

Circular Title: **Public Service Bodies (PSBs) Recovery of Overpayments from Staff**

File Reference: **DPE 056/008/15**

I am directed by the Minister for Public Expenditure and Reform to say that the following will apply in relation to the recovery of overpayments from staff working in Public Service Bodies (PSBs) serviced by PeoplePoint:

Circular Number: **01/2015**

Purpose: To set out the administrative arrangements for the repayment of overpayments made to staff working in PSBs serviced by PeoplePoint

Circular Applications: To all civil servants both current employees, pensioners and those who have left employment.

Relevant Law/Circulars: Payment of Wages Act 1991

Effective From: 5th March 2015

All local office notices and agreements in place in the bodies covered by this circular relating to the recovery of overpayments are revoked

Where Departments and Office are not serviced by PeoplePoint, Local HR (LHR) will carry out the functions of Peoplepoint until such time as they have transitioned to Peoplepoint.

1. Principles

- Overpayments to staff of salary, allowances and expenses do occur for a number of reasons. The Payment of Wages Act, 1991 (Section 5(5)), sets out the rights of employers and employees in relation to overpayment of wages, allowances or expenses from his/her employee(s) salary.
- Where a staff member takes unplanned unpaid leave, unpaid leave at short notice, or exceeds the permitted limits for uncertified sick leave, the full amount of the overpayment will be recouped in full at the first available opportunity, and where the amount exceeds the gross salary, all subsequent pay dates until the amount is fully recouped.
- All monies owed should be returned as soon as possible with a minimum payment of 8% of gross salary per pay period or within a 12 month time frame, whichever is shorter.
- Staff must immediately report instances where they are aware that they may have been overpaid in their salary.
- Where an overpayment recoupment plan is agreed or in train before the commencement of this Circular, those arrangements will not be affected.

2. Process

The **procedure for recoupment of overpayments** is as follows:

Upon discovery of overpayment the staff member / pensioner will be advised as quickly as possible of an overpayment by PeoplePoint ¹, unless otherwise directed by Local HR

- 2.1 A letter will subsequently be issued from PeoplePoint to the staff member in receipt of the overpayment, detailing the following:
- Value of the overpayment;
 - Reason for the overpayment;
 - Period to which the overpayment relates;
 - Proposed repayment option/schedule:
 - This will ordinarily be on the basis of a minimum of 8% of gross salary per pay period or within 12 months (whichever is sooner) from the date of commencement of the proposed recoupment plan.
 - Where a staff member takes unplanned unpaid leave or unpaid leave at short notice the full amount of the overpayment will be recouped in full at the first available pay date(s).
 - Staff obligations: Where the staff member does not confirm or appeal of the proposed recoupment plan within 21 calendar days (3 weeks) it will be taken to mean that the consent of the staff member is given to apply the recoupment plan;

¹ Where an organisation has not yet transitioned to PeoplePoint the Local HR unit (LHR) will carry out the functions of PeoplePoint.

- In the event that the staff member queries the amount of the overpayment, this will be escalated to a Team Leader in PeoplePoint for Review;
 - The procedure around a hardship application – see section 4 below.
- 2.2 Where no response is received from the staff member within the period specified in the overpayments letter, a second letter confirming the recoupment plan, its commencement i.e. the next pay date after 14 calendar days (2 weeks) from the issue of the letter and the final date of repayment will issue. If no response is received to the second letter the recoupment will commence as set out in the letter.

3. Non - Standard Arrangements

3.1 Leaving employment

Where a staff member is due to leave employment (including retirement, expiration of contract, career break and extended unpaid leave) a higher rate of deduction will be applied to try and discharge the overpayment in advance of the departure.

Should any relevant salary adjustment on retirement not be sufficient to discharge the overpayment, the staff member will be notified by PeoplePoint of the amount outstanding and this amount will be recouped from any retirement lump sum due or pension or any other monies including entitlements under the superannuation acts or any other monies due to the payee.²

Where a staff member leaves and there is no opportunity to recoup the full amount from a deferred entitlement the remaining balances remain due for payment.

3.2 Moving to another civil service organisation

Where a staff member transfers to another civil service organisation the amount of the overpayment to be recouped will transfer with them and they will be required to repay any overpayment in accordance with this policy.

Where the overpayment cannot be recovered through deductions from salary or other monies paid by the employer then appropriate legal proceedings may be initiated by the PSB for the recovery of the overpayment together with the consequential costs of the proceedings.

3.4 Death in service

Where a member of staff dies in service any overpayment will be deducted in a single lump sum from the gratuity.

² This does not include expenses owed to the staff member

4. Exceptional and Hardship Arrangements

- 4.1 There may be circumstances where the repayment amount may be below 8% of gross salary per pay period or recoupment will be delayed.
- 4.2 Where the Personnel Officer/HR Manager (or their nominee) has determined that the staff member should not be contacted by PeoplePoint (i.e. critical illness, hardship) in relation to the overpayment s/he should advise PeoplePoint. The staff member will not be contacted until the Personnel Officer/HR Manager has confirmed that this it is appropriate to do so.
- 4.3 Where a staff member considers that they cannot make a repayment at a rate of 8% or more (in circumstances where the repayment amount being sought is higher) of gross salary per pay period due to hardship they can apply to a person designated by the Personnel Officer/HR Manager to have their case reviewed. Any rate of repayments that is lower than 8% of gross salary per pay period must be agreed by the designated person - and confirmed by them to PeoplePoint in writing within 14 days of the hardship application being made.
- 4.4 The repayment time of 12 months may be extended where the amount of the overpayment is significant.
- 4.5 Where the staff member is not satisfied with the decision of the designated person at above they can have their case reviewed by the HR Manager.
- 4.6 The decision of the Personnel Officer/HR Manager will be final.
- 4.7 At any stage an individual can seek support and assistance from a relevant third party such as the Employee Assistance Service or a union representative.

5. Repayment options for current staff / pensioners / former staff are:

- Repayment of a single lump sum;
- Part payment by a single lump sum and remainder by deduction from salary over an agreed period;
- Salary deduction (gross amount prior to calculation of statutory deductions);
- Offset against arrears due (gross amount prior to calculation of statutory deductions);
- Non-statutory annual leave can be surrendered in respect of an overpayment;

- There will be an option to review the amount of that is being recouped where there is a material change in salary.

6. Current Year Overpayment Recoupment

- If the overpayment is being recouped during the tax year in which the overpayment occurred, the amount of overpayment to be recouped is the gross amount of the overpayment. If the overpayment is recouped by means of salary/pension deductions, the gross amount of the overpayment is deducted from **gross** salary. Using this method, any tax rebate owing to the staff member will be generated through the payroll. Pension, Pension Related Deduction (PRD), Universal Social Charge and PRSI contributions are also adjusted accordingly, where appropriate.

7. Out-of-Year Overpayment Recoupment

- If the overpayment is being recouped in a tax year(s) following the tax year in which the overpayment occurred (out-of-year recoupment), the amount of the overpayment recouped is the gross amount of the overpayment less the current year pension and PRD contributions paid on that amount, i.e. current year pension and PRD contributions will be reduced. If the overpayment is recouped by means of salary/pension deductions, the gross amount of the overpayment, less the current year pension and PRD contributions if applicable, is deducted from net salary. In the case of overpayments recouped out-of-year, upon application by the payee, the Payroll Shared Service Centre will send statement(s) to the staff member of (i) the value of the recoupment and (ii) the original overpayment. In general, this statement can only be issued when the overpayment has been fully recouped.

Louise McGirr
Head of Civil Service HR Policy Unit

4th March 2015