in writing (refer to Appendix B of the Toolkit) and the Debtor's Office, Finance Department via the Overpayment Tracker of any remaining balance. The Debtors Office will forward the remaining debt to the Trust's debt collection service in order for them to raise an invoice and recover the debt. Both Payroll Services and the Debtors Office will update the Overpayments Tracker accordingly.
- 6.2.2 Employees who have left STHK who have been overpaid, Payroll Services will notify the employee in writing (see Appendix B of the Toolkit) and the Debtor's Office, Finance Department via updating the Overpayments Tracker. The Debtor's Office will forward the debt to the Trust's debt collection service in order for them to raise an invoice and recover the debt. The Debtors Office will update the Overpayments Tracker.

7.0 RECTIFYING UNDERPAYMENTS

- 7.1 Where a payment error has been made as an **underpayment**, Payroll Services will contact the employee by telephone and explain how the underpayment has occurred. The underpayment will be corrected usually in the following month's payroll. Advance of salary will only be considered when the underpayment is a result of manager or Payroll Services

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error or a system failure and the underpayment causes immediate financial difficulties.

7.2 COST OF ADVANCE OF SALARY

The cost associated with the processing and payment of the advance will be charged against the department which caused the underpayment.

7.3 MAXIMUM AMOUNT OF ADVANCE

The maximum amount of an advance can only range between 50%-65% as the Trust has to estimate tax and National Insurance deductions and account for any other deductions e.g. pension contributions.

7.4 PAYMENT OF ADVANCE

7.4.1 Payment will be processed by the Finance Department and paid by NHS SBS. Payroll must complete their action and submit payment details via the Advances Request form and submit to Finance by 14.45 for payment to be processed.

7.4.2 Only in very exceptional circumstances can an advance be paid on the same day. In these cases, the employee's senior manager must meet with the employee to discuss and the manager to complete the Request for Faster Payment form found within **Appendix E of the Toolkit** and send this via email to stkhpayroll@sthk.nhs.uk by 10.30 am at the latest. Requests cannot be considered after this time. Payroll Services must calculate the amount and submit the request to Finance via the Payroll Business Account Manager before 11.30am.

8 REFUND OF BANK CHARGES

There may be rare occasions where individuals incur bank charges because of non-payment, or delayed payment of their salary by STHK. Requests for refund of bank charges incurred due to shortfall in salary payment caused by the employer's error must be submitted to the Treasury Manager, Finance Department, together with proof that their bank charges were incurred as a direct result of the delay in payment or non-payment of salary. Payroll Services must confirm that the error was the fault of the employer.

9 Training

St Helens and Knowsley Teaching Hospitals NHS Trust acknowledges the importance of awareness training for employees and the effective dissemination and implementation of this policy. Working in partnership Payroll Services and Finance will provide the appropriate support for employees. Support will also be available through STHK's Staff Support, Health and Well Being confidential counselling and debt management services – contact details are available on STHK's intranet site. To access these services go to STHK's intranet site, select the following, 'staff matters', 'health and wellbeing' and at the bottom of the screen select page 3 of 3.

10. Monitoring Compliance with the Policy

10.1 Key Performance Indicators (KPIs) of the Policy

No	Key Performance Indicators (KPIs) Expected Outcomes
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10.2 Performance Management of the Policy

Minimum Requirement to be Monitored	Lead(s)	Tool	Frequency	Reporting Arrangements	Lead(s) for acting on Recommendations
Overpayment/Underpayment Performance Tracker	Assistant Directors of Finance and Payroll Services	Overpayment/Underpayment Tracker	Monthly	Overpayment/Underpayment Performance tables issued to Workforce Council, ADOs, Care Group/Directorate senior manager meetings	

11 References/Bibliography

ACAS www.acas.org.uk

Financial Ombudsman www.financial-ombudsman.org.uk

STHK contract of employment

Royal College of Nursing <https://www.rcn.org.uk/get-help/rcn-advice/overpayment-of-wages>

BMA Junior Doctors Handbook – pay www.bma.org.uk

12 Related Trust Documents

No.	Related Document
01	Contract of Employment
02	Salary Sacrifice Policy
03	Anti-Fraud and Anti-Corruption Policy
04	Standards of Business Conduct
05	Overpayments/Underpayments Toolkit
06	Lead Employer Overpayment/Underpayment Standard Operating Procedure

