FALKIRK COUNCIL

RECOVERY OF OVERPAYMENTS POLICY

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PART 1

1.1 POLICY STATEMENT

Falkirk Council aims to ensure that all salary payments are processed accurately and timeously. However it is recognised that occasionally overpayments in salary may occur, for example, due to administrative errors or errors in claims for allowances and expenses.

Falkirk Council is entitled to recover any sums due as a result of an overpayment in salary or any other allowances or payments. This is confirmed in the Statement of Particulars issued to every employee.

The Council is, however, entitled to deduct such overpayments from salary in line with the Employment Rights Act 1996 which provides that protection from deduction of wages does not apply to an overpayment of wages or employment related expenses.

The Council will endeavour to reach agreement with any employee on the method and timing of recovery.

PART 2

2.1 INTRODUCTION

The purpose of this Policy is to provide a fair and consistent method for dealing with the recovery of overpayments in salary.

2.2 SCOPE

This Policy applies to all current and former employees of Falkirk Council.

2.3 DEFINITION

An overpayment is monies paid to an employee over and above their entitlement in terms of their conditions of employment relating to salary/wages or related expenses/allowances.

2.4 PROCEDURE

2.4.1 IDENTIFYING OVERPAYMENTS

Where an employee becomes aware of an overpayment in their salary, they should advise their line manager of this immediately in order that arrangements may be made via Payroll Services to recover this overpayment.

Additionally, in line with the Council’s Financial Regulations, Services are issued with monthly staffing reports by Finance for the preceding month to allow managers to identify any matters that may need further investigation or correction e.g. an employee who is in receipt of an unexpectedly high payment or has left employment and continues to be paid. Where a discrepancy is identified, this should be investigated by the relevant line manager in consultation with Payroll and appropriate management action taken as below.
Human Resources will also undertake an annual audit of grades/SCPs and working weeks across Services to identify any discrepancies and will notify Services of any areas requiring review/action.

Where an underpayment in salary has been identified, advice should be sought from Human Resources to address this.

2.4.2 ESTABLISH REASON FOR OVERPAYMENT

Once an overpayment has been identified the relevant line manager should establish, in consultation with Payroll:-

- how the overpayment has occurred;
- the total value of overpayment;
- commencement date of overpayment;
- employees normal (net pay); and
- the net amount to be repaid once deductions for tax and NI contributions are taken into account.

2.4.3 END OVERPAYMENT

The relevant manager should issue a memo to the Payroll Manager setting out the details of the overpayment (including the total / monthly amount) and requesting that the amount being paid in error ceases with immediate effect (Appendix 1). The relevant Head of Service within the Service should also be notified. At the same time, the manager should advise the employee that an overpayment has occurred and that they will arrange to meet with them to discuss the repayment (Appendix 2).

2.4.4 INFORMING THE EMPLOYEE

The Manager should, in consultation with Human Resources, arrange a meeting to discuss the overpayment with the employee concerned. The employee may be accompanied at this meeting if they wish.

The employee should be advised of the overpayment, the reason for this, the amount and time period over which this has occurred. The employee should also be advised of the Council’s right to reclaim the overpayment as detailed in the employee’s Statement of Particulars.

The method of reclaim will depend upon the level of overpayment:

- if the overpayment is small then this should be reclaimed in full from the next pay period.
- if however the overpayment is significant in relation to an employee’s net pay, the manager should attempt to agree a programme of repayments to reclaim the overpayment, over a suitable period of time, so as not to cause financial hardship. The period of reclaim should be as short as possible, but what is reasonable will depend on the size of the overpayment and the period over which this occurred. Generally, this will be reclaimed over the same period as the period of overpayment. The repayment period should not however exceed 6 months unless there are
exceptional circumstances e.g. employee is on long term sick leave. Where an employee has indicated that they are in financial hardship, they should be reminded of the availability of the Debt Advice Service – Hotline 01324 506735.

On reaching agreement, the line manager should write to the employee setting out the proposed deductions schedule i.e. the amount and the frequency of deductions and for how long the deductions will be made (Appendix 3) The employee should be asked to sign authorisation of the deductions schedule. Acceptance of the signed schedule should be forwarded to the Payroll Manager by the line manager in order that they may action this payment schedule.

If, following discussions, no agreement can be reached recovery can still proceed under the terms of the individual employee’s conditions of employment. The line manager should therefore determine a reasonable repayment period and write to the Payroll Manager to advise of the method of reclaim (see Appendix 4). This should be confirmed in writing to the employee (Appendix 5).

2.5 FORMER EMPLOYEES

Where an employee has been in receipt of an overpayment but has left the employment of the Council before an overpayment is identified, before an overpayment has been repaid in full or where value of any overpayment is in excess of any final pay due, Finance will normally take appropriate action to reclaim any outstanding monies.

