



**PAYROLL OVERPAYMENT/UNDERPAYMENT POLICY**

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**Author/Reviewee:** Internal Audit Manager / Independent Member – Trade Union

**Executive Lead:** Director of Workforce and Organisation Development

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**Disclaimer**

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**OUT OF DATE POLICY DOCUMENTS MUST NOT BE RELIED ON**

Cardiff and vale University health Board

| Version Number | Date of Review Approved | Date Published | Summary of Amendments   |
|----------------|-------------------------|----------------|---|
| 1              | 15/07/2010              | 30/07/2010     | Salary Overpayment Recovery Procedure and Debt Recovery Procedure merged into this Policy |
| 2              | 29/01/2013              | 08/03/2013     | Section on Salary Underpayments incorporated  |
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**PAYROLL OVERPAYMENT/UNDERPAYMENT POLICY**

| <b>CONTENTS</b>                                       | <b>PAGE</b> |
|---|-------------|
| 1. Introduction                                       | 4           |
| 2. Policy Statement and Principles                    | 5           |
| 3. Roles and Responsibilities                         | 6           |
| 4. Prevention   | 7           |
| 5. Procedure  | 8           |
| 6. Salary Underpayments                               | 10          |
| 7. Additional requirements                            | 10          |
| 8. Training   | 11          |
| 9. Equality Statement                                 | 11          |
| 10. Distribution                                      | 11          |
| 11. Review  | 11          |
| 12. Appendices, including the Debt Recovery Procedure | 12 - 17     |

## 1. INTRODUCTION

- 1.1 The Cardiff and Vale University Health Board accepts that there may be occasions when a member of staff or ex-employee will be in a situation where they owe the Health Board money following an overpayment of salary and/or expenses, or conversely they are owed monies.

The purpose of this policy is to ensure that all monies due to the Health Board are recovered on a timely basis from the member of staff and/or ex-employees of the Health Board. Equally, the aim of the policy is to ensure that monies owed to staff are paid in a timely manner.

The policy will apply to all Health Board staff, currently or previously employed, including Medical, Dental and those on Honorary Contracts. To also include others who have or will receive a payment from the Payroll Services Department of the Cardiff and Vale University Health Board.

- 1.2 This document is written in accordance with the stated core values of the Cardiff and Vale University Health Board, which are:

- To work in a spirit of partnership, co-operation and collaboration with all organisations whose work influences health
- To provide our services in a climate of openness and inclusiveness
- To foster a culture of individual, team and organizational accountability

- 1.3 This policy takes into account The Employment Rights Act 1996, section 13 which states that one of three conditions has to be met for the employer to lawfully make deductions from an employee's salary. These are that, the deduction is either:

- *required or authorised by statute*
- *authorised by a relevant provision of the contract of employment and the employee has received a copy of the contract and/or appointment letter, prior to the deduction being made or*
- *prior permission in writing has been given by the employee before the deduction*

The Employment Rights Act 1996 however, also states in section 14, that section 13 does not apply in the situation where an employer makes a deduction from an employee's wages, to recover an overpayment of wages, which was made by the employer to the employee, for any reason. Unless,

*the employer has led the employee to believe that the money was rightfully his, and the employee relies on this spending the money*

## Cardiff and vale University health Board

*or entering a financial commitment, and the overpayment was not the worker's fault.*

- 1.4 The current Cardiff and Vale University Health Board Contract of Employment (Agenda for Change - One Wales Employment Contract) states in section 15 that:

*Where certain charges for lodgings, meals, beverages, telephone charges, car parking, etc. are payable under the conditions of employment, they will be deducted from your salary.*

*Cardiff and Vale University Health Board reserves the right to withhold salary and benefits, or make deductions from salary/wages in respect of unauthorised absence from work, over-payment of salary and/or expenses. Furthermore Cardiff and Vale University Health Board also reserves the right, following investigation, to withhold payment or deduct a day's pay for each day of any unauthorised absence.*

*Cardiff and Vale University Health Board will manage any necessary deductions in a sensitive manner and before any deductions are made you will be consulted and a discussion will be undertaken as to the most appropriate method and timescale for such a repayment to be made.*

For Medical and Dental staff, we will not make any deductions from or variations to your salary other than those required by law without your written consent, as stated in your Contract of Employment.

