

## Overpayment Recovery Policy

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|---|-------------------------|
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| Name of originator/author:                | HR Business Partner     |
| Name of responsible committee/individual: | Employment Policy Group |
| Date issued:                              | February 2019           |
| Review date:                              | December 2021           |
| Target audience:                          | All LCHS staff          |
| Distributed via:                          | Website                 |

## Version Control Sheet

| Version | Section                                | Amendments  | Author                                    | Date         |
|---------|--|---|---|--------------|
| 1       |  | New Policy  | Alex Williamson                           | Jul 2015     |
| 1.1     | 5 addition<br>6 Inserted<br>7 Inserted | Revisions to update for recommendations from NHS Protect Review (August 2015)   | Simon Burrows, Head of Financial Accounts | Feb 16       |
| 1.2     |  | Extension   | EPG                                       |              |
| 2       | All                                    | Review  | EPG                                       | April 18     |
| 3       | All                                    | Full Review   | Sophie Coutts<br>HR Advisor               | December 18  |
| 3.1     | Entire document                        | This document has been checked by the policy owner who has confirmed that it is fit for use and that it will be fully reviewed and updated as appropriate before the end of the extension period granted by LCHS Trust Board on 12/1/2021 | Corporate Governance Team                 | January 2021 |
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# Overpayment Recovery Policy

## Policy Statement

|                        |   |
|------------------------|---|
| Background             | Lincolnshire Community Health Services NHS Trust, the Organisation, has a responsibility to actively seek recovery of overpayments in an effort to protect public monies. When seeking recovery, however, the Organisation will act to ensure that the action taken to recover the payment does not undermine the relationship between the employer and the employee or breach trust and confidence.  |
| Statement              | This policy aims to provide instructions to staff engaged within the recovery of overpayments, relating to pay and expenses, made to employees and ex-employees of the Organisation and the settling of overpayments. This policy is written in accordance with NHS Terms and Conditions and LCHS contractual statements. It also provides a guide to staff in the procedures and gives assurances that negotiations will take place before recovery, taking into account personal financial circumstances to avoid hardship. |
| Responsibilities       | All staff have responsibilities as detailed in section 3.   |
| Training               | All staff to make themselves aware of the contents of this policy. Guidance can be obtained from the HR Department.   |
| Dissemination          | Website   |
| Resources Implications | Managers/Payroll will need time to action the detailed procedures within the set timescales.  |
| Consultation           | Consultation will take place via Employment Policy Group and JCNC   |
| Equality Statement     | This policy aims to ensure that no person receives less favourable treatment on the grounds of gender, sexual orientation, civil partnership/marital status, colour, race, nationality, ethnic or national origins, creed, religion/belief, disability, age or trade union membership is disadvantaged by conditions or requirements which are not justified.   |

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## 1. Introduction

- 1.1. The Organisation has measures in place to avoid overpayments occurring, however on occasions overpayments can unfortunately happen. There is a need to provide a clear policy and guidelines to managers and staff on how the Organisation recovers salary overpayments.
- 1.2. This policy aims to provide a consistent approach and sets out the principles and process of how overpayment recovery will be administered by the Organisation.
- 1.3. This policy applies to all staff employed by the Organisation and outlines the process of recovery for previous employees,

## 2. Definitions

- 2.1 For the purpose of this policy, overpayments can be defined as a payment of salary or allowance which is paid to an individual in excess of their contractual entitlement.
- 2.2 Overpayments can arise due to:
  - Incorrect completion of timesheets or expense claims
  - Late notification of an employee commencing sickness, maternity or unpaid leave who continues to be paid at full pay rather than reduced
  - Late notification of an employee leaving the Organisation who continues to be paid after leaving
  - Late notification of a change in an employee's circumstances, e.g. reduction from full time to part time hours and continues to be paid full time
  - Fraudulent activity

The above is not intended to be an exhaustive list, however provides examples of when overpayments can arise.

