# Policy in Respect of Under/Over Payment of Remuneration and Expenses

<table>
<thead>
<tr>
<th>Name of Policy:</th>
<th>Policy in respect of under/over payment of remuneration and expenses</th>
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| Purpose of Policy: | To ensure that the Trust has in place a suitable and robust system to ensure the recovery from those in and leaving the employment of the Trust of sums of money and property due by them to the Trust.  
To ensure any underpayment of remuneration or expenses is reimbursed to employees in a timely manner. |
| Directorate responsible for Policy: | Finance and Procurement |
| Name & Title of Author: | Alison Rutherford  
Assistant Director of Finance – Financial Services |
| Does this meet criteria of a Policy? | Yes |
| Staff side consultation? | Yes |
| Equality Screened by: | Alison Rutherford  
Assistant Director of Finance – Financial Services |
<p>| Date Policy submitted to RM&amp;PC: | 15 December 2008 |
| Members of RM&amp;PC in Attendance: | Siobhan Hanna, Claire Graham, Marie Austin, John Graham, Jennifer Holmes, Catherine Weaver, Anita Carroll, Mary Logan, Danny McKeveitt &amp; Janet McKay |</p>
<table>
<thead>
<tr>
<th>Policy Approved/Rejected/Amended</th>
<th>Approved</th>
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<tr>
<td>Communication Plan required?</td>
<td>Place on Trust Intranet</td>
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<tr>
<td>Training Plan required?</td>
<td>Yes – should be brought to the attention of all staff and cascaded through line management structure.</td>
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<td>Implementation Plan required?</td>
<td>Yes – place on Trust Intranet</td>
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<td>Any other comments:</td>
<td></td>
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<tr>
<td>Date presented to SMT</td>
<td>4 February 2009</td>
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| Director Responsible            | Martin Dillon  
Director of Finance & Procurement |
| SMT Approved/Rejected/Amended   | Approved |
| SMT Comments                    | |
| Date returned to Directorate    | 6 February 2009 |
| Lead for implementation         | |
| (Board Secretary)               | |
| Date received by Board Secretary (HQ) for database/Intranet/Internet | 6 February 2009 |
| Date for further review         | March 2010 – 2 year default |
## POLICY DOCUMENT – VERSION CONTROL SHEET

| **Title**                      | Title: Policy in respect of under/over payment of remuneration and expenses  
                             | Version: 1.0  
                             | Reference number/document name: |
|-------------------------------|--------------------------------------------------|
| **Supersedes**                | Supersedes: CAHGT Policy and Procedures for the Recovery of Overpayments  
                             | Description of Amendments(s)/Previous Policy or Version: |
| **Originator**                | Name of Author: Alison Rutherford  
                             | Title: Assistant Director of Finance – Financial Services |
| **RM/Policy Committee & SMT approval** | Referred for approval by: Fiona Jones  
                             | Date of Referral:  
                             | RM/Policy Committee Approval: 15 December 2008  
                             | SMT approval: 4 February 2009 |
| **Circulation**               | Issue Date:  
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                             | Issued To: As per circulation List (details below) |
| **Review**                    | Review Date: March 2010  
                             | Responsibility of (Name):  
                             | Title: Head of Financial Services |

### Circulation List:

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1 Introduction

1.1 The Southern Health and Social Care Trust (hereafter referred to as the “Trust”), has a duty to ensure that all its employees are correctly remunerated for their work.

In turn, all employees are responsible for checking that their remuneration is appropriate.

The Trust acknowledges that occasionally errors do occur and an over/under payment to an employee can result.

In accordance with paragraph 20.4.2 of the Standing Financial Instructions of the Trust, the Director of Finance is responsible for ensuring that there is “a system in place to ensure the recovery from those in and leaving the employment of the Trust of sums of money and property due by them to the Trust.”

This policy is intended to promote equity in ensuring that all errors are corrected and any under or overpayment is dealt with appropriately.

This policy has been developed in accordance with the Trust’s Key Principles of policy development.

