

SALARY UNDERPAYMENT AND OVERPAYMENT RECOVERY POLICY

June 2016

Authorship:	Workforce Policy Lead / Head of Finance
Committee Approved:	CCG Senior Management Team and Joint Trade Union Partnership Forum
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Sustainability Impact Assessment:	Completed
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The on-line version is the only version that is maintained. Any printed copies should, therefore, be viewed as ‘uncontrolled’ and as such may not necessarily contain the latest updates and amendments.

POLICY AMENDMENTS

Amendments to the Policy will be issued from time to time. A new amendment history will be issued with each change.

New Version Number	Issued by	Nature of Amendment	Approved by & Date	Date on Intranet
1.0	HR / Head of Finance	New Policy	Senior Management Team, June 2016	

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1 INTRODUCTION

- 1.1 This policy outlines the procedures for the recovery of overpayments made to staff, when they have received, or suspect that they have received, payments in excess of their entitlement.
- 1.2 If members of staff have received public money to which they are not entitled, they will be asked to repay it in full. Therefore when the Clinical Commissioning Group (the CCG) discovers that an overpayment has occurred, however this has arisen and even if the employee has left the organisation, recovery will be pursued in accordance with The Employment Rights Act 1996 and any Department of Health requirements.
- 1.3 Underpayments of salary, mileage allowance or other financial entitlements will be rectified through the payroll as soon as they are identified and back payments made to the individual/s concerned. On occasion it may be more appropriate to make a payment other than through the payroll e.g. by BACs.

2 ENGAGEMENT

This policy has been developed by the Workforce team in partnership with employees, managers and trade unions and approved at the Joint Trade Union Partnership Forum.

3 IMPACT ANALYSES

3.1 Equality

In applying this policy, the CCG will have due regard to the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

A copy of the Equality Impact Assessment is attached at Appendix 2.

3.2 Sustainability

A Sustainability Impact Assessment has been completed for this policy and is attached at Appendix 3. No specific impact has been identified.

3.3 Bribery Act 2010

Under the Bribery Act 2010, it is a criminal offence to:

- Bribe another person by offering, promising or giving a financial or other advantage to induce them to perform improperly a relevant function or activity, or as a reward for already having done so; and
- Be bribed by another person by requesting, agreeing to receive or accepting a financial or other advantage with the intention that a relevant function or activity would then be performed improperly, or as a reward for having already done so.

These offences can be committed directly or by and through a third person and, in many cases, it does not matter whether the person knows or believes that the performance of the function or activity is improper.

It is therefore, extremely important that staff adhere to this and other related policies and documentation (as detailed on the CCG's intranet) when considering whether to offer or accept gifts and hospitality and/or other incentives.

To raise any suspicions of fraud and/or corruption please contact the Local Counter Fraud Specialist (LCFS) or the Counter Fraud Manager (for North Yorkshire – Steve.moss@nhs.net)

The LCFS will inform the chief Financial Officer if the suspicion seems well founded and will conduct a thorough investigation. Concerns may also be discussed with the Chief Financial Officer or the Audit Committee Chair.

If staff prefer, they may call the NHS Fraud & Corruption Reporting Line on 0800 028 40 60 between 8am-6pm Monday-Friday or report online at www.reportnhsfraud.nhs.uk. This would be the suggested contact if there is a concern that the LCFS or the Chief Financial Officer themselves may be implicated in suspected fraud, bribery or corruption

4 SCOPE

This policy applies to all employees and ex-employees of the CCG.

5 POLICY PURPOSE & AIMS

The aim of this policy is to provide employees' and ex-employees of the CCG with details about the circumstances in which overpayments may occur and the mechanism for the recovery of such overpayments.

6 DEFINITIONS

An overpayment is where an employee is paid an amount in excess of contractual entitlement. Likely causes of an overpayment are detailed below, these are not exclusive but may include:

- Late or no notification of an employee's termination, maternity details, sickness absence and/or changes to contractual hours;
-
- An error being made by the Payroll team, Human Resources or the employing department;
- Incorrect salary banding;
- Incorrect element or calculation in ESR;
- Error in ESR (Electronic Staff Record) software.
- An error being made by the Payroll team, Human Resources or the employing department;

An underpayment is where an employee is not paid their contracted pay in month. Likely causes of underpayments include:

- Late or no notification of an employee's new starter form, maternity details, sickness absence and/or changes to contractual hours;
- Timesheets, expenses and other claim forms not being completed, received or processed on time
- Incorrect salary banding;
- Incorrect element or calculation in ESR;
- Error in ESR software
- An error being made by the Payroll team, Human Resources or the employing department;

7 ROLES AND RESPONSIBILITIES

7.1 Line Managers

7.1.1 Managers are responsible for informing the employee concerned and the appropriate payroll and HR representative as soon as they discover that one of their staff members has been paid incorrectly.

