



Shared Business Services

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NHS Shared Business Services Overpayments User Guide

User Guide for Payroll Overpayments

FILE LOCATION

Compass House, Southampton

CHANGE HISTORY

Version	Date	Author
Draft 0.5	02/08/2010	Tina Hilton and Kelly Walsh
Draft 0.6	16/08/2010	Review and Revision
Draft 0.7	18/08/2010	Review and Revision
v1.0	10/10/2010	Completed and Approved by Change Control Board
v1.1	06/05/2011	Overpayments Team Lead & Pay Management Team

QUICK REFERENCE GUIDE

This policy must be followed in full when developing or reviewing and amending organisation procedural documents.

For quick reference the guide below is a summary of actions required. This does not negate the need for the document author and others involved in the process to be aware of and follow the detail of this policy.

1. The organisation has a responsibility to ensure that employees are paid correctly. If an overpayment occurs, the organisation will recover the overpayment in line with this policy.
2. Third party under deductions will not be treated as an overpayment but will still be recorded. These will be reclaimed under the correct element and not form part of this process.
3. An employee has a responsibility to check the payment received and advise the payroll department when it is different to the expected contractual entitlement payment.
4. The Theft Act 1968 indicates that although an individual may not set out to obtain the additional salary unintentionally, by keeping it and treating it as their own (i.e. spending it) they may be guilty of theft.
5. The Employment Rights Act 1996 (section 14) outlines an employers right to recover a salary overpayment without that deduction constituting an unauthorised deduction from wages (as in section 13)
6. If an overpayment is considered to have been intentionally kept then the matter will be reported to the organisation's Local Counter Fraud Specialist for criminal investigation.

1. INTRODUCTION

The overpayment process within NHS SBS has been revised after a project was implemented to address the issues identified by both the NHS SBS and organisations. The new process has been modelled on best practices within the industry and looks to bring standardisation across all stakeholder organisations and payroll teams, with clearly defined timescales and responsibilities. Changes to the defined processes can only be implemented through the change control process and will be owned and managed by the Operational Lead through the Change Control Board. The change, or variation, will then be recorded at the end of this document to enable the Organisation to take forward to their committees and staff side representatives if appropriate.

2. PURPOSE

The purpose of this document is to ensure that,

- a. Overpayments are recovered within a timely basis.
- b. That a transparent, fair and consistent approach is followed when an incorrect salary payment is made.

3. SCOPE

- 3.1 This policy applies to all payroll payments made to employees on a permanent or fixed term contract with the organisation.
- 3.2 In the event of an infection outbreak, flu pandemic or major incident, the organisation may recognise that it may not be possible to adhere to all aspects of this document. In such circumstances, staff should take advice from their Manager and all possible action must be taken to maintain minimum service levels.

4. DUTIES AND RESPONSIBILITIES

4.1 Responsibilities of Payroll

It is the responsibility of the payroll provider to:

- a. Ensure that information is put into ESR in an accurate and timely manner (within agreed Roles and Responsibilities document).
- b. Ensure any payment errors are resolved following agreed payroll procedures.
- c. Ensure any payment errors are identified and the employee advised in a timely manner.
- d. Follow this procedure in resolving payment errors.

4.2 Responsibilities of Human Resources

It is the responsibility of the Human Resources team to:

- a. Ensure information is input into ESR in an accurate and timely manner within the agreed and published timetable.
- b. Ensure that employees are made aware of any appropriate salary changes in writing.

