



Overpayment and Underpayment of Salary/Errors Policy

Document Reference	POL131
Document Status	Approved
Version:	V4.0

DOCUMENT CHANGE HISTORY		
Initiated by	Date	Author
Finance		Alison Kew
Version	Date	Comments (i.e. viewed, or reviewed, amended approved by person or committee)
V1.1	29 February 2012	Annual Review by Tina Allard

POL131 – Overpayment and Underpayment Of Salary/Errors Policy

V1.2	19 March 2012	Reviewed by HR Policy Group
V1.3	4 May 2012	Sent to SPF for approval
V1.4	August 2012	Sent to EMT for approval
V2.0	29 October 2012	Approved
V2.1	9 November 2012	Additional wording requested by Tina Allard
V2.2	2 nd May 2013	Approved Barry Jarvis and Tracey Leghorn
V2.3	21 May 2015	Reviewed by Barry Jarvis and Alison Whitefoot
V2.4	28 May 2015	Reviewed by Andy Reeve LCFS
V2.5	18 June 2015	Reviewed by Barry Jarvis and Alison Whitefoot
V2.6	16 July 2015	Reviewed by HR Policy Group
V3.0	5 August 2015	Approved by SPF
V3.1	26 March 2019 8 July 2020	Reviewed and minor updates suggested by the LCFS. HR Policy Sub-Group
V3.2	21 March 2022	Approved at Compliance and Risk Group
V4.0	28 March 2022	Approved at Executive Leadership Team

Document Reference	Directorate: Finance
Recommended at	Compliance and Risk Group

POL131 – Overpayment and Underpayment Of Salary/Errors Policy
V4.0

POL131 – Overpayment and Underpayment Of Salary/Errors Policy

Date	21/3/2022
Approved at	ELT
Date Approved	28 March 2022
Review date of approved document:	April 2025
Equality Impact Assessment	Attached
Linked procedural documents	Disciplinary Policy (Managing Conduct and Performance) Local Counter Fraud/HR Liaison Policy Secondment Policy Collective Grievance Policy Grievance Policy
Dissemination Requirements	All Trust employees by Intranet

The East of England Ambulance Service NHS Trust has made every effort to ensure this policy does not have the effect of unlawful discrimination on the grounds of the protected characteristics of: age, disability, gender reassignment, race, religion/belief, sex, sexual orientation, marriage/civil partnership, pregnancy/maternity. The Trust will not tolerate unfair discrimination on the basis of spent criminal convictions, Trade Union membership or non-membership. In addition, the Trust will have due regard to advancing equality of opportunity between people from different groups and foster good relations between people from different groups. This policy applies to all individuals working at all levels and grades for the Trust, including senior managers, officers, directors, non-executive directors, employees

POL131 – Overpayment and Underpayment Of Salary/Errors Policy
V4.0

POL131 – Overpayment and Underpayment Of Salary/Errors Policy (whether permanent, fixed-term or temporary), consultants, governors, contractors, trainees, seconded staff, homeworkers, casual workers and agency staff, volunteers, interns, agents, sponsors, or any other person associated with the Trust.

All Trust policies can be provided in alternative formats.

Contents

Paragraph		Page
1.0	Policy Statement	4
2.0	Scope	7
3.0	Access to the Procedure	7
4.0	Roles and Responsibilities	7
5.0	Reasons and Action for Overpayment of Salary, Wage or Allowances	10
6.0	Wilful Misrepresentation by the Employee	14
7.0	Underpayments	15
8.0	Prior Arrangements	16
9.0	Prevention of Overpayments	16
10.0	Policy Review	16

1. Policy Statement

- 1.1 This document outlines the Overpayment and Underpayment of Salary/Errors Policy for The East of England Ambulance Service NHS Trust (the Trust). The aim of this policy is to ensure that where salary errors occur, the action taken in all cases is standard throughout the Trust, with an objective that the error is corrected within acceptable time limits. The Trust will manage its payroll process with the aim to pay all staff correctly and at agreed times. It is recognised by all parties that such a process can never be 100% accurate and that errors will sometimes occur.
- 1.2 The Trust is required to recover public money that has been paid out incorrectly regardless of the reason. The Trust is required from time to time to take action on cases of overpayment of salaries, wages, travelling, subsistence of other allowances, resulting from, for example errors in contracts of employment or payroll administration.
- 1.3 The Employment Rights Act 1996 section 14 outlines an employer's right to recover a salary overpayment without the prior written agreement of the individual, if it is to recover an overpayment of wages or expenses.
- 1.4 Further to the provisions in law for the recovery of overpayments, the Trust has set out the provision for recovery of overpayments in contracts of employment, this is reproduced below.