7.1.2 Managers are responsible for ensuring that payroll forms (new starter, variation to contract and staff termination) affecting an employee's pay are completed and passed to the payroll team at the earliest opportunity and always in line with the payroll close deadline.

7.1.3 The finance department will undertake initial checks each month. Where any employee's pay differs from the previous month (and cannot be explained through such things as increment date or national cost of living pay award) the information will be sent to the employee's line manager for checking. Managers are responsible for ensuring these queries are checked immediately and undertaking any corrective action as soon as possible.

7.1.4 Authorised signatories are responsible for ensuring that monthly payroll returns, timesheets and travel claims are completed, checked and countersigned for accuracy and are appropriately authorised.

7.1.5 As soon as an employee's resignation is received or a candidate does not commence employment as arranged, managers are responsible for completing a staff termination form and ensuring that it is received by the HR administration team at the earliest possible opportunity as any delay could result in an incorrect payment.

7.1.6 In the event that a manager is notified that the late submission of a form has resulted in an overpayment the manager will be responsible for meeting with the employee and advising them of what has occurred.

7.2 Employees and Ex-Employees

7.2.1 Whilst every effort will be made to ensure that payment of salary is made

accurately, there may be occasions when information on a change of circumstance is not made available in time to make an automatic adjustment and an overpayment of salary may result. Staff should therefore check that each pay statement they receive is accurate, taking into account any pay circulars and individual notification they have received.

- 7.2.2 A leaver from the CCG's employment is also responsible for checking that their final salary payment is correct and that they do not continue to receive payments from the CCG after they have left.
- 7.2.3 If a member of staff, having checked their itemised pay statement, is in doubt about any entry (whether it be a potential underpayment or overpayment) they should inform their line manager immediately and contact the HR team without delay. Enquiries should be made by telephone (staff should keep written notes of who they spoke to and the main points and outcomes of the discussion) and then confirm in writing/email.
- 7.2.4 Individuals should retain copies of any correspondence between themselves and the HR team or direct from the payroll provider.
- 7.2.5 Failure to declare an obvious overpayment could be construed as fraud and maybe referred to the Counter Fraud Team for detailed investigation. It may also result in formal disciplinary action and/or criminal investigations for the individual/s concerned.

7.3 Payroll Provider

- 7.3.1 The payroll provider will be responsible for ensuring that any overpayments identified are corrected to ensure that no continuation of the overpayment can occur.
- 7.3.2 The payroll provider will work with the manager and the HR advisor to plan the overpayment recovery.
- 7.3.3 The payroll provider will assist in providing a notification at the earliest opportunity of how the overpayment has occurred. That notification will include a breakdown of the financial details so that the employee is presented with the full facts and is in a position to understand exactly what has happened, what they should have received and consequently how much they have been overpaid.
- 7.3.4 Where the member of staff is still employed by the CCG, the overpayment will be recovered through the payroll and therefore the payroll department will carry out authorised instructions to do this.

7.4 Finance Department

- 7.4.1 The finance department will be made fully aware through the monthly audit process that an overpayment (or in some cases an underpayment) has occurred so that they can revise the pay budgets accordingly. If Line Managers become aware that an overpayment or underpayment has occurred or is likely to occur, they should inform the CCG Finance Team at the earliest opportunity.
- 7.4.2 The finance department will be responsible for monitoring the overpayment recovery plan and will advise on the best method of recovery.

- 7.4.3 Where the overpayment cannot be recovered through the payroll, the finance department will receive the overpayment – normally via a standing order from the individual's bank account into the CCG's bank account.
- 7.4.4 After a reasonable period of time has lapsed, and if a full recovery of the overpayment has not been successful, the finance department may pursue the debt through the courts.

7.5 **Human Resources**

- 7.5.1 The HR team will be available to support and advise where appropriate.

8 **PROCEDURE**

- 8.1 In the majority of cases it will be possible for the payroll department to adjust and effect recovery of the amount overpaid in the following month. This process is called 'automatic adjustment'. Examples of automatic adjustment include tax code changes, the issue of interim or advance payments, late notification of a change in terms and conditions, unpaid leave notified after a pay run has been completed. In all cases the line manager will advise the individual concerned that the overpayment is being recovered in the next pay period.
- 8.2 If an overpayment occurs and an automatic adjustment cannot be made, or is not appropriate e.g. because an overpayment has been made over a long period of time; the payroll provider will contact the employee's manager in the first instance.
- 8.3 The individual concerned will then be contacted as soon as possible after this to discuss proposals to recover the overpayment. Depending on how the overpayment occurred and what is agreed, the CCG Finance Department will issue written confirmation of the details of the overpayment and the agreed arrangements for repayment. (See appendix 1).
- 8.4 The individual concerned will sign the agreement and return one copy to the CCG Finance Department (retaining one copy for their own records) and then this will be forwarded to the payroll department as the authorisation for deductions from wages. This is the preferred method as the adjustments to national insurance, tax and pension can be made at the time the deduction from pay is made. If a member of staff leaves the CCG any balance outstanding will be deducted from their final salary.
- 8.5 If it is not possible or appropriate to make a deduction from wages another written agreement to receive payment can be made e.g. to make a payment by cheque or a standing order. This must be signed by the individual concerned.
- 8.6 In the event of the matter coming to the attention of the individual concerned first, they will inform their manager directly. They will then have a meeting to discuss proposals to recover the overpayment. Advice and guidance may be sought from the HR team.
- 8.7 All cases of overpayment will be dealt with on an individual basis to ensure minimum hardship for employees occurs.