4.3 Responsibility of Line Manager

It is the responsibility of the Line Manager to ensure that:

- a. Changes in employee contracts, including terminations are submitted to the HR department in a timely manner within the agreed and published timetable.
- b. The monthly budget reports is completed and returned on a timely basis and the Finance Department is alerted to any pay errors or anomalies are discussed with Management Accountant

4.4 Responsibility of the Individual

It is the responsibility of the individual employee to:

- a. Ensure that they understand their salary entitlement.
- b. Check their payslip every pay period to ensure that it is accurate.
- c. Raise pay anomalies with the payroll service desk

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

4.5 Responsibility of the organisations Gatekeeper

It is the responsibility of the Gatekeeper to:

- a. Ensure that the organisation is briefed on the overpayment process.
- b. Communicate and publish payroll cut off dates (in order to minimise overpayments).
- c. Inform Overpayments Team of any updates to re-payments status
- d. Send any queries to the Overpayments Team relating to the Management Information (MI) Report within 10 working days of receiving of the document
- e. Escalate serious overpayment cases to the Counter Fraud Service.

4.6 Responsibility of the Counter Fraud Service

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.

5 DEFINITION

5.1 Overpayment – where an employee, or an ex employee, is paid an amount in excess of their contractual entitlement. The likely causes of an overpayment include, but are not restricted to,

- A termination form not being completed, received or actioned on time.
- Late or lack of notification of sickness absence.
- Staff not returning from maternity leave.
- An error being made.
- A late change notification.

- Incorrect salary banding.

5.2 Payment errors can be identified in several ways,

- A member of the HR / Finance team identifies that an error has occurred.
- A member of the payroll team identifies that an error has occurred.
- The employee upon receipt of salary identifies that an error has occurred.
- The Budget Manager identifies that an error has occurred.

5.3 When an error in payment has been identified, action should be taken as quickly as possible to rectify the error and ESR must be updated accordingly and the recovery process invoked.

5.4 For purposes of recovery, overpayments have been categorised into three areas:

- a. **Salary adjustment** – an adjustment to pay that recovers monies that could be overpaid in the current and previous month only. These will be recovered automatically from salary and will not be treated as an overpayment.
 - i. In these cases, full recovery will take place in the current pay period. If the amount of the recovery exceeds 50% of the gross monthly payment, NHS SBS will then seek the advice of the organisation.
 - ii. Individuals will not be notified of the adjustment by NHS SBS.
 - iii. These cases will be notified to the organisation on the 'Overpayments Retro Report' spreadsheet typically as a gross amount .
 - iv. These cases will not be counted in the monthly overpayment stats or recorded on VQSM.
 - v. The recovery will be made gross and against the same costing as it was paid against (Income & Expenditure).
 - vi. Salary adjustments may be used by NHS SBS with prior agreement from the organisation but they will still be recorded for NHS SBS accuracy purposes. Salary Adjustments will not appear on the monthly Management Information (MI) Report.
- b. **Overpayment** – 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.
 - i. If the employee provides consent to NHS SBS to repay in full, this will be recovered as a salary adjustment but still reported as 5.4 b

N.B All NHS SBS overpayment errors will fall into this category unless agreed as in 5.4 a vi.

- c. **Payment to leavers and bank/locum staff** – an unrecovered overpayment to an ex-employee. An invoice will be raised and sent to the Gatekeeper together with appropriate information identifying the basis of the overpayment.

- i. For leavers, a covering letter to the ex-employee, breakdown of the overpayment by month and element will be provided with the Invoice request and sent to the Organisations Gatekeeper. This invoice request should be raised with the Organisation's nominated Credit Control or Debt Management Team.
- ii. For bank/locum posts that are overpaid, if the employee has a substantive post the overpayment will be recovered gross and follow process as in 5.4 b
- iii. For bank/locum posts that are overpaid, if the employee has no other substantive posts then the amount will be calculated net and follow the leaver process as in 5.4 c (i)

5.5 Exclusions to the above process are,

- a. Adjustments to 3rd party payments such as lease car or salary sacrifice.
- b. OSP (unless greater than 50% of salary, whereby it will be treated as an overpayment).
- c. Pensions arrears.
- d. Mileage adjustments.
- e. Recoveries for the above elements will be effective immediate as outlined in the NHS SBS Element Recovery Process.