"The Trust may deduct from your salary, or any other sums owed to you, any money owed to the Trust by you. Such deductions may include:

- Any overpayment of salary or expenses.
- Any advance of salary, including overpayment of holiday or public holiday entitlement at the end of your contract.

POL131 – Overpayment and Underpayment Of Salary/Errors Policy

- Private made telephone calls where you have a Trust telephone.
- Any deduction from wages on account of you having taken part in a strike or any other industrial action.
- Any amount of money equivalent to up to one hundred per cent of the amount paid by the Trust in respect to the training/course fees for training undertaken during the 12 month period prior to leaving the Trust as per Section 9 above.
- Any amount of money due in relation to accommodation costs as per Section 9 above.
- Any amount which you have agreed in writing may be deducted from your salary payment, for example, Union Subscriptions.
- Any amount, or property, lawfully due by you to the Trust.

This list is not exhaustive.

If it is necessary to make an adjustment to your salary for an overpayment, the Trust will endeavour to notify you in advance. The Trust reserves the right to deduct the overpayment from your salary payment(s) until the overpayment has been recovered.

In addition, the Trust reserves the right to withhold payment or deduct a day's pay for any unauthorised absences."

- 1.5 The Trust provides payslips detailing elements of pay on or around each payday via the self-serve portal of the Electronic Staff Record and/ or paper payslips. All staff are expected to take reasonable care in reviewing their payslips.
- 1.6 An employee who retains an overpayment, when they know that they are not entitled to it may be committing a criminal offence (Section 24a, Theft Act, 1968 / dishonestly retaining a lawful credit) by not taking steps to inform the Trust or return any overpayment promptly, they may have appropriated (i.e. stolen) the property which in fact still belongs to the Trust. Retaining property in this instance would be contrary to section 5(4) of the Theft Act 1968. The Trust may consider

POL131 – Overpayment and Underpayment Of Salary/Errors Policy
V4.0

POL131 – Overpayment and Underpayment Of Salary/Errors Policy
prosecution of an employee for offences under the Theft Act
1968.

- 1.7 Any occurrences where an employee has been overpaid by any amount which could reasonably be expected to be noticed by reference to their payslip, and they have not taken any steps to inform or repay the Trust within a reasonable timescale, will be reported to the Trust's Local Counter Fraud Specialist for investigation alongside recovery attempts being made.
- 1.8 Whilst this procedure sets out how recovery will operate, it allows for some flexibility in terms of length of the recovery depending on the individual circumstances of the overpayment.
- 1.9 This policy also defines the process and standards to be followed in identifying and rectifying an underpayment to an employee.

2. Scope

- 2.1 This policy applies to anyone paid via the Trust payroll provider.

3. Access to the Procedure

- 3.1 All employees are entitled to access to this policy which is located in the HR Policies and Procedures Folders and/or on the Trust's Intranet. However, if you require this policy in any other format please seek guidance from the Human Resources Department, your line management or trade union representative.
- 3.2 Employees and Managers may also wish to consult related Trust policies such as Disciplinary Policy (Managing Conduct and Performance), Local Counter Fraud/HR Liaison, Secondment, Collective Grievance and Grievance.

POL131 – Overpayment and Underpayment Of Salary/Errors Policy
V4.0

4. Roles and Responsibilities

4.1 Employees

Employees are responsible for:

- 4.1.1 Ensuring that they understand their salary entitlement
- 4.1.2 Submitting accurate timesheets and expense claim forms to their Line Manager, in accordance with the relevant policies and within payroll cut off dates.
- 4.1.3 Checking their payslip each month/ requesting a copy should one not be received and immediately notifying their line Manager, Finance department, and/or Payroll Provider if they think they have been overpaid – a failure to do so may result in disciplinary action being taken where the Trust believes that the employee was aware of an overpayment but failed to report it. Where the Trust believes this to be the case in significant overpayments legal proceedings against the employee may be instigated.