9 RECOVERY AGREEMENT

9.1 Recovery of an overpayment will normally be by agreement (other than under the automatic arrangements set out above) and will be referred to as the 'Repayment Plan'. It will be underpinned by the following principles.

- One lump sum payment recovery for an overpayment which occurred in a single amount; *or*
- Payment to be made within the same financial year; *or*
- Monthly instalments over at least the same number of months as the overpayment occurred.

9.2 However, to avoid the potential to cause hardship in individual cases, if any of the scenarios above results in a repayment or instalment that exceeds approximately 20% of the net weekly/monthly pay, the recovery shall, at the request of the member of staff, be reduced to 20% of the net weekly/monthly pay, with a subsequent increase in the repayment period. Employees in bands 1 - 4 may request a recovery rate of 15% of their net weekly/monthly pay if any of the above scenarios results in a repayment or instalment that exceeds approximately 15% of their net weekly/monthly pay. In all cases any subsequent arrears of salary which become available may be used to reduce the balance owing.

9.3 In all cases of recovery of overpayments the effect of the amount being repaid must not result in the employee's basic hourly rate being less than the national minimum wage rate except in relation to circumstances addressed in s9.6 and 9.7.

9.4 Where a repayment plan has been agreed, it will be adhered to, and will not be open to negotiation. Amounts payable will be revised upwards as individual circumstances change e.g. annual pay rises, annual increments, promotions etc. The recovery agreement with the employee should cover this eventuality and the payroll department given clear instruction to monitor these opportunities and to increase recovery amounts automatically by the percentage of the pay rise. (See appendix 1)

9.5 At any time the individual concerned may voluntarily request an increase in the amounts payable and a new recovery agreement must be drawn up, signed and sent to the CCG Finance Department to action.

9.6 If an employee leaves before the completion of a repayment plan, then the CCG will recover any balance from the employees' last payment or payments. For any residual balance remaining, the payroll department will inform the CCG finance department so that the CCG can raise an invoice to formalise recovery.

9.7 In cases of 'bad faith', recovery of the full amount overpaid will be sought, including recovery from pension benefits acquired as a result of the overpayment if relevant. An example of 'bad faith' would be where an employee was aware of an overpayment but failed to take action to ensure that this was corrected.

10 FAILURE TO RECOVER

10.1 Recovery for overpayments will always be sought following the principles above. In some situations the CCG may not be able to recover all of the money owed from

an individual for a number of reasons; this is defined as a failure to recover.

- 10.2 Reasons for failure to recover will be considered by the Chief Officer in conjunction with the Chief Finance Officer. When deciding on appropriate action, they should consider:
- a) the type of overpayment;
 - b) whether the payee received the money in good faith;
 - c) the length of time since the overpayment occurred;
 - d) any argument against recovery;
 - e) whether the employee could not reasonably have been aware of the overpayment
 - f) the cost-effectiveness of recovery action; and
 - g) the need to deal equitably with overpayments to a group of people.
- 10.3 In seeking to satisfy itself of someone's 'good faith', they should therefore consider the extent to which:
- a) the payment depended on changes in the member of staff's circumstances which they were required to notify to the CCG; and the basis upon which the payment was calculated, was explained to, or was readily accessible to, the member of staff.
- 10.4 If 'good faith' is established, the Chief Officer may agree that only the last 12 months of the overpayment be recovered.
- 10.5 If there are strong grounds for thinking that the individual knew that there had been an overpayment – for example, if the overpayment was so obvious as to be evident to the recipient – it may be reasonable to assume that the payee did not act in 'good faith' and recovery may be attempted through the courts.

11 REFERRAL TO THE LOCAL COUNTER FRAUD TEAM

- 11.1 Where, on investigation, the CCG is satisfied that the circumstances of the overpayment raises concerns, it should consider, in addition to recovery action, whether the employee obtained the overpayment fraudulently – for example by dishonestly giving false information or failing to disclose information.
- 11.2 If there is evidence of fraudulent intent, prosecution and/or disciplinary action in line with the CCG's Disciplinary Policy will normally be undertaken. A criminal conviction or disciplinary sanction in such a case will not eliminate the public debt which had resulted from the overpayment, and so recovery of the debt will continue to be pursued by any means available.
- 11.3 In all situations where it is considered that an employee would or should have been aware of an overpayment and could be considered to have acted in bad faith, a referral of the case will be made to the local counter fraud team for their consideration.
- 11.4 Referral does not stop the normal recovery process in any way unless actions are specifically stopped at the request of the local counter fraud team.

