



UNIVERSITY OF
LINCOLN

Withholding of Pay Policy

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1. Policy

It is the responsibility of the Payroll Services team to ensure that employees are paid correctly at all times. However, if an overpayment of salary or any other payment (either expenses and / or benefits) is made for any reason, Payroll Services reserves the right to take the necessary steps to recover the overpayment from the employee. Similarly, Payroll Services will take steps to correct any underpayment of salary or any other payment to which an employee is entitled as soon as it is brought to the attention of the Team.

2. Scope and Purpose of the Policy

This policy applies to all employees. The purpose of the policy is to ensure that the action taken when dealing with an overpayment is consistent.

3. Background

The definition of an overpayment is where an employee is paid an amount in excess of their contractual entitlement: Likely causes of an overpayment (but not exhaustive) could include:

- A leaver notification not being completed, received, or processed on time
- Incorrect submission and or input of variable hours (Overtime, Associate Lecturing / Demonstrating, Campus Jobs or Casual Worker requests etc.)
- Late or no notification of sickness absence/ unpaid leave
- An employee not returning from parental leave
- Overtaken annual leave entitlement when leaving the University
- A processing error made by the Payroll Team or Human Resources
- A late change of variation to contract notification
- Incorrect salary scale and point
- Incorrect application of payment
- Recovery of relocation allowance in line with the Relocation policy for individuals leaving within 3 years of taking up relocation reimbursement.
- Recovery of ICT equipment and University assets following termination of employment

Section 14 of the Employments Rights Act 1996 provides that it is not unlawful to make deduction from wages to recover an overpayment of salary providing that the employee was not given an expectation of entitlement of the payment.

In the event of an overpayment occurring, and whilst it may not be the employee's fault, it would not be acceptable for an employee to simply assume that they had received a substantial increase in pay without receiving supporting evidence from

HR. Where a National pay award or annual Increment occurs, employees would not normally receive an individual notification unless there was another change occurring at the same time.

4. Responsibilities under this Policy

4.1 Responsibility on employees to disclose a potential salary overpayment or any other significant overpayment

4.1.1 All employees have a responsibility for checking their payslip on MyView and any employee who suspects that an overpayment has occurred when compared to their regular payment should contact the Payroll Services Team as soon as possible. The Payroll team will check the information and confirm to the employee if an overpayment / underpayment has occurred.

4.1.2 Where an overpayment (or an underpayment) has been identified, the Payroll Team will ensure that the employee's personal tax and NI contributions are recalculated within 28 days of the overpayment (or underpayment) being identified. This action is to ensure that there should be no detriment to an employee as a result of personal tax and NI adjustments following recovery of any overpayment (or an underpayment).

4.2 Responsibility on School budget holders to review all salaries and any other payments charged to their project codes

4.2.1 All School budget holders are required to review on a monthly basis all salaries and any other payments that are charged to their project codes and to query any unexpected charges to their Finance Business Partner.

5. Overpayment of salary or any other payments for employees

If an overpayment of salary or any other payment has been identified, the Payroll Services Team will provide the employee with:

- Written notification of the overpayment
- The reason for the overpayment
- The amount of the overpayment
- A repayment schedule

The Payroll Services Team will confirm the overpayment by letter sent to the employee's home address as currently recorded on the HR Payroll database or by work email if deemed appropriate.

All overpayments should cease immediately when they are discovered and the employee will be paid at the correct level in subsequent payments. If the mistake is incorporated into the employee's contract of employment the contract must be amended by mutual agreement after consultation.

In cases where the amount overpaid is small the recovery is to be made automatically with the employee being advised as a matter of courtesy.

For the purposes of this procedure a small amount would normally be defined as 5% of gross pay in the period concerned.

6. Current employees

6.1 Small overpayments

6.1.1 Where an overpayment is identified and the gross amount overpaid does not exceed 5% of current gross salary (based on how the employee is paid - either monthly or weekly) the overpayment is to be recovered in the next pay or pay periods. Payroll will advise and brief the employee and where necessary the Line Manager.

The Payroll Department will recover the gross amount overpaid as a deduction from gross pay and Income Tax, National Insurance and Superannuation will be adjusted automatically.

In instances where immediate repayment will cause hardship, a deferral of repayment will be considered. The length of deferral will be at the discretion of the Payroll Services team based on the circumstances of the overpayment and its duration.

If the overpayment is less than £10.00 the University considers the cost of processing the recovery of monies in excess of the amount overpaid and will not seek to claim back the money.

6.2 Overpayments in excess of 5% gross pay

6.2.1 Where the overpayment is greater than 5% of current gross salary the Payroll Services team will adjust the employee's year to date figures to ensure the correct values are reflected. The Net overpayment value will then be written back through the payslip. This process ensures, the year-to-date figures are correct and the overpayment is not automatically taken. This will allow the employee to discuss a proposed repayment option with the Payroll Team and ensure consistency of repayments. It is anticipated that the recovery period will normally be the same as the period over which the overpayment occurred.

Overpayment amount - % of gross monthly pay	Period of recovery of overpayment
Below 5%	Next available payroll run
5% - 25%	2 months
26% - 50%	4 months
51% - 100%	6 months
More than 100%	Between 7 and 12 months

7. Extended repayments of salary overpayment or any other payments

7.1 If the employee considers that, due to exceptional circumstances, the timing or the rate of the reversal is not possible and will cause financial hardship or if they dispute the amount of the overpayment, it is their responsibility to contact the Payroll & Pension Team to propose an alternative repayment plan.

7.2 This proposal will be considered on a case-by-case basis presented by the Payroll Manager through the Head of Payroll Services, and (if the circumstance required) to the HR Director who has overall responsibility for giving approval or otherwise.