The policy has been developed in consultation with the appropriate internal stakeholders.

2 Definitions

2.1 Under/overpayment of remuneration and expenses refers to all aspects of payment of salaries, wages and any re-imbursement of expenses incurred by directly/indirectly employed staff which are made in error or outside the legal powers of the Trust.

3 Purpose and Aims

3.1 The purpose and aims of this policy are to:

- Ensure that the Trust has in place suitable and robust arrangements to support the recovery of overpayments of remuneration and expenses
- Ensure responsibility for the recovery of overpayments is clearly defined.
- Support the development of appropriate systems and processes to monitor and review the level of recovery of overpayments and identify where improvements need to be made.
- Ensure that the Trust has in place suitable arrangements to support the reimbursement of underpayments of remuneration and expenses.
4 Policy Statement

4.1 Circular HSS(F) 38/1998 Supplement 4 (issued on 9 May 2003) entitled Guidance on Losses and Special Payments Revised Appendix B "Recovery of Overpayments" provides guidance on this area and the Trust is required to comply with this guidance.

4.2 The guidance confirms that in general, where payments of any kind are made under a mistake of law (incorrect interpretation of statutory regulations or legal instruments) or a mistake of fact (arithmetical or other simple errors) these are legally recoverable.

4.3 The presumption is that recovery should be pursued irrespective of the circumstances in which the overpayment arose.

4.4 However, in practice the guidance indicates that each case should be dealt with on an individual basis and when deciding on appropriate action, the following factors should be taken into account:

- type of overpayment
- good faith or bad faith
- time since the overpayment was made
- relevant personal circumstances of the payee
- cost-effectiveness of recovery action
- need to deal equitably with overpayments to a group of people.

4.5 The Employment Rights (NI) Order 1996 is the governing legislation in respect of recovery of overpayments. An employee enjoys a statutory protection from salary/wages/expenses deductions which are not required by statute, or his/her contract of employment or to which the employee has not given written consent.

4.6 However, Article 46 of the 1996 Order states that such consent is not necessary when the deduction in salary/wages/expenses by the employer is to reimburse the employer for any overpayment of salary/wages or expenses made (for any reason) by the employer in the course of employment.

4.7 The Trust is therefore committed to pursuing recovery of any overpayment of remuneration or expenses in accordance with this legislation and DHSS&PS guidance.

4.8 The Trust is also committed to reimbursing any underpayment of remuneration or expenses to employees as soon as practically possible.

5 Scope of the Policy

5.1 This policy applies to all sites across the Trust.

5.2 All Trust employees must adhere to this policy and associated procedures.
5.3 This policy will also apply to other parties who undertake work for the Trust but are not employees, for example locum and agency staff.

6 Roles and Responsibilities

6.1 Chief Executive

The Trust’s Chief Executive, as “Accounting Officer”, has responsibility for ensuring the proper stewardship of public funds and assets.

The Chief Executive delegates the day to day responsibility for establishing and monitoring the implementation of this policy to the Director of Finance & Procurement.

6.2 Director of Finance & Procurement

In accordance with paragraph 20.4.2 of the Standing Financial Instructions of the Trust, the Director of Finance is responsible for ensuring that there is “a system in place to ensure the recovery from those in and leaving the employment of the Trust of sums of money and property due by them to the Trust.”

In addition in paragraph 16.3.3 of the SFIs it states, under "Debt Recovery":

"Overpayments should be detected (or preferably prevented) and recovery initiated in line with DHSS&PS guidance”.

The Director of Finance and Procurement is responsible for ensuring there is a policy and procedures in place to administer under and overpayment of remuneration and expenses.

Where an overpayment cannot be recovered, the Standing Financial Instructions of the Trust require that:

- The Director of Finance must prepare procedural instructions on the recording of and accounting for condemnations, losses, and special payments.

- Within limits delegated to it by the DHSS&PS, the Trust Board shall approve the writing-off of losses (£5,000 for remuneration and expenses overpayments)

- All losses and special payments must be reported to the Audit Committee at least annually

Overpayments in excess of £5,000, which cannot be recovered require approval from the Department of Health, Social Services and Public Safety. It is the responsibility of the Director of Finance to seek this approval.