12 HARDSHIP

- 12.1 Repayment may be extended or deferred in exceptional circumstances at the discretion of the Chief Officer if there is evidence that to do so would cause

hardship, but hardship must not be confused with inconvenience. To be required to pay back money to which there was no entitlement does not in itself represent hardship, especially if the overpayment was discovered quickly. A plea of hardship should be supported by evidence that the recovery action proposed by the CCG would impact adversely on the welfare of the recipient of the overpayment or his/her family.

- 12.2 Where the CCG accepts that hardship would be caused by the recovery action proposed the CCG may either reduce the monthly payments by extending the repayment period or defer the recovery action until an agreed start date.

13 COLLECTIVE OVERPAYMENTS

- 13.1 If a group of people have all been overpaid as a result of the same mistake, they should not be treated differently as regards the degree of recovery required being relative dependent on individual circumstances.
- 13.2 The fact that recovery cannot, in practice, be made from some members of a particular group does not mean that recovery should be waived for others in the group. The individual who pays up voluntarily should not be regarded as having been treated unfavourably. The difference is one of practicality in pursuing the claim.
- 13.3 There is no obligation to inform other individuals of what steps are being taken, or not being taken, to recover a claim, although there is a general principle of treating like cases alike.

14 MEETINGS WITH MEMBERS OF STAFF

- 14.1 In most circumstances it will be necessary for an informal meeting to take place with the member of staff concerned to explain the details of the overpayment. It is recognised that each situation will differ and that tact and confidentiality needs to be adhered to when breaking 'bad news' and discussing personal financial matters. A note of this meeting should be made by the Line Manager outline the discussion and any agreements made during the meeting with a copy being provided to the employee.

15 TRAINING & AWARENESS

- 15.1 A copy of the policy will be available on the CCG intranet. Training needs will be identified via the appraisal process and training needs analysis.

16 MONITORING, AUDIT AND REVIEW PROCEDURES

- 16.1 This policy will be monitored and audited on a regular basis. A full review will take place every five years unless legislative changes determine otherwise.

17 POLICY REVIEW

- 17.1 This policy will be reviewed in 5 years. Earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in legislation/guidance, as instructed by the senior manager responsible for this policy.

18 ASSOCIATED DOCUMENTATION

APPENDICES

- Appendix 1 - Authority to Recover a Salary Overpayment via Payroll
- Appendix 2 - Equality Impact Analysis
- Appendix 3 - Sustainability Impact Assessment
- Appendix 4 - Bribery Act 2010 Guidance

APPENDIX 1

Authority to Recover a Salary Overpayment via Payroll

PERSONAL DETAILS

Name of member of staff: Assignment
Number:

OVERPAYMENT DETAILS

How much has been overpaid: £.....

How much is the recovery amount per pay period – per month:

£..... How many deductions from pay are to be taken:

.....

In which pay period are deductions to commence:
(week or month ending date)

In which pay period are deductions to cease:
(week or month ending date)

EMPLOYEE AUTHORISATION DETAILS

- I agree to the deductions from salary as detailed above.
- I agree that if I should receive an increase in pay during the period of repayment the payments will automatically be increased in line with my pay increase
- I agree that should I leave the employment of Harrogate & Rural District Clinical Commissioning Group any outstanding balance will be recovered in full from my final salary

Signed:

Date:

APPENDIX 2

Equality Impact Analysis									
Policy / Project / Function:	Salary Overpayments Recovery Policy								
Date of Analysis:	9 th June 2016								
This Equality Impact Analysis was completed by: (Name and Department)	Workforce Policy Lead								
What are the aims and intended effects of this policy, project or function ?	The aim of this policy is to provide employees' and ex-employees of the CCG with details about the circumstances in which overpayments may occur and the mechanism for the recovery of such overpayments								
Please list any other policies that are related to or referred to as part of this analysis?									
Who does the policy, project or function affect ? Please Tick ✓	<table style="width: 100%; border: none;"> <tr> <td style="padding-right: 20px;">Employees</td> <td style="text-align: right;"><input checked="" type="checkbox"/></td> </tr> <tr> <td>Service Users</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>Members of the Public</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>Other (List Below)</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> </table>	Employees	<input checked="" type="checkbox"/>	Service Users	<input type="checkbox"/>	Members of the Public	<input type="checkbox"/>	Other (List Below)	<input type="checkbox"/>
Employees	<input checked="" type="checkbox"/>								
Service Users	<input type="checkbox"/>								
Members of the Public	<input type="checkbox"/>								
Other (List Below)	<input type="checkbox"/>								