## **2. POLICY STATEMENT AND PRINCIPLES**

### 2.1 Policy statement

The Health Board has a legal right to recover any overpayment where it arose from a mistake of fact. Whenever monies are to be recovered, the Health Board will aim to do so in a fair and reasonable manner. These payments are made in good faith and are deemed to be correct at the time of issue. Mistakes of fact are where the payment was inconsistent with the facts (e.g. through clerical error, computer input, or procedural errors). Money paid out under a mistake of fact is recoverable in law.

### 2.2 Policy principles

In accordance with this policy statement and Welsh Government guidance, the Health Board must pursue the recovery of all amounts due, to it, as a result of such overpayments.

- 2.3 The Health Board must ensure that all Health Board employees/ ex-employees are treated fairly.

- 2.4 All debts must be recorded, by the Health Board, regardless of whether an agreement of repayment has been reached with the debtor.
- 2.5 The Health Board will ensure a consistent approach in line with the provisions of this policy is taken when dealing with each recovery of overpayment.

### **3. ROLES AND RESPONSIBILITIES**

#### **3.1 Cardiff and Vale University Health Board staff**

It is the responsibility of all Health Board staff to ensure that they receive and then check their pay-slips to confirm that they are being paid correctly and at the correct rate/pay band. When dealing with the request for repayment of outstanding monies, a claim of ignorance, by the member of staff, in that he/she did not receive or check any pay-slip, will not be accepted as a defence.

It must also be noted that where an individual identifies that he/she has been or may have been overpaid, then he/she also has a duty to contact the Health Board and inform Payroll Services and their Line Manager of the possible overpayment.

#### **3.2 Manager's**

It is the responsibility of all Managers to process the appropriate pay related documentation promptly, to meet payroll deadlines. Managers must ensure that all Timesheets, Termination Forms, Staff Changes Forms, On-call claim forms and/or expense forms have been completed appropriately, and to ensure all such documentation is verified and authorised.

The Line Manager will also assist in the recovery of overpayments by supporting the Payroll Department with explanations of overpayments and encouraging co-operation from the employee.

Where it is identified that, following discussion between the Accounts Receivable Manager and the relevant Directorate Manager/Line Manager, a payroll overpayment requires "write-off", then any such decision should only be made in exceptional circumstances and on an individual case of need basis.

Any request for "write-off" should be made in accordance with Section 5.3 of this policy and Section 2.0 of the Health Board's Debt Recovery Procedure.

### 3.3 Payroll Department

The Payroll Department will manage any deductions from salary, as per this policy for the recovery of payroll overpayments. The Payroll Department will maintain an accurate log of all overpayments, providing information to the Line Manager and the employees and/or ex-employees.

The Payroll Department will also provide general guidance on how pay information is displayed on a payslip, to assist staff in checking and/or understanding the entries on their payslip.

The calculation of any overpayment identified, must be taken from the originating date of the overpayment and not the date that it was identified. Where payroll have identified that an employee would have reasonably known that an overpayment has occurred, It is the responsibility of the Payroll Manager to refer the matter to the Health Board's Chief Internal Auditor, and/or the Health Board's Nominated Local Counter Fraud Specialist, as appropriate, for advice.

### 3.4 Human Resources Department

The Human Resources department will assist the Payroll Department and Line Managers, by providing advice and also support in the event of any dispute.

### 3.5 Accounts Receivable (AR) Department

The Health Board's Accounts Receivable (AR) Department will take responsibility for recording the debt in the Health Board's Financial Accounts and provide the relevant invoices to the member of staff. The AR Department will also liaise with any Debt Collection Agency as appropriate in accordance with Section 5.3 of this policy for staff that had left the Health Board's employment.

## 4. **PREVENTION**

In order to take measures to prevent an overpayment occurring, it is necessary to reduce the possibilities for the occurrence in the first instance. The main reason for overpayments occurring within the Health Board is the late notification of information to the Payroll Department, i.e. late termination or changes of circumstances after the effective date.

The responsibility for the instigation of such information lies with the Manager/Supervisor. It is, therefore, of the utmost importance that the document is received in the appropriate department in ample time for action to ensure that the overpayments do not arise.

Preventative measures are:

**Termination Form** – should be completed as soon as the termination date of the employee is known. Usually this would be when the employee hands in their resignation to their manager.

**Changes Form** – should be completed as soon as that change is known. Changes Form to be completed by the line manager on or before the employee works to the changed conditions.

## 5. PROCEDURE

The Payroll Department will automatically deduct the following month, in full, any overpayment that is identified before, on or 1 day after the stated pay day. The individual will be notified, by telephone and in writing of any deduction together with a brief explanation of how the overpayment occurred. In the case of an employee, the person's Line Manager will also be advised of the overpayment.

