

Overpayments and Underpayments Policy

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Lead Executive Director	Clare Teeney – Chief People Officer
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Review dates and details of changes made during the review

This Policy was last reviewed in March 2024, with a view to improving the clarity around the overpayment process and making the policy easier to navigate. Key changes to note:

- Inclusion of underpayments and consideration of hardship payments (Section 7)
- Inclusion of the process for recovery of Salary Exchange arrears and fines (Section 8)
- The process for departmental payback has been removed, overpayment recovery will need to follow the process outlined in this document.
- Where an overpayment has occurred, a breakdown will be provided detailing the gross value of the overpayment. Please see Section 6 for further information detailing the overpayment situations in which this will be provided.

1. Introduction & Purpose

- 1.1 The University Hospitals of Leicester NHS Trust has a responsibility to ensure that employees are paid correctly, but on occasions overpayments and underpayments may occur for a variety of reasons. This policy outlines the process that will be followed when a member of staff receives an incorrect salary, expense payment or is requested to repay a fine or charge relating to a salary exchange scheme.
- 1.2 If an overpayment is considered to have occurred due to possible fraud, the matter will be reported to the Trust's Local Counter Fraud Specialist for an investigation to be carried out under the Trust's Counter Fraud Policy.

2. Policy Aims

- 2.1 Ensure all staff are informed of the process for recovery of incorrect payments.
- 2.2 Ensure overpayment and underpayments are identified and either recovered or paid in a timely manner.
- 2.3 Ensure a transparent, fair and consistent approach is followed when an incorrect salary payment is made.

3. Policy Scope

- 3.1 This document applies to all UHL staff who are in receipt of payments made via the Trust's payroll. For the purposes of this policy, a salary transaction, overpayment or underpayment, covers any payment made through the payroll to or from a staff member.

4. Key Definitions

4.1 The following definitions are used within the policy:

- **Overpayment:** This is where a current or past staff member is paid an amount in excess of their contractual entitlement. The likely causes of an overpayment include, but are not restricted to:
 - A termination notification not being completed, received or actioned on time.
 - Late notification of sickness absence or unpaid absence.
 - Staff not returning from maternity leave as expected.
 - An administrative error being made.
 - A late change notification e.g., to hours or salary banding.

- **Salary/Wages Adjustment:** are amendments made to pay, to recover monies overpaid in the current or previous month only.

- **Debt:** an outstanding overpayment made to a staff member who is no longer working at the Trust.

- **Underpayments:** Where an individual has received less pay than contractually due. The likely causes of an underpayment include, but are not restricted to:
 - Late notification of variations to contract.
 - Late submission of expense claims, excess hours, enhancements, overtime, etc.
 - Late closing of sickness absence episodes.

- **ESR:** Electronic Staff Records system.

- **Basic Pay:** is an individual's contractual pay before any additions are added, for example due to unsocial hours working, regular user additions, travel and subsistence, etc.

- **Salary exchange transactions:** monies owing as a result of outstanding Vivup orders, Childcare Vouchers or the Trust Car Scheme fines / fees.

5. Roles and Responsibilities

5.1 Trust Board

- Legal responsibility for ensuring that all overpayments are addressed appropriately.

5.2 Chief Finance Officer and the Chief People Officer

- Responsibility for ensuring that this policy and procedure is consistently applied.
- Monitoring the operation of this policy and procedure.
- The writing off of debts, as appropriate.

5.3 Managers

- Responsibility for ensuring this policy is fairly and consistently applied in respect of the staff they manage.
- Ensuring changes to contracts, terminations and claim forms are submitted to the relevant team as soon as a change is agreed and authorised. This includes flagging the existence of any outstanding balances for Staff Benefit products (i.e., car scheme, cycle scheme, gym membership, home & electronics items etc.) on HR4 termination of employment forms.
- Checking the monthly budget statement for accuracy and notifying any pay errors to Finance and People Services.
- Report suspected incorrect payments to the individual and UHL Payroll Assistance immediately.

5.4 Staff

- Staff have a responsibility to check their pay is accurate and report any potential overpayments to the UHL Payroll Assistance team so that repayment can be arranged. Employees should not assume that they have received an increase in pay (temporary or recurring) unless there is some reason to believe that this is the case.
- Staff should report to their line manager / management if they expected a decrease in their salary/pay which has not been reflected in their pay.
- Ensure the timely and accurate submission of claims for payment using the correct procedure whether this be via Healthroster or Claim Form, following local submission timelines.

