

Under or Overpayment of Salary, Allowances and Benefits Procedure and Policy

V7.0

March 2025

Summary

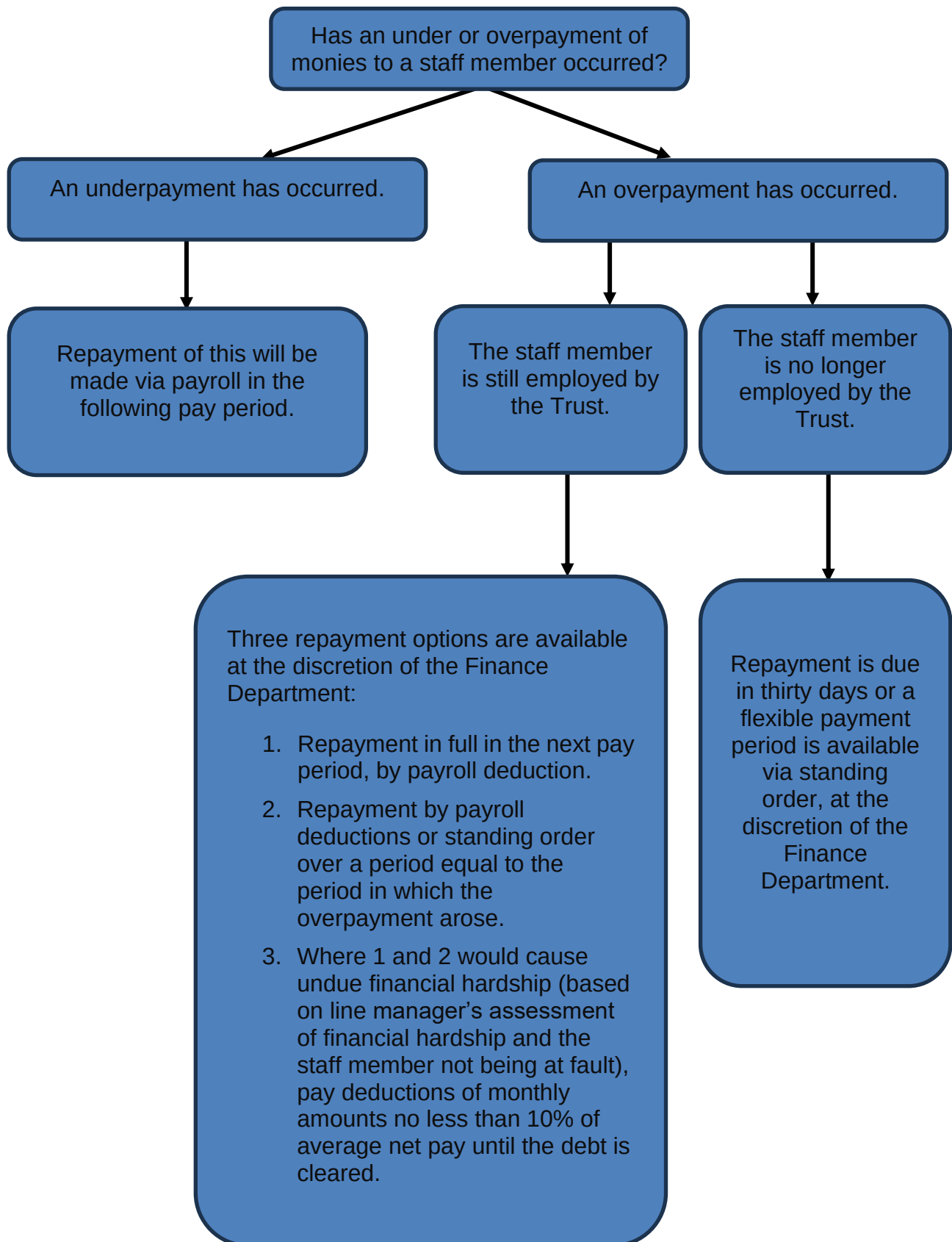


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Data Protection Act 2018 (UK General Data Protection Regulation – GDPR) Legislation.

