

Overpayments Policy

Author with contact details	Workforce		
Lead Executive/ Senior Manager	Director of Workforce		
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Consultation	HR Policy Group	Applicable to:	All staff All Sites
Equality, Diversity And Human Right Statement	The Trust is committed to an environment that promotes equality and embraces diversity in its performance both as a service provider and employer. It will adhere to legal and performance requirements and will mainstream Equality, Diversity and Human Rights principles through its policies, procedures, service development and engagement processes. This procedure should be implemented with due regard to this commitment.		
To be read in conjunction with / Associated Documents:		Information Classification Label	<input type="checkbox"/> Unclassified
Access to Information	To access this document in another language or format please contact the policy author.		

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Version number	Page	Changes made with rationale and impact on practice	Date
1		New Policy	August 2014

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1.Introductions

The Trust has many procedures, systems & controls in place to avoid overpayments of salary or expenses occurring and it is the role of management to ensure those systems are working effectively. On occasion however, overpayments of salary will unfortunately occur.

When salary overpayments occur it is the policy of the Trust to vigorously pursue repayment. In accordance with the Employment Rights Act 1996 a deduction from a staff member's salary can be made by the employer in relation to overpayment of salary.

Within the Trust's contract of employment the Trust retains the right to recover through payroll any payments made in error. Where recoveries are made due notice must be given to the staff member.

2.Objective

The aim of this policy is to raise staff awareness regarding the recovery of overpayments to employees and to provide a fair and consistent approach to that recovery.

3.Scope

This policy applies to all employees of the Trust.

4.Policy Content

4.1 Definitions

The definition of an overpayment is where an employee is paid in excess of their contractual entitlement. Likely causes for overpayment include:

- A termination form not being completed, received or processed in time for Payroll cut off
- Late or no notification of sickness absence/unpaid leave
- Staff having overtaken their annual leave entitlement when leaving employment
- An error being made by the line manager, payroll team or HR Department
- Late or no notification of changes affecting salary
- Incorrect salary banding
- Incorrect application of payment for enhancements

Recovery of overpayment is allowed in law, provided the employee was not given an expectation of entitlement for the payment.

The Trust has systems and controls in place to reduce the risk of overpayments and it is the role of management to ensure that overpayments do not arise.

Should any overpayment arise, it will be recorded and analysed with action taken to minimise or prevent any future occurrence.

4.2 Identification & Notification of Salary Overpayment

The Payroll / HR departments are to inform the employee(s) affected within 21 days of an overpayment being identified via formal notification this must include an overpayment breakdown

4.3 Recovery Activated by the Trust by Payroll Deduction

The Trust's preference will always be to activate recovery by mutual agreement with staff members. Where this has not been possible the Trust will invoke its statutory right under the Employment Rights Act 1996 and its contractual right under the Trust employment contract to recover overpaid salary by payroll deduction. In Normal circumstances the Trust expects that all overpayments are repaid over the same timeframe that the overpayment occurred, ideally within the current financial year. However, should there be mitigating circumstances for an extended repayment plan the Payroll / HR departments will consult with staff to determine a time period acceptable to both parties. Proof of mitigation may be requested.

Please note: every contract of employment states the Trust has the right to make deductions where an overpayment has occurred, under Section 22 -Deductions.

4.4 Amounts Outstanding on Leaving the Trust

Where a staff member leaves, before having fully repaid a salary overpayment debt, the outstanding amount will be recovered from the final salary. Where the amount outstanding exceeds final salary a sales invoice for the outstanding amount will be sent to the staff member.

Where a staff member has left the Trust the Trust will send a sales invoice for any amounts owing, with a covering letter, to the former staff member. The Trust's normal debt recovery processes will apply. The former staff member will be offered an opportunity to agree flexible terms with the finance department. Terms offered will be in line with the terms offered under this policy to existing members of staff.

Where repayment is not forthcoming from the former staff member the Trust will refer the case to the Trust's debt collection contractor. It is the Trust's policy to pursue repayment using all legal means available & to seek court judgements where necessary.