## 3. Responsibilities

- 3.1. It is the duty of all parties engaged in receiving, monitoring and administering staff salaries to prevent overpayments. This includes employees, managers, payroll and the HR Department and Finance staff.
- 3.2. **Responsibilities of Employees:**
  - 3.2.1. All employees are responsible for giving correct and complete information on any timesheets or expense claim forms they complete.
  - 3.2.2. Employees will only authorise timesheets or expense claim forms if they are an authorised signatory for that team and believe the information to be correct.
  - 3.2.3. All employees are responsible for regularly checking their payslips to ensure that they are receiving the correct pay and benefits, and must bring any anomalies to the attention of their manager and the payroll department as a matter of urgency.
  - 3.2.4. All employees of the Organisation have a duty to report to their line manager any overpayment made to them since it is a payment to which they are not entitled.

3.2.5. For their part, staff have a responsibility to adhere to the policy and procedure as outlined.

### 3.3. **Responsibilities of Line Managers**

3.3.1. All line managers have a responsibility to ensure that all documentation relating to any changes with regards to employment terms and conditions is submitted to the HR Department before the agreed local deadlines. After this date please contact the HR Department to see if any other remedial actions are available.

3.3.2. Should the change occur at short notice after the deadline and will affect pay for that calendar month the manager must contact the HR Department regarding remedial action. . Where an employee fails to report for work in circumstances that suggest they have left without notice, line managers have a duty to inform the Finance Department immediately.

3.3.3. All line managers have a responsibility in the fair and consistent application of this policy by;

- Communicating and explaining this policy to staff
- Applying policy where overpayment of salary occurs
- Adopting a culture of open and honest communication
- Contacting Payroll and the HR departments for advice and assistance where needed
- Ensuring the relevant notifications of changes that affect employees' pay are fully completed and sent to the HR Department/Payroll in a timely manner.

3.3.4. All line managers are responsible for ensuring they check the monthly nominal roll report in detail on a monthly basis and return on a timely basis to the Finance Department to alert the Management Accountant to any pay errors or anomalies Particular attention should be paid to starters, leavers and members of staff who have changed their working hours or pay to ensure these changes have been correctly reflected in their salary payments. If nominal roll is not correct please raise this immediately with Management Accountant.

### 3.4. **Responsibilities of the HR Department**

3.4.1. The HR Department are responsible for actioning any relevant notifications of changes that affect pay in line with payroll deadlines.

### 3.5. **Responsibilities of Payroll Shared Services**

3.5.1. Payroll have the following responsibilities:

- Ensure that information is put into ESR in an accurate and timely manner.
- Ensure that any payment errors are resolved in line with this Overpayment Recovery Policy.
- Ensure any payment errors are identified and the employee advised in a timely manner.
- Prepare a monthly report of all outstanding overpayments and share with Finance Department.

In cases of overpayment where the deadline to amend pay has passed Payroll must stop the BACS payment and wait for payment to be returned then issue correct amount

### **3.6. Responsibilities of Finance:**

#### **3.6.1. Finance have the following responsibilities:**

- Having been notified of the overpayment (or in some cases an underpayment) has occurred; Finance will revise the pay budgets accordingly.
- The Finance Department will be responsible for monitoring the overpayment recovery plan and will advise on the best method of recovery.
- Where overpayment cannot be recovered through Payroll, the Finance Department will receive the overpayment, normally via a standing order from the individual's bank account to the designated Organisation bank account.
- After a reasonable period of time has lapsed and if a full recovery of the overpayment has not been successful, the Finance Department may pursue the debt through the Courts.

### **3.7. Responsibilities of the Local Counter Fraud Service:**

3.7.1. 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.

## **4. General Principles:**

- 4.1. The Organisation is a public body and is therefore accountable for the use of public monies. As such, it will seek to recover all salary or expenses overpayments.
- 4.2. Any payment to which an employee is not legally entitled is repayable regardless of circumstances, including where this has arisen through a processing error by the Organisation as the employer, within the timeframes outlined in this policy.
- 4.3. Employees should note that being aware of an overpayment and subsequently spending the monies will not be considered as a valid reason for non-repayment.
- 4.4. The Organisation will take steps to end any overpayment immediately on discovery and notify the staff member and line manager concerned.
- 4.5. Repayment will be recovered in line with the principles as set out in sections 5 of this policy.
- 4.6. The Organisation will refer any appropriate cases to the Local Counter Fraud Specialist where there is a concern that fraud may have occurred. Knowingly using monies received through an overpayment may result in criminal proceedings in addition to disciplinary action being considered up to and including dismissal.