1. Equality Impact Analysis: Screening

	Could this policy have a positive impact on...		Could this policy have a negative impact on...		Is there any evidence which already exists from previous (e.g. from previous engagement) to evidence this impact
	Yes	No	Yes	No	
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Considered, no impact
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Considered, no impact
Sexual Orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Considered, no impact
Disabled People	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Considered, no impact
Gender	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Considered, no impact
Transgender People	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Considered, no impact
Pregnancy and Maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Considered, no impact
Marital Status	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Considered, no impact
Religion and Belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Considered, no impact
Reasoning					

If there is no positive or negative impact on any of the Nine Protected Characteristics go to Section 7

2. Equality Impact Analysis: Local Profile Data

Local Profile/Demography of the Groups affected as at Jan 2016	
General	Total number of employees in the CCG is 54
Age	77.78% are aged 30-55 18.52% of staff are over 55 3.7% of staff are under 30
Race	88.89% staff employed in the CCG are White 7.41% of staff have are not stated/undefined their ethnicity 1.85% staff are Black 1.85%staff are Asian
Sex	68.52% staff employed are male 31.48% staff employed are female
Gender reassignment	No information at this stage
Disability	79.63% of staff employed declared themselves as having no disability 18.52% did not declare /undefined 1.85% have declared a disability
Sexual Orientation	72.22% of staff described themselves as heterosexual 27.78% did not wish to respond /undefined
Religion, faith and belief	Christianity is the largest religious group declared by staff in the CCG (42.59%) 37.04% were undefined or did not wish to declare 18.52% declared themselves Atheist 1.85% declared themselves Buddhists
Marriage and civil partnership	77.78% of employees are married. No employees are in a civil partnership. 1.85% of staff were undefined The remainder (20.37%) are single/divorced/legally separated or widowed
Pregnancy and maternity	No information yet as the CCG has not been established long enough to build meaningful data

3. Equality Impact Analysis: Equality Data Available

<p>Is any Equality Data available relating to the use or implementation of this policy, project or function?</p> <p>Equality data is internal or external information that may indicate how the activity being analysed can affect different groups of people who share the nine <i>Protected Characteristics</i> – referred to hereafter as '<i>Equality Groups</i>'.</p> <p>Examples of <i>Equality Data</i> include: (this list is not definitive)</p> <ol style="list-style-type: none"> 1. Application success rates <i>Equality Groups</i> 2. Complaints by <i>Equality Groups</i> 3. Service usage and withdrawal of services by <i>Equality Groups</i> 4. Grievances or decisions upheld and 	<p>Yes <input checked="" type="checkbox"/> Employee data</p> <p>No <input type="checkbox"/></p> <p>Where you have answered yes, please incorporate this data when performing the <i>Equality Impact Assessment Test</i> (the next section of this document).</p>
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<p>dismissed by <i>Equality Groups</i> 5. <i>Previous EIAs</i></p>	
<p>List any Consultation e.g. with employees, service users, Unions or members of the public that has taken place in the development or implementation of this policy, project or function</p>	<p>Consultation has taken place both locally and nationally with Trade Unions and staff</p>
<p>Promoting Inclusivity How does the project, service or function contribute towards our aims of eliminating discrimination and promoting equality and diversity within our organisation</p>	<p>This Policy does not directly promote inclusivity, however it applies a framework to follow a clear process to ensure there are clear and auditable processes in the relocation of new staff</p>

4. Equality Impact Analysis: Assessment Test

What impact will the implementation of this policy, project or function have on employees, service users or other people who share characteristics protected by *The Equality Act 2010* ?

Protected Characteristic:	No Impact:	Positive Impact:	Negative Impact:	Evidence of impact and if applicable, justification where a <i>Genuine Determining Reason</i> exists
Gender (Men and Women)	✓			Considered, no impact
Race (All Racial Groups)	✓			Considered, no impact
Disability (Mental and Physical)	✓			Considered, no impact
Religion or Belief	✓			Considered, no impact
Sexual Orientation (Heterosexual, Homosexual and Bisexual)	✓			Considered, no impact

What impact will the implementation of this policy, project or function have on employees, service users or other people who share characteristics protected by *The Equality Act 2010* ?

Protected Characteristic:	No Impact:	Positive Impact:	Negative Impact:	Evidence of impact and if applicable, justification where a <i>Genuine Determining Reason</i> exists
Pregnancy and Maternity	✓			Considered, no impact
Transgender	✓			Considered, no impact
Marital Status	✓			Considered, no impact
Age	✓			Considered, no impact

5. Action Planning

As a result of performing this analysis, what actions are proposed to remove or reduce any risks of adverse outcomes identified on employees, service users or other people who share characteristics protected by *The Equality Act 2010* ?

