

Procedure for Recovery of Overpaid Salary

Introduction

1. Difficulties and concerns are occasionally experienced by employees as a result of salaries being overpaid and then subsequently recovered by the County Council. Following discussion with employee representatives these guidelines are being circulated setting out a standard approach to what is recognised to be an infrequent yet unfortunately recurrent problem.
2. Salary' is a term used here to include salary, wages, overtime payment, or allowance or other payment by way of emoluments.

Background

3. Approximately 20,000 salary payments are made on behalf of Oxfordshire County Council each month. With such a large number on the payroll, it is inevitable that over or under payments will be made from time to time, particularly as the calculation of salary in many cases has to take into account a variety of factors such as the number of hours worked, qualifications held, and temporary responsibilities discharged etc.
4. The County Council recognises that it has a duty as an employer to 'get it right' and, if errors are made, to correct them without delay in a responsive manner. The following guidelines should be followed where things have gone wrong and need to be put right.

The Legal Position

5. The Employment Rights Act 1996 makes it clear that an employer is entitled to make deductions from an employee's salary to recoup an overpayment.
6. Every local authority has a statutory duty to recover debts legally due to them and is therefore bound by law to seek recovery of overpayments.

Overpayments

7. If employees are in any doubt as to what their rights are they are advised to take independent advice about their position either through their representative organisation or union, or to consult their own solicitor or accountant.

In order to avoid salary errors and delays in payment, it is important for managers and employees to take all reasonable steps to follow the correct procedures and promptly action any changes effecting pay and submit payment claims, providing accurate information by the relevant payroll deadline.

8. Where an employee dies in service and an overpayment occurs due to the late notification to payroll, no recovery of overpayment will be made.
9. Employees must report overpayments immediately by contacting their line manager/supervisor, head teacher or bursar, who will often be able to resolve the error.
10. If, after making these enquiries, the query cannot be resolved locally by the manager, employees can raise a HR enquiry via Employee Self Service or phone the Customer Interaction Centre on 0300 555 0155.
11. Where an employee knowingly receives a payment they are not entitled to and fails to report it disciplinary action could be taken.

Procedure

12. The procedure for dealing with overpayments differs depending on the circumstances of the case. The objective for the Council will be to achieve the recovery of the overpayment in a way that is fair and reasonable for both parties.
13. Payment errors arising as a result of changes to an employee's pay entitlement, such as a change of grade or hours of work, that have not been possible to action before the payroll deadline for that pay period, will normally be corrected automatically in the next salary payment. In these circumstances, the employee will not normally be specifically notified in writing of these adjustments.
14. Managers are responsible for ensuring actions are carried out by the relevant payroll deadline and for keeping employees informed accordingly.
15. Where an over or underpayment is as a result of an error by the council's HR and Pay team (Integrated Business Centre - IBC), they will be responsible for informing the employee.

16. If, for any reason, it is not possible to make this correction in the next salary payment the employee will be contacted by the council's HR and Pay Team.
17. For overpayments, other than those resulting from adjustments specified in section 13, the following steps will be followed as soon as the overpayment is identified:
 - a) the line manager will liaise with the HR and Pay team (IBC) to establish the overpayment amount;
 - b) the manager will discuss this with the employee and agree a repayment plan;
 - c) the manager will confirm the agreed repayment plan in writing to the employee and to the HR and Pay team (IBC);
 - d) the letter will explain the circumstances of the overpayment and provide details of the amount to be recovered; the repayment plan will take into account the size and circumstances of the overpayment and the length of time over which it has occurred, and will normally be recovered through the employee's salary payment;
 - e) as a general rule the repayment period will normally be the same period during which the overpayment has occurred;
 - f) the letter will offer the opportunity for the employee to propose an alternative repayment period by agreement with his/her director via the directorates HR Business Partner. In some cases the employee will wish to clear the overpayment in a shorter period of time. In other cases the suggested recovery period may cause hardship and council's officers will provide a sympathetic response.

Employees who are leaving or who have left the Council's employment:

18. Where an employee is about to leave the council's employment, any overpayment outstanding will, where possible, be deducted from any final payment of emoluments due, unless any other arrangement has been agreed. If the emoluments are insufficient to meet the outstanding amount then the individual will be sent an invoice for any outstanding overpayment, together with a letter of explanation. Recovery is then subject to the normal debtor procedures.

Where the overpayment is for £50 or less and the employee has already left the council's employment, the payment will not be pursued due the administrative cost of recovery.

Underpayments

19. In circumstances where an employee has been underpaid, the line manager must notify the HR and Pay team (IBC) via a HR enquiry who will arrange for a payment to be made.

Steve Munn, Chief HR Officer (reviewed October 2016)