5.5 Generalist People Services team

- To provide advice and assistance to ensure robust and consistent implementation of this policy and procedure.

5.6 UHL Payroll Assistance and HR Systems and Payroll Team

- Have a responsibility to act on correctly authorised instructions from the Trust received through the agreed methods and ensure that the Electronic Staff Record ('ESR') is updated and amended accordingly to ensure correct payment.
- Ensure robust checking processes are in place to identify and reduce overpayments and underpayments.

- Advise staff in a timely manner when payment errors are identified.
- To monitor overpayments of salary and liaise with the relevant People Services team to ensure that overpayments and underpayments are managed consistently.
- Any overpayment or underpayment trends are identified and escalated with the Trust in a timely manner.
- Produce monthly reports listing overpayments and underpayments.
- Ensure that guidance on the completion of all claim forms is available to staff and line managers via the intranet.

5.7 **Finance**

- Raising invoices under this policy
- Recording any overpayments in the Trust's ledger and setting up a recovery process where it is not possible to recover via an individual's salary.
- Monitoring the recovery of all overpayments.
- Escalating overpayments to other agencies as appropriate.
- Providing any information required by Debt Collection Agencies or Courts as appropriate in order that they may take relevant action.
- Advising the Head of Pay Pensions and Benefits of any issues that need to be addressed via the payroll contract.

5.8 **Payroll Manager**

- Authorise payments chargeable to the Trust before they are made to individuals.

5.9 **Local Counter Fraud Service (LCFS)**

- Investigating any significant overpayment or any instances where fraud or theft is suspected.

6. Recovery of overpayment of salary, wages or expenses

Section 14 of the Employment Rights Act outlines an employer's right to recover a salary overpayment.

Where a person receives and retains an overpayment, even if this is through the fault of the Trust, there is an obligation to make restoration of the full amount. If there is reasonable belief that fraudulent acts may have occurred, the matter may be reported to the Local Counter Fraud Specialist (LCFS) for further investigation. In this situation if the matter is taken forward the employee will be given a full opportunity to respond.

The Theft Act 1968 indicates that although an individual may not set out to obtain additional salary intentionally, by keeping it and treating it as their own (i.e., spending it) they may be guilty of theft.

6.1 Standard Arrangements for Recovering Overpayment

The following processes will apply when correcting an overpayment:

Where the staff member no longer works for the Trust or where an overpayment arises through a non-substantive contract:

- UHL Payroll Assistance will write to the individual at the last known forwarding address held on ESR advising them that an overpayment has occurred. The letter will state the details of the overpayment and provide a breakdown of the amount. All queries must be raised with the UHL Payroll Assistance team within the stated timescale. The Trust's Finance Department will then manage the recovery of the overpayment as a debt.
- If an individual has not provided their forwarding details, every effort will be made to obtain a contact address, including where appropriate, through contact with professional bodies.
- All amounts invoiced are to be payable in full within thirty days of the invoice being issued. Where recovery of the overpayment within thirty days of the invoice would cause genuine hardship, the individual should contact the finance department to discuss a repayment plan. A contact telephone number for the Trust's Finance Department (Income and Debtors) will be included on the invoice to discuss the repayment.
- If no response is received from the individual, the Trust may refer the case to our approved debt collection agency for recovery if internal recovery processes (by phone or letter) fail.
- The Trust's UHL Payroll Assistance team will ensure appropriate adjustments and recovery of the employee's Tax, Pension and National Insurance records. The Trust's Finance team will inform HM Revenue and Customs.
- Should an employee return to work for the Trust, and recovery of the overpayment is outstanding, or if the employee holds an additional substantive assignment, the process for current staff will be followed as below.
- If the overpayment arises through an active Bank post, recovery may be attempted via

this post prior to proceeding with the recovery of the overpayment as a debt.

For staff continuing to work for the Trust

Where an overpayment has occurred, the following arrangements will apply:

- Where an overpayment occurs in a single pay period, it is expected that this will be recovered from the next available pay period. Examples could include late notification to end a regular payment or a duplicated claim form.
- Where there is a change to an individual's banding level or late notification of a reduction in hours, as the individual will have agreed to this change, an automatic deduction will be made from the next available payment.
- Where an overpayment occurs over multiple pay periods, it is expected that the overpayment will be recovered at the maximum of the same rate at which it accrued. Examples could include errors in changes relating to contracted hours; pay protection; a regular allowance etc. The individual can agree a shorter repayment plan if they wish.

