

# Lead Employer Trust

## Incorrect Payments Policy

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Title	<b>Incorrect Payments Policy</b>
Version number	2.0
Document Type	Policy
Original policy date	14 November 2019
Date approved	25 <sup>th</sup> July 2023
Effective date	As above
Approving body	LET Management Group
Originating Directorate	LET Payroll Department
Scope	LET wide
Last review date	NA
Next review date	24 <sup>th</sup> July 2024
Reviewing body	LET Management Group
Document Owner	Head of HR
Equality impact assessed	Yes
Date superseded	
Status	Approved
Confidentiality	Unrestricted
Business Criticality	

Associated documents References and Key	Employment Rights Act 1996 Theft Act 1968 Theft Act 2006
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**Summary of Changes**

Date of Change	Changes made	Location of changes	Changes approved	Version Control
19.07.23	Change of wording	6.1 page 6	Change to overpayment wording	V2

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## **1. Executive Summary**

### **1. Policy Aim**

The aim of the policy is to provide a clear understanding of the Lead Employer Trust's (LET) right to make deductions from salary where there has been, for whatever reason, an overpayment to salary, expenses or other emoluments in excess of the employee's contractual entitlement.

### **2. Policy Description**

This policy provides information and guidance to staff with regards to overpayment, expenses or other emoluments in excess of the employee's contractual entitlement. In accordance with the principles outlined below which apply to all staff employed by the LET in line with Sec 14 of the Employment Rights Act 1996 and taking into account the Terms and Conditions of Employment.

### **3. Introduction**

The LET recognises that it has a duty and responsibility to pay its employees correctly and to ensure that they receive the monies to which they are entitled. Unfortunately, on occasion, incorrect payments do occur, making it necessary to correct the error and pay or recover all monies due.

The LET's principle aim is always to rectify incorrect payments; however, this should be done in a fair and reasonable way. The term 'payments' includes salary, expenses and any other re-imbursements e.g. Sick pay, Maternity pay. In the case of underpayment, it is important that the reimbursement is made to the employee as soon possible within the limits of operational process.

## **4. Policy Objectives**

- Although employers have the absolute right to recover overpayments it is sensible to have a balanced set of guidelines on how overpayments will be recovered so there is fairness and consistency across the Trust.
- As a rule, all overpayments regardless of how they occur will be recovered over the same length of time the overpayment occurred but not exceeding 24 months. However, in exceptional circumstances this may be extended. In these instances, the employee/former employee may be asked to provide evidence of their inability to meet the repayments which have been set (see 5.1)

## **5. Duties Accountabilities and Responsibilities**

### **5.1 Payroll Team, Payroll Manager, Deputy Head of LET, Head of LET**

### **5.2 Employee**

- Where incorrect payments are received, it is the employee/former employee's responsibility to inform the LET of the error within a reasonable time period. Failure to inform the Trust of any such error may be construed as Theft/Fraud and these matters may be referred to the LET Counter Fraud Specialist to investigate.

### **5.3 Payroll Department**

Where an overpayment is discovered by the LET, a letter will be sent to the employee detailing:

- Precise details of the overpayment
- The proposed repayment plan with the deductions that will be made from the employee's pay each month and the date (pay month) from which recovery deductions will start if nothing is heard by a specific date
- If the employee leaves prior to the repayment being completed, they will be required to repay the remainder of the money in full and this will be taken from their last months payment where possible.

- The options open to the employee including the next step if the employee is not satisfied and the right of appeal

## **6. Main Body of the Document**

### **6.1 Overpayments**

- Overpayments will be recoverable direct from the employee's salary unless the employee has left the LET. In these instances, a letter and calculation will be sent from the LET payroll department and an invoice will be sent from the LET Finance Department requesting repayment and advising them of how repayments can be made.
- Overpayments should be repaid within the same length of time the overpayment occurred unless this would cause undue financial hardship. It may be recovered sooner with the employee's agreement
- Should the employee advise the payroll department that they wish to extend the recovery period, the employee must put their request in writing via email to the Payroll Manager within 14 days of the notification letter. The letter must include the reason for the request including any hardship the employee will suffer. The employee could illustrate this by bank statements/credit card statements etc. Upon receipt of the letter, recovery will be suspended for one salary payment date to allow the Payroll Manager to review the recovery period. Upon making their decision, the Payroll Manager will notify the employee in writing via email within 14 days of receipt of appeal
- If the employee remains unhappy at the situation, an appeal may be made by writing via email to the Deputy Head of the LET. The appeal must be completed in

writing via email by the employee to the Deputy Head of LET. The Deputy Head of the LET will review all information considering the employee's concerns and the limits of this policy. The decision of the Deputy Head of LET is final and will then be the established position. Deductions will commence at the next salary payment date following the Deputy Head of LET's notification. In all cases the maximum recovery period will be equal to the length over which the overpayment originally occurred or 24 months (whichever is the lesser).

