



SCOTTISH BORDERS COUNCIL PAYROLL OVERPAYMENT POLICY

**HR Shared Services
People Performance & Change
Version 2023 1.2
11 May 2023**

1. Introduction

Scottish Borders Council aims to ensure that all salary, allowances and expense payments are processed accurately and timeously, however, it is recognised that occasionally overpayments may occur. The day to day administration of payroll is carried out by the Payroll Team of HR Shared Services within the People, Performance and Change directorate.

There are a range of reasons that an overpayment of pay and expenses can occur, as a result it is important that the Council has a clear policy on how they will manage any overpayment that has been identified.

This policy will be reviewed on an annual basis and ensure compliance with the relevant employment legislation and the Council's Financial Regulations.

2. Who the Policy Covers

This policy will apply to: -

- Employees of Scottish Borders Council, including Elected Members and Elections Staff
- Line Managers
- Budget Holders
- Executors of the estates of deceased employees
- Officers within the Payroll Team, HR Shared Services
- Officers within Finance and Corporate Governance

3. Aims and Objectives of the Policy

This policy has been designed to provide assurance to employees, managers and other stakeholders of Scottish Borders Council that: -

- Overpayments will be treated in a fair and equitable manner, taking into consideration the circumstances of the overpayment; and
- Where recovery is to be made this will be sought without undue delay; and
- Legal advice will be taken as and when necessary; and
- The Council will have clear processes in place to prevent and investigate potential fraudulent activity.

4. Regulation and Contract of Employment

The Employment Rights Act 1996, section 14, provides that protection from deduction from wages does not apply to an overpayment of wages or an overpayment in respect of expenses incurred by the worker in carrying out their employment.

Additionally all contracts of employment issued by Scottish Borders Council include the following clause: -

If the Council makes a payment to you to which you are not entitled, or is more than that to which you are entitled, the Council has the right to recover the overpayment by deductions from your salary or other payments due to you. Any deductions will normally be made over the same period that the

overpayment was made. It is your responsibility to regularly check your payslips are correct and report any discrepancies to your line manager.

The purpose of this policy is to provide a fair and consistent method for dealing with the recovery of overpayments in salary, allowances or expenses.

This policy will apply to all current and former employees of Scottish Borders Council, including Elected Members and Elections staff.

5. What is an overpayment?

An overpayment is monies paid to an employee over and above their entitlement in accordance with their Terms and Conditions of Service for the position held relating to salary, allowances or expenses.

6. Identifying an overpayment

Where an employee becomes aware of an overpayment in their salary, allowances or expenses when checking their monthly payslip, they should advise their line manager of this immediately, who should then contact the Payroll Team.

On a monthly basis budget holders are issued with a forecasting report that includes details of the employees that are paid from their budget codes. This includes the position, grade, contract hours as at the date of running the forecast (this is run as part of the month end processing within the Business World application), long term sick and maternity details. This information allows managers to identify any matters that may need further investigation or correction, for example an employee has received an unexpectedly high payment or has left employment and continues to be paid. Where any discrepancy is identified the budget holder should contact the Payroll Team.

HR Shared Services may also identify an overpayment where information regarding the employee is received after the payroll has been processed. This can be for any of the following situations: -

- Late Leavers Form
- Reduction in Contract Hours or Weeks Per Year from an earlier effective date
- Late Sickness Notification where employee has no or reduced Occupational Sick Pay entitlement
- Late Maternity Notification where Occupational or Statutory Maternity Pay is lower than normal pay

There is also a possibility that the Payroll Team make an error in processing paperwork, timesheets or expenses. There are many established controls in place within the payroll processing, including the peer audit checking of changes to static data, however, there remains the possibility that a mistake can be made.

In the event of an overpayment being identified it will be the responsibility of the Payroll Team to calculate the amount overpaid so arrangements can be made to recover the overpayment, see section 8 for details on recovery.

7. Advising Employee

Where the overpayment has arisen due to the failure of the line manager to submit information to HR Shared Services for payroll processing in a timely manner it is the responsibility of the line manager to make initial contact with the employee and advise that they have been overpaid. Thereafter the Payroll Team will be in contact to arrange the repayment of the amount overpaid.

Where the overpayment is a result of an error by the Payroll Team they will be responsible for making the initial contact with the employee.