Where an overpayment of salary is identified by the Health Board, after the stated pay day, a letter will be sent to the employee/individual by the Payroll Manager detailing:

- How the overpayment occurred
- Detail the breakdown of the overpayment, including an explanation of the error
- Suggested repayment period and amount
- Deadline for the response, and who the individual should contact.

The letter will also contain a request for the individual to contact either a named Senior Payroll Manager or their Line Manager within 14 days of date of the letter. The respective Manager will then arrange to communicate with the employee regarding the overpayment.

The employee/ex-employee can request all documentation relating to the alleged overpayment, and further explanation from the Payroll Department or their Line Manager (in the case of an employee).

In cases, where an employee receives a payment for any arrears and therefore would not be expected to be able to calculate the final amount due, any overpayment that arose, as a result, would be dealt with by letter from the Payroll Manager as with any normal overpayment of salary and not immediately deducted.

## Cardiff and vale University health Board

- 5.1 Should no communication be received from the employee/ex-employee within 14 days of the initial correspondence, with regard to the amount owed, a second reminder letter will be sent to the individual.
- 5.2 Once the employee has been consulted and agreed to the repayment, the Payroll Department will commence deductions from the next pay period. **Repayments should normally be made in one single payment. However, this may be extended to a maximum period to not exceed the original overpayment period.**

Where the individual is a current Health Board employee and no agreement can be reached, then a meeting must be arranged to take place between the employee, his/her Line Manager, the relevant Human Resources Manager together with the Payroll Manager or nominated deputy.

The employee will have the right to be accompanied at this meeting by a Staff Representative or a friend/colleague, not acting in a legal capacity. In accordance with this, point 1.3 above and Section 14 of The Employment Rights Act 1996, the Accounts Receivable (AR) Department will not action any collection process until this meeting has taken place, and the outcome known.

The Payroll Department will advise the AR department that the meeting has taken place and the outcome of the meeting.

The invoice detailing the amount owed to the Health Board, plus any relevant backing documents detailing how the overpayment occurred, must be given to the employee prior to any such meeting taking place.

- 5.3 Where there is no response or no agreement has been reached with an employee, then the debt may be considered pursuable in accordance with the Health Board's Debt Recovery Procedure, which is attached at Appendix 1. This decision will be made by the respective Directorate or Head of Service Manager. If the overpayment case relates to an individual, who is no longer an employee of the Health Board, then the debt will be pursuable in accordance with the Health Board's Debt Recovery Procedure.
- 5.4 If the overpayment case has been referred to the Health Board's Nominated Local Counter Fraud Specialist for further investigation into the circumstances surrounding the overpayment, then the employee concerned will be informed, in writing by the Payroll Manager. The letter will include reference to the fact that by receiving and retaining money from the overpayment, that he/she was not entitled to and also that he/she had made no effort to contact the Health Board to stop the payments

being made or notify the Health Board of the overpayment, it was therefore being considered that he/she may have committed the criminal offence of Retaining a Wrongful Credit, contrary to Section 24 of the Theft Act 1968.

- 5.5 In such circumstances where it is subsequently proven that prima facie evidence of fraud exists, Cardiff and Vale University Health Board would be perfectly within its right to demand payment in full of monies owed.

The 1968 Theft Act says **"A person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it"**.

It goes on to say **"A person is guilty of an offence if - (a) a wrongful credit has been made to an account kept by him or in respect of which he has any right or interest; (b) he knows or believes that the credit is wrongful; and (c) he dishonestly fails to take such steps as are reasonable in the circumstances to secure that the credit is cancelled."**

Examples of referred cases and their outcomes are detailed in Appendix 2.

## 6. SALARY UNDERPAYMENTS

- 6.1 Whilst this policy relates to salary overpayments, it is recognised that there may be instances when an employee or employees are underpaid.

In such circumstances, the UHB and all managers have a responsibility to ensure that the underpayments are corrected expeditiously to ensure that the staff concerned are not financially disadvantaged.

The circumstances of each case of salary underpayments would need to be investigated to ensure that lessons are learnt and corrective actions put in place.

## 7. ADDITIONAL REQUIREMENTS

- 7.1 All correspondence in relation to salary overpayments must be retained by the Payroll Manager and if an official Health Board invoice has been raised, then copies of any correspondence relating to the outstanding debt must be retained by all departments (i.e. Payroll Services, Accounts Receivable Manager and Line Manager) in strict chronological order.
- 7.2 Where an individual, who has been overpaid, terminates employment, then the matter must be referred immediately to the Accounts Receivable Department, by the Payroll Manager, to ensure that all outstanding debts are recovered, in full, in accordance with the process set out in this policy.

