



Overpayment Recoveries, Underpayments and Salary Advances Policy

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Type of document	Policy
Target audience	All CWP staff
Document purpose	Outlines the process to be followed to address overpayment recoveries, underpayments and salary advances

Approving meeting	People and Organisational Development Sub Committee	19-Mar-18
Implementation date	17-Apr-18	

CWP documents to be read in conjunction with	
CGM	Corporate Governance Manual

Document change history	
What is different?	N/A – New policy document.
Appendices / electronic forms	N/A – New policy document.
What is the impact of change?	N/A – New policy document.

Training requirements	No - Training requirements for this policy are in accordance with the CWP Training Needs Analysis (TNA) with Learning and Development (L&D)
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Document consultation	
East locality	HR Business Partner
Wirral locality	HR Business Partner
West locality	HR Business Partner
Corporate services	Deputy Director of Finance, Head of People Information
External agencies	Payroll Manager

Financial resource implications	Yes
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External references	
1. Employment Rights Act 1996	

Equality Impact Assessment (EIA) - Initial assessment	Yes/No	Comments
Does this document affect one group less or more favourably than another on the basis of:		
- Race	No	
- Ethnic origins (including gypsies and travellers)	No	
- Nationality	No	
- Gender	No	

Equality Impact Assessment (EIA) - Initial assessment	Yes/No	Comments
- Culture	No	
- Religion or belief	No	
- Sexual orientation including lesbian, gay and bisexual people	No	
- Age	No	
- Disability - learning disabilities, physical disability, sensory impairment and mental health problems	No	
Is there any evidence that some groups are affected differently?	No	
If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable? N/A		
Is the impact of the document likely to be negative?	No	
- If so can the impact be avoided?	N/A	
- What alternatives are there to achieving the document without the impact?	N/A	
- Can we reduce the impact by taking different action?	N/A	
Where an adverse or negative impact on equality group(s) has been identified during the initial screening process a full EIA assessment should be conducted.		
If you have identified a potential discriminatory impact of this procedural document, please refer it to the human resource department together with any suggestions as to the action required to avoid / reduce this impact. For advice in respect of answering the above questions, please contact the human resource department.		
Was a full impact assessment required?	No	
What is the level of impact?	Low	

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1. Introduction

There may be occasions when staff are underpaid due to payroll not being informed of changes, which are not related to failure in Trust operational issues. Similarly, overpayments may occur from time to time due to a process failure resulting in an instruction to Payroll being applied either incorrectly or retrospectively which results in an overpayment occurring. Typical examples include late leaver or decrease in hour's notifications.

Every employee has a responsibility each month to check the amount paid to them and to report immediately any suspected over or underpayment to their manager and the payroll department.

This policy outlines the process that Cheshire and Wirral Partnership NHS Foundation Trust (the Trust) will take when an employee has received salary or expenses in excess of their entitlement (overpayment) or an underpayment. This policy applies to all employees of the Trust.

2. Duties and responsibilities

2.1 Trust

The Trust is responsible for establishing a framework that complies with this policy and procedure, relevant legislation and regulations and that it is applied fairly and consistently.

The Trust is mindful of its obligations to ensure that staff are paid correctly and to support staff wherever it can in relation to financial difficulties. However, the Trust is funded by public money, and as such has a responsibility to ensure robust mechanisms are in place to ensure that staff receive their correct pay in a timely and efficient manner. As the Trust is funded by the public purse, it also has a responsibility to recover overpayments as quickly as possible when they occur irrespective of the cause.

The process for addressing any underpayments will be given equal priority to those relating to overpayments.

The Trust has a responsibility to ensure all employees receive a payslip each pay period.

2.2 Payroll

Payroll is responsible for providing line managers with appropriate advice and guidance on the application of this policy and procedure.

Informing an employee, in writing, of the details of any overpayment and a proposed method for repayment.

2.3 Management

Line managers are responsible for ensuring employees are aware of this policy and procedure and for applying it fairly and consistently.

Managers must ensure that all payment notifications sent into the Payroll Department are checked for correctness, appropriately authorised, and are received in a timely fashion. This includes:

- New starter forms
- Contractual change forms
- Termination forms

- Staff Attendance Records (SARs)
- Expense claims
- Absence notifications

The list is not exhaustive. Managers must therefore ensure all notifications to amend payments and/or contractual information comply with their responsibilities detailed above.

All service managers should also notify the Payroll Department when they identify an error in an employee's terms and conditions (e.g. incorrect hours or allowances) which will result in an overpayment or underpayment occurring as soon as possible.

2.4 Employee

Employees are responsible for being aware of the contents of this policy and procedure.