4.5 Overpayments due to late notification of termination

When notification of termination of employment has not been processed within the required timescale, resulting in an overpayment of salary, every attempt will be made to recall the incorrect payment from the employee's bank. This recall may result in a delay in salary payment to the employee. In these circumstances, the Payroll Department will contact the member of staff to notify them of any delay in payment. An amended payment will be issued to the employee's bank. If an employee incurs

bank charges or other costs as a result of delay in salary payment, they should write to the Director of Finance with supporting documentation to request compensation and arrangements will be made to pay this.

4.6 Support and advice for employees

Any employee affected by an overpayment is free to discuss the matter with their Trade Union or professional representative.

If, due to a change in circumstances, an employee feels they cannot meet the agreed repayment schedule, they should contact their line manager or the Payroll / HR department. If the employee is a member of a Trade Union, they can also seek advice from their representative.

All employees have recourse to the Trust's Grievance procedure if they feel they have been treated unfairly through the application of this policy.

In addition, the government website Ask Ma offers support and guidance with financial matters.

4.7 Fraud

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. This may lead to Disciplinary action in accordance with the appropriate Trust Disciplinary Policy.

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. Managers requiring guidance should contact the Business HR team.

5.Roles and responsibilities

5.1 Director of Workforce

The Director of Workforce is responsible for ensuring that managers are supported in the implementation of the policy and procedure and that it is reviewed and monitored regularly.

5.2 Responsibility of Line Managers

It is the responsibility of line managers to ensure that all documentation which may impact upon pay is completed and processed in a timely manner.

5.3 Responsibility of Employees

It is the responsibility of all employees to notify either their line manager or the Payroll Department immediately they become aware of an overpayment.

6.Exceptions

No exceptions.

7.Training

The Trust acknowledges the importance of awareness and skills training for managers to ensure the effective implementation of this Policy. Business Human Resources will provide appropriate support through a variety of means including coaching and support, informal Policy Briefings or Guidance Toolkits.

8.Monitoring and audit

The Business Human Resources Team will be responsible for the management of this policy, on behalf of the Joint Negotiating Group - HR Policy. The formal review of all HR Policies will be undertaken on two year basis in accordance with the Trusts HR Policy Review Programme. In addition, the effectiveness of this policy will be monitored by Business HR and the policy may be reviewed and amended at any time if is deemed necessary. Notification of any changes to policies will be communicated to all staff.

Staff should be aware that the Trust intranet site version of this document is the only version that is maintained and controlled. Any printed copies should be viewed as 'uncontrolled' and as such may not necessarily contain the latest updates and amendments.

9.Equality, diversity and human right statement

The Trust is committed to an environment that promotes equality and embraces diversity in its performance both as a service provider and employer. It will adhere to legal and performance requirements and will mainstream Equality, Diversity and Human Rights principles through its policies, procedures, service development and engagement processes. This SOP should be implemented with due regard to this commitment.

10.Legal requirements

This document meets legal and statutory requirements of the EU General Data Protection Regulation (EU 2016/679) and all subsequent and prevailing legislation. It is consistent with the requirements of the NHS Executive set out in Information Security Management: NHS Code of Practice (2007) and builds upon the general requirements published by NHS Digital/Connecting for Health (CfH).

Appendix 1: Equality impact assessment

Title	
Strategy/Policy/Standard Operating Procedure	
Service change (Inc. organisational change/QEP/ Business case/project)	
Completed by	
Date Completed	

Description *(provide a short overview of the principle aims/objectives of what is being proposed/changed/introduced and the impact of this to the organisation)*

Who will be affected *(Staff, patients, visitors, wider community including numbers?)*

The Equality Analysis template should be completed in the following circumstances:

- **Considering developing a new policy, strategy, function/service or project(Inc. organisational change/Business case/ QEP Scheme);**
- **Reviewing or changing an existing policy, strategy, function/service or project (Inc. organisational change/Business case/ QEP Scheme):**
 - If no or minor changes are made to any of the above and an EIA has already been completed then a further EIA is not required and the EIA review date should be set at the date for the next policy review;
 - If no or minor changes are made to any of the above and an EIA has NOT previously been completed then a new EIA is required;
 - Where significant changes have been made that do affect the implementation or process then a new EIA is required.

