

Employee Remuneration and Expenses Overpayment Recovery Policy

Effective: April 2018

Review Date: (3 years)

Coverage: All HSC Employers and Payroll Shared Service Centre

Overpayment Recovery Policy

1.0 Introduction

While Employers will take steps to prevent overpayments from occurring it is recognised that there will be instances where an overpayment has been processed. Consequently this Policy has been drawn up after review of all Overpayment Recovery Policies which are currently in place within HSC employing organisations; the purpose is to provide the Payroll Shared Service Centre with a consistent and effective method for dealing with employee overpayment situations.

This policy applies to individuals who are currently employed by an HSC Organisation. Former employees (leavers) are expected to repay all overpayments in full immediately in line with their contracts of employment.

Employers are obligated to recover all overpayments and provide clear information to employees to advise them of reasons for and planned recoupment of the overpayment.

Employees are expected to repay all overpayments made to them as quickly as possible.

2.0 Overview

An overpayment can result from a number of causes, examples of which are listed below:

- Incorrect calculation of salary, wage or expense;
- Late submission of employee data to Human Resources (HR) and Payroll Shared Services;
- Late submission of timesheets to Payroll Shared Services;
- Mis-interpretation of law; or
- Systems error.

It is the responsibility of the Payroll Shared Service Centre (PSSC) to recoup all overpayments made to employees on behalf of the relevant HSC employer and in accordance with this Policy.

Policy Statement

1. Circular HSC (F) 50/2012) entitled Guidance on Losses and Special Payments Revised Appendix B "Recovery of Overpayments" provides guidance on this area and the PSSC is required to comply with this guidance.
2. The guidance confirms that in general, where payments of any kind are made under a mistake of law (incorrect interpretation of statutory regulations or legal

Payroll Shared Service Centre

instruments) or a mistake of fact (arithmetical or other simple errors) these are legally recoverable.

3. The presumption is that recovery should be pursued irrespective of the circumstances in which the overpayment arose.
4. However, in practice the guidance indicates that each case should be dealt with on an individual basis and when deciding on appropriate action, the following factors should be taken into account:
 - the circumstances creating the overpayment and whether a person was led to believe he/she could treat the money as their own or the degree to which the employee could not reasonably have been expected to be aware that they were being overpaid;
 - type and circumstances of overpayment – eg miscalculated arrears;
 - good faith, when a person who is led to believe he/she could treat money as their own, or bad faith;
 - time since the overpayment was made;
 - relevant personal circumstances of the payee;
 - cost-effectiveness of recovery action; and
 - the need to deal equitably with overpayments to a group of people.
5. The Employment Rights (NI) Order 1996 is the governing legislation in respect of recovery of overpayments. An employee enjoys a statutory protection from salary/wages/expenses deductions which are not required by statute, or his/her contract of employment, or to which the employee has not given written consent.
6. However, Article 46 of the Employment Rights (NI) Order 1996 states that such consent is not necessary when the deduction in salary/wages/expenses by the employer is to reimburse the employer for any overpayment of salary/wages or expenses made (for any reason) by the employer in the course of employment.
7. The employer is therefore committed to pursuing recovery of any overpayment of remuneration or expenses in accordance with this legislation and DOH guidance.
8. The employer will ensure fair and sensitive application of the Overpayment Recovery Policy in relation to each employee.

3.0 Employing Organisation and Line Manager Responsibility

HSC employers issue staff in post lists on a quarterly basis to key representatives within their organisation. These lists provide the opportunity for each manager to check the employment details of each of their staff, regarding Whole Time Equivalent

Payroll Shared Service Centre

(WTE) and banding and confirm that it is appropriate for these staff to still be on the payroll of the employing organisation.

Line managers have a responsibility to process time and expense claims and contractual changes accurately and on a timely basis in order to ensure that staff are paid correctly and to prevent the occurrence of an overpayment.