UHL Payroll Assistance will contact the individual, advising them that an overpayment has occurred, and provide a breakdown showing the Gross value, and proposed recovery plan.

- Where recovery of the overpayment over the specified period would cause genuine hardship, the staff member should contact UHL Payroll Assistance to discuss the recovery plan. A reasonable effort will be made to agree a fair repayment plan. Should UHL Payroll Assistance and the individual not be able to agree a revised recovery plan, the process under section 6.2 should be followed.
- To ensure prompt management of overpayments, if the employee does not respond by the stated response date or does not engage in the process, this will result in automatic recovery commencing as set out in the overpayment notification that the individual will have received.
- Should the member of staff leave the Trust during an overpayment repayment period, a salary exchange repayment period, or if an overpayment has been identified at the time of termination, any outstanding amounts will be deducted from the final payroll payment and or subsequent payments due to them. If after deduction, money remains outstanding, individuals will be invoiced by the Trust for the outstanding balance, and the process as stated above for leavers will apply.

6.2 Disputes about the Repayment of an Overpayment

Resolution of disputes or disagreements regarding the repayment period or overpayment amount will initially be via an informal discussion between the member of staff and UHL Payroll Assistance. If it is not possible to reach resolution, and the individual believes that

an overpayment should not be recovered they should complete a Formal Review Form (appendix 1) within 14 days of receipt of the overpayments letter and send the review form to UHL Payroll Assistance. The individual must be able to comprehensively demonstrate all of the following:

- It must be shown that the overpayment was the fault of the Trust and not the individual.
- It must have been reasonable for the employee not to know that they were being overpaid.
- The individual must have acted to their disadvantage on the assumption that the payment of salary was correct.

Upon receipt of a fully completed Formal Review Form (appendix 1), UHL Payroll Assistance will contact the Payroll Manager and inform them of the review. Any repayment scheduled will be suspended from the next available payroll.

The individual must then also contact People Partner and their line manager to arrange an appointment to discuss the case within fourteen calendar days of receipt of the overpayment letter. The employee may, if they wish, be represented by a Trade Union representative or colleague. The purpose of this meeting is for the line manager and a People Partner to clarify the information relating to the case, review the individual's Formal Review form (appendix 1), identify any supporting documentation, and to add any management information available relating to the situation. On request, the Payroll Services manager will provide a copy of all correspondence between the individual and payroll team on the matter. This is also an opportunity to seek agreement on repayment timescales.

People Partners will provide an outcome of the discussion with the employee to the Payroll Manager.

Irrespective of the cause of an overpayment, members of staff have a duty to repay in full any money they have received to which they are not entitled. It is only in exceptional circumstances that an overpayment may be reduced or written off and therefore not recovered.

The Chief Finance Officer is the only person able to authorise a change to the value of an overpayment to be repaid or to agree that an overpayment is not to be recovered.

6.3 Appeal Procedure

Where mutual agreement for a repayment plan cannot be achieved, the individual will have the right to appeal against the outcome of this process. Should they wish to do so they will need to submit a formal appeal to the Chief People Officer within fifteen calendar days of the outcome being notified to them, stating the grounds for their appeal.

The information and paperwork will be reviewed by the CFO and CPO, or their nominated deputies, where possible within one month of the paperwork being received and the investigation completed. The staff member can request to attend a review meeting to make a representation of their case and be accompanied by a Union Representative or colleague.

The CFO and CPO will decide if the overpayment should be paid in full, reduced, or written off in full if appropriate, and will be in the context that the Trust has a duty to recover public money. The outcome will be notified to the individual in writing with an explanation of the decision within seven working days of the decision. Should the CFO and CPO be unable to agree an outcome this decision will be deferred to an impartial individual assessor.

Where the decision is to continue to recover an overpayment or part thereof, UHL Payroll Assistance will then write to the individual confirming the repayment schedule and dates.

7. Underpayments

Individuals should report underpayments of salary to UHL Payroll Assistance or their line manager.