The Trust has a duty under the Data Protection Act 2018 and UK General Data Protection Regulations 2016/679 to ensure that there is a valid legal basis to process personal and sensitive data. The legal basis for processing must be identified and documented before the processing begins. In many cases we may need consent; this must be explicit, informed, and documented. We cannot rely on opt out, it must be opt in.

Data Protection Act 2018 and UK General Data Protection Regulations 2016/679 is applicable to all staff; this includes those working as contractors and providers of services.

For more information about your obligations under the Data Protection Act 2018 and UK General Data Protection Regulations 2016/679 please see the Information Use Framework Policy or contact the Information Governance Team.

Royal Cornwall Hospital Trust rch-tr.infogov@nhs.net

1. Introduction

- 1.1. Royal Cornwall Hospitals NHS Trust has a duty to ensure that all employees are paid the correct salary, allowances and benefits.
- 1.2. This document identifies the process to be followed when a member of staff receives an incorrect salary, allowance or benefit (expense) payment. This applies to both under and overpayments.
- 1.3. As public monies are involved, the Trust has a responsibility to ensure that all overpayments are recovered.
- 1.4. This policy is intended to promote equity and fairness in ensuring that the error is corrected and any under or overpayments are repaid or recovered appropriately.
- 1.5. This version supersedes any previous versions of this document.

2. Purpose of this Policy/Procedure

- 2.1. The purpose of this document is to ensure that under and overpayments are identified and either paid or recovered on a timely basis. This policy can be applied retrospectively to debts that arose prior to approval of this policy. This policy was first approved in November 2008.
- 2.2. When salary overpayments occur, it is the policy of the Trust to vigorously pursue payment. In accordance with the Employment Rights Act 1996 via the Trust's appointment documentation and contract of employment, the Trust retains the right to recover through payroll any payments made in error. Where recoveries are made, due notice must be given to the employee.
- 2.3. All employees are responsible for regularly checking that they are receiving the correct payment and benefits. Employees must bring any anomalies to the attention of their manager and the payroll department as a matter of urgency, as soon as they notice the anomaly.
- 2.4. Where a staff member refuses to abide by this policy or refuses to cooperate with the Trust in implementation of this policy, this will be considered a disciplinary issue and will be dealt with under the Trust's disciplinary procedure.
- 2.5. The Trust regrettably acknowledges that under, or overpayments do occur due to several reasons.

3. Scope

- 3.1. This policy applies to all employees on a permanent or fixed term contract with the Royal Cornwall Hospitals NHS Trust and Kernowflex workers.
- 3.2. This policy can be applied to staff that transfer to the Trust with pre-existing under or overpayments of salary, allowances and benefits.

4. Definitions/Glossary

4.1. There are many ways in which an employee can be incorrectly paid, including but not restricted to:

- Overpayment of salary.
- Underpayment of salary.
- Payment of incorrect travel or non-travel expenses.
- Duplication of a payment.
- Deduction made in error.

4.2. **Overpayment** of pay and allowances: 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 notification ("R" 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.

4.3. **Underpayment** of pay and allowances: Where an employee, or an ex-employee is paid an amount below their contractual entitlement. The likely causes of an underpayment include, but are not restricted to:

- A variation to contract notification being submitted or actioned after payroll cut off.
- A late change notification.
- Incorrect salary banding.
- Late submission of expense claims, excess hours, enhancements, overtime, etc.
- Late notice or failure to notify of return from maternity leave.

5. Ownership and Responsibilities

5.1. Role of Individual Staff

All staff members are responsible for:

- Ensuring that they understand their salary entitlement.
- Checking their payslip every pay period to ensure that it appears accurate and that they are receiving the correct payment and benefits.
- Bringing any pay anomaly to the attention of their manager and the Payroll Department promptly, as a matter of urgency, as soon as they notice the anomaly.
- Being aware that they will need to make repayment to the Trust.
- Ensuring pay anomaly enquiries that do not receive an adequate response from Payroll within an agreed timescale of fourteen days, having been previously communicated, are escalated through their line manager.

