

**HR Procedure**

**Overpayment Recovery**

Introduction

Cumbria County Council has a responsibility to pay employees accurately and in a timely manner. There may however be an occasional computational error which results in an overpayment.

This procedure outlines the process to be followed in order to affect recovery after taking into account any relevant considerations that might affect the need to proceed with recovery.

The most common employer or managerial causes of overpayment are;

* + Failure to submit documentation in accordance with the payroll timetable – starters, terminations or amendments
  + Failure to input or submit timesheets/absences
  + Delay in submission of any of the above
  + Submission of incorrect or incomplete documentation
  + Error in internal processing

Managers should be aware of the requirements and make every attempt to complete and submit paperwork accurately and in a timely fashion since failure to do so may hamper the ability of the Council to affect recovery.

Scope

This procedure applies to all employees of the county council and all school based staff for which there is no specific procedure laid down in national or local conditions of service.

It is expected that governing bodies of all community and voluntary controlled schools would adopt this procedure. Foundation and voluntary aided schools and academies are encouraged to do the same.

**Principles**

To ensure the recovery of overpayments in a fair, equitable and transparent manner where able and appropriate to do so.

[Process](http://www.intouch.ccc/elibrary/Content/Intranet/536/671/5053/6001/41410105256.doc)

**Upon discovery or notification of an overpayment the Service Centre will**

* Investigate the circumstances of the overpayment and establish if estoppel may apply
* Inform the line Manager of the position, especially where estoppel may be a factor
* Correct the employee record in iTrent to ensure no further overpayments occur in all cases
* Write to the employee seeking repayment, where applicable, ensuring adherence to the councils Debt Recovery Policy
* Agree recovery with the employee and confirm agreement in writing
* Monitor and report on repayments until full recovery made

**The Line Manager will:**

* Advise the employee of the overpayment including the amount and the reason it has occurred, signposting the employee to the Debt Recovery Policy
* Advise the employee that the Service Centre will be in contact seeking possible recovery
* Provide to the Service Centre any further information required to correctly amend the employee record
* Consider conducting an internal investigation to enquire into the circumstances of the overpayment, to establish how the error occurred and to take any necessary actions to prevent a repeat occurrence.
* Monitor their budgets to ensure no unexpected entries are recorded that would indicate an overpayment

**The employee will:**

* Notify their Line Manager or the Service Centre if they have reason to believe they have been overpaid. This is sufficient to limit the employee’s ongoing liability for recovery if the employer subsequently fails to stop the overpayment from the point of notification.
* Co-operate with officers of Cumbria County Council in relation to recovery of the overpayment
* Be aware that any improper conduct or misrepresentation may result in disciplinary or legal action

Considerations

**Estoppel**

Prior to proceeding with the recovery of monies in relation to an overpayment it is essential to first determine whether the employer is estopped from recovery of the overpayment

The employer is not entitled to make unauthorised deductions from wages as stipulated in Section 13 of the Employment Rights Act, however deductions from wages in respect of overpayments are specifically excluded from this protection, therefore there is a general right to recover monies paid in error.

Contractually CCC is also entitled to recover any overpaid monies, but should do so in a fair and equitable manner. This would include advising the employee prior to the deduction being made, and not leaving the employee in a situation where they would not be able to meet their financial commitments or suffer undue financial hardship.

There are, however, instances where estoppel may apply and this consideration should therefore be assessed as part of any investigation. Estoppel may apply if;

* the employee was led by the employer to believe that money was theirs to treat as their own,
* could not reasonably expect the employee to notice the overpayment,
* the employee had spent the money (or adjusted their living standard) in good faith and was not responsible for the overpayment.

There is therefore an obligation on the employer to provide clear information on salary payments, to investigate suspected overpayment errors promptly, and to notify the employee of the outcome only once the investigation is complete and the overpayment verified.

Administrators should not confirm a payment as correct without first examining the evidence.

**Investigation**

CCC reserves the right to undertake an investigation when an overpayment occurs and will consider any suspicion of potential fraud. In accordance with the Council’s Code of Conduct, Anti-Fraud and Corruption Policy and Whistleblowing policy, employees must report any suspicions of fraud to one of the following.

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| **Contact** | **Number** | **Email** |
| Fraud Hotline | 0800 3892330 | [fraudreport@cumbria.gov.uk](mailto:fraudreport@cumbria.gov.uk) |
| Assistant Director-Finance- (Section 151 Officer) | 01228 226587 |  |
| Assistant Director-Corporate Governance- (Monitoring Officer) | 01228 226310 |  |
| The Senior Manager – Audit | 01228 226261 |  |

**This procedure has been produced with regard to Cumbria County Council’s Debt Recovery Policy and will be regularly reviewed in line with that policy.**

January 2016