It should be noted that where a manager persistently fails in their duty to process contractual changes accurately and on time causing miscalculations of pay / overpayments to be made, disciplinary action may be taken by the employer.

Line managers also have a duty to report to the Fraud Liaison Officer within their organisation where there are any concerns of suspected fraud or theft.

4.0 PSSC Responsibility

Once an overpayment has been highlighted it is the legal duty and responsibility of the PSSC to accurately calculate the net value of the overpayment and communicate this to employees as set out below.

At the outset, PSSC will work to the standard repayment terms provided to them by the HSC employers when writing to the employee to inform them of the overpayment – see Section 11 and Appendix 1.

The PSSC has a legal duty to communicate in writing to the employee the following information:

- Net value of the overpayment;
- The reason for overpayment;
- The repayment terms; and
- The amount of the per pay deduction in accordance with the employers' standard repayment terms.

This communication will also advise that:

- in the event of no response or case for hardship being provided (as per terms of Section 7.0 below) by the employee within 4 weeks, the repayments will commence as advised in the letter;
- where an employee's employment is terminated, any outstanding balance of overpayment will be deducted from their final pay automatically by PSSC; and
- any arrears payment in the future will be offset against the outstanding balance.

A copy of this Overpayment Recovery Policy will be included with the correspondence.

In addition, where an overpayment has been identified within 5 working days of pay day, the PSSC will request repayment of the overpayment in full.

Payroll Shared Service Centre

Where an overpayment has been identified prior to pay day, the PSSC will recall the erroneous payment and notify the employee that a correct payment will be reissued on pay day.

The PSSC will encourage employees to repay any overpayments over the shortest period possible, including immediate repayment.

In the event that the employee holds more than one position with an HSC Employer the employee's total earnings will be used to determine the repayment value. Additionally, where an employee holds multiple positions and one of those positions terminates, any outstanding overpayment balances will transfer to an active position.

Within 4 weeks of advising the employee in writing the overpayment will be recouped in line with the standard repayment terms, as outlined in the original overpayment notification letter provided to the employee.

The PSSC will offset the payment of any arrears due to the employee against the value of the overpayment.

Upon leaving an HSC Employer, the PSSC will deduct any outstanding overpayment balances in full from the final salary.

PSSC will be responsible for the monitoring of overpayments to ensure repayment plans are in place on a timely basis and to escalate to HSC organisations cases where this is not the position. HSC organisations will be provided with details on employees' overpayments and repayments as part of the PSSC Monthly Performance Reports.

5.0 HSC Employer/Regional Organisation Responsibility

It is the responsibility of retained Human Resources and Finance Teams within HSC employer to negotiate overpayment repayment terms which fall outside the standard repayment terms advised to PSSC.

Any changes to repayment terms must be immediately communicated to the PSSC, and preferably before the first deduction from the employee.

PSSC will be responsible for the monitoring of overpayments to ensure repayment plans are in place on a timely basis and to escalate to HSC organisations cases where this is not the position. HSC organisations will be provided with details on employees' overpayments and repayments as part of the PSSC Monthly Performance Reports.

6.0 Employee Responsibility

Employees are required to be aware of the relevant policies and associated procedures in place for the HSC employer they are employed by and ensuring compliance with the same.

Payroll Shared Service Centre

Staff are expected to behave with honesty and integrity and check their received or on-line payslips (HRPTS portal) are correct each pay period. Staff must be given convenient access to view their pay slips via HRPTS where they do not normally have ready access to a PC in the course of their normal day to day duties.

With specific regard to overpayments of wages, salaries or expenses, it is expected that the employee will report promptly to their Line Manager and Payroll Shared Service Centre, any unexpected payment received, or any payment received to which the individual is not entitled. In the event of wilful misrepresentation by an employee, disciplinary action may result under the relevant HSC Employer's Disciplinary Procedure.

