

TRAFFORD COUNCIL

Report to: Employment Committee
Date: 29 June 2020
Report for: Decision
Report of: Sara Saleh, Corporate Director of People

Report Title

Reclaiming of Overpayments Policy

Recommendation(s)

It is recommended that Employment Committee notes the content of this report and approves the new Reclaiming of Overpayments Policy so that it can be implemented.

Contact person for access to background papers and further information:

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| Relationship to Policy Framework/Corporate Priorities | This proposal aligns with the council's Corporate Priority 'Successful and Thriving Places'. |
| Financial | Reduce the risk of financial loss through employee overpayments. |
| Legal Implications: | The Employment Rights Act 1996 provides the legal authority to make deductions. |
| Equality/Diversity Implications | None. |
| Sustainability Implications | None. |
| Staffing/E-Government/Asset Management Implications | Makes the process transparent for staff. |
| Risk Management Implications | None. |
| Health & Wellbeing Implications | Financial support and guidance available on the Council intranet for staff. |
| Health and Safety Implications | None. |

1.0 BACKGROUND

- 1.1 Trafford Council is a publicly funded organisation and has an obligation to recover overpayments made to staff to which they're not entitled and will seek to do so wherever possible. The Employment Rights Act 1996 allows us to make deductions from pay in the certain circumstances, as the Statement of Employment Particulars includes a 'reclaiming of overpayment' clause.
- 1.2 We are committed to ensuring the accurate payment of wages and related entitlements to all staff. However, overpayments of salary/allowances occur for numerous reasons. These include, but aren't limited to the following.
- Delay in Greater Manchester Shared Services (GMSS) receiving information that impacts on pay e.g. change in working arrangements.
 - Incorrect information provided.
 - Administrative error or data entry error.
- 1.3 Currently the Council does not have a policy which details what happens when a member of staff is overpaid. It will be beneficial to have one to detail what is already happening in practice, and to ensure all parties understand their responsibilities and for transparency.

2.0 THE POLICY

- 2.1 It is proposed that we formalise current the process for reclaiming overpayments by outlining it in a policy for staff. This policy covers all employees of Trafford Council with the exception of Teaching and Support Staff employed by Schools.
- 2.2 The aim of the policy is to give staff a clear understanding of the process for reclaiming overpayments, and to explain the procedure to be followed and outline their responsibilities.

3.0 BENEFITS

- 3.1 This is an important policy for employees to be aware of, as it outlines their responsibilities and that of their managers in terms of minimising the risk of an overpayment being made in the first instance.
- 3.2 In the event of an overpayment being made, the policy outlines the processes that will be followed by all parties, to ensure staff fully understand the procedure around reclaiming.
- 3.3 The policy is also key, as where overpayments occur, this is a loss of public money and it is vital that this is reclaimed but in a fair manner and that employees understand this.

4.0 IMPLEMENTATION PLAN

- 4.1 As this policy only outlines the existing process and no procedural changes have been made, this will be implemented as a live policy immediately following approval.

- 4.2 A new intranet page will be created with a link to the new policy.
- 4.3 We will promote the new policy with a six boxes announcement and inclusion in the bi-monthly staff and manager's bulletins.

5.0 RECOMMENDATIONS

- 5.1 The introduction of a Reclaiming of Overpayments policy will make it easier for staff to understand how/why overpayments could be made, why it is important to reclaim, and how they will be supported by various services in reclaiming the monies in a fair and transparent manner.
- 5.2 Employment Committee are recommended to support the new policy and the implementation plan.