## **5. Procedure for Recovery of Overpayments:**

5.1. For the purposes of recovery, overpayments have been categorised into three areas. Any adjustments will include recalculation of tax, national insurance and pension payments

#### **5.1.1. Salary Adjustment:**

- This is an adjustment to pay that recovers monies that could be overpaid in the current and previous month only. These will be recovered in full from the employee's salary in the current month provided the employee agrees.

- Individuals will be notified of the adjustment by the Payroll team in writing
- In these cases, if the employee agrees by response in writing, full recovery will take place in the current pay period.
- These cases will be notified to the Organisation on the Overpayments Report spreadsheet.
- The recovery will be made against the same expenditure code as it was paid against
- If the employee does not agree, it will be treated as an overpayment and that procedure followed.

#### 5.1.2. **Overpayment:**

- This is an adjustment to pay that requires monies to be recovered from an individual and relates to periods prior to the current and previous month.
- Employees will be advised in writing of the details of the overpayment before automatic recovery takes place and requires employee consent.
- If the employee provides consent to the Payroll Department to repay in full within 14 days of the Payroll Department notifying the employee in writing, this will be recovered as a salary adjustment as outlined above. The maximum period for recovery that is agreed locally within Payroll is three months; extended repayment schedules must be referred by the individual's line manager to the Finance Department to be agreed.
- If the employee has not responded within 14 days the Payroll Department will inform the LCHS Debtors section within Finance immediately and provide copies of the calculation and letter sent.
- The LCHS Debtors section will send an invoice to the employee and deal with any subsequent negotiations regarding repayment.
- Where an employee does not agree to a repayment / repayment schedule, and/or is not engaging in accordance with section 3.2, the Trust may take the decision to stop any future salary payments until repayment has been agreed. This will be considered in accordance with section 5.1.4 and section 6.

#### 5.1.3. **Overpayment to Ex-Employees:**

- This covers an unexpected overpayment to an ex-employee.
- The Payroll Department will provide a covering letter to the ex-employee, breakdown of the overpayment by month with an invoice request and send them to the LCHS Debtors Section.
- The LCHS Debtors Section will send an invoice to the ex-employee along with the covering letter and details and will deal with any subsequent negotiations regarding repayment and negotiate a repayment schedule if required.

#### 5.1.4. **Repayment Schedule**

A repayment schedule with the employee should be underpinned by the following principles:

- Option 1**      One lump sum payment recovery for an overpayment which occurred in a single amount
- Option 2**      Monthly instalments no more than the same number of months as the overpayment occurred. In accordance with section 5.1.2 if the repayment is to exceed three months approval must be sought from the Finance Department.

To avoid the potential to cause hardship in individual cases, the recovery of any overpayment shall, at the request of the employee, be reduced to practical instalments.



In cases of 'bad faith' recovery of the full amount overpaid will be sought, including recovery from pension benefits if relevant. An example of 'bad faith' would be where an employee was aware of an overpayment but failed to take action to ensure that this was corrected.

## **6. Failure to Recover**

- 6.1 Recovery for overpayments will always be sought following the principles above.
- 6.2 Reasons for failure to recover will be considered by the Finance Department. When deciding on appropriate action, they should consider:
- a) The type of overpayment;
  - b) Whether the payee received the money in good faith;
  - c) The length of time since the overpayment occurred;
  - d) Any argument against recovery;
  - e) Whether the employee could not reasonably have been aware of the overpayment;
  - f) The cost-effectiveness of recovery action; and
  - g) The need to deal equitably with overpayments to a group of people.
- 6.3 In seeking to satisfy itself of someone's 'good faith', they should therefore consider the extent to which:
- a) The payment depended on changes in the member of staff's circumstances which they were required to notify to the Trust; and
  - b) The basis upon which the payment was calculated, was explained to, or was readily accessible to, the member of staff.
- 6.4 If 'good faith' is established, the Finance Department may agree that only the last 12 months of the overpayment be recovered.
- 6.5 If, there are strong grounds for thinking that the individual knew that there had been an overpayment – for example, if the overpayment was so obvious as to be evident to the recipient – it may be reasonable to assume that the payee did not act in good 'faith' and recovery may be attempted through the courts.