5.6 Sickness overpayments

- a. Adjustments to late notification of absence cannot be recovered through the retro process. Therefore, any overpayment that occurs through OSP must be reported through negative net and basic pay checks.
- b. Due to the reporting nature of OSP absence, there is often the delay of 1 month before corrections are seen in ESR.

6. PROCESS

6.1 Process for resolving payment errors

- a. The retrospective report will identify the exact nature of the overpayment which will be investigated by payroll. Once this has been verified as correct and is a salary overpayment, a letter will be sent to the individual with a breakdown of the overpayment.
- b. The overpayment for current employees will be calculated as gross value rather than the net amount (after tax and national insurance) that the employee has received. Calculating the gross value ensures that the overpayment can be processed by payroll with minimal delay. As the overpayment is recovered the payroll system will automatically reduce the employees' tax and national insurance charge as appropriate.
- c. Where a payment error has been made, payroll will explain how the payment error has occurred and explain the repayment options. The normal process is to pay the underpayment or reclaim the overpayment in full at the next pay interval.
- d. Where the overpayment exceeds 50% of the gross monthly payments, the overpayments team will set up a repayment period from one month to nine months
- e. Where agreement cannot be reached to make a repayment within three pay periods, repayment terms up to nine months can be agreed.

- f. Where a significant salary overpayment occurs over more than one month and the employee has not advised the Payroll Department, the Gatekeeper may alert the Local Counter Fraud Specialist to conduct a criminal investigation.
- g. Raising a criminal investigation does not automatically result in a person being charged with a criminal offence. If, during the course of an investigation, evidence indicates that the case is not suitable for criminal charges, the investigation will be closed and the overpayment recovery process continued.
- h. A “without prejudice clause” will be included in all overpayment letters which states “This does not affect any other action, including proceedings in a criminal court which may be taken in this case.” This clause is to ensure that criminal action is not precluded and be considered at any stage of the investigation.

6.2 Leavers

- a. Where an overpayment has occurred, and an employee terminates employment before the completion of the agreed and pending recovery then the balance will be recovered in full from the employee’s final pay or any subsequent payments made after leaving. Wherein this has not been possible and or there is an outstanding balance the recovery process at paragraph 6.3 will be followed.

6.3 Ex-employees

- a. When a payment error is identified for an employee who has already left the organisation, the Payroll Team will calculate the net amount of the overpayment. Overpayments Team will correspond with the Gatekeeper to raise a request for an invoice to be raised and provide the backing documents as outlined in 5.4 c (i).
- b. All negotiation will then become the responsibility of the Gatekeeper.
- c. Queries regarding the overpayment will be referred back to NHS SBS Overpayments Team, technical based queries will be referred to the Payroll Team for a satisfactory conclusion.
- d. In the event that a repayment plan cannot be agreed or the debtor defaults on a repayment plan then recovery may be pursued by the Organisation through a Debt Collection Agency, NHS Local Counter Fraud Service and the Courts.

7. OVERPAYMENTS RETROSPECTIVE REPORT

- 7.1 There should be one workbook for each organisation. The monthly spreadsheet has to be checked by the Payroll Team Leader within five working days of the retrospective report running and saved onto the shared drive in Overpayments/ VPD / current year / month.
- 7.2 The Payroll Team Leader should validate the report and identify source of error, and checks should include
 - a. Ensuring the overpayments are under the correct category.
 - b. All information for each case has been included.
 - c. There is consistent formatting within the report.
- 7.3 At least one working day before BACS, the retro report will be sent to the designated Gatekeeper within the organisation.

- 7.4 Once the overpayment has been identified, an OP1 log form is completed. This captures a detailed breakdown of error type, category of overpayment and root cause along with the employee details.
- 7.5 The OP1 forms should be passed to the Overpayments Team as soon as they have been completed and validated by the Payroll Team Leader. All forms should be with the Overpayments Team before the first working day of the following month.