Please note the results of this Equality Analysis will be published on the Trust website in accordance with the Equality Act 2010 duties for public sector organisations.

Section 1 should be completed to analyse whether any aspect of your paper/policy has any impact (positive, negative or neutral) on groups from any of the protected characteristics listed below.

When considering any potential impact you should use available data to inform your analysis such as PALS/Complaints data, Patient or Staff satisfaction surveys, staff numbers and demographics, local consultations or direct engagement activity. You should also consult available published research to support your analysis.

Section 1 – Initial analysis

Equality Group	Any potential impact? Positive, negative or neutral	Evidence <i>(For any positive or negative impact please provide a short commentary on how you have reached this conclusion)</i>
Age <i>(Consider any benefits or opportunities to advance equality as well as barriers across age ranges. This can include safeguarding consent, care of the elderly and child welfare)</i>		
Disability <i>(Consider any benefits or opportunities to advance equality as well as impact on attitudinal, physical and social barriers)</i>		
Gender Reassignment <i>(Consider any benefits or opportunities to advance equality as well as any impact on transgender or transsexual people. This can include issues relating to privacy of data)</i>		
Marriage & Civil Partnership <i>(Consider any benefits or opportunities to advance equality as well as any barriers impacting on same sex couples)</i>		
Pregnancy & Maternity <i>(Consider any benefits or opportunities to advance equality as well as impact on working arrangements, part time or flexible working)</i>		
Race <i>(Consider any benefits or opportunities to advance equality as well as any barriers impacting on ethnic groups including language)</i>		
Religion or belief <i>(Consider any benefits or opportunities to advance equality as well as any barriers effecting people of different religions, belief or no belief)</i>		
Sex <i>(Consider any benefits or opportunities to advance equality as well as any barriers relating to men and women eg: same sex accommodation)</i>		
Sexual Orientation		

(Consider any benefits or opportunities to advance equality as well as barriers affecting heterosexual people as well as Lesbian, Gay or Bisexual)

If you have identified any **positive** or **neutral** impact then no further action is required, you should submit this document with your paper/policy in accordance with the governance structure.

You should also send a copy of this document to the equality impact assessment email address.

If you have identified any **negative** impact you should consider whether you can make any changes immediately to minimise any risk. This should be clearly documented on your paper cover sheet/Project Initiation Documents/Business case/policy document detailing what the negative impact is and what changes have been or can be made.

If you have identified any negative impact that has a high risk of adversely affecting any groups defined as having a protected characteristic then please continue to section 2.

Section 2 – Full analysis

If you have identified that there are potentially detrimental effects on certain protected groups, you need to consult with staff, representative bodies, local interest groups and customers that belong to these groups to analyse the effect of this impact and how it can be negated or minimised. There may also be published information available which will help with your analysis.

<u>Is what you are proposing subject to the requirements of the Code of Practice on Consultation?</u>	Y/N
Is what you are proposing subject to the requirements of the Trust's Workforce Change Policy?	Y/N
Who and how have you engaged to gather evidence to complete your full analysis? (List)	
What are the main outcomes of your engagement activity?	
What is your overall analysis based on your engagement activity?	

Section 3 – Action Plan

You should detail any actions arising from your full analysis in the following table; all actions should be added to the Risk Register for monitoring.

Action required	Lead name	Target date for completion	How will you measure outcomes

Following completion of the full analysis you should submit this document with your paper/policy in accordance with the governance structure.

You should also send a copy of this document to the equality impact assessment email address

Section 4 – Organisation Sign Off

Name and Designation	Signature	Date
Individual who reviewed the Analysis		
Chair of Board/Group approving/rejecting proposal		
Individual recording EA on central record		

Appendix 2: Roles and responsibilities

Role	Responsibility
Employee	
Line Manager	
Payroll	
Human Resources	
Trust	