5.2. Role of the Managers

Line managers are responsible for:

- Ensuring that changes in employee contracts, including terminations, are actioned within seven days. In the event of a late leaver, the manager must supply a forwarding address for the employee.
- Ensuring that employees are notified in writing of the changes to their contractual terms.
- Ensuring that where an employee has had an unauthorised or inaccurate payroll deduction and not received a response to the enquiry from Payroll within fourteen days, the matter is raised with the People and Organisational Development Department.
- Resolving and responding to queries from employees, the Payroll department and the Finance Department, within seven days.
- Understanding that they may be subject to disciplinary proceedings should these responsibilities not be met satisfactorily.

5.3. Role of the Budget Holder

The budget holder is responsible for:

- Checking the final pay costs are correct and raising any queries arising immediately.

5.4. Role of the Payroll Department

The Payroll Department is responsible for:

- Ensuring that information is input into the Electronic Staff Record (ESR) in an accurate and timely manner within agreed roles and responsibilities.
- Ensuring that robust checking processes are in place to identify and reduce under and overpayments.

- Ensuring any payment errors are resolved following agreed payroll procedures.
- Ensuring any payment errors are identified and advising the employee with provision of supporting calculations presented simply, in a timely manner.
- Where an employee or the Finance Department subsequently raises a query, investigate and respond within fourteen days.

5.5. Role of the Finance Department

The Finance Department is responsible for:

- Raising invoices within three days of receiving notification from the Payroll Department.
- Following standard credit control procedures.
- Responding to any queries within seven days.
- Assisting with the set-up of flexible payment plans where appropriate.
- Working with Budget Holders to ensure that pay costs are correct.

5.6. Role of the People and Culture Committee

The People and Culture Committee is responsible for:

- Receiving and reviewing a copy of this policy.

5.7. Role of the Audit and Risk Assurance Committee

The Audit and Risk Assurance Committee is responsible for:

- Approving this policy.
- Receiving regular reports of losses, compensations and ex-gratia payments made, which include any staff debt written off.

5.8. Role of the Counter Fraud Service

- All NHS Trusts are duty bound to recover overpayments in full. Where any overpayment occurs, the Local Counter Fraud Specialist may be asked by a line manager and/or any member of the Finance or People and Organisational Development Departments to investigate the case as suspected fraud or theft.
- The Trust recognises that a staff member in receipt of an overpayment may not be responsible for causing that overpayment. However, once they are aware that they are not entitled to some or all of the money they have received, they may commit criminal offences if they do something that suggests they intend to keep that money (e.g. contrary to the Theft Act 1968 Section 24A, which makes it an offence to dishonestly retain a wrongful

credit, or the Fraud Act 2006, Section 3 which makes it an offence to fail to disclose information).

6. Standards and Practice

6.1. Identifying payment errors

Payment errors can be identified in several ways:

- 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.

6.2. Notification of Over/Underpayments

- 6.2.1. Initially, contact the Payroll department to raise the matter and to be referred to the correct pay clerk who will deal with it.
- 6.2.2. When an error in payment has been identified, the individual or Payroll team must act to rectify the error, and the Electronic Staff Record (ESR) should be updated within seven working days.

6.3. Process for resolving payment errors

- 6.3.1. Once Payroll are aware of the exact nature of the error, they will calculate the amount of the payment error. Once the error has been verified, for an underpayment the correction will be made in the following month and for an overpayment the recovery process will begin with a letter from Payroll to the employee, detailing the amount and how the error arose, with a breakdown of the calculation, where applicable.
- 6.3.2. The remainder of this section covers overpayments. For the purpose of recovery, overpayments have been categorised into three areas:
 - **Salary/Wages Adjustment:** An adjustment in pay that recovers monies overpaid in the current and previous month only. Pay will not be reduced below the national minimum wage and any further amounts owed to the Trust will be dealt with as an overpayment. The monies recovered automatically from salary will not be treated as an overpayment.
 - **Overpayment of Pay and Allowances:** An adjustment in pay that requires monies to be recovered from an employee. Employees will be advised in writing by the Payroll Department of the details of the overpayment as soon as they become aware of it.
 - **Debt:** An unrecovered overpayment to an ex-employee. An invoice will be raised and sent to the ex-employee, together with appropriate information identifying the basis of the overpayment.