8. Recovery of Overpayment

The Council will seek to recover overpayments that have occurred in the last five years, in accordance with the Statute Limitations. Overpayments that have occurred out with the last five years will have the appropriate proportion, or entire amount, written off.

In line with Scottish Borders Council's Financial Regulations, the following levels of authority will apply should a write off be requested for an overpayment: -

| Total Value of Overpayment | Authority to Write Off Overpayment |
|----------------------------|--|
| Up to £20 | Payroll Team Leader |
| £20.01 to £5,000 | HR Shared Services Manager |
| £5,000.01 to £50,000 | Financial Services Manager, or Director People, Performance & Change |
| £50,000.01 to £100,000 | Director People, Performance & Change in consultation with Director Finance & Procurement |
| Over £100,000 | Executive Committee |

In determining the write off value the amount will either be the actual amount overpaid or where there is a decision not to recover a proportion this will be determined by the period that is out with the previous five year period.

Where any overpayment is written off this will be charged to the cost centre(s) the employee is or was paid from at the time the overpayment occurred.

Recovery of the overpayment directly from the employee or former employee will be the default option and write off will only be considered in exceptional circumstances.

Where the Council seeks to recover an overpayment it will agree a suitable recovery period with the employee, generally this will be over the same number of months that the overpayment occurred in the first instance, with the exception of any fraud cases. However, there may be instances where the employee is unable to return the overpayment because they have already spent the money in good faith, for example, paid off the mortgage or gone on holiday. In such instances officers will engage with the employee and look to agree a recovery plan. In order to assist with such a determination a statement of income and expenditure should be sought from the employee, see Appendix A for template, and an appropriate payment plan agreed thereafter with the employee.

Where an overpayment is identified prior to payment date, but outside the period in which a recall of the payment can be made from the BACS payment system, the employee will be required to repay in full the amount overpaid on the payroll payment date. This will be for the full amount when the overpayment is contained to the current payroll period, when covering multiple payroll periods the amount to be repaid will be the amount overpaid in the current payroll period.

Where an overpayment is identified and the employee is no longer in the employment of Scottish Borders Council or the full balance of the overpayment cannot be recovered from the final pay due, the former employee will be asked to repay the monies in full to the Council in the first instance. If the employee wishes to enter into a repayment plan a Sales Order will be raised and details of the repayment plan shared with the Council's Accounts Receivable Team. If no agreement can be reached a Sales Order will be raised and recovery passed over to the Council's Accounts Receivable Team who will follow their standard policies and procedures.

The Council will make all reasonable efforts to engage with the employee in respect of any overpayment. Should the employee refuse to engage with the Payroll Team despite repeated attempts by Officers, the Council will proceed with recovery by commencing recovery with the value determined by the number of months' overpayment occurred in the first instance, as per the employee's contract of employment. The employee will be given written notification in advance of the recovery and this should prompt them to get in touch if they wish to negotiate a revised re-payment schedule.

9. Repayment Methods

Where an overpayment is identified and a recall can be made from the BACS system this will be done, the recalculated payment due for the current month will then be paid to the employee by Bank Faster Payment on the normal pay date.

Where the employee wishes to make payment in full this can be done over the telephone using a credit or debit card by calling 0300 100 1800, pressing option 0 then option 1 to speak to an advisor, and quoting the following: -

- Employee Number
- Fund 26 (Payroll Overpayment)
- Full Name
- Amount Overpaid

Recovery from future payroll periods. This will be a net deduction made in accordance with the agreement reached with the employee, written confirmation of the overpaid amount, monthly deduction and timeframe will be issued to the employee. This will also be followed where agreement cannot be reached with the employee, with deductions calculated and recovered over the number of months overpayment occurred, written confirmation of the recovery amount and timeframe will be issued to the employee.

Raising a Sales Order where the employee is no longer employed by the Council and agreement has not been reached for repayment in full or the former employee wants to agree a payment plan.

10. Monitoring Re-payments

When an overpayment has been identified a rework of the payroll period(s) or Early Year Update (EYU) will be applied in Business World, this will create the relevant accounting entries within the general ledger. The net amount overpaid will be allocated to the payroll suspense account (B3100 BSBC1 – Payroll Overpayment with the employee number recorded at Cat3).