8. DATABASE, FORMS AND LETTER PROCESS

- 8.1 Once the overpayment has been identified and the OP1 form completed with the relevant case note, it should be passed to the Overpayments Team. This will coincide with the payroll cycle and the SLA with the organisation to ensure that recoveries take place in a timely manner. The Overpayment Team is responsible for,
 - a. Logging the overpayment to the database.
 - b. Generating outgoing letters.
 - c. Inputting recovery into ESR using the correct accounting entries.
 - d. Negotiating repayment terms (within limits of NHS SBS authority)
 - e. Escalating and following up of cases queried to the database.
 - f. All repayments to be set up as soon as the letter has been generated by the Overpayments Team. A copy of schedule to be produced.
 - g. In the event that the employee won't agree a plan of less than nine months, determine what they are prepared to repay and email the organisations Gatekeeper with their offer.
 - h. Updating the database with the actions, and change to the appropriate status. It is then for the organisation to accept the offer or to take over the negotiations.

8.2 Overpayments

- a. Record the overpayment as a gross amount. Generate the overpayment letter including the breakdown and repayment plan to send to the employee. All documentation should be approved by Manager/Supervisor before sending the letter and supporting documentation to the employee. Send copies to the nominated Gatekeepers and keep a hard copy in the case file.
- b. The repayment plan should be made using the following criteria:
 - i. Full recovery should be sought in the shortest time possible.
 - ii. The employee should always be left with a minimum of 50% of normal gross pay.
 - iii. Any recovery plan above 9 months must be agreed with the Gatekeeper. Therefore for large overpayment cases it might be necessary to speak to the organisation before the letter is sent.
 - iv. There must be a minimum period of three weeks between the letter being sent to the employee and the first recovery being made.

- c. If unable to negotiate or contact is not made within 21 days, the debt will be recovered automatically as per the recovery plan provided with the letter
- d. For sensitive cases where long term paid absence applies, please refer to Payroll Manager in the first instance
- e. In the case of overpayments being found, or not fully recovered at the point of a death in service, refer to Payroll Manager before any further action is taken.

8.3 Overpaid leavers

- a. Payroll Team to using the information provided, complete a net calculation using the net calculation spreadsheet located within the shared drive Overpayments/ Templates. Attention needs to be taken to use the latest tax code in use before the employee left, and not the one in use when the overpayment occurred to prevent incorrect tax being taken. Tax refunds that have been given after the overpayment occurred should also be included.
- b. Overpayments Team to receive OP1 form from Payroll and enter details onto database and generate the invoice request, letter to the employee and overpayment breakdown. All letters are signed by Overpayments Manager & Overpayments Team Leader
- c. Send the invoice request and backing documents to the organisation Gatekeeper to be raised.

9. MONITORING REPAYMENTS

9.1 Ongoing repayment plan maintenance

Once the payroll cycle is complete but before BACS, the following steps must be adhered to,

- a. Run a report on all cases that have status as 'repayment'.
- b. Reconcile the database deduction to the ESR 3rd party report for gross and net overpayment recoveries to identify discrepancies.
- c. Any missing deductions must be investigated and corrected accordingly.
- d. If the employee is on unpaid leave and no recovery can be made, update the database with this action.
- e. Any repayments for gross and net overpayment that do not appear on the database reports must be highlighted to the team immediately to provide the Payroll Team with relevant paperwork.
- f. Sign and date reports to confirm action has been taken and for Manager to sign off.

10. MONTHLY MANAGEMENT INFORMATION (MI) REPORTS

- 10.1 It is important to be able to support progress and cases to both the organisation and Pay Management Team. The key tool to doing this is by running the MI report. To ensure transparency it is vital these reports reflect an accurate, current position.

10.2 Checking the MI reports

To ensure accurate reports the following steps will be followed,

- a. Any cases in a 'repayment' status should have a recovery amount in the monthly recovery amount column.
- b. Any cases in 'query' status should not have an update date of more than a couple of months.
- c. All cases from the current month's 'Overpayments Retro Report' spreadsheet are on the reports (category B and C only, unless recovered as in 5.4 b)
- d. Historic case status' are progressing to new process
- e. Cases that have not progressed should be passed to the organisation to actively pursue.
- f. MI reports should be sent to the Payroll Supervisor or Payroll Manager by 5th Working Day of the following month for the previous months reporting
- g. MI reports should be sent following authorisation as in 10.2 (f)

10.3 Distribution of MI reports

Reports must be with the Gatekeeper by 7th working day of the following month for the previous month, copying in the Payroll Manager.