In such circumstances, Payroll will liaise directly with the individual to agree an appropriate mechanism of repayment. Where no agreement is reached or the individual does not respond to Payroll requests, Payroll will arrange for this to be progressed as a sundry debt.

2.6 EXCEPTIONAL CIRCUMSTANCES

In accordance with the Council’s Financial Regulations, it is the responsibility of all Chief Officers to take all reasonable steps to ensure that all monies due, which would include overpayments of salary, are collected. However, it is recognised that there may be occasions where it is considered uneconomical or impractical to commence or pursue recovery action. Case law surrounding the reclaim of overpayments is complicated and there may be exceptional circumstances whereby a Service may consider it impractical to reclaim the full overpayment. For example, where an employee was given an expectation of the payment made. In some circumstances, it may be appropriate to reduce the amount to be reclaimed.

Any decision not to reclaim an overpayment, or only to reclaim part of the overpayment, should only be taken following a balanced assessment of the likelihood of full or partial recovery and in consultation with Human Resources. Where it is not considered appropriate to reclaim monies overpaid, the following action should be taken:

- Abatement of less than £5000 – Following consultation with the Head of Human Resources & Customer First, the relevant Service Director/ Chief Officer should submit a memo detailing the background to the overpayment, including appropriate evidence supporting the results of the assessment not to reclaim/ to abate repayment, to the Chief Finance Officer for approval.
Abatement of in excess of £5000 – Following consultation with the Head of Human Resources & Customer First, the relevant Service Director/ Chief Officer should submit a memo detailing the background to the overpayment, including appropriate evidence supporting the results of the assessment not to reclaim/ to abate repayment, to the Chief Finance Officer who will include the details in a report to the Policy and Resources Committee for approval.

PART 3

3 MONITORING AND REVIEW

The Head of Human Resources & Customer First will monitor and review this policy as per the agreed Human Resources Policy Review Timetable in conjunction with Service Directors/ Chief Officers and Trade Unions.

This policy has been Equality Impact Assessed and no adverse impact has been identified.
To: Payroll Manager  
Human Resource Adviser  

From: Manager  
Ext:  

Our Ref:  
Your Ref:  

Date:  

Subject: OVERPAYMENT  

NAME  
EMPLOYEE NO.  

I refer to recent discussions in relation to the above named and confirm that the over payment of ......... per month in respect of ........ should cease with immediate effect.  

I will arrange to meet with ........ to agree arrangements for reclaiming the overpayments made, as appropriate, and will inform you in due course of the method of reclaim.  

I trust that this approach is acceptable, however should you wish to discuss this further, please do not hesitate to contact me on the above number.  

MANAGER
PRIVATE & CONFIDENTIAL
Name
Address
Postcode

Dear Name,

OVERPAYMENT

I write to confirm that it has been identified that you have been in receipt of an overpayment in salary resulting from

The overpayment commenced on …. and amounts to £….. I have contacted Payroll Services to cease this overpayment with immediate effect.

Under the terms of your Conditions of Service, Falkirk Council are entitled to reclaim this sum. I would be grateful therefore if you would attend a meeting at …. on …… to discuss the method of repayment. You may be accompanied by a representative of your choice.

If this date and time is unsuitable, please contact me by ……. to rearrange.

Yours sincerely,

MANAGER

cc. Human Resources Adviser
Dear Name,

OVERPAYMENT

I refer to our meeting on ...... to discuss an overpayment of £…… in respect of

At our meeting we discussed an appropriate repayment mechanism and it was agreed that deductions of £…… be made from your salary over the next …….. months in order to recover this amount.

Please sign and date the attached authorisation and return to me by

I apologise for any inconvenience caused

Yours sincerely

MANAGER

cc Human Resource Adviser

--------------------------------------------
I authorise deduction from my salary of £…. per month for the next ….. months in order to repay the amount of £ ………

Signed…………………………………………………..

Printed Name…………………………………………

Employee Number……………………………………

Date………………………………………………..
OVERRIDE

NAME
EMPLOYEE NUMBER

I refer to my memo of ........ regarding the above and now write to confirm that following a meeting with the employee no agreement was reached regarding repayment.

Whilst no agreement has been reached, I consider it appropriate to progress a repayment. This is in line with the conditions of employment.

I would therefore be grateful if you arrange to reclaim the outstanding sum of £... from their salary by the deductions of £..... for a period of ........ months.

Yours sincerely,

MANAGER
Dear Name

OVERPAYMENT

I refer to our meeting on ……. to discuss an overpayment of ……………

At this meeting we were unable to reach agreement as to an appropriate method of repayment.

As you are aware under the terms of your employment with Falkirk Council, the Council are entitled to recover any sums due as a result of any overpayment in salary or any other allowance payment.

I have therefore written to Payroll Service to ask that they make arrangements to deduct £ from your salary over a period of ……….. months in order to reclaim the amount of £…….

Yours sincerely,

MANAGER

cc. Human Resources Adviser