It is expected that employees who's circumstances have changed, for example in terms of working hours, rotas, cessation of employment, would identify that these changes in circumstances should lead to changes in pay, and that payments received would be subject to diligent checks.

- 4.1.4 Recognising that it is their contractual responsibility to return any overpaid money to the Trust. This is the case even where the overpayment has occurred through no fault of the employee and/ or where the overpayment could not easily be identified by the employee.
- 4.1.5 For notifying the Finance Department that they are leaving the Trust, (at the earliest possible opportunity, certainly within 7 days of submitting their notice) but still have an outstanding overpayment.

4.2 Line Manager

The Line Manager is responsible for:

- 4.2.1 Ensuring that Summary sheets for timesheets and expense claims are accurate and passed to Payroll by the Payroll cut-off date.
- 4.2.2 Ensuring that HR documentation is completed accurately and passed to HR Teams and Payroll (as appropriate) on a timely basis.
- 4.2.3 Ensuring that appropriate checks on payroll submissions are made prior to authorisation, with the aim of minimising incorrect claims.
- 4.2.4 Carrying out a detailed monthly review of staff analysis reports including all salary costs on their budget reports in order to identify and investigate any payments that were unexpected. Examples may include:
 - staff who have left,
 - staff who have gone from full to part-time but are still being paid at the full time rate;
- 4.2.5 Contact payroll immediately after being informed of an employees confirmed intention to leave to maximise processing time before final salary payment due.
- 4.2.6 Maintaining contact with HR and the Payroll provider to ensure that the leaver form is fully processed in time, prior to the final day of employment, escalating the issue to Senior HR Managers/ Senior Finance Manager if there is any doubt that this may not be completed.
- 4.2.7 Meeting with a member of their team to discuss an over/underpayment.
- 4.2.8 Providing advice and guidance to employees on the application of this policy and procedure.

POL131 – Overpayment and Underpayment Of Salary/Errors Policy
4.2.9 Bringing any mutually beneficial improvements to this policy to the attention of the Trust.

4.3 Human Resources (HR) and Recruitment Team

HR and the Recruitment Team are responsible for:

- 4.3.1 Ensuring that all appropriate HR documentation including starter, leaver and change of circumstances forms are completed accurately and are submitted to Payroll on a timely basis.
- 4.3.2 Contacting Payroll (in conjunction with the line manager) to ensure that the leaver form is fully processed in time, prior to the final day of employment, and take appropriate action to minimise or remove the risk of an overpayment occurring.
- 4.3.3 Keeping all correspondence relating to overpayments/underpayments in the employees' personnel file.
- 4.3.4 Keeping the provisions within this policy in line with employment legislation, best practice people management principles and NHS guidelines.
- 4.3.5 Providing advice and guidance to employees on the application of this policy and procedure.
- 4.3.6 Provide regular communication to employees explaining their responsibilities in accordance with the expectations contained within this agreement.

4.4 Finance Department

The Finance Department are responsible for:

- 4.4.1 Notifying the individual that an overpayment has occurred, providing full details of the overpayment and the proposed repayment plan in line with this policy;
- 4.4.2 Notifying the Payroll provider of accepted repayment terms to ensure that overpayment deductions start when notified or

POL131 – Overpayment and Underpayment Of Salary/Errors Policy
V4.0

POL131 – Overpayment and Underpayment Of Salary/Errors Policy agreed.

4.4.3 Notifying the Head of HR of any overpayments that are in dispute or hardship cases.

4.4.4 Consider whether there is evidence of theft/fraud and if a referral for investigation to Local Counter Fraud Specialist is appropriate in accordance with the Trust's Disciplinary Policy and Procedures. If necessary and appropriate referral will be made by the Director of Finance/Deputy Director of Finance.

4.5 Payroll

Payroll is responsible for;

4.5.1 Providing the detailed breakdown of overpayments and appropriate letters to the Finance Department, in order that they can notify employees accordingly.

