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# OVERPAYMENTS

## Procedure

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### 1. Introduction

This document advises of the process when an employee receives an incorrect payment in their salary.

If an overpayment of salary or any other payment of public funds occurs for any reason, the organisation will recover the overpayment from the employee.

In accordance with the Employment Rights Act 1996 s.14 (1) (a) a deduction from the employee's wage can be made by the employer in relation to the overpayment of salary. Employment Tribunals have no jurisdiction to hear complaints of unauthorised deductions from wages where the deduction is made as a result of an overpayment.

### 2. Purpose and Scope

The purpose of this process is to ensure that all employees are treated equally and with consistency when an overpayment has been made.

The Council/School endeavours to pay employees correctly for work undertaken, but if overpaid, a clear process needs to be followed to reclaim monies in accordance with the Employment Right Act 1996.

This process applies to all employees of South Tyneside Council, permanent, fixed term and casual, including school-based employees where the governing bodies of individual schools have adopted the guidance.

There are several ways in which an employee can be incorrectly paid including, and not restricted to:

- An overpayment/underpayment of salary;
- Incorrect payment of expenses;
- Duplication of a payment;
- Incorrect Tax Code;
- Deduction made in error;
- Incorrect deduction of benefit (e.g. Pension).

### 3. Definition of an Overpayment

The definition of an overpayment is where an employee, or someone who has left the Council's employment, is paid an amount in excess of the contractual entitlement.

### 4. Underpayment

The principle following an underpayment of salary is that the position will be reversed in the next available salary payment.

**No interim payment can be made where the shortfall in pay was caused by the employee submitting claims via Oracle after the published payroll deadline.**

An employee can request that the Payroll Team arrange for an interim payment where they have suffered a significant shortfall in their net pay, which must be supported and authorised by a Head of Service/Head Teacher. Payment will be made direct to the employees' bank account within 5 working days of the request being made to the Payroll Team.

If the employee is unable to wait 5 working days for the underpayment to be corrected, a 'faster' payment *may* be available in exceptional circumstances.

If bank charges are incurred as a *direct* result of the underpayment, and evidence in the form of a bank statement is produced, then resulting bank charges will be refunded.

### 5. Methodology to recover overpayment

The rate of recovery will depend on the following factors:

- If the overpayment is discovered soon after payment, within one week of pay day, then the repayment regardless of the amount should be requested back in full, on the basis that the employee knows of the overpayment and should not have spent it within that time.
- If the overpayment is discovered after one week of pay day and is less than 25% of basic gross monthly pay, then the full gross amount will be recovered from the next available salary payment. Any refunds of Income Tax, National Insurance and Pension contributions will happen automatically.
- If the overpayment is discovered after one week of pay day and is more than 25% of basic gross monthly pay, the overpayment will be calculated and repayment will be requested over no more than 3 months by a deduction from the employee's salary. If an employee leaves all outstanding monies will be deducted from the final salary.

In circumstances where recovery at the proposed rate would cause financial hardship the individual case must be considered by the Head of Service/Head Teacher who *may* be able to authorise an extension to the repayment period.

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Issues such as the amount of the overpayment, personal circumstances which could lead to undue financial hardship, duration of contract (if not permanent), proximity to retirement, sickness, redundancy, maternity and adoption leave are all factors which will be considered and form part of the decision making process. In some exceptional circumstances a repayment period of up to one year may be agreed.

## **6. Process**

Where an overpayment has been identified, a member of the Payroll Team will endeavour to call or email the employee in the first instance to discuss overpayment. The team will then write out to notify the employee and request repayment in line with the methodology above. The employee will be required to sign an agreement to this effect.

In the case of disputed overpayments, the Payroll Team will liaise with the employee's manager. The manager can contact the relevant HR Advisor for advice in complex cases

Dependent on the nature of the error resulting in the overpayment, appropriate steps will be taken to review procedures to ensure the error is not repeated.

The Payroll Team will maintain records of any overpayments, including the amount owed, the method of repayment, payment period and the final date of recovery.

## **7. Leavers**

If an employee is due to leave the Council/School before recovery of the overpayment is complete, this will be discussed with them. A recovery agreement will then be drawn up before the employee leaves. It is expected that the balance of any overpayment will be paid from the final salary. Failure to repay in full before the leave date will lead to an invoice being raised to recover any outstanding monies. If an invoice is issued, then standard debt recovery protocols are initiated by the Council.

Where an employee wishes to resign at short notice, resulting in a potential overpayment, the manager must notify the employee that full recovery of monies will take place and the employee is advised to return the funds when requested, before debt recovery protocols are initiated.

## **8. Salary Sacrifice**

If you have entered into an agreement and your salary sacrifice is terminated before the expiry date – i.e. your employment with the Council ends, you will be liable for an early termination fee. Please ensure you consider the impact of this and make the necessary arrangements as outlined in the policy booklets below.

It is important that you are aware that the Council will pursue any monies owed through its debt collection agency and ultimately through the courts.

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[Home Electronics Policy Booklet](#)  
[Car Lease Scheme](#)

## 9. Ex-employees

If an overpayment is discovered after an employee leaves, repayment in full will be requested immediately. Where this is not possible, a repayment period of no more than 3 months may be agreed. The Payroll team will write to the ex-employee advising of the final position and include an invoice for payment.

## 10. Responsibility

All employees also have a responsibility to check that their salary and any other payments are correct and to advise the Payroll Team if they are aware they have been overpaid by any amount.

Any errors which occur as a result of employees knowingly providing incorrect information or failing to notify the Council/School of an overpayment will be investigated in line with the Council's/School's Disciplinary Procedure.

## 11. Equality and Diversity Statement

South Tyneside Council is committed to promoting equality and valuing diversity. An equality check on this guidance was carried out in 2021 and no equality check implications were identified.

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