Employees have a responsibility to always check their payslip to ensure that they have received the correct payment for each pay period. This is especially so when there have been any changes in their employment circumstances, or they have received any notification regarding their salary and expenses. Employees are responsible for notifying their manager and Payroll Department as soon as they recognise any payment to which they are not entitled. If for any reason an employee does not receive a payslip they should speak to their manager.

If the employee fails to report an overpayment, then the Trust reserves the right to involve the Local Anti-Fraud Specialist for further action, which may include disciplinary action and if appropriate, dismissal.

2.5 Director/Deputy Director of Finance

The Director/ Deputy Director of Finance are responsible for authorising any repayment period in excess of those set out in the procedure. The Director of Finance also has the authority to action deductions of salary where an agreement plan cannot be reached.

2.6 Trade Union Representatives

Staff side representatives are responsible for providing advice and support to their members affected by overpayments or underpayments.

3. Salary overpayments

Section 13 of the Employments Rights Act 1996, states:

Right not to suffer unauthorised deductions

(1) An employer shall not make a deduction from wages of a worker employed by them unless—

(a) the deduction is required or authorised to be made by virtue of a statutory provision or a relevant provision of the worker's contract, or

(b) the worker has previously signified in writing his/her agreement or consent to the making of the deduction.

However it further states in section 14 that:

Section 13 does not apply to a deduction from a worker's wages made by his employer where the purpose of the deduction is the reimbursement of the employer in respect of—

- (a) an overpayment of wages, or**
- (b) an overpayment in respect of expenses incurred by the worker in carrying out his/her employment.**

The Trust therefore has the right to recover any salary overpayment from an employee irrespective of how it occurred. Where there is a deduction of salary or expenses (related to an overpayment), the employer does not require written consent from the employee. However, the Trust will always attempt to notify the employee when an overpayment has been made and agree how the money should be repaid before repayment commences.

An employee cannot bring a claim for unlawful deduction of salary in an employment tribunal if the reason for the deduction is that their employer has overpaid them (section 14, Employment Rights Act 1996). This is the case even if the error is because the employer had wrongly calculated the amount due to the employee.

This policy and procedure ensures that managers, employees and staff representatives are aware of their rights and obligations in matters relating to an overpayment of salary or expenses and the steps the Trust will take to recover this.

The Trust is funded by public money, and as such has a responsibility to ensure robust mechanisms are in place to ensure that it is in a position to recover monies paid out because of operational errors or omissions as quickly as possible. Employees who find themselves in receipt of monies for which they have no contractual rights are encouraged to repay any overpayments immediately in order to resolve the issue without any undue stress. It is a fundamental principle that employees are expected to be truthful and honest in respect of issues relating to salary overpayments, and have a duty to check their payslips on a monthly basis.

The overpayments process has been designed to ensure payments made to employees erroneously are recovered as efficiently as possible but without unnecessarily disadvantaging either the Trust or the employee if this would result in financial hardship. In circumstances where financial hardship may result employees will need to provide evidence that this will be the case. In such instances a longer repayment period may be considered.

3.1 Overpayments Procedure

Where staff are notified or where they notify the Trust that they have been overpaid it is expected that where possible the full amount will be repaid via salary deduction from the next available pay period.

Where the overpayment is made over a number of pay periods before it is discovered and the employee could not be expected to have known about it, the total amount will normally be recovered in no more than the same number of periods in which the overpayment occurred.

A repayment period in excess of this would only be considered when, after taking into account day-to-day living expenses, the repayment plan would cause undue hardship. Evidence of financial hardship would need to be provided and any decision to extend the repayment period in these circumstances must be approved by the Director or Deputy Director of Finance.

The Payroll Department will engage with the employee, and when appropriate, with service management to agree how the money will be repaid. However, if an agreement cannot be achieved

the Trust reserves the right to deduct what it considers in the circumstances to be a fair and reasonable amount from their monthly pay as appropriate. In these circumstances, the Director of Finance will make a decision on recovery of the money.

The debt recovery process will be followed in respect of a leaver overpayment, where the individual has failed to respond to requests for repayment.