- 6.3.3. All cases of overpayment will be dealt with on an individual basis to ensure the minimum hardship for employees. It is expected that overpayments will be recovered in accordance with the length of time they occurred. For example, an overpayment made over three months would be recovered over three months. Recovery outside of these guidelines could be considered in extenuating circumstances and would be at the discretion of the Financial Controller.
- 6.3.4. **Current Employees:** If the individual is still employed by the Trust, the Trust's preference will always be to activate recovery by mutual agreement with the employee, either via the raising of an invoice or a payroll deduction
- 6.3.5. An invoice and formal letter will be sent to the existing staff member from the Finance Department, regarding the overpayment. The letter will state the invoice is payable in full within thirty days and offer them the opportunity to contact the Finance Department within thirty days of the invoice date to discuss a more flexible payment option.
- 6.3.6. Where it is agreed between the Finance Department and the staff member that repayment will occur via a payroll deduction, the Finance Department will confirm the arrangement in writing enclosing the Trust's payroll deduction authority. On receipt of the payroll deduction authority the staff member must sign and return the authority to the Finance Department. The Finance Department will then instruct Payroll to action the agreed deductions.
- 6.3.7. Where it is agreed between the Finance Department and the staff member that repayment will occur via standing order bank payments, the Finance Department will confirm the arrangement in writing, enclosing the Trust's bank details.
- 6.3.8. If the payroll deduction authority is not returned within thirty days or a standing order is not set up, the Trust will move to a Recovery Activated by the Trust as described at 6.5 below.

6.4. Summary of repayment options

- 6.4.1. If, following receipt of the invoice and formal letter detailed above, a staff member contacts the Finance Department within thirty days, the options available are:

Option	Details
Option 1 (Preferred)	Repayment in the next pay period via payroll deduction to the extent this does not reduce pay to below the national minimum wage.
Option 2	Repayment by payroll deduction or standing order over a period equal to the period in which the overpayment arose but extended, if necessary, to meet national minimum wage legislation.

Option	Details
Option 3	Where options 1 and 2 would cause undue hardship, an option whereby an amount no less than ten percent of average net pay is deducted from pay each month until the overpayment is cleared, is available. Again, this would be subject to not reducing pay below the national minimum wage. Average net pay is calculated with reference to the previous three months. Important Note For option 3 to be available the following conditions must apply: • The overpayment must not have arisen or continued through fault of the staff member. • The staff member must have been unaware of the overpayment. If the staff member was aware of the overpayment, they must have taken all reasonable steps to notify the Trust. • That financial hardship would result must be agreed by the line manager (see Appendix 3 for further guidance). The line manager must notify the Finance Department that financial hardship is applicable in this case. To protect confidentiality the Finance Department does not need to know the circumstances of the financial hardship.

- 6.4.2. In applying options 1 and 2, the staff member's potential retirement date or leaving date will need to be considered. The recovery period available will not be allowed to be greater than the expected remaining employment period. If it is greater, due to national minimum wage restrictions, paragraph 6.4.4 will apply.
- 6.4.3. Although there are no exceptions to this policy where staff are on sick leave, maternity leave or carers leave, the Trust recognises that in certain circumstances due care will need to be taken in applying this policy.
- 6.4.4. Where a staff member leaves before having fully repaid a salary overpayment debt, the outstanding amount will be recovered from the final salary. Where the amount outstanding exceeds final salary, the amount still outstanding on the original invoice will become due to be paid within thirty days. The recovery procedure for former staff members will then apply (see below). Where a member of staff is made redundant, accepts a voluntary arrangement such as MARS, or leaves under a compromise agreement, any salary overpayment amounts outstanding will likewise be deducted from final payments.