Identified Risk:	Recommended Actions:	Responsible Lead:	Completion Date:	Review Date:

6. Equality Impact Analysis Findings

Analysis Rating:	<input type="checkbox"/> Red	<input type="checkbox"/> Red/Amber	<input type="checkbox"/> Amber	<input checked="" type="checkbox"/> Green
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		Actions	Wording for Policy / Project / Function
<p>Red</p> <p>Stop and remove the policy</p>	<p>Red: As a result of performing the analysis, it is evident that a risk of discrimination exists (direct, indirect, unintentional or otherwise) to one or more of the nine groups of people who share <i>Protected Characteristics</i>. It is recommended that the use of the policy be suspended until further work or analysis is performed.</p>	<p>Remove the policy</p> <p>Complete the action plan above to identify the areas of discrimination and the work or actions which needs to be carried out to minimise the risk of discrimination.</p>	<p>No wording needed as policy Sais being removed</p>
<p>Red Amber</p> <p>Continue the policy</p>	<p>As a result of performing the analysis, it is evident that a risk of discrimination exists (direct, indirect, unintentional or otherwise) to one or more of the nine groups of people who share <i>Protected Characteristics</i>. However, a genuine determining reason may exist that could legitimise or justify the use of this policy and further professional advice should be taken.</p>	<p>The policy can be published with the EIA</p> <p>List the justification of the discrimination and source the evidence (i.e. clinical need as advised by NICE).</p> <p>Consider if there are any potential actions which would reduce the risk of discrimination.</p> <p>Another EIA must be completed if the policy is changed, reviewed or if further discrimination is identified at a later date.</p>	<p>As a result of performing the analysis, it is evident that a risk of discrimination exists (direct, indirect, unintentional or otherwise) to one or more of the nine groups of people who share <i>Protected Characteristics</i>. However, a genuine determining reason exists which justifies the use of this policy and further professional advice.</p> <p><i>[Insert what the discrimination is and the justification of the discrimination plus any actions which could help what reduce the risk]</i></p>

Equality Impact Findings (continued):

		Actions	Wording for Policy / Project / Function
<p>Amber</p> <p>Adjust the Policy</p>	<p>As a result of performing the analysis, it is evident that a risk of discrimination (as described above) exists and this risk may be removed or reduced by implementing the actions detailed within the <i>Action Planning</i> section of this document.</p>	<p>The policy can be published with the EIA</p> <p>The policy can still be published but the Action Plan must be monitored to ensure that work is being carried out to remove or reduce the discrimination.</p> <p>Any changes identified and made to the service/policy/ strategy etc. should be included in the policy.</p> <p>Another EIA must be completed if the policy is changed, reviewed or if further discrimination is identified at a later date.</p>	<p>As a result of performing the analysis, it is evident that a risk of discrimination (as described above) exists and this risk may be removed or reduced by implementing the actions detailed within the <i>Action Planning</i> section of this document.</p> <p><i>[Insert what the discrimination is and what work will be carried out to reduce/eliminate the risk]</i></p>
<p>Green</p> <p>No major change</p>	<p>As a result of performing the analysis, the policy, project or function does not appear to have any adverse effects on people who share <i>Protected Characteristics</i> and no further actions are recommended at this stage.</p>	<p>The policy can be published with the EIA</p> <p>Another EIA must be completed if the policy is changed, reviewed or if any discrimination is identified at a later date</p>	<p>As a result of performing the analysis, the policy, project or function does not appear to have any adverse effects on people who share <i>Protected Characteristics</i> and no further actions are recommended at this stage.</p>

Brief Summary/Further comments	
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Approved By		
Job Title:	Name:	Date:

Sustainability Impact Assessment

Staff preparing a policy, Governing Body (or Sub-Committee) report, service development or project are required to complete a Sustainability Impact Assessment (SIA). The purpose of this SIA is to record any positive or negative impacts that this is likely to have on sustainability.

Title of the document	Salary Overpayments Recovery Policy
What is the main purpose of the document	The aim of this policy is to provide employees' and ex-employees of the CCG with details about the circumstances in which overpayments may occur and the mechanism for the recovery of such overpayments.
Date completed	9 th June 2016
Completed by	Workforce Policy Lead

Domain	Objectives	Impact of activity Negative = -1 Neutral = 0 Positive = 1 Unknown = ? Not applicable = n/a	Brief description of impact	If negative, how can it be mitigated? If positive, how can it be enhanced?
Travel	Will it provide / improve / promote alternatives to car based transport? Will it support more efficient use of cars (car sharing, low emission vehicles, environmentally friendly fuels and technologies)? Will it reduce 'care miles' (telecare, care closer) to home? Will it promote active travel (cycling, walking)? Will it improve access to opportunities and facilities for all groups?	0		
Procurement	Will it specify social, economic and environmental outcomes to be accounted for in procurement and delivery? Will it stimulate innovation among providers of services related to the delivery of the organisations' social, economic and environmental objectives? Will it promote ethical purchasing of goods or services?	0		

