

Overpayment Recovery Policy

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Name of originator/author:	Alex Williamson, HR Business Partner
Name of responsible committee/individual:	Employment Policy Group
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Version Control Sheet

Version	Section	Amendments	Author	Date
1		New Policy	Alex Williamson	Jul 2015
1.1	5 addition 6 Inserted 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
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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. 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 Workforce Services team.
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 Standard	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,
- 1.4. This policy aims to ensure that no employee receives less favourable treatment on the grounds of age, disability, religion or belief (or lack of religion or belief), gender, sexual orientation, marriage and civil partnership, transgender (gender reassignment), pregnancy and maternity or trade union membership, or is disadvantaged by any conditions or requirements which are not justified by the job.

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 Workforce Services and Finance staff.

Responsibilities of Employees:

- 3.2. All employees are responsible for giving correct and complete information on any timesheets or expense claim forms they complete.

- 3.3. 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.
- 3.4. 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.
- 3.5. 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.
- 3.6. For their part, staff have a responsibility to adhere to the policy and procedure as outlined.

Responsibilities of Line Managers:

- 3.7. 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 Workforce Services Team and Payroll in a timely manner.
- 3.8. All line managers have a responsibility to email Payroll details of any employees handing in their resignation on receipt of the resignation notice. 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 Director of Finance immediately.
- 3.9. 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 Workforce Services departments for advice and assistance where needed
 - Ensuring the relevant notifications of changes that affect employees' pay are fully completed and sent to Workforce Services/Payroll in a timely manner.
- 3.10. 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.

Responsibilities of Workforce Services:

- 3.11. Workforce Services are responsible for actioning any relevant notifications of changes that affect pay in line with payroll deadlines.

Responsibilities of Payroll Shared Services:

- 3.12. 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 the Organisation.

Responsibilities of Finance:

3.13 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.

Responsibilities of the Local Counter Fraud Service:

3.14 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;

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 these cases, if the employee agrees, 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.

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.
- 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.
- 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 Debtors section will send an invoice to the employee and deal with any subsequent negotiations regarding repayment.

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 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.

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

- One lump sum payment recovery for an overpayment which occurred in a single amount or
- Payment to be made within the same financial year or
- Monthly instalments over at least the same number of months as the overpayment occurred.

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 Director of Workforce and Transformation in conjunction with the Director of Finance (or appropriate nominated deputies). 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 Director of Workforce and Transformation and Director of Finance (or nominated deputies) 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 Referral does not stay the normal recovery process in any way unless actions are specifically stopped at the request of the local counter fraud team.

Appendix 1

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

Appendix 2

Equality Analysis

Introduction

The general equality duty that is set out in the Equality Act 2010 requires public authorities, in the exercise of their functions, to have due regard to the need to:-

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

The general equality duty does not specify how public authorities should analyse the effect of their existing and new policies and practices on equality but doing so is an important part of complying with the general equality duty. It is up to each organisation to choose the most effective approach for them. This standard template is designed to help LCHS staff members to comply with the general duty.

Please complete the template by following the instructions in each box. Should you have any queries or suggestions on this template, please contact Querban Hussain Equality and Human Rights Lead.

Scope Roster Policy

Name of Policy/Procedure/Function*

Overpayment Recovery Policy

Equality Analysis Carried out by: Alex Williamson**Date: July 2015****Equality & Human Rights Lead:****Date:****Director/General Manager****Date:**

*In this template the term policy/service is used as shorthand for what needs to be analysed. Policy/service needs to be understood broadly to embrace the full range of policies, practices, activities and decisions: essentially everything we do, whether it is formally written down or whether it is informal custom and practice. This includes existing policies and any new policies under development.

Section 1 – to be completed for all policies

Overpayment Recovery Policy

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? Please give details	This has an impact on all employees within the Organisation.		
C.	Is there any evidence that the policy/service relates to an area with known inequalities? Please give details	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	
	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			
The above named policy has been considered and does not require a full equality analysis				
Equality Analysis Carried out by:		Laura Herrick		
Date:		May 2018		