6.5. Recovery activated by the Trust by payroll deduction

- 6.5.1. The Trust's preference will always be to activate recovery by mutual agreement with staff members. Where this is not possible, the Trust will invoke its statutory right under the Employment Rights Act 1996 and its contractual right under the Trust employment contract to recover overpaid salary by payroll deduction.
- 6.5.2. Where the Trust invokes these rights, it will always seek to act reasonably and due written notice will be given.
- 6.5.3. In situations as described above where either:
- A staff member does not contact the Finance Department within thirty days to arrange a repayment option following receipt of the letters and invoice formally notifying a salary overpayment: or
 - Discussions have been held with the Finance Department regarding a repayment plan, but the payroll deduction authority is then not returned to the Finance Department within thirty days.
- The Trust will invoke its right to make a payroll deduction without express consent from the staff member.
- 6.5.4. In this situation the profile of the repayment by salary deduction will be agreed by the Financial Controller and due notice will be given in writing to the staff member. The general principle is that an imposed deduction will recover debts at a faster rate than would have been agreed if the staff member had cooperated with the policy. However, national minimum wage legislation must be adhered to.
- 6.5.5. **Bank staff:** Where overpayments have been made to staff on bank contracts it may be difficult to apply this policy due to the variable nature of bank earnings. It may also be difficult to apply a set salary deduction to bank staff with variable earnings. Where the Finance Department agrees that it is impractical to apply this policy to a bank staff member, a minimum repayment of thirty pounds per month will apply unless this breaches national minimum wage. If it is impractical to set up a salary deduction in respect of a bank staff member then the agreed repayments must be made by standing order to the Trust. If a bank member of staff fails to set up the required standing order within thirty days or cancels the standing order before full repayment is made, the Trust reserves the right to make salary deductions as it sees fit.
- 6.5.6. **Former Employees:** If the individual is no longer employed by the Trust, it is expected that payments are received in line with an agreed payment plan. An invoice and formal letter will be sent to the former member of staff from the Finance Department regarding the overpayment.

- 6.5.7. The letter will state the invoice is payable in full within thirty days, after which the Trust's normal enforcement procedures will be followed. It will offer them the opportunity to contact the Finance Department within thirty days of the invoice date to discuss a more flexible payment option, noting that if no contact is made within that period the Trust will assume that payment will be made within thirty days.
- 6.5.8. If a repayment plan cannot be agreed or the debtor reneges on a repayment plan, the Trust will refer the case to the Trust's debt collection contractor. It is the Trust's policy to pursue repayment using all legal means available and to seek court judgements where necessary.

6.6. Appeal process

- 6.6.1. If a member of staff is dissatisfied with how this policy has been applied, resolution may be sought from the Trust through their line manager via the Trust's Resolution Procedure.
- 6.6.2. If the overpayment is deemed to be incorrect, managers must raise corrective payroll documentation.

6.7. Debt write offs

Where a repayment is not forthcoming and the Trust has exhausted all methods of collection, including the use of a debt collection contractor, the Trust will write the debt off in accordance with the Trust's Standing Financial Instructions.

7. Dissemination and Implementation

- 7.1. This document will be made available on the Trust's documents library and replaces earlier versions.
- 7.2. Updated versions, other than minor refreshes, will be reviewed by the People and Culture Committee and approved by the Audit and Risk Assurance Committee.
- 7.3. This document will be shared with Associate Directors / Departmental Heads and People Partners so that they are aware of the process for when an overpayment situation arises.
- 7.4. This document will also be shared with chairs of the Joint Consultative and Negotiation Committee (JCNC) and Joint Local Negotiating Committee (JLNC).
- 7.5. There are no training needs identified within this policy.

8. Monitoring compliance and effectiveness

Information Category	Detail of process and methodology for monitoring compliance
Element to be monitored	Monthly analysis of salary overpayments and underpayments.