- 7.3 All outstanding salary overpayments are to be reported on a monthly basis, by the Payroll Manager in conjunction with the Accounts Receivable Manager, to the relevant Human Resources Manager, Finance Manager and to the Health Board's Management Board.

8. **TRAINING**

It is the responsibility of the line manager to ensure that employees are made aware of this policy and any local arrangements, their role and responsibilities at local induction.

9. **EQUALITY STATEMENT**

Cardiff and Vale UHB is committed to ensuring that, as far as is reasonably practicable, the way we provide services to the public and the way we treat our staff, patients and others reflects their individual needs and does not discriminate, harass or victimise individuals or groups. These principles run throughout our work and are reflected in our core values, our staff employment policies, our service standards and our Strategic Equality Plan & Equality Objectives. The responsibility for implementing the scheme falls to all employees and UHB Board members, volunteers, agents or contractors delivering services or undertaking work on behalf of the UHB.

We have undertaken an Equality Impact Assessment and received feedback on this policy and the way it operates. We wanted to know of any possible or actual impact that this policy may have on any groups in respect of gender, maternity and pregnancy, carer status, marriage or civil partnership issues, race, disability, sexual orientation, Welsh language, religion or belief, transgender, age or other protected characteristics. The assessment found that there was no impact to the equality groups mentioned.

10. **DISTRIBUTION**

This policy will be made available on the UHB intranet and internet sites. It may also be necessary to specify if the document will be circulated to specific individuals.

11. **REVIEW**

This policy will be reviewed in 3 years.

## APPENDIX 1

### 1. Debt Recovery Procedure

- 1.1 The Accounts Receivable (AR) Department must raise an invoice in respect of any overpayment or amount owing to the Health Board upon receipt of the relevant information from the Payroll Department.

The invoice detailing the amount owed to the Health Board must be sent to the Debtor.

If the overpayment relates to a current employee then the account should be placed on hold until notification is received, from the Payroll Department to continue with the Debt Recovery Procedure.

If the overpayment relates to an ex-employee, then the debt will be pursued by the AR Department under the Debt Recovery Procedure.

- 1.2 If there is no reason for the invoice to be put on hold and the invoice remains outstanding after 14 days of the date of the invoice, then it will go forward to be included in the collection process. A reminder letter will also be sent requesting payment and notifying the Debtor that if payment is not made within 14 days of the date of the letter the debt will be referred to the Health Board's Debt Collection Agency. (Ref: Para 5.3 Recovery of Payroll Overpayment Policy)

- 1.3 Should the Debtor at any time query the invoice, dispute the charge, or promise to make payment, then the collection process must be put on hold until either the query or dispute has been resolved or payment has been made. If the payment has been promised, but not made then the collection process must be resumed.

It is imperative that all queries must be made in writing by the Debtor in order to evidence discussions and agreements. In turn, the Health Board must respond in writing. All correspondence in relation to debts must be retained by the AR Department.

Notification of all invoices on hold will be sent to the Payroll Manager, HR Manager & Directorate Manager on a quarterly basis.

- 1.4 If there has been no success in collecting the debt either by the Health Board or the Debt Collection Agency, then consideration must be given to instigating court proceedings.

## Cardiff and vale University health Board

Recommendation for court action for current employees must be made in writing to the AR Department by the respective Directorate Manager or Head of Service Manager.

If court proceedings are recommended then representatives from the Service Group and/or the Payroll Department should accompany the AR representative to court to support the case.

- 1.5 If on termination of employment with the Health Board, there remains an outstanding balance on the debt and it has previously been recovered by payroll deduction the AR Department will contact the Debtor to arrange continuation of the deductions by Standing Order Mandate.

## **2. WRITE OFF**

- 2.1 If attempts to collect the debt either by the Health Board or the Debt Collection Agency is unsuccessful and Court Action is not feasible or has failed, then the debt must be proposed for “write off”.
- 2.2 Recommendations for “write off” must be made, by the Accounts Receivable Manager, on a quarterly basis.
- 2.3 Details of debts recommended for “write off” must be presented to the Health Board’s Losses and Compensation Panel for approval. If approved, the debts must then be “written back” to the relevant Directorate Budget that employed the staff member, or if the error has originated from the Payroll Department then the debt will be “written back” to the Health Board’s Corporate Budget.