4.5.2 Producing monthly reports listing over and underpayments identified.

5. Reasons and Action for Overpayment of Salary, Wage or Allowances

5.1 Overpayments can arise for a number of reasons, for example:

- clerical errors;
- inputting errors;
- incorrect claim and/or summary sheets;
- IT software and problem software;
- processing delays.

late completion/submission of HR paperwork

This is a non-exhaustive list.

Where an overpayment is made as a result of a mistake of fact (for example the wrong details have been inserted on to the administrative paperwork or the wrong figure or incorrect

POL131 – Overpayment and Underpayment Of Salary/Errors Policy V4.0

POL131 – Overpayment and Underpayment Of Salary/Errors Policy
sum of money has been input into the payroll system) then the recovery of the overpayment will be made on the basis of a 'mistake of fact'.

5.2 Upon discovery of an overpayment, referral must be made by either the employee/employer to payroll for arrangements to be made to stop the overpayment and if appropriate return the employee to the correct rate with immediate effect. The following process will be adopted:

- The Trust finance department will be advised by the payroll provider of the details of the overpayment, including the amount, the period overpaid and the reason for the overpayment. The amount of the overpayment may not be immediately available and there may be a short delay before this information is received from the payroll provider;
- Once full details of the overpayment have been received, the payroll provider will write to the employee if they are still in employment. The letter will set out the reason for the overpayment and a calculation of the overpayment (see Appendix A and Appendix B). However, if the overpayment is greater than 20% of the employees gross annual salary, they will first be notified of this by their line manager;
- The letter will also include the proposed repayment plan in which the overpayment will be recovered and a declaration for the employee to sign and return to the finance department authorising the Trust to make the necessary deductions from their salary;

If no response has been received to this letter within 21 days then the Trust reserves the right to consider the proposed repayment plan of recovery as agreed by the employee and the recovery will commence from the following period's pay, unless the employee can demonstrate that response within 21 days was

POL131 – Overpayment and Underpayment Of Salary/Errors Policy
V4.0

POL131 – Overpayment and Underpayment Of Salary/Errors Policy unreasonable given personal circumstances. This process will be clearly stated in the letter. If the employee responds, negotiation can take place which could mean a higher repayment rate, or lower, depending on the particular circumstances of the case;

- If the employee is about to leave the Trust it would be expected that any overpayment still outstanding is taken from the final salary, unless the employee has entered into an alternative agreement with Finance to the deduction from their final pay which refunds the Trust;
- If the employee has left the Trust's employment (and these issues were not picked up during relevant leaving checks), the overpayment will be referred to finance to recover. Should the ex-employee not respond, or refuse to pay, the Trust will pass the debt onto a debt recovery agency or take legal action;
- Under exceptional circumstances, an application for hardship can be made. In order for this application to be considered by the nominated Senior Finance Manager, the Trust will require further forms to be completed. If an application for hardship is agreed, a review period will be set with a view to increasing the level of repayments.

5.3 The Trust will always try to seek agreement. However, where agreement has not been reached, the Trust reserves the right in case of errors in payroll administration to make a deduction from pay in accordance with the Employment Rights Act 1996, Section 13(4).

5.4 The agreed recovery terms should be designed to minimize hardship and to ensure that the employee does not experience the burden of debt for an excessive period, nor should the Trust bear the burden of a creditor for an unreasonable time. A maximum period of 24 months is considered to ensure the burden of debt and credit is not excessive.

POL131 – Overpayment and Underpayment Of Salary/Errors Policy
V4.0

POL131 – Overpayment and Underpayment Of Salary/Errors Policy

- 5.5 A single repayment will be expected for small amounts of less than £150 net. This will be taken pro rata for part time staff.
- 5.6 For overpayments that have occurred in a single pay period and are notified to the employee within 10 working days of the pay date in which they occurred, the full amount will be recovered in the next pay date.
- 5.7 The monthly repayment will be calculated as follows a) 10% of net salary (including unsocial hours, on-call, and recruitment & retention payments each month) or b) the salary overpayment divided by the number of months which the salary overpayment occurred, capped at 24 months. The Trust will then seek to recover the overpayment via the method which repays over the shorter payback period. A worked example would be:

A member of staff currently on the top of pay band 4, earning £23,761 would have a net annual income of approximately £16,633 (assuming a total of 20% tax and NI deductions). This would provide a net monthly salary of £1,386.