Where recovery is being made from future payments the recovery amount will be added to the payroll record for the employee which will be linked to a reducing balance payment and deduction code. The balance code will end when the remaining value reaches zero and should the employee leave employment prior to the recovery of the full amount the remaining balance will be incorporated into the final payment calculated ensuring the recovery is collected. These entries are also allocated to the Payroll Overpayment suspense account.

The Payroll Overpayment suspense account will be monitored and balanced on a monthly basis, signed off by another officer. This will also incorporate any payments that have been made by telephone, recall of the BACS or passed to the Accounts Receivable Team.

11. Prevention of Overpayments

Scottish Borders Council recognises the need to take a pro-active approach to identifying potential fraudulent activity and preventing overpayments from occurring in the first instance where this is within the Council's control.

The Council has a number of processes in place in order to minimise the risk of overpayments occurring.

On a monthly basis forecasting files are issued to budget holders that detail the positions, grade and current contract hours of all employees as at the date of running the report. Managers should be checking this to ensure the details are correct and that there are no unexpected higher than normal payments shown.

Regularly reminding employees that it is their responsibility to check their payslip on a monthly basis, this is also conveyed to the employee within their contract of employment.

The National Fraud Initiative (NFI) is a counter fraud exercise led by Audit Scotland and overseen by the Cabinet Office for the United Kingdom as a whole. It is essentially a data matching exercise that uses computerised techniques to compare information about individuals held by different public bodies on different financial systems that might suggest the existence of fraud or error. Scottish Borders Council participates fully in the NFI exercise and does so in conjunction with the Internal Audit team at Scottish Borders Council, who are the conduit between the Council and NFI, with any records requiring investigation being fed back to them in the first instance before these are then investigated by Officers.

12. Assistance

The following can be contacted for assistance in the event of an overpayment and can assist the employee in reaching agreement with the Council over a repayment plan in accordance with this policy.

Recognised Trade Union if employee is a member: -

- EIS
- GMB
- SSTA
- Unison
- Unite

Where an employee has indicated that they are in financial hardship, they should be reminded of the Employee Assistance Programme, available via the VIVUP portal (www.vivup.co.uk or Tel 03303 800658). Alternatively the Citizens Advice Bureau can provide assistance.

APPENDIX A

Statement of Income and Expenditure

| | |
|-----------------|-----------|
| Resource ID - | Address - |
| Employee Name - | |

| HOUSEHOLD INCOME | £ | EXPENDITURE | £ |
|-----------------------------|----------|-------------------------------|----------|
| Earnings – Employee | | Rent (net of Housing Benefit) | |
| Earnings – Partner | | Mortgage | |
| State Pension – Employee | | Food | |
| State Pension – Partner | | Telephone/Mobile | |
| Pension Credit | | Gas | |
| Working Tax Credit | | Electricity | |
| Child Tax Credit | | Other Fuel | |
| Income Support | | Clothing | |
| Jobseekers Allowance | | Car (insurance/road tax/mot) | |
| Incapacity Benefit | | Petrol/Diesel | |
| Disability Living Allowance | | TV/Other Rental/Sky | |
| Child Benefit | | Loans/HP | |
| Carers Allowance | | Cleaning Materials | |
| Other benefits (list) | | Laundry | |
| | | Cigarettes | |
| | | Catalogues | |
| Private Pension | | School Meals | |
| Child Support | | Insurances | |
| Maintenance | | Other Outgoings | |
| Other income (list) | | Fines | |
| | | Pet Costs | |
| Total Income (A) | | Total Expenditure (B) | |
| | | | |
| | | Surplus Income (A – B) | |

I agree that the above is a true and accurate record of my present circumstances and will be used to determine a repayment plan in relation to the overpayment of salary, allowances or expenses that occurred.

Signed

Print

Dated

VERSION CONTROL TABLE

| Version | Nature of Amendment | Date of Change | Author |
|----------|--|----------------|-----------|
| 2023 1.0 | Creation of Overpayment Policy | 9 May 2023 | Ian Angus |
| 2023 1.1 | HRSS review | 11 May 2023 | Ian Angus |
| 2023 1.2 | Review by Suzy Douglas and Iain Davidson | 17 May 2023 | Ian Angus |
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