

Appendix 5: PROCEDURE FOR THE RECOVERY OF OVERPAYMENTS OF SALARY / WAGES / EXPENSES

INTRODUCTION

1. The Health Board (HB) is required to ensure that employees are paid correctly at all times. If an overpayment of salary or any other payment of public funds occurs for any reason, it is the policy of the HB to pursue and recover overpayments. In accordance with the Employment Rights Act 1996 a deduction from an employee's wage can be made by the employer in relation to overpayments of wages or an overpayment in respect of expenses incurred by the employee in carrying out their duties. The HB will take into account the circumstances surrounding the overpayment and seek to establish appropriate repayment terms that minimise hardship. Similarly the HB will take steps to correct any underpayment of salary or any other payment to which an employee is entitled.

2. If an overpayment is considered to have been gained fraudulently, then the matter will be reported to the Director of Finance who will then decide if the matter should be referred to the HB's Local Counter Fraud Specialists for investigation.

SCOPE and DEFINITIONS

3. This Procedure applies to all overpayments for all SBU staff as a result of all payments made to staff through SBU payroll. This includes but is not limited to salary, all regular and irregular allowances (including responsibility allowances), ad hoc payments, payments for on-call, overtime or any other additional hours worked, travel and other expenses.

4. Unlike weekly wages which are normally paid a week in arrears (apart from certain weeks in which Bank Holidays fall at the beginning of the week) monthly salaries are paid in the current month. Payments such as unsocial hours, overtime, any adjustments in respect of sickness occurring in the current month etc. are calculated and paid in the following month.

5. Adjustments which are necessary to rectify any payments projected and paid in the previous pay period i.e. month or week, which in the light of subsequent information the payee was not entitled to, are considered adjustments, and not overpayments, and the provisions of this procedure will not apply.

6. Similarly, where overpayment occurs at the time of termination of employment e.g. where it emerges that annual leave has been overtaken, or sickness occurs after submission of the payment preparation data, and this affects pay entitlement, the existing arrangements for recovery of such overpayments will continue (i.e. Invoice 69 sent with immediate settlement terms) and again the following provisions will not apply.

FAILURE TO DISCLOSE A SALARY OVERPAYMENT OR ANY OTHER PAYMENT FOR EMPLOYEES

7. All employees have a responsibility for checking their pay slips and to advise their Line Manager, Payroll or Workforce in writing or via email if they have been overpaid by any amount. Failure to do so may result in disciplinary action and referral to the HB's Local Counter Fraud Specialist (LCFS), if the employee was aware of an overpayment but failed to report it. The LCFS, in conjunction with the Director of Finance, 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. If employees choose to advise their Line Managers in writing the Line Manager must report the matter to NWSSP Payroll immediately. Failure to do so may need to be considered under the HB's disciplinary policy.

8. In addition, Cost Centre managers have a duty to review all salaries and wages charged to their cost centre and query any unusual items or unexplained variances with their Financial Manager, Workforce, or NWSSP Payroll.

9. Details of all overpayments will be reported to the Director of Finance and Director of Human Resources by NWSSP Payroll through Head of Workforce Systems. Reports will also be distributed to Finance for the purpose of raising invoices. Directorate General Managers (DGM) and Locality Directors will be similarly provided with details of all cases in their area, the circumstances behind all overpayments will be investigated formally and where appropriate the relevant Line Manager/Department will be called upon to outline the reasons why the overpayment occurred.

10. On a case by case basis the relevant Line Manager will need to consider if Disciplinary Action may need to be instigated against any staff/manager involved in the circumstances leading to the overpayment. This would be considered separately and will not affect the management of the overpayment under this policy.

OVERPAYMENT OF SALARY OR ANY OTHER PAYMENTS FOR EMPLOYEES

11. After an overpayment of salary or any other payment has occurred, the employee will be provided with written notice of the background to the overpayment, the amount, how immediate payment can be made and the planned repayment terms as set out in this procedure. The letter (Appendix A) will be sent by NWSSP Payroll Services to the employee and copied to their line manager. The employee's address used will be the last known home address held on the

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Electronic Staff Record System (ESR) and it is the employee's responsibility to ensure that this is correct.

PROCEDURE

12. Nothing in the following arrangements will preclude legal and/or disciplinary action from being taken against an individual who, because of willful misrepresentations, obtains payment to which they are not entitled.

13. In the event of an overpayment of salary, wage, fees, allowance or any other payment, the NWSSP (Payroll) will take steps to immediately end the overpayment on discovery and inform the appropriate Line Manager of the issue.

14. If it is determined that the recipient could not reasonably be expected to be aware of the overpayment, NWSSP Payroll will notify the appropriate Line Manager who will then inform the individual concerned of the details and request repayment the amount in question in line with the timescales outlined in this policy.

15. NWSSP Payroll are authorised to seek agreement on the repayment period with the employee through the appropriate Line Manager up to, but not exceeding a period equal to the period that the overpayment was made. Normally repayments will commence following the next Payroll run.