TRAFFORD COUNCIL

RECLAIMING OF OVERPAYMENTS POLICY

Author

Human Resources

Date

July 2020

Version

1.0

Version Control

| Issue | Date | Author | Change History |
|--------------|-------------|---------------|-----------------------|
| V1.0 | July 2020 | Kate Sturman | First version |

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TRAFFORD COUNCIL – RECLAIMING OF OVERPAYMENTS POLICY

1. Introduction

- 1.1 Trafford Council are committed to ensuring the accurate payment of wages and related entitlements to all staff.
- 1.2 Overpayments of salary/allowances occur for numerous reasons. These include, but aren't limited to the following.
- Delay in Greater Manchester Shared Services (GMSS) receiving information that impacts on pay e.g. change in working arrangements.
 - Incorrect information provided.
 - Administrative error or data entry error.
- 1.3 We are a publicly funded organisation and have an obligation to recover overpayments made to staff to which they're not entitled and will seek to do so wherever possible.

2. Purpose

- 2.1 The aim of this policy is to:
- Give you a clear understanding of the process for re-claiming overpayments.
 - Explain the procedure to be followed and outline your responsibilities.

3. Scope

- 3.1 This policy covers all employees of Trafford Council with the exception of Teaching and Support Staff employed by Schools.

4. Equality, Diversity and Inclusion Considerations

- 4.1 Managers are responsible for ensuring that they operate the policy in line with the Council's Equality and Diversity and Inclusion principles and the Equality Act 2010. The Council is committed to ensuring that no-one is discriminated against, disadvantaged or given preference, through membership of any particular group, however with particular regard given to the protected characteristics of: age; disability; gender reassignment; race; religion or belief; sex; sexual orientation; marriage and civil partnership, and; pregnancy and maternity. This procedure will be applied fairly to all employees irrespective of their background or membership of a particular group. Where an employee has a disability, reasonable adjustments should be considered as appropriate.

5. Terms and definitions

- 5.1 **Overpayment:** Where you have been paid in excess of what is due to you.
- 5.2 **Deductions:** An agreed amount of monies deducted from your salary.

6. Roles and responsibilities

6.1 Responsibility of Staff

You should:

- Review your wage slip regularly and notify GMSS if you notice money you're not entitled to receive, particularly if there's been a change in your circumstances;
- Ensure you're paid in accordance with your contract of employment, working hours/patterns, allowances and expenses;
- Act with honesty and integrity at all times and raise any anomalies with your manager as soon as is practicable to avoid overpayments, and
- Consider the repayment of overpayments in accordance with this policy.

6.2 Responsibility of Managers

Managers will:

- Ensure staff are working in accordance with their contract of employment i.e. working hours;
- Where changes occur to a staff member's working hours/patterns, expenses or allowances, ensure GMSS are informed as soon as is practicable to avoid under/overpayments.
- Where it's identified an overpayment has taken place, consider the wellbeing of staff.
- Ensure the staff member is aware of support available through our Employee Assistance Programme and other wellbeing support services offered by Human Resources.
- If the member of staff is currently off due to sickness absence, maternity leave etc. consider if it's appropriate to discuss the overpayment. Where they feel it's not appropriate, they'll discuss this with GMSS.
- Not agree a repayment plan with the staff member.

6.3 Responsibility of Greater Manchester Shared Services (GMSS)

- Ensure contractual changes are actioned appropriately and confirmed in writing to the member of staff, to avoid potential under/overpayments;
- Advise Managers on the implications of changes to working hours/patterns on salary and expenses and advise on the reclaiming of overpayments;
- Verify in the first instance that overpayments have occurred.
- Calculate the overpayment and confirm by providing evidence of the overpayment to the staff member concerned.
- Where overpayments relate to the previous month's salary, i.e. due to late notification, recover the overpayment, in full, the following month;
- Where overpayments date back further than the previous month's salary, clarify a repayment plan with the employee, and mutually agree amendments if required. Confirm repayment plan in writing to the member of staff.
- Refer requests to extend repayment beyond the overpaid period (if the request goes beyond 12 months) to the GMSS Payroll Manager;
- Raise invoices to staff who have left the Council, when appropriate.