7.0 Where difficulties arise on repayment for the employee

In circumstances where recovery of the overpayment at the rate outlined in the communication to the employee would cause hardship, the employee (or their Line Manager) should contact the PSSC on receipt of the letter outlining the overpayment to initially discuss the case.

The PSSC will attempt to agree a repayment plan in line with the HSC Employers standard repayment terms and in the event this is not possible, the PSSC will provide the relevant information about the amount and reason for the overpayment to the relevant organisation's Director of Finance for review.

The onus is on the employee to demonstrate their case within reason, ***which may include the provision of proportionate documentary evidence to the employer's Finance Department.***

Employing organisations will consider the notified circumstances and advise PSSC and the employee in a timely fashion of their decision and the timescales for implementation.

8.0 Investigation

In certain circumstances the employer reserves the right to undertake an investigation when an overpayment has been identified as part of the employer's Anti-Fraud Policy and Fraud Response Plan, when an overpayment arises. The investigation will consider the issue of potential fraud, establish facts and make recommendations for action by management, which could adjudicate immediate recovery of the overpayment.

9.0 Referral for Legal Action

Where the implementation of this policy has not resulted in recoupment in full, each HSC employer has discretion to refer for legal advice and pursue any cases of overpayment, as per Section Annex A.4.11.3 of Managing Public Money Northern Ireland (MPMNI). The employee will be advised in advance of such action.

10.0 Termination of Employment

Where an employee's employment is terminated, any outstanding balance of overpayment will be deducted from their final pay automatically by PSSC. This includes any subsequent payment of arrears or annual leave.

Where an employee's employment is terminated and there remains an outstanding overpayment balance, PSSC will send details of the overpayment for an invoice to be issued by Shared Services Accounts Receivable (SSAR) to the employee

11.0 Standard Repayment Terms

Standard repayment terms (see Appendix 1) have been designed by HSC employers to ensure that undue financial hardship is not caused to the employee, whilst pursuing the recovery of monies owed to the employing authority.

The repayment periods within these standard repayment terms represent the maximum repayment periods which may be approved by the PSSC with the employee, earlier settlement is encouraged where possible.

These repayment plans may not apply where the employee is the subject of an investigation.

REVIEW OF THE PROCEDURES

These procedures should be reviewed periodically in consultation with recognised Trade Union Side representatives via the HSC (NI) Joint Negotiation & Consultation Forum.

Signed on behalf of Trade Union Side:



Date:

23/04/18.

Signed on behalf of Organisation:



Date:

23/04/18.

These procedures are effective from April 2018

Appendix 1: For information - HSC Employers' Standard Repayment Calculation Table – Payroll Overpayments

Monthly paid employees

Overpayment as a percentage of the employee's net pay	Maximum Number of pays in which to recoup the overpayment
Less than 10%	Next Pay
11% - 15%	2
16% - 25%	3
26% - 50%	6
51% - 75%	9
76% - 100%	12
Over 100% *	15

Weekly paid employees

Overpayment as a percentage of the employee's net pay	Maximum Number of pays in which to recoup the overpayment
Less than 10%	Next Pay
11% - 15%	2
16% - 25%	3
26% - 50%	6
51% - 75%	9
76% - 100%	12
Over 100% *	15

Fortnightly paid employees

Overpayment as a percentage of the employee's net pay	Maximum Number of pays in which to recoup the overpayment
Less than 10%	Next Pay
11% - 15%	2
16% - 25%	3
26% - 50%	6
51% - 75%	9
76% - 100%	12
Over 100% *	15

Note: Where an overpayment exceeds 100% of the net pay of the employee, the repayments should not exceed 15% of the employee's net pay. In cases that repayments do exceed 15% of net pay, the terms of repayment will be extended in excess of the 15 repayment periods so that the 15% tolerance is not exceeded.

In cases of hardship the Employee may refer to the employing organisation for consideration of personal circumstances – please refer to Policy section 7.