



Family &
Community
Services

Salary Under and Overpayments Policy



Document approval

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FAST FACTS

Purpose	Ensures that any salary under or overpayments are corrected or recovered in a fair, equitable and transparent manner in addition to relevant legislative Award provisions.
Key Points	<ul style="list-style-type: none"> • Applicable to all FACS employees, both current and terminated who have incurred an overpayment. • All underpayments will be rectified in a timely manner. • FACS is committed to ensuring that public funds are appropriately used and will undertake all reasonable attempts to recover a debt, including legal action. • Recovery of one-off amounts employees are not entitled to will be deducted in full as a salary adjustment in the next pay. • Automatic fortnightly adjustments will be made for shift workers to take into account late changes to shift or rostering arrangements. • Recovery of cumulative overpayments may occur by a single instalment or a rate of 5 per cent (or greater) of the gross fortnightly base pay. • No overpayment will be recovered without prior notice to or consultation with the employee.
Roles and responsibilities	<ul style="list-style-type: none"> • Employees should notify managers of all planned and unplanned absences in a timely manner and managers should respond promptly with approvals. All planned leave should be approved prior to it being taken. • Employees are obliged to check their pay slips on a fortnightly basis and advise their manager &/or Business Services Payroll of any anomalies within two weeks of payslip issue. • Managers are to assist in negotiating repayment plans for salary overpayments for employees. • Managers should monitor and review monthly overpayment reports to identify trends and implement processes as appropriate to reduce incorrect payments to staff.
Further information	<ul style="list-style-type: none"> • District or FACS HR Advisor.

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1 Purpose of Policy

1.1 Purpose

FACS is committed to paying its employees correctly and on time, and has an expectation that employees will notify FACS of any anomalies in salary payments in a timely manner.

The purpose of this Policy is to ensure that any salary underpayments or overpayments are corrected or recovered in a fair, equitable and transparent manner in addition to relevant legislative and Award provisions.

1.2 Background and policy links

This Policy supersedes any other policy document providing advice about salary under or overpayments.

This Policy was developed in consultation with FACS Districts and Directorates.

The *Salary Under and Overpayments Policy* is supported by the *Salary Under and Overpayments Procedures*.

The [FACS Code of Ethical Conduct](#) (Section 10.8 – Salary Overpayments) provides advice about employee requirements in relation to salary overpayments.

2 Definitions

Term	Definition
Employee	For the purpose of this Policy, an employee means a person employed in ongoing, term, temporary, casual or other employment, or on secondment in a public service agency (an employee of a public service agency means a person so employed in a public service agency).
Manager	Person responsible for line management of the employee.
Salary adjustment	In the case of shift-workers, adjustments are made automatically on a fortnightly basis to take into account late changes to shift or rostering arrangements. Examples include late advice of shift changes or late advice of leave taken.
Salary overpayment	The amount paid in excess of the employee's correct salary, provided that the additional amount is not classified as a salary adjustment. The correct salary includes allowances, leave entitlements, reimbursements and other monies

Term	Definition
	legally due to the employee.
Salary underpayment	The amount received less than the employee's correct salary. The correct salary includes allowances, leave entitlements, reimbursements and other monies legally due to the employee.
Salary Overpayment Write-off	Where a salary overpayment debt is considered unrecoverable due to economic or hardship considerations, an adjustment is made in the financial records to reflect this.

3 Scope and application

This Policy is applicable to all existing FACS employees, including employees who have resigned but have incurred an underpayment and/or overpayment.

This Policy does not apply to contract staff or staff engaged through private agencies that are not paid through the FACS payroll system.

4 Legislation

Advice on the correction and recovery of salary underpayments is provided in the *Industrial Relations Act 1996*.

Fringe Benefits Tax (FBT) definitions and implications that may arise from salary overpayments are provided in the *Fringe Benefits Tax Assessment Act (FBTAA) 1986*.

The [NSW Treasurer's Directions](#) provide direction relating to the recovery of debts.

Specific provisions relating to under and overpayment of salary are included in the following industrial Award:

- *Nurses' (Department of Family and Community Services - Ageing, Disability and Home Care) (State) Award 2011 ("Nurses' Award")*.

5 Policy statement

FACS is required to pay its employees' wages and related entitlements in accordance with relevant Awards, industrial instruments, administrative arrangements and contracts. In support of this outcome, FACS is committed to continually improving processes to prevent under and overpayments.

From time to time, an employee may inadvertently be underpaid or overpaid. In the event of an underpayment occurring, FACS will rectify this in a timely manner. In the event of an overpayment occurring, FACS is committed to ensuring that public funds are appropriately used and will undertake all

reasonable attempts to recover the debt (see section 6.5.3 of the Procedures).

Recovery of one-off amounts employees are not entitled to will be deducted in full as a salary adjustment in the next pay.

Recovery of cumulative overpayments may occur in instalments at a rate of 5 per cent of the gross fortnightly base pay. Employees may of course repay cumulative overpayments at a higher amount or in a single instalment and a lesser amount may be agreed where an employee demonstrates that undue hardship would result.

All employees are encouraged to check their payslips on a fortnightly basis to ensure that their payments are correct according to their classification and grade. If there are any anomalies they should be reported in a timely manner within two weeks of payslip issue to Payroll Services on (02) 9765 3999 or email MyPay@facs.nsw.gov.au.

In the event of an under or overpayment occurring, FACS is committed to ensuring that the following principles are applied:

- an affected employee is contacted as soon as practicable to advise of the situation
- every effort is made to minimise the potential impact on employees of any under or overpayment
- prior to overpayments being recovered the employee will be provided with notice and/or consulted (N.B. as per the Award, Nurses will be advised that deductions are to commence)
- strategies are in place to identify and minimise causes of under and overpayments.

5.1 Identifying under and overpayments

Payroll Services and the Roster Support team within FACS undertake review processes to ensure the accuracy of each pay cycle. However, there are circumstances that can occur which may result in an underpayment or overpayment of salary.

Employees and managers may also recognise discrepancies with fortnightly payments and should report anomalies to Payroll Services.

5.1.1 Underpayments

Salary underpayments that result in no pay or a significant reduction in pay that leaves an employee in financial difficulty will be resolved as a priority via an ad hoc payment (noting the information below in relation to the Nurses' Award).

As a guide, shift workers underpaid \$100 or more will be repaid during the next scheduled "ad hoc" payment.

All other salary underpayments, including overtime or additional hours, will be rectified within the next scheduled salary payment following priority finalisation

of the inquiry and if all required actions have been completed (eg. overtime claims authorised, higher duties period extended).

Under the Nurses' Award, if the amount underpaid is equal to or greater than one day's gross base pay, the underpayment will be rectified within three working days; otherwise it will be rectified by no later than the next normal pay unless undue hardship can be demonstrated.

5.1.2 Overpayments

All overpayments, regardless of how they occurred, must be recovered i.e. repaid by the employee in full.

No overpayment will be recovered without prior notice to or consultation with the employee.

Note: if an amount has been paid to an employee that they are not entitled to receive, that amount will automatically be deducted in the next pay as a Salary Adjustment (see section 2 "Definitions").

The value of the overpayment and circumstances under which the overpayment occurred, (i.e. cumulative overpayments over a period versus one-off errors), will be considered as part of the recovery discussions with employees.

5.1.3 Recovery of overpayments

Where an employee fails to acknowledge an overpayment by not responding to notices such as emails and letters from FACS, recovery action will be initiated to recover amounts overpaid as outlined in section 6.5 of the Salary Under and Overpayments Procedures.

Where an employee's circumstances change (e.g. financial hardship considerations or an increase in earnings), re-negotiation of existing repayment plans with the employee may occur to decrease or increase the rate of repayment to reflect the new circumstances.

Note that where an employee enters into a formal repayment regime with FACS, FACS will seek to recover any outstanding salary overpayment debt from an employee upon termination of their employment either as a final lump sum payment through their final pay and/ or until their agreed repayment plan is completed.

In the case of the Nurses' Award, FACS is authorised to deduct any balance of an overpayment from monies owing to the employee on the employee's date of termination, resignation or retirement, as the case may be.

5.1.4 Transition arrangements

Where an employee has an existing active repayment plan in place which is below 5 per cent of the gross fortnightly base pay, FACS will consult with employees with the aim of bringing the recovery plan in line with this new policy.

5.2 Write-off of salary overpayment debt

Salary overpayment debts will be considered for write-off, by the delegated officer as per the FACS delegations (Schedule C at the following link http://intranet.facs.nsw.gov.au/internal_services/delegations), in accordance with the NSW Treasurer's Directions. The written-off debt will not be regarded as abandoned and FACS reserves the right to reinstate recovery action in the future.

5.3 Fringe Benefit Tax (FBT) Implications

Fringe Benefits Tax (FBT) is a tax payable by the employer for non-cash (and other specified benefits) provided to employees or associates of employees. For FBT to