## **7. Referral to Local Counter Fraud Team**

- 7.1 Where, on investigation, the Trust is satisfied that the circumstances of the overpayment raises concerns, it should consider, in addition to recovery action, whether the employee obtained the overpayment fraudulently – for example by dishonestly giving false information or failing to disclose information.
- 7.2 If there is evidence of fraudulent intent, prosecution and/or disciplinary action will normally be undertaken. A criminal conviction in such a case will not eliminate the public debt which had resulted from the overpayment, and so recovery of the debt will continue to be pursued by any means available.
- 7.3 In all situations where it is considered that an employee would or should have been aware of an overpayment and could be considered to have acted in bad faith, a referral of the case will be made to the local counter fraud team for their consideration.
- 7.4 Where a referral has been made to the local counter fraud team, LCHS will continue to pursue recovery of debt in accordance with this policy, unless the local counter fraud team asks to stop the recovery process.

## NHSLA Monitoring Template

| Minimum requirement to be monitored      | Process for monitoring e.g. audit | Responsible individuals/group /committee | Frequency of monitoring /audit | Responsible individuals / group / committee (multidisciplinary) for review of results | Responsible individuals / group / committee for development of action plan | Responsible individuals / group / committee for monitoring of action plan |
|--|-----------------------------------|--|--------------------------------|---|--|---|
| Overpayments Report and Recovery Chasing | Monthly Reporting                 | Payroll and Finance Teams                | Monthly                        | Employees, Line Managers , Payroll and Finance  | Finance and Payroll  | Finance and Payroll   |

## Equality Analysis

### Name of Policy/Procedure/Function\*

Overpayment Recovery Policy

**Equality Analysis Carried out by: Sophie Coutts**

**Date: December 2018**

**Equality & Human Rights Lead: Rachel Higgins**

**Date:**

**Director/General Manager Maz Fosh**

**Date:**

|  |   |   |    |  |
|--|---|---|----|--|
| A.   | Briefly give an outline of the key objectives of the policy; what it's intended outcome is and who the intended beneficiaries are expected to be  | This policy aims to set out the process and procedure of how overpayment recovery will be administered by the Organisation. |    |  |
| B.   | Does the policy have an impact on patients, carers or staff, or the wider community that we have links with? <b>Please give details</b>   | This has an impact on all employees within the Organisation and ex-employees who have been overpaid                         |    |  |
| C.   | Is there is any evidence that the policy/service relates to an area with known inequalities? <b>Please give details</b>   | None Known  |    |  |
| D.   | Will/Does the implementation of the policy/service result in different impacts for protected?   | None Known  |    |  |
|  |   | Yes   | No |  |
|  | Disability  |   | X  |  |
|  | Sexual Orientation  |   | X  |  |
|  | Sex   |   | X  |  |
|  | Gender Reassignment   |   | X  |  |
|  | Race  |   | X  |  |
|  | Marriage/Civil Partnership  |   | X  |  |
|  | Maternity/Pregnancy   |   | X  |  |
|  | Age   |   | X  |  |
|  | Religion or Belief  |   | X  |  |
|  | Carers  |   | X  |  |
|  | <b>If you have answered 'Yes' to any of the questions then you are required to carry out a full Equality Analysis which should be approved by the Equality and Human Rights Lead – please go to section 2</b> |   |    |  |
| The above named policy has been considered and does not require a full equality analysis |   |   |    |  |
| <b>Equality Analysis Carried out by:</b>   |   | Sophie Coutts   |    |  |
| <b>Date:</b>   |   | December 2018   |    |  |