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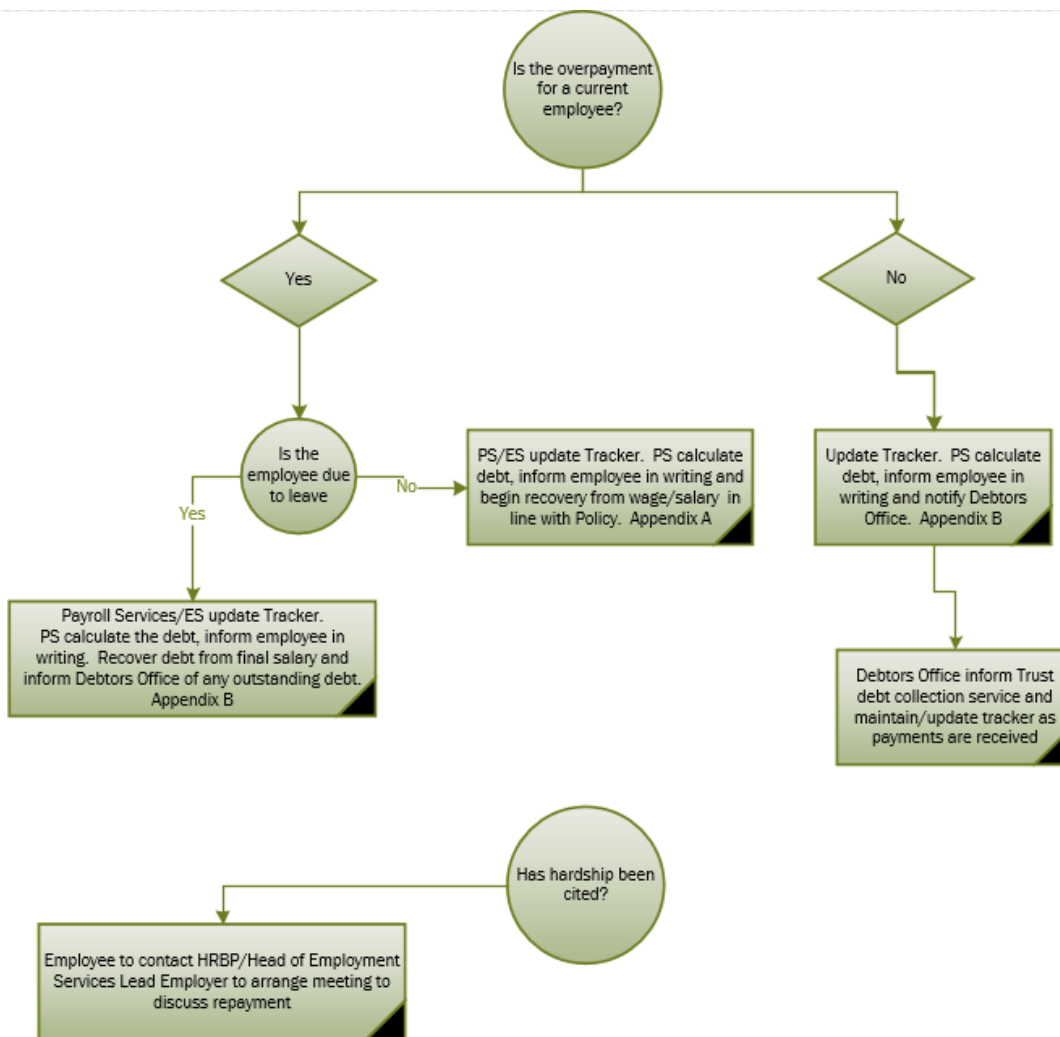
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13 Equality Analysis Form

Equality Analysis			
Title of Document/proposal /service/cost improvement plan etc:		Overpayments/Underpayments Policy	
Date of Assessment		22 February 2018	Name of Person completing assessment /job title:
Lead Executive Director			
Does the proposal, service or document affect one group more or less favourably than other group(s) on the basis of their:			Yes / No
Justification/evidence and data source			
1	Age		No
2	Disability (including learning disability, physical, sensory or mental impairment)		No
3	Gender reassignment		No
4	Marriage or civil partnership		No
5	Pregnancy or maternity		No
6	Race		No
7	Religion or belief		No
8	Sex		No
9	Sexual Orientation		No
Human Rights – are there any issues which might affect a person’s human rights?			Yes / No
Justification/evidence and data source			
1	Right to life		No
2	Right to freedom from degrading or humiliating treatment		No
3	Right to privacy or family life		No
4	Any other of the human rights?		No
Lead of Service Review & Approval			
Service Manager completing review & approval			
Job Title:			

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