16. If the appropriate Line Manager cannot secure agreement on the repayment period as set out in the paragraph above, an extension of the period may be agreed by the

Head of Workforce (L & S). This would normally be up to 100% of the normal recovery period, and at his discretion, may be extended by up to a further 2 years maximum. The individual must outline their reasons e.g. financial hardship in writing for seeking a longer period to the Head of Workforce (L&S). If agreed, employees will be required to complete an Overpayment Recovery Form (Appendix B) The Finance Directorate will be sent an NOI (Notification of Income Form) by NWSSP Payroll, together with copies of correspondence sent to the employee setting out the background to the overpayment, and the agreed repayment period. These should be sent to the abm.debtors@wales.nhs.uk. and upon receipt of these documents, invoices will be raised and sent to employees, so that progress with the recovery can be adequately monitored.

17. Any outstanding balance of overpayments owed by an employee will be recovered in full from the employee's final pay prior to their termination. NWSSP Payroll will need to liaise with the Debtors Section to confirm the sum outstanding. Should the final salary payment (or the amount of any arrears subsequently due) not be sufficient to cover any balance outstanding, immediate payment is to be demanded prior to departure where possible, otherwise, the process followed will be as set out in paragraphs 25-30 below.

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18. The Head of Workforce or their nominated deputy may wish to hold a meeting with the employee to discuss any proposals for an extended repayment period. The Head of Workforce will provide details of a location, date and time for any such meeting to take place with the employee providing 10 days' notice allowing the employee the opportunity to be represented. Any employee has a right to be accompanied by a fellow HB employee; an official employed by a trade union or a lay trade union official, (Accredited Representative) as long as they are certified by the trade union as having experience of or trained in acting in this role.

19. Reasonable adjustments will be made to cater for employees being dealt with under this procedure who have a disability (for example due regard to accessibility of venue, timing of meetings, full oral explanations to aid the understanding at each stage taking into account any learning disabilities, etc.). The requirement to make

reasonable adjustments applies equally, where the employee's representative requires such measures to accommodate any disability they may have.

20. Failure to attend the meeting or any subsequently re-arranged meeting without good reason may result in the meeting being held in the employee's absence based upon the evidence available. In these circumstances, any decision made will be notified in writing to the employee within 10 working days of the meeting. Should the employee provide notice that they need to re-arrange the meeting they have the opportunity to provide a convenient location, date and time within 21 days of the original meeting.

21. The Head of Workforce (L&S) may exercise the right to discuss the overpayment with the employee's Line Manager and / or any other person within the HB as appropriate.

22. If the Head of Workforce (L&S) believes a repayment period in excess of the delegated power outlined in paragraph (paragraph 16) is justified, then the written approval for the further extension of repayment must be given by the Director of Finance and Director of Human Resources. The decision of the Director of Finance and Director of Human Resources is final there is no other recourse for staff to appeal their decision.

23. If it is suspected that the recipient had willfully misrepresented information which had resulted in an overpayment of salary, wage, fees, allowances or any other payment, NWSSP Payroll will notify Director of Finance and Head of Workforce L&S. The Director of Finance will decide whether the matter needs to be referred to Counter Fraud, the Head of Workforce L&S will advise on whether the matter should also be dealt with in accordance with the HB's Disciplinary Policy liaising with LCFS as appropriate.

24. If subsequent disciplinary action results in summary dismissal, legal action will be taken to recover the outstanding debt at the date of termination of employment.

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OVERPAYMENT OF SALARY OR ANY OTHER PAYMENTS FOR EMPLOYEES WHO HAVE LEFT OR ARE LEAVING THE HEALTH BOARD

25. After an overpayment of salary or any other employee related payment has

occurred, the ex-employee will be provided with written notice by NWSSP Payroll of the background to the overpayment and the amount, and repayment formally requested (net of tax, NI, Superannuation and any other employee related deductions) The ex-employee will be advised that an invoice will be sent to them within a few days and immediate payment is expected. The address will be the last known home address held on the Electronic Staff Record System.

26.The Debtors Section within the Finance Directorate will be advised of the overpayment by NWSSP Payroll via a Notification of Income Form, and supported by a copy of the letter sent to the former employee. An invoice will be raised and sent to the former employee, with immediate payment terms applied.

27.NWSSP Payroll must advise the Debtor's Section of the response received from the ex-employee using the generic e-mail account (abm.debtors@wales.nhs.uk). If no response is received from the ex-employee within the 14 calendar days, NWSSP Payroll will notify the Debtors Section using the generic e-mail account and the HB's normal Debt Recovery Procedure will then be followed in accordance with FCP 10 (Income, Fees & Charges and Security of Cash, Cheques and Other Negotiable Instruments) for the amount outstanding.

28.Ex-employee's may contact the Debtors Section within the Finance Directorate to discuss payment by installments. Repayment plans may be agreed by the Debtors Section up to, but not exceeding a period equal to the period that the overpayment was made.

29.If the Debtors Section cannot secure agreement on repayment as per the terms of the paragraph above, an extension of the period may be agreed by the Assistant Director of Finance (Corporate Accounting & Governance). This would normally be up to 100% of the normal recovery period, and at her discretion, may be extended by up to a further 2 years maximum. The individual must outline their reasons e.g. financial hardship in writing for seeking a longer period to the Assistant Director of Finance (Corporate Accounting & Governance).If agreed, employees will be required to complete an Overpayment Recovery Form (Appendix B)

30.If the Assistant Director of Finance believes a repayment period in excess of the delegated power outlined in paragraph (paragraph 29) is justified, then the written

approval for the further extension of repayment must be given by the Director of Finance. The decision of the Director of Finance is final.