Information Category	Detail of process and methodology for monitoring compliance
Lead	Sarah Gould, Financial Controller.
Tool	Aged debt reports.
Frequency	The process for over/underpayment will be monitored by the financial controller and reported initially to the Finance Senior Leadership Team.
Reporting arrangements	The Audit and Risk Assurance Committee will receive salary overpayment write offs as part of the losses and special payments report presented to each of its meetings.
Acting on recommendations and Lead(s)	The Financial Controller will lead on any outcomes of monitoring and will liaise with People and Organisational Development/Payroll Department.
Change in practice and lessons to be shared	Required changes to practice will be identified and actioned within one month of identification.

9. Updating and Review

- 9.1. This policy and procedure will normally be reviewed every three years.
- 9.2. A revision of the document may be necessary if there is an identified issue with the handling of under/overpayment of salaries, allowances or benefits that is so significant that a revised approach is required.

10. Equality and Diversity

- 10.1. This document complies with the Royal Cornwall Hospitals NHS Trust service Equality and Diversity statement which can be found in the [Equality Diversity And Inclusion Policy](#) or the [Equality and Diversity website](#).
- 10.2. Equality Impact Assessment

The Initial Equality Impact Assessment Screening Form is at Appendix 2.

Appendix 1. Governance Information

Information Category	Detailed Information
Document Title:	Under or Overpayment of Salary, Allowances and Benefits Procedure and Policy V7.0
This document replaces (exact title of previous version):	Under or Overpayment of Salary, Allowances and Benefits Procedure and Policy V6.0
Date Issued/Approved:	March 2025
Date Valid From:	March 2025
Date Valid To:	March 2028
Author/Owner:	Finance Department. Sarah Gould, Financial Controller.
Contact details:	Sarah Gould, financeadmin@nhs.net
Brief summary of contents:	Provides clear guidance to staff on the Trust's policy in relation to an employee or ex-employee receiving an under or overpayment of salary, allowances and benefits.
Suggested Keywords:	Salary, overpayment, underpayment, allowances, benefits.
Target Audience:	RCHT: Yes CFT: No CIOB ICB: No
Executive Director responsible for Policy:	Chief Finance Officer.
Approval route for consultation and ratification:	Audit and Risk Assurance Committee.
Manager confirming approval processes:	Graeme Booth, Deputy Chief Finance Officer.
Name of Governance Lead confirming consultation and ratification:	Ian Dean, Chief Finance Officer.
Links to key external standards:	None required.
Related Documents:	Employment Rights Act 1996. Trust Standing Orders and Standing Financial Instructions.

Information Category	Detailed Information
Training Need Identified:	No.
Publication Location (refer to Policy on Policies – Approvals and Ratification):	Internet and Intranet
Document Library Folder/Sub Folder:	Finance / Financial Services.

Version Control Table

Date	Version Number	Summary of Changes	Changes Made by
October 2008	V1.0	Approved November 2008 as Final version. Review 1 year after adoption and then every two years.	Original Sarah Gould.
17/05/2010	V2.0	No Amendments – refresh one year after adoption.	Adam Wheeldon.
06/06/2012	V3.0	Full review of Policy and Procedure and update to new format as required.	Garry Cooper.
23/06/2015	V4.0	Full review of Policy and Procedure and update to new format as required.	Sarah Gould.
30/09/2018	V5.0	Full review of Policy and Procedure and update to new format as required.	Sarah Gould.
October 2021	V6.0	Minor refresh and update to latest corporate policy template.	Sarah Gould, Financial Controller.
February 2025	V7.0	Full review of Policy and Procedure and update to new format as required.	Sarah Gould, Financial Controller.

All or part of this document can be released under the Freedom of Information Act 2000.

All Policies, Strategies and Operating Procedures, including Business Plans, are to be kept for the lifetime of the organisation plus 6 years.

This document is only valid on the day of printing.

Controlled Document.

This document has been created following the Royal Cornwall Hospitals NHS Trust [The Policy on Policies \(Development and Management of Knowledge Procedural and Web Documents Policy\)](#). It should not be altered in any way without the express permission of the author or their Line Manager.

Appendix 2. Equality Impact Assessment

Section 1: Equality Impact Assessment (EIA) Form

The EIA process allows the Trust to identify where a policy or service may have a negative impact on an individual or particular group of people.