10.4 Queries on MI reports

Queries should be received from the organisations in relation to the MI Reports within 10 working days and where possible investigated and actioned to correct for the next month's MI Report. This supports good audit practise and ensures queries are resolved on a regular basis.

10.5 Distribution of Copy Letters

- a. Copy Overpayment letters will not automatically be sent to organisation Gatekeeper(s) as key information on the status of overpayments is detailed in the MI Reports
- b. Should the Gatekeeper(s) require copy letters these can be provided on a case by case basis upon request
- c. This is in line with our Information Governance Policy to reduce and minimise the level of personally identifiable data

10.6 Secure Data Sending

- a. Overpayment Reports and Letters and any supporting backing documents should only be sent to authorised Gatekeeper(s) of the organisation, or as directed by the organisation; with NHS Mail accounts (@nhs.net)
- b. Organisations should update the Overpayments Manager or Overpayments Team Leader with any changes to authorised Gatekeeper(s)

11. UPDATING LEAVER EMPLOYEE RECORDS

11.1 Adjustments are immediately made to leaver employee records when the overpayment is identified regardless of whether repayment made or repayment plan agreed.

Overpayment in current tax year

- a. Update record in ESR to enable correct figures to be report to HMRC.
- b. Update the database 'flag' to display that the ESR adjustment has taken place.
- c. In the event that the employee defaults on the debt, it is the organisations responsibility to instruct NHS SBS to write back in ESR. This will ensure the employees correct P35 figures are reported to HMRC.

Overpayment in previous tax year

- a. Previous tax years will now be closed to adjustments. Therefore, a supplementary P35 will need to be completed as well as a journal entry organisation.
- b. Supplementary P35's will be completed for each tax year required in February, March and September. A workbook for each organisation is set up on the shared drive in Overpayments/VPD/P35. Populate the P35 workbook with the overpayment details.
- c. The workbook holds all the information needed for each case to both complete the supplementary P35 and enable the organisation to complete all fields.
- d. Once entries have been completed and checked, send a copy to the organisations Gatekeeper for sign off.
- e. Complete and submit the supplementary P35 updating the central log held on the shared drive of when the submission took place.
- f. Refresh the database 'flag' to state that the ESR adjustment (in this case a journal) has taken place.
- g. In the event that that employee defaults on the debt, it is the organisations responsibility to notify NHS SBS of the value of debt outstanding in order for P35 adjustments to be made and notified to HMRC.

12. COMPLAINTS

If an employee (or ex employee) has a complaint they should write initially to:

Christine Richards
Payroll Client Services Manager

NHS Shared Business Services
3rd Floor
Compass House
Romsey Road
Maybush
Southampton
SO16 4HJ

Tel: 02380 721043
Mobile: 07841 368121
Email: christine.richards@steria.co.uk

If responses to a complaint are not deemed to be satisfactory then further enquiries can be made direct to:-

Tasy Warn, Head of Payroll Services

NHS Shared Business Services
3rd Floor
Compass House
Romsey Road
Maybush
Southampton
SO16 4HJ

All complaint letters will be responded to within 10 days.

Appendix

Overpayment Letters:

Employee (Category B) Gross Overpayment:



1st Standard Letter
Overpayment Employ

Ex-Employee Cover Letter to Invoice (Category C) Net Overpayment:



1st Standard Letter
Overpayment Leaver

Bank/Locum Post Letter to Invoice (Category C) Net Overpayment:



1st Standard Letter
Overpayment Bank Pi

OP1 Log Form:



OP1 v4.1.2.xls