1. If an overpayment occurred over a 6-month period totalling a net overpayment of £1,000, this would be calculated as follows:

- a) 10% of net salary = 7 months of £138.61 and a final balance of £29.73 or
- b) 6 monthly payments of £166.66.

Therefore, the Trust would seek to recover the overpayment over 6 months.

2. If the overpayment occurred over a 10-month period, the calculations would be:

- a) 10% of net salary = 7 months of £138.61 and a final balance of £29.73 or
- b) 10 monthly payments of £100.

POL131 – Overpayment and Underpayment Of Salary/Errors Policy
Therefore, the Trust would seek to recover the overpayment over 8 months using the 10% deductions.

- 5.8 For salary overpayments that exceed 20% of the employees' gross salary, a repayment plan will be negotiated on a case by case basis using the principles of 5.7.
- 5.9 If an employee has any salary arrears payment owing due to a change in circumstance, whilst at the same time having an overpayment, these and any associated differences in pay (such as Unsocial Hours, Fringe payments, overtime payments etc) will be used to reduce the level of overpayment.
- 5.10 In exceptional circumstances where it is plain that the individual is aware that an overpayment has taken place (e.g. where their total salary has been paid twice in one payment period) the Trust reserves the right to recovery in one payment on the next pay date, after notifying the employee. Retaining or failing to take steps to return knowingly incorrectly received money is a serious and potentially criminal offence.
- 5.11 Should the overpayment be created as a result of sickness absence, including instances such as falling into half pay/ no pay or paid beyond the period of entitlement; the payroll software will automatically recover this from your next months' pay.
- 5.12 If during the period of repayment the employee's contract terminates the final balance will be deducted where possible from their last pay. The Trust will require any further outstanding monies to be paid. It is expected that the employee would contact Finance prior to leaving the Trust to agree an alternative arrangement to collect the outstanding monies.
- 5.13 In exceptional circumstances the Trust, represented by the Director of Finance, has discretion to waive recovery of an overpayment according to the circumstances of the case. The Trust is subject to HM Treasury rules on recovering overpayments.

POL131 – Overpayment and Underpayment Of Salary/Errors Policy
V4.0

6. Wilful Misrepresentation by the Employee

- 6.1 Where an employee wilfully misrepresents relevant data with the aim of obtaining a greater salary payment than they are entitled to, then all possible steps will be taken to effect recovery. Such instances will be referred to the 'Trusts Local Counter Fraud Specialist for investigation as to whether there has been an offence under the Theft Act 1968 or the Fraud Act 2006. The 'Trusts Counter Fraud Specialist will liaise with the HR Department to discuss Triple Tracking sanctions where disciplinary action may be required. Criminal action may also be appropriate and the Trust will take action to recover the overpayment by civil action.

Similarly, if an overpayment is considered to have been intentionally kept, the matter will be dealt with in accordance with the Trust's Disciplinary Policy and Procedure and the matter will be reported to the Trust's Local Counter Fraud Specialist for consideration of a criminal investigation.

7. Underpayments

- 7.1 Underpayments may arise for the same reasons as set out in paragraph 5.1.
- 7.2 Upon discovery of an underpayment, referral must be made by either the employee/employer to Finance/Payroll
- 7.3 If the underpayment was caused by an error, delay or misunderstanding by a party other than the employee then the employee, if in Financial hardship, may request to receive a salary advance if the underpayment is greater than £150 net. This will be adjusted pro rata for part time staff.
- 7.4 The salary advance will only be granted once authorised by an appropriate member of the Finance Department and HR Department.