6.4 **GMSS Payroll Manager**

- Consider requests to extend repayment beyond the overpaid period, if the request goes beyond 12 months. Confirm mutually agreed repayment plan and ensure overpayments are recovered in line with this agreement; and:
- Where it is felt it's not appropriate to discuss the overpayment with the member of staff due to illness, maternity etc. refer the case to the Heads of HR.
- Where complex and HR advice is needed, refer to a HR Business Partner.
- Refer requests to write off overpayments to the Heads of HR.

6.5 **Responsibility of Heads of HR**

- Consider applications to write off overpayments.
- Consider if it's appropriate to put the repayment plans on hold due to illness, maternity etc.

7. **Principles**

7.1 **Legal Authority to make deductions**

7.2 The Employment Rights Act 1996 allows us to make deductions from pay in the following circumstances:

- Income tax, N.I, attachment of earnings orders, student loans;
- Where the employment contract makes specific provision for a deduction, and
- Where the member of staff and the Council have previously agreed in writing to the deduction of such overpayments before the situation arises, that would require the deduction to be made e.g. signed contract.

7.3 The Statement of Employment Particulars includes a 'reclaiming of overpayment' clause:

The Council reserves the right to reclaim any overpayment made in error, in consultation with the employee, within a reasonable time scale.

7.4 Future salary, allowances or expenses payments will be amended at the first opportunity to avoid the continuation of such overpayments.

7.5 As a general rule, it will be acceptable to repay the overpayment over the same period that it arose.

7.6 There may be circumstances where it might be appropriate to extend a repayment plan beyond 12 months. Each case will be considered individually by the GMSS Payroll Manager, and a repayment plan mutually agreed.

- 7.7 Failure to pay an invoice may result in the Council instigating legal proceedings, in line with debt management processes which may have an impact on your credit rating.
- 8. Procedure**
- 8.1 Existing staff**
- 8.2 Where the overpayment arises as a result of late notification of a change in your circumstances and the payroll deadline has been missed for that month, GMSS will deduct the overpayment in full from the following month's salary.
- 8.3 Where the overpayment relates to a period of more than one month, the GMSS member of staff will contact you to advise how the overpayment came about and detail a breakdown of the monies owed.
- 8.4 The GMSS member of staff will outline a repayment proposal, and will detail the date it will commence and advise this will happen unless the employee contacts them with any concerns by a specific date.
- 8.5 If the employee contacts GMSS to advise they cannot afford the repayment plan, they will try to reach a mutually agreeable plan for the repayments. If this plan is for over 12 months, this will be referred to the Payroll Manager.
- 8.6 Where your Manager or GMSS feels it's inappropriate to contact you regarding the overpayment due to illness, maternity etc., or where the individual requests a change to the proposed repayment plan and then disengages with the service, this will be referred to the Heads of HR for consideration.
- 8.7 If you experience financial difficulties you can access support through our Employee Assistance Scheme and, if you are a member, Unison has a confidential debt line. We also have an intranet page which signposts to financial advice resources.
- 8.8 Leavers**
- 8.9 If you're due to leave the organisation, we will deduct the amount owed from your final salary. If however, the monies owed are higher than the salary to be paid, an invoice will be raised by the Council, for all outstanding monies. Invoices require full payment within 30 days.
- 8.10 If the balance cannot be cleared within 30 days then it is your responsibility to make contact with the Exchequer Services Recovery Team who will discuss if a payment plan can be offered.
- 8.11 If you do not think you should pay the overpayment of salary**
- 8.12 If you think the overpayment of salary has been raised incorrectly then you should submit a written request to the GMSS Payroll Manager who will refer it to the Heads of HR.
- 8.13 If they find that the original decision and/or amount was incorrect they will inform you of this in writing and will arrange for a payment to be sent if it was

deducted from your salary or the invoice to be recalculated if it was raised via an invoice.

9. Review

- 9.1 This policy will be periodically reviewed in order that that it remains appropriate to the Council's operation, is best practice and meets legal requirements.