	<p>Will it promote greater efficiency of resource use? Will it obtain maximum value from pharmaceuticals and technologies (medicines management, prescribing, and supply chain)? Will it support local or regional supply chains? Will it promote access to local services (care closer to home)? Will it make current activities more efficient or alter service delivery models</p>			
Facilities Management	<p>Will it reduce the amount of waste produced or increase the amount of waste recycled? Will it reduce water consumption?</p>	0		
Workforce	<p>Will it provide employment opportunities for local people? Will it promote or support equal employment opportunities? Will it promote healthy working lives (including health and safety at work, work-life/home-life balance and family friendly policies)? Will it offer employment opportunities to disadvantaged groups?</p>	0		
Community Engagement	<p>Will it promote health and sustainable development? Have you sought the views of our communities in relation to the impact on sustainable development for this activity?</p>	0		
Buildings	<p>Will it improve the resource efficiency of new or refurbished buildings (water, energy, density, use of existing buildings, designing for a longer lifespan)? Will it increase safety and security in new buildings and developments? Will it reduce greenhouse gas emissions from transport (choice of mode of transport, reducing need to travel)? Will it provide sympathetic and appropriate landscaping around new development? Will it improve access to the built environment?</p>	0		
Adaptation to Climate Change	<p>Will it support the plan for the likely effects of climate change (e.g. identifying vulnerable groups; contingency planning for flood, heat wave and</p>	0		

	other weather extremes)?			
Models of Care	<p>Will it minimising 'care miles' making better use of new technologies such as telecare and telehealth, delivering care in settings closer to people's homes?</p> <p>Will it promote prevention and self-management?</p> <p>Will it provide evidence-based, personalised care that achieves the best possible outcomes with the resources available?</p> <p>Will it deliver integrated care, that co-ordinate different elements of care more effectively and remove duplication and redundancy from care pathways?</p>	0		

Bribery Act 2010 Guidance

Introduction

On July 2011 the Bribery Act 2010 came into force, making it a criminal offence to give, promise, or offer a bribe and to request, agree or receive a bribe. It increased the maximum penalty for bribery to 10 years' imprisonment, with an unlimited fine. Furthermore the act introduces a 'corporate offence' of failing to prevent bribery by the organisation not having adequate preventative procedures in place. An organisation may avoid conviction if it can show that it had such procedures and protocols in place to prevent bribery.

The Ministry of Justice in its consultation and guidance set out six broad management principles whereby an organisation can demonstrate an effective defence by showing that it had effective bribery prevention measures in place.

Risk Assessment – this is about knowing and keeping up to date with the bribery risks you face in your sector and market;

Top level commitment – this concerns establishing a culture across the organisation in which bribery is unacceptable. If your business is small or medium sized this may not require much sophistication but the theme is making the message clear, unambiguous and regularly made to all staff and business partners;

Due diligence – this is about knowing who you do business with; knowing why, when and to whom you are releasing funds and seeking reciprocal anti-bribery agreements ; and being in a position to feel confident that business relationships are transparent and ethical;

Clear, Practical and Accessible Policies and Procedures – this concerns applying them to everyone you employ and business partners under your effective control and covering all relevant risks such as political and charitable contributions, gifts and hospitality, promotional expenses, and responding to demands for facilitation demands or when an allegation of bribery comes to light.

Effective implementation – this is about going beyond 'paper compliance' to embedding anti-bribery in your organisation's internal controls, recruitment and remuneration policies, operations, communications and training on practical business issues.

Monitoring and review – this relates to auditing and financial controls that are sensitive to bribery and are transparent, considering how regularly you need to review your policies and procedures, and whether external verification would help.

Relevance to the NHS

NHS organisations are included in the Bribery Act's definition of a "relevant commercial organisation". Any senior manager or executive who consents to or connives in any active or passive bribery offence will, together with the organisation, be liable for the corporate offence under the act.

Any individual associated with an organisation who commits acts or omissions forming part of a bribery offence may be liable for a primary bribery offence under the act or for conspiracy to commit the offence with others – including, for example, their employer.

Risks in breaching the Bribery Act

There are a number of risks entailed in breaching the Bribery Act. These include:

- Criminal sanctions against directors, board members and other senior staff as a corporate offence – Section 7 of the Act.
- Convictions of bribery or corruption may also lead to the organisation being precluded from future public sector procurement contracts.
- Damage to the organisation's reputation and negative impact on patient/stakeholder perceptions.
- Potential diversion and/or loss of resources.

What do NHS organisation's need to do?

There are a number of steps NHS organisations can take:

- The Board needs to understand its responsibility in respect of the act.
- Be clear that, as NHS organisations, you are covered by corporate liability for bribery on the part of their employees, contractors and agents.
- Take steps to make your employees, contractors and agents aware of the standards of behaviour that are expected of them: this may include training for employees who might be affected – for example, employees with responsibility for procurement.
- Review existing governance, procedures, decisions-making processes and financial controls, introduce them if not already in place and, where necessary, provide appropriate training for staff.
- Record the fact that these steps have been taken, as they provide the defence against corporate liability under the act.