POL131 – Overpayment and Underpayment Of Salary/Errors Policy

- 7.5 The salary advance will be calculated at a net equivalent of 60% of the gross pay missing from or understated on the employee's payslip. This calculation is an approximation of the deductions that would have been made from a basic rate tax payer's gross pay. The calculation will be adjusted to reflect the rate of tax the individual pays.
- 7.6 In the case of salary advances where the employee has not received any pay or less than half of their normal net pay then the advance will be paid by the appropriate electronic same day transfer. In all other circumstances the employee will be paid the advance using the normal bank clearing system, which will take 3 working days.
- 7.7 The Finance department undertakes to process and pay qualifying salary advances within 24 hours, excluding weekends, of being notified of an underpayment.
- 7.8 If a salary advance is not arranged within the timescale detailed above, then the Trust will consider reimbursing an employee for bank charges and/or interest incurred directly, and presented to the Trust, as a result of the underpayment.

8. Prior Arrangements

- 8.1 The Trust is aware that prior to this policy, agreements were made with employees and ex-employees to repay overpayments by personal cheque or standing order. These agreements will continue unless the employee or ex-employee fails to make a repayment in accordance with that agreement. In such a case, the existing arrangement may be considered null and void and recovery could be commenced as detailed in Section 5 above.
- 8.2 This policy may be applied to under or over payments which pre-date the existence of this policy.

9. Prevention of Overpayments

9.1 Once the error has been identified the facts should be obtained to establish how the error arose, these will be reported to the appropriate Trust payroll group who will instigate appropriate action to try and prevent a recurrence.

This may include:

- Advice to employees and/or managers;
- Review of Trust policy;
- Review of payroll process;
- Issuing of Trust wide advice.

10. Policy Review

10.1 This policy will be reviewed on a three yearly basis or amended in the light of new employment legislation and/or relevant case law.

Equality Analysis			
What is the aim of the policy/procedure/practice/event?			
To recover overpayments of salary or correct underpayments of salary.			
Who does the policy/procedure/practice/event impact on? No			
Race	<input type="checkbox"/>	Religion/belief	<input type="checkbox"/>
Sex	<input type="checkbox"/>	Disability	<input type="checkbox"/>
Age	<input type="checkbox"/>	Gender re-assignment	<input type="checkbox"/>
		Marriage/Civil Partnership	<input type="checkbox"/>
		Sexual orientation	<input type="checkbox"/>
		Pregnancy/maternity	<input type="checkbox"/>
Policy is used for all Trust employees			

POL131 – Overpayment and Underpayment Of Salary/Errors Policy

Who is responsible for monitoring the policy/procedure/practice/event?

Senior Finance Manager/ Head of Financial Services

What information is currently available on the impact of this policy/procedure/practice/event?

Policy is currently in use for all Trust employees

Do you need more guidance before you can make an assessment about this policy/procedure/ practice/event?

No

Do you have any examples that show that this policy/procedure/practice/event is having a positive impact on any of the following protected characteristics? No

- | | | | | | |
|-------------|--------------------------|-----------------------------|--------------------------|-----------------------------------|--------------------------|
| Race | <input type="checkbox"/> | Religion/belief | <input type="checkbox"/> | Marriage/Civil Partnership | <input type="checkbox"/> |
| Sex | <input type="checkbox"/> | Disability | <input type="checkbox"/> | Sexual orientation | <input type="checkbox"/> |
| Age | <input type="checkbox"/> | Gender re-assignment | <input type="checkbox"/> | Pregnancy/maternity | <input type="checkbox"/> |

Please provide evidence:

Policy is used for all Trust employees.

Are there any concerns that this policy/procedure/practice/event could have a negative impact on any of the following characteristics? No

- | | | | | | |
|-------------|--------------------------|-----------------------------|--------------------------|-----------------------------------|--------------------------|
| Race | <input type="checkbox"/> | Religion/belief | <input type="checkbox"/> | Marriage/Civil Partnership | <input type="checkbox"/> |
| Sex | <input type="checkbox"/> | Disability | <input type="checkbox"/> | Sexual orientation | <input type="checkbox"/> |
| Age | <input type="checkbox"/> | Gender re-assignment | <input type="checkbox"/> | Pregnancy/maternity | <input type="checkbox"/> |

Please provide evidence:

N/A

Action Plan/Plans - SMART

Specific

Measurable

Achievable

Relevant

Time Limited

Evaluation Monitoring Plan/how will this be monitored?

Who:

How:

By

Reported to