6.3 Assistant Director of Finance – Financial Services

The Assistant Director is responsible for developing and advising on the
implementation of the Trust policy.

The Assistant Director is responsible for ensuring that appropriate systems and procedures are in place to administer under and overpayments.

The Assistant Director is responsible for ensuring that payroll staff are trained and aware of the policy and procedures to be applied.

6.4 Trust Management staff

Paragraph 20.4.3 of the Trust's Standing Financial Instructions states:-

“Appropriately nominated managers have delegated responsibility for:-

- submitting time records and other notifications e.g. changes in hours in accordance with agreed timetables;
- completing time records and other notifications in accordance with the Director of Finance’s instructions and in the form prescribed by the Director of Finance;
- submitting termination forms in the prescribed form immediately upon knowing the effective date of an employee’s or officer’s resignation, termination or retirement. Where an employee fails to report for duty or to fulfil obligations in circumstances that suggest they have left without notice, the Director of Finance must be informed immediately.”

It is essential that managers in the Trust fulfil their responsibilities with regard to completion and submission of the above documentation. Failure to comply with Standing Financial Instructions and Standing Orders can in certain circumstances be regarded as a disciplinary matter that could result in dismissal (para 10.1.5 of SFIs).

6.5 Trust Staff Responsibility

Staff are required to be aware of the Policy in respect of Under/over payment of Remuneration and Expenses and any associated procedures or guidelines ensuring compliance with the same.

Staff are expected to behave with honesty and integrity. With specific regard to overpayments of wages, salaries or expenses, it is expected that the employee will report promptly to the Finance and Procurement Directorate any unexpected payment received, or any payment received to which the individual is not entitled. In the event of wilful misrepresentation by an employee, disciplinary action may result.

7  Legislative compliance, relevant policies, procedures and guidance

7.1 Staff must comply with relevant guidance and DHSSPS publications pertaining to the recovery of overpayments.
7.2 Staff must comply with the Standing Financial Instructions of the Trust, contracts of employment and other Trust guidance in this area.

7.3 The DHSSPS circular relevant to this policy is HSS(F) 38/1998 Supplement 4 and can be located on the Trust Intranet under Finance and Procurement Directorate Policies & Procedures

8. Equality and Human Rights Considerations

This policy has been screened for equality implications as required by Section 75, Schedule 9, of the Northern Ireland Act, 1998. Equality Commission for Northern Ireland guidance states that the purpose of screening is to identify those policies which are likely to have a significant impact on equality of opportunity so that greatest resources can be targeted at them.

Using the Equality Commission’s screening criteria, no significant equality implications have been identified. This policy will therefore not be subject to an equality impact assessment.

This policy has been considered under the terms of the Human Rights Act, 1998 and was deemed to be compatible with the European Convention Rights contained in that Act.

This policy will be included in the Trust’s register of screening documentation and maintained for inspection whilst it remains in force.

9. Alternative Formats

This document can be made available on request in alternative formats, e.g. Braille, disc, audio cassette and in other languages to meet the needs of those who are not fluent in English.

10. Records Management

The supply of information under the Freedom of Information does not give the recipient or organisation that receives it the automatic right to re-use it in any way that would infringe copyright. This includes, for example, making multiple copies, publishing and issuing copies to the public. Permission to re-use the information must be obtained in advance from the Trust.

11. Policy Review

The Trust is committed to ensuring that all policies are kept under review to ensure they remain compliant with relevant DHSSPS guidance and legislation.

This policy will be reviewed by the Head of Financial Services – Directorate of Finance & Procurement in March 2010 or earlier if relevant guidance is issued. That review will be noted on a subsequent version of the policy, even where there are no substantive
changes made or required.

12. Sources of Advice

Further advice and information regarding this document can be obtained from the Head of Financial Services, Finance and Procurement Directorate.