- If it is reasonable to believe that the employee knew about the overpayment occurring and they have failed to notify the Payroll Department within a reasonable time period, this may be construed as Theft/Fraud and the Trust reserves the right to request the money is repaid in full **immediately** following the process within this policy.
- Taking into consideration the Theft Act 1968 and the Fraud Act 2006 such cases may be referred to the Trust's Local Counter Fraud Specialist to investigate. If your concern is about fraud and corruption, you are to contact the Trust's Local Counter Fraud Specialist. Additionally; you may wish to consider reporting matters of suspected fraud/corruption by way of the NHS Confidential Fraud Hotline 0800 028 40 60 which allows information to be provided anonymously if necessary.
- In addition, in situations where people fall into this category and do not make a reasonable effort to repay the money promptly, the LET Local Counter Fraud Specialist may be consulted to offer advice on what methods of recovery are appropriate.
- Where an **employee is leaving the LET**, the overpayment must be repaid in full upon termination of employment. In these circumstances, the sum will be deducted from final pay due at termination, without prior agreement.
- Where an employee's circumstances change i.e. due to parental leave, OOP, period of absence (please note this is not an exhaustive list), then the repayment terms of the overpayment will be reviewed on a case by case basis.
- Where an overpayment is discovered following issue of final pay, the LET reserves the right to pursue recovery of any outstanding amounts through application to the Courts where necessary.
- Where an **employee has ceased employment** with the LET and payments continue to be made due to a mistake by either party, the LET reserves the right to request that the overpayment be repaid in full immediately.

## 6.2 Underpayments

- When an underpayment has occurred, arrangements will be made to correct the underpayment and to reimburse the employee in the next pay period. However, where the underpayment causes immediate financial problems, the employee will inform the LET if individual circumstances dictate that an earlier payment being made via a payment method to be agreed with the individual employee. The Payroll Officer will discuss the request with the Payroll Manager. If the initial request is denied, then the employee can appeal to the Deputy Head LET and who's decision will be final.

## EQUALITY IMPACT ASSESSMENT

### Preliminary Assessment Form

v1/2009

The preliminary impact assessment is a quick and easy screening process.

It should:

- Identify those policies, procedures, services, functions and strategies which require a full EIA by looking at:
  - negative, positive or no impact on any of the equality groups
  - opportunity to promote equality for the equality groups  data / feedback
  - prioritise if and when a full EIA should be completed



justify reasons for why a full EIA is not going to be completed

**Division/Department**

Payroll Department

**Title of policy, procedure, function or service**

Incorrect Payments Policy

**Type of policy, procedure, function or service**

Existing

New/proposed

Changed



**Q1 – Document purpose?**

This policy provides structure, guidance and consistency of approach to recovery of overpayment and incorrect payments.

**Q2 - Who is the policy, procedure, project or service going to benefit?**

LET Employees

**Q3 - Thinking about each group below, does, or could the policy, procedure, project or service have a negative impact on members of the equality groups below?**

Group	Yes	No	Unclear
Age		N	
Disability		N	
Race		N	
Gender		N	
Transgender		N	

Sexual Orientation		N	
Religion or belief		N	
Marriage & Civil Partnership		N	
Pregnancy & Maternity		N	
Relationships between groups		N	
Other socially excluded groups		N	

**If the answer is “Yes” or “Unclear” complete a full EIA**

**Q4 – Does, or could, the policy, procedure, project or service help to promote equality for members of the equality groups?**

Group	Yes	No	Unclear
Age	Y		
Disability	Y		
Race	Y		
Gender	Y		
Transgender	Y		
Sexual Orientation	Y		
Religion or belief	Y		
Marriage & Civil Partnership	Y		
Pregnancy & Maternity	Y		
Relationships between groups	Y		
Other socially excluded groups	Y		

**Q5 – Do you have any feedback data from equality groups that indicate how this policy, procedure, project or service may impact upon these groups?**

Group	Yes No Impact	Yes Impact	No	Unclear
Age			N	
Disability			N	
Race			N	
Gender			N	

Transgender			N	
Sexual Orientation			N	
Religion or belief			N	
Marriage & Civil Partnership			N	
Pregnancy & Maternity			N	
Relationships between groups			N	
Other socially excluded groups			N	

**If the answer is “Yes Impact”, “No”, “Unclear” or opinion is divided complete a full EIA**

**Q6 – Using the assessments in questions 3, 4 and 5 should a full assessment be carried out on this policy, procedure, project or service?**

Yes		No	X
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**If you have answered “Yes” now follow the EIA toolkit and complete a full EIA form**

**Q7 – How have you come to this decision?**

No indication that equality groups have been adversely affected by this policy

**Q8 – What is your priority for doing the full EIA?**

High	Medium	Low
		X

**Q9 – Who was involved in the EIA?**

HR Department, Lead Employer Trust

**This EIA has been approved by:**

Head of HR, Lead Employer Trust

**Date:** 25<sup>th</sup> July 2023

**Contact number:** 01912754782

**Please ensure that a copy of this assessment is attached to the policy document to which it relates.**

- The policy principles are clearly set out and as such no formal training is deemed necessary. However, Payroll staff and HR staff will provide support and guidance to employees regarding the application of the policy.
- Annual Team Brief reminders of the policy will be undertaken