Areas for Action

- Once risks have been assessed the organisation must put in place procedures that are *proportionate* to bribery risks that are identified.
- The checklist below provides details of areas for actions to assist in ensuring proportionate steps to ensure prevention and defence against corporate liability under the act. The checklist is based on best practice guidance documents issued by NHS Protect in May 2011, Ministry of Justice and other anti-bribery and corruption NGOs.
- Internal Audit and Counter Fraud Teams will provide support to the organisation to help ensure that assurance can be given against the points in the following checklist during 2012/13.

Bribery Act 2010 Guidance and Bribery Prevention Checklist

Areas for action	Expected Action	Evidence of Compliance/Assurance
1. Governance and Top Level Commitment	<p>The Chief Executive should make a statement in support of the anti-bribery initiative and this should be published on the organisation's website.</p> <p>The board of directors should take overall responsibility for the effective design, implementation and operation of the anti-bribery initiatives. The Board should ensure that senior management is aware of and accepts the initiatives and that it is embedded in the corporate culture.</p>	
2. Due Diligence	<p>This is a key element of good corporate governance and involves making an assessment of new business partners prior to engaging them in business. Due diligence procedures are in themselves a form of bribery risk assessment and also a means of mitigating that risk. It is recommended that at the outset of any business dealings, all new business partners should be made aware in writing of the organisation's anti-corruption and bribery policies and code of conduct.</p>	
3. Code of conduct	<p>The organisation should either have an anti-bribery code of conduct or a general code of conduct for staff with an anti-bribery and corruption element.</p> <p>The organisation should revise the Standards of Business Conduct Policy (or equivalent) and Declaration of Interests guidance (see point 4 below) to reflect the introduction of the Bribery Act.</p>	

Areas for action	Expected Action	Evidence of Compliance/Assurance
4. Declaration of Interests/Hospitality	The organisation should have in place a declaration of business interests/gifts and hospitality policy which clearly sets out acceptable limits and also a mechanism to monitor implementation.	
5. Employee employment procedures	Employees should go through the appropriate propriety checks e.g. CRB (Criminal Records Bureau) and/or a combination of other checks before they are employed to ascertain, as far as is reasonable, that they are likely to comply with the organisation’s anti-bribery policies.	
6. Detection procedures	The organisation should ensure Internal Audit/Counter Fraud check projects, contracts, procurement processes and any other appropriate systems where there is a risk that acts of bribery could potentially occur.	
7. Internal reporting procedures	The organisation should have internal procedures for staff to report suspicious activities including bribery.	
8. Investigation of Bribery allegations	The organisation should have procedures for staff to report suspicions of bribery to NHS Protect (previously NHS Counter Fraud and Security Management Service) and the organisation’s Local Counter Fraud Specialist for investigation/referral to the appropriate authorities.	
9. Risk assessment	MoJ (Ministry of Justice) guidance states”...organisations should adopt a risk-based approach to managing bribery risks...[and] an initial assessment of risk across the organisation is therefore a necessary first step”. The organisation should, on a regular basis, assess the risk of bribery and corruption in its business and assess whether its procedures and controls are adequate to minimise those risks.	

Areas for action	Expected Action	Evidence of Compliance/Assurance
10. Record keeping	The organisation should keep reasonably detailed records of its anti-fraud and corruption initiatives, including training given, hospitality given and received and other relevant information.	
11. Internal review	The organisation should carry out an annual internal review of the anti-bribery and corruption programme.	
12. Independent assessment and certification	Proportionate to risks identified, the organisation should commission, at least every three years, an independent assessment and certification of its anti-bribery programme.	
13. Internal and External communications	<p>The organisation should publicise the NHS Fraud and Corruption Reporting Line (FCRL) and on-line fraud reporting facility.</p> <p>The organisation should publicise the Security Management role (theft and general security issues) and reporting arrangements.</p> <p>The organisation should work with its stakeholders in the public and private sector to help reduce bribery and corruption in the health industry.</p>	
14. Awareness and training	The organisation should provide appropriate anti-bribery and corruption awareness sessions and training on a regular basis to all relevant employees.	

Areas for action	Expected Action	Evidence of Compliance/Assurance
<p>15. Monitoring:</p> <ul style="list-style-type: none"> • Overall Responsibility • Financial/Commercial Controls 	<p>A senior manager should be made responsible for ensuring that the organisation has a proportionate and adequate programme of anti-fraud, corruption and bribery initiatives.</p> <p>The organisation should ensure that its financial controls minimise the risk of the organisation committing a corrupt act.</p> <p>The organisation should ensure that its commercial controls minimise the risk of the organisation committing a corrupt act. These controls would include appropriate procurement and supply chain management, and the monitoring of contract execution.</p>	