For guidance please refer to the Equality Impact Assessment Policy (available from the document library) or contact the Equality, Diversity, and Inclusion Team
rcht.inclusion@nhs.net

Information Category	Detailed Information
Name of the strategy/policy/proposal/service function to be assessed:	Under or Overpayment of Salary, Allowances and Benefits Procedure and Policy V7.0
Department and Service Area:	Finance
Is this a new or existing document?	Existing
Name of individual completing EIA (Should be completed by an individual with a good understanding of the Service/Policy):	Sarah Gould, Financial Controller.
Contact details:	financeadmin@nhs.net

Information Category	Detailed Information
1. Policy Aim - Who is the Policy aimed at? (The Policy is the Strategy, Policy, Proposal or Service Change to be assessed)	To highlight to staff the Trust's policy in relation to receiving an under or overpayment of their salary, allowances or other benefits.
2. Policy Objectives	To clarify the Trust's policy in respect of salary, allowances or other benefit over or underpayments.
3. Policy Intended Outcomes	Staff are fully aware of the Trust's policy and what is expected of them upon being under or overpaid amounts due to them from the Trust.
4. How will you measure each outcome?	Regular monitoring of debts by the Finance Department and through audit reviews.
5. Who is intended to benefit from the policy?	The Trust and its employees, through greater clarity of what is expected from both parties when the situation arises.

Information Category	Detailed Information
6a. Who did you consult with? (Please select Yes or No for each category)	- Workforce: Yes - Patients/visitors: No - Local groups/system partners: No - External organisations: No - Other: No
6b. Please list the individuals/groups who have been consulted about this policy.	The People and Culture Committee and Audit and Risk Assurance Committee were consulted on this policy.
6c. What was the outcome of the consultation?	The People and Culture Committee and Audit and Risk Assurance Committee reviewed and agreed the Policy.
6d. Have you used any of the following to assist your assessment?	National or local statistics, audits, activity reports, process maps, complaints, staff, or patient surveys: No

7. The Impact

Following consultation with key groups, has a negative impact been identified for any protected characteristic? Please note that a rationale is required for each one.

Where a negative impact is identified without rationale, the key groups will need to be consulted again.

Protected Characteristic	(Yes or No)	Rationale
Age	No	
Sex (male or female)	No	
Gender reassignment (Transgender, non-binary, gender fluid etc.)	No	
Race	No	
Disability (e.g. physical or cognitive impairment, mental health, long term conditions etc.)	No	
Religion or belief	No	
Marriage and civil partnership	No	

Protected Characteristic	(Yes or No)	Rationale
Pregnancy and maternity	No	
Sexual orientation (e.g. gay, straight, bisexual, lesbian etc.)	No	

A robust rationale must be in place for all protected characteristics. If a negative impact has been identified, please complete section 2. If no negative impact has been identified and if this is not a major service change, you can end the assessment here.

I am confident that section 2 of this EIA does not need completing as there are no highlighted risks of negative impact occurring because of this policy.

Name of person confirming result of initial impact assessment: Sarah Gould, Financial Controller.

If a negative impact has been identified above OR this is a major service change, you will need to complete section 2 of the EIA form available here:
[Section 2. Full Equality Analysis](#)

Appendix 3. Financial Hardship

Option 3 is available where a member of staff feels that the application of options 1 or 2 would cause them undue financial hardship. The relevant line manager must agree that financial hardship would result and must notify the Finance Department to that effect.

This policy requires that a reasonable confidential discussion is held to establish the effect options 1 or 2 would have on a member of staff's financial position. The Trust does not have the right to be intrusive into a member of staff's affairs but will need to be reasonably satisfied that hardship would be caused. A simple assertion that repayment cannot be afforded will not be sufficient evidence of financial hardship under this policy.

For option 3 to be available the following must apply:

- The overpayment must not have arisen or continued through fault of the staff member.
- The staff member must have been unaware of the overpayment. If the staff member was aware of the overpayment, they must have taken all reasonable steps to notify the Trust.

A member of staff may wish to seek advice from their Trade Union representative in such circumstances.