7.3 A copy of the written communication will be held on the employee's HR Payroll file.

The Payroll Services Team will work with the employee to agree a solution and timescale for repayment, and to ensure the employee does not enter into any financial hardship as a result of.

There may be occasions where the HR Business Partner is involved in the overpayment discussions and repayment plans.

Following an agreed repayment plan, the employee can repay one of three ways:

- Monthly deduction through the payroll
- Direct Debit monthly payment (Bank details to be provided to employee)
- Through the online store under Payroll Overpayments

Once the repayment value and timescale has been agreed, the Payroll Services team will confirm this in writing and the expectation is that the first repayment value will be within one month of the agreement.

If there is no response from the employee within one month, the Payroll team will write again to the employee advising that as no response has been received. It may be necessary to advise the HR Business Partner and Line Manager, should no response be received.

Where an employee does not respond to any correspondence, it may be necessary to invoice the individual as a bad debt through the Finance Department and recovery will then fall under their internal policy for debt recovery.

7.4 Where the employee appeals against recovery on the grounds of good faith or hardship, or against the proposed repayment schedule

In order to show that the overpayment is not recoverable, then the employee must demonstrate three things:

- The overpayment was the fault of the University, not the employee
- It was reasonable for the employee not to know that they were being overpaid

- The employee must have acted to their disadvantage on the assumption that the payment of salary was correct (e.g., by spending the money)

It is not acceptable for an employee to assume that they have received a substantial increase in pay unless there is some reason to believe that that this is the case.

The employee should confirm in writing their case for financial hardship and this will be assessed by the Head of Payroll Services and HR Business Partner. If this cannot be agreed, the appeal may be referred to the Director of Human Resources, who will convene an appeal meeting. The employee will be informed in writing of the date of the appeal and invited to attend in person or provide information to support their appeal. The employee will be informed in writing of the outcome of this appeal within 30 days of receipt of the case by the Director of Human Resources. A copy of this letter is sent to the Payroll Services team for appropriate action.

7.5 Recovery action in the event of employees submitting notice of termination of employment before recovery is completed

In these circumstances and where after making a deduction from final pay, a balance remains a letter will be sent to the employee seeking full recovery.

A reminder letter is to be sent to the individual if there is no response after three weeks from the date of the first letter. The Head of Payroll Services and Head of Reward will decide if the case is to be:

- (a) Written off as a loss, or;
- (b) Pursued via Small Claim or Summary Causes action

8. Overpayments identified after termination of employment

Where the overpayment is discovered during the financial year in which employment terminates, a letter is to be sent to the individual detailing the background to the overpayment and seeking recovery of the net overpayment. The Payroll Services team will initially contact the HR Business Partner to ensure there are no special circumstances affecting the recovery of monies.

If there is no response from the individual within one month a 1st reminder letter is to be sent. one month after the 1st reminder letter, a 2nd reminder is to be sent.

In the event of no response within 14 working days after the 2nd reminder the case is to be referred to the Head of Payroll Services and Head of Reward to confirm:

- The overpayment is to be written-off as a loss, or;
- That the overpayment is to be pursued through a Small Claims or Summary Causes action

Where the employee responds to the above communication(s) and:

- Seeks to negotiate recovery over a period of time, the Payroll Services team can agree reasonable settlement terms;
- Appeals against any recovery action on the grounds of 'good faith' or 'hardship' the Payroll Services team is to advise the employee that the case is being referred to the Head of Payroll Services and Head of Reward for consideration.

Within 30 days the employee is to be advised in writing by the University of Lincoln Head of Payroll Services of the outcome of the case review and a copy of the letter kept on record for action by the Payroll Services Team.

If the decision is not to pursue, the University will initiate appropriate action for writing-off as a loss.

If the decision is to recover the overpayment, the University will monitor the case and if no payments are received within 14 working days from the date of the Head of Payroll Services letter, action through the Court will be initiated.

9. Leavers with ICT Equipment and University assets

In the event of an individual leaving the University, the default position is for the University equipment and assets to be returned prior to their leave date. In the event that an individual has not returned their ICT equipment and university assets prior to leaving, the manager must inform the Payroll Services team and ICT as soon as possible.

If the final payment has not been made to the employee, Payroll will withhold the monies due until the equipment has been returned. The individual will receive notification of the withholding of their pay in writing prior to the usual payment date.

In the event Payroll are notified after the individual has left, the value of the asset will be calculated and Payroll will contact the individual to either return the equipment by a specified date (up to two weeks after their date of leave) or request payment for the value of the asset(s).

The returned money will be coded back to the relevant budget upon receipt.

In the event where either the equipment or the money is not received, dependant on the value, the case may be escalated to the Finance Department to raise with the Small Claims Court.

10. Underpayments

Any underpayment notified prior to pay day may be rectified, but may necessitate a different payment method or a minor delay in transfer to the bank.

In normal circumstances underpayments of up to 5% of gross salary will be rectified the following pay day. Should this be likely to cause hardship, staff may, in exceptional circumstances, be reimbursed in advance of the next pay day.

In addition an underpayment in excess of 5% of gross salary entitles the individual to reimbursement:

- By bank transfer at the next available payment run by Finance
- By CHAPS if appropriate

Payroll will ensure that tax and national insurance contributions are accounted for correctly.

11. Bank charges

If the University of Lincoln is responsible for an underpayment situation arising and / or a delay in payment which results in a member of staff incurring bank charges, these will be reimbursed on production of confirmation of these charges.

Overpayments Policy

Owner	Last Reviewed
Payroll Services	June 2022



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