- 7.1 If an employee has received no basic pay due to an incorrect or late submission of Payroll instructions, a financial hardship payment will be considered. Hardship payments will not be considered for non-payment of expenses or unsocial hours payments. Where appropriate, authorisation will be sought from the Head of Pay Pensions and Benefits before payment is made. At the end of the next payment interval the arrears will be made, and the financial hardship payment will be recovered.

8. Salary Exchange Transactions

On occasion, monies may become payable by an employee, that relates to a salary exchange transaction, for example Vivup orders, Childcare Vouchers or the Trust Car Scheme

This could have occurred for a variety of reasons and repayment arrangements will be put in place dependent of the cause.

Where the cause can be attributed to an administrative error by the Trust, repayment of the full amount may be spread across the number of months that the error has taken to identify and correct.

In accordance with Scheme contract agreements, monies owed as a result of Trust Car Scheme fines, fees or charges, for example traffic violations, refurbishment costs, or excess mileage, will be taken in full on the pay day following the Trust being in receipt of the invoice for payment. Monies still owing as a result of being unable to collect the full balance will be recovered over the least subsequent number of months to repay the amount owed in full.

9. Monitoring and Compliance

The audit criteria for this policy and the process to be used for monitoring compliance are given in the table below:

Element to be monitored	Lead	Tool	Frequency	Reporting arrangements
Levels of overpayments	Head of Pay Pensions and Benefits	Logging spreadsheet	Monthly	Reported to Deputy Chief People Officer
Levels of underpayments	Head of Pay Pensions and Benefits	Logging spreadsheet	Monthly	Reported to Deputy Chief People Officer
Consistency of decisions about overpayments	Head of Pay Pensions and Benefits	Logging spreadsheet	Monthly	Reported to Deputy Chief People Officer

10. Education and Training requirements

- 10.1 This policy and procedure will be made available to managers and staff. Managers will be supported by Human resources in dealing with any cases.

11. Equality Impact Assessment

- 11.1 The Trust recognises the diversity of the local community it serves. Our aim therefore is to provide a safe environment free from discrimination and treat all individuals fairly with dignity and appropriately according to their needs.
- 11.2 As part of its development, this policy and its impact on equality have been reviewed and no detriment was identified.

12. Supporting References, Evidence Base and Related Policies

- 12.1 Trust Resolution Policy and Procedure
 12.2 Section 14 of the Employment Rights Act
 12.3 The Theft Act 1968

13. Document control, Archiving and Review

- 13.1 This document replaces the previous Overpayments Policy.
- 13.2 This document will be uploaded onto SharePoint and available for access by staff through INsite. It will be stored and archived through this system.

Appendix 1 - FORMAL REVIEW FORM

SPF-SO-FRR. Version 2.0. Mar-2024
VPD : 358 - UHL

SALARY OVERPAYMENT - FORMAL REVIEW REQUEST

PLEASE COMPLETE IN BLACK INK USING CAPITAL LETTERS OR TYPED

This form requests the Trust to review a case of overpayment of salary where you strongly believe there should either be no repayment, or a reduced repayment made.

Please complete this form fully and include any documentation from Payroll with this form.

Your Full Name			
Employee Number (8 Digits)		Value of Overpayment	£
Payroll Case Reference number			
Name of union representative (if applicable)			
Name of People Services contact dealing with case			
Your Job Title			
CMG/ Directorate			
Email address			
Full Telephone Number			
<p>In line with the Trust's policy for overpayment, repayments must be made unless <u>all the following criteria apply</u>:</p> <ul style="list-style-type: none"> • It must be shown that the overpayment was the fault of the Trust and not the individual. • It must have been reasonable for the employee not to know that they were being • The individual must have acted to their disadvantage on the assumption that the payment of salary was correct. <p>Detail below the full reasons why, in your view, the overpayment should not be repaid in full ensuring you meet the criteria detailed above <i>(please continue on separate sheet if required)</i></p>			
<p>Declaration: By signing this document I hereby confirm that everything within it is factually correct to the best of my knowledge and that I have sought any guidance I think is necessary in completing the form</p>			
Signed:		Date:	
<p>Please send completed form to Assistance.Payroll@uhl-tr.nhs.uk AND HRGeneralistAdvice@uhl-tr.nhs.uk</p>			

Appendix 2 - Process Flow Chart