**APPENDIX 1a**

**PAYROLL OFFICER**

c.c. Finance Dept.  
c.c. Manager

To:

Payroll Department  
Cardiff and Vale University Health Board  
Sanatorium Road  
Canton  
Cardiff

Please deduct from my weekly/monthly\* salary the following amount until further notice or the date specified.

Signed \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_

Name  
Address

Payroll number

Amount to be deducted: £ per month/week\*

until \_\_\_\_/\_\_\_\_/\_\_\_\_ in respect of Invoice number \_\_\_\_\_

Total deduction = £

\*delete as applicable

Copy to be sent to Accounts Receivable, Finance Department

## Appendix 2

### Example 1

Mr A is notified, in July, by his employer that his current post is to be revised as Band 4, due to his failure to comply with professional registration requirements.

However, due to a clerical error, he continues to be paid at Band 6, which is clearly shown on his payslip, but Mr A is aggrieved at the decision to lower grade and so Mr A decides to spend the money (£5000) and does not inform his employer at any time.

The error continues for a further ten (10) months until a payroll officer finds the error and notifies Mr A, but in reply Mr A, whilst accepting that he has been overpaid, claims that he has spent the money and now can only afford to repay the amount by instalments (£25 per month x 200months).

### Decision

**Payroll/Debtors** - The individual should be contacted and requested to repay the amount in one instalment, however, with discretion to allow re-payment over the same period as the overpayment. (i.e. £500 x 10months)

**Counter Fraud** - The case should also be referred, by Payroll or Debtors, for further enquiries to be made as part of a potential criminal investigation, since the onus was clearly on the individual to have notified his employer when his salary payments were not correctly adjusted and it would have been reasonable for him to have known that he was being overpaid.

### Example 2

Miss T notifies her Line Manager that she wants to reduce her hours from 37.5hrs to 20hrs per week. However, due to a clerical error, she continues to be paid Full Time (37.5hrs) which is clearly shown on her payslip, but Miss T does not spend the money and then informs her Line Manager and payroll immediately of the error in writing, but the Payroll Department do not receive the correspondence.

This continues for a further ten (10) months until Miss T decides to write to her employer again giving a specific date by which the employer should recover the money, but the date passes and Miss T then goes and spends the money, which she now considers to be her own.

### Decision

**Payroll/Debtors** - The individual has done everything reasonable, with her employer, to “secure that the credit is cancelled” and

therefore should have the right to treat it as her own and then spend the money accordingly.

**Counter Fraud** - No action for same reason given.

### **Example 3**

Mrs H works a number of rostered shifts including weekends and as a result receives salary payment of the enhancements, a month in arrears, for this work.

In June, the ward on which she worked stopped all weekend work and therefore, she was not required to work, however, due to a clerical error, in July and for the following three (3) months, she continued to receive recurring payments, which were clearly shown on her payslip, but Mrs H did not regularly check her payslip and spends the money (£1000).

The payroll officer finds the error and then notifies Mrs H, but in reply Mrs H does not accept that she has been overpaid as she claims that she does not receive nor check her payslip and also has now gone and spent the money.

### **Decision**

**Payroll/Debtors** - The individual should be contacted and requested to repay the amount in one instalment, however, with discretion to allow re-payment over the same period as the overpayment. (i.e. £666 x 3months)

**Counter Fraud** - The case should also be referred, by Payroll or Debtors, for further enquiries to be made as part of a potential criminal investigation, since the onus was clearly on the individual to check her payslips and to have notified her employer when she identified that her salary payments had not reduced as a result of a change in circumstances (i.e. no weekend shifts) and therefore it could be considered for it to be “reasonable” for her to have known that she was being overpaid.

### **Example 4**

Miss J works a number of rostered shifts including weekends and as a result receives enhancements, a month in arrears, for this work.

However, due to a clerical error, she continued to receive one recurring payment a month for 10months, but whilst Miss J does regularly check her payslip, she expected to regularly receive enhancement payments and therefore did not notice the error and spends the money (£500).

The payroll officer finds the error and then notifies Miss J, but in reply Miss J states that she did not notice the error and has spent the money.

**Decision**

**Payroll/Debtors** - The individual should be contacted and requested to repay the amount in one instalment, however, with discretion to allow re-payment over the same period as the overpayment. (i.e. £50 x 10months)

**Counter Fraud** - No action as this is considered to be a “drip feed” overpayment in that it would have been reasonable for the individual to have expected to receive regular monthly enhancements and wouldn’t necessarily have noticed that she was being overpaid, but Miss J would still have a duty to repay any monies to her employer that she had been overpaid, as a result of the error.