3.2 Overpayment Recovery Process

When an overpayment has been identified for an existing employee, the Payroll Department will notify the employee of the proposal to repay by completing the letter template at [appendix 1](#). This letter will contain the following information:

- Detail how the overpayment has occurred and over what period the overpayment has been paid
- The gross overpayment amount
- Suggested repayment plan
- Payroll Department contact details

If a repayment plan cannot be agreed with the Payroll Department, the line manager will liaise with the employee to ascertain if an agreement can be reached. If this is not possible a more formal meeting may be required involving Human Resources with a view to reaching an agreement in respect of the repayment of the outstanding overpayment owed. Employees may be accompanied at the meeting by a Trade Union representative or a colleague. At the meeting the reason for the overpayment should be explained fully. Account should be taken of the amount of monies owing and the employee's current earnings when deciding on appropriate repayment terms. Each payment should not be less than 20% of the total gross overpayment, wherever possible. An exception to this may be where overpayments have been made over a large number of pay periods, and it is considered that the employee would not have known that they were being overpaid (see [section 4](#)). Any proposed agreement which extends the repayment period must be approved by the Director or Deputy Director of Finance before being confirmed in writing to the employee.

The manager will write to the individual confirming the details of what has been agreed using [appendix 2](#) template letter. The letter will include the following statement *'Should you leave the trust before the balance has been repaid any outstanding money will be deduced form your final salary.*This will apply in all circumstances.

Details of all overpayments are recorded by the Payroll Department on the electronic overpayments register.

Every effort should be made to ensure the recovery process must commence in the next available payroll period after the overpayment has been identified.

Should a current employee fail to agree to repay the overpayment, the template letter at [appendix 3](#) should be sent and the matter referred to debt collection and, if appropriate, the Local Anti-Fraud Specialist.

If the overpayment is for an employee who has left employment, the template letter at [appendix 4](#) should be used to notify the ex-employee of the overpayment. If no response is received within one

calendar month the matter should be referred for Debt Collection and if appropriate, the Local Anti-Fraud Specialist should also be informed.

4. Salary underpayments

As soon as an underpayment of salary has been established this will be corrected within the next available monthly payroll after the value has been confirmed. However where an employee fails to notify their line manager or payroll in a timely manner regarding any under payment this will need to be investigated and the backdating will need to be approved by the Director or Deputy Director of Finance.

5. Salary advances

When an underpayment has occurred, arrangements will be made to correct it and to reimburse the employee in the next available pay period. A salary advance may be made available to an employee, where through no fault of their own they have been underpaid. Payment will not be approved, when the advance request received is due to the negligence of the employee in submitting a payment form on time e.g. a timesheet or expense claim. Normally, requests will only be authorised where the advance represents more than 10% (minimum of £100) of the normal net (take home) pay.

5.1 Salary Advance Process

Requests for advances should be made by completing the form in [appendix 5](#) of this document, and should be supported by the employee's Head of Department before being sent to Payroll who will seek approval and process any payments. It must then be authorised by the Senior Financial Controller, who will ensure the advance request complies with the criteria above. In exceptional circumstances, the Deputy Director of Finance may consider authorising a payment below the minimum limit where the individual circumstances deem it necessary. This will be decided on a case by case basis.

The Payroll Department will calculate the amount to be advanced, and ensure the recovery is made by applying the appropriate updates on ESR.

6. Salary deductions

Payroll on the instruction of staff will cease salary deductions from the next available monthly payroll. Where staff fail to notify the Payroll Department that they wish the deductions to cease in good time this will be investigated and referred to the Deputy Director of Finance who has the authority to limit back pay to 6 months in circumstances where it is established that there were no justifiable reasons for the failure to inform payroll. An example of a salary deduction would be monthly union subscriptions.

7. General

All amounts paid or deducted as a consequence of an error will be calculated gross and the appropriate adjustments made for tax, National Insurance and pension as required.

Staff should contact Payroll (Tel 01244 364400) with any day to day pay queries. Staff should liaise with their manager for support with resolving any queries which they feel are not being resolved to their satisfaction who will escalate as appropriate.

8. Monitoring compliance

To ensure the content of this policy is applied consistently, monitoring will be undertaken by the payroll management team (on a case by case basis), with periodic checks by the trusts internal audit team.

The Payroll Department will monitor the volume and reasons for advances being paid and, where necessary, take remedial action to reduce the number of requests received in conjunction with the Senior Financial Controller e.g. continual late receipt of timesheet information from a line manager.

Appendix 1 - overpayment letter

Our Ref:

Date:

Private & Confidential

NAME

ADDRESS

Dear

I am writing to notify you that unfortunately an overpayment in your salary has occurred. The gross amount you have been overpaid is £XXXX.XX. The overpayment occurred due to INSERT REASON.

On behalf of the Trust, I would like to take this opportunity to apologise for overpayment and any inconvenience this may cause you. However, this money does now need to be repaid and in accordance with the Trusts overpayments policy, I propose to recover the overpayment over a period of XX months at a rate of £XXXX per month.

If you have any concerns regarding this the content of this letter, please contact me on the above telephone number as soon as possible.

If I do not hear from you by INSERT DAY MONTH YEAR, the first deduction will take effect from your INSERT DATE salary payment and will continue to be recovered until overpayment has been repaid in full.

Should you leave the Trust before the balance has been repaid and outstanding monies will be deducted from your final salary.

Yours sincerely

INSERT NAME

Payroll Officer

c.c. Line Manager

Appendix 2 - confirmation of meeting outcome

Our Ref:

Date:

Private & Confidential

NAME

ADDRESS

Dear

RE: OVERPAYMENT OF SALARY

Further to our meeting on INSERT DAY, MONTH, YEAR I am writing to you with regards to the overpayment of salary for £XXX.XX

As discussed with you, the Trust has the legal right to make repayments of this sum direct from your salary. This can be paid back to the Trust by monthly instalments, or a lump sum. We agreed that the overpayment would be recovered:

*In XX monthly instalments of £XX.XX per month, with the first deduction from salary commencing in INSERT MONTH YEAR.

*The total value of the overpayment will be deducted from your INSERT MONTH YEAR salary.

Should you leave the Trust before the balance has been repaid any outstanding monies will be deducted from your final salary.

I would like to apologise for the inconvenience this may have caused you. I would also like to thank you for your co-operation in this matter.

Yours sincerely

An Other
Line Manager

c.c. Human Resources Service Partner
Payroll Department

Appendix 3 – 2nd overpayment letter

Our Ref:

Date:

Private & Confidential

NAME

ADDRESS

Dear

RE: OVERPAYMENT OF SALARY

Further to my letter dated INSERT DATE (copy attached) which details an overpayment in your salary payments of XXXX.XX. As I do not appear to have had a response to this letter, the matter of your overpayment has been referred to the Trust Finance Department. You will receive an invoice requesting settlement for the full amount of the overpayment.

Unfortunately, non-payment of the invoice will result in the matter being referred to the Trust's Debt Recovery Agency who will contact you directly to recover the amount due.

Please note that this matter may also be referred to the Anti-Fraud department. *(who may consider prosecution as an option if they feel it is appropriate).

However, if are now in a position to agree a repayment plan for the recovery of the overpayment you must contact me immediately on receipt of this letter.

Yours sincerely

AN Other

Payroll Officer

**Optional text depending on severity of the overpayment and the circumstance in which it occurred*

Appendix 4 – leaver overpayment letter

Our Ref:

Date:

Private & Confidential

NAME

ADDRESS

Dear

I am writing to notify you that you incorrectly received a salary/wage payment after your leaving date of XXXX.

This has resulted in a net overpayment of XXXXX.

I would therefore be grateful if you could send me a cheque for this amount made payable to Cheshire and Wirral Partnership NHS Foundation Trust within 7 days.

If you are unable to comply with this request, you must contact me as a matter of urgency to discuss.

Please note that it is normal Trust policy to refer the issue to the Trust's Debt Agency should you fail to respond to this letter within one calendar month.

Failure to respond to this letter may also lead to this being referred to the Counter Fraud department. *(who may consider prosecution as an option if they feel it is appropriate).

Please accept my apologies for any inconvenience this may cause you. If you have any queries in relation to the amount owed please contact your insert Payroll Officer Name on 01244 XXXXXX.

Yours sincerely

An Other
Payroll Officer

**Optional text depending on severity of the overpayment and the circumstance in which it occurred*

Appendix 5 – request for an advance of salary

PART A – FOR COMPLETION BY SERVICE MANAGER

The following member of staff has requested an advance of salary:

Name: _____ Department: _____

Designation: _____ ESR ID Number: _____

Please note that the advance must be a minimum of 10% of the normal take home pay subject to a minimum net pay value of £100. Advances for less than £100 will not normally be considered

Please state the reason for requesting an advance of salary and sum proposed:-

Name: _____ Signature: _____

Designation: _____ Date: _____

PART B – TO BE COMPLETED BY EMPLOYEE

I understand that if approved, the advance will be paid direct by bank transfer can take up to six days to credit my account

Employee's signature: _____ Date: _____

PART C – TO BE COMPLETED BY THE PAYROLL MANAGER

Received by the Payroll Department on (date) _____ at (time)

Approved: YES / NO (please circle) Date: _____

Signature of Payroll Manager:

PART D – TO BE COMPLETED BY SENIOR FINICIAL CONTROLLER

Approved: YES/NO (Please Circle)

Reason for non-approval (if applicable – payroll officer to inform service manager): Employee

Signature of Senior Financial Controller:

Date:

Processed by the Payroll Department on (date) _____ at (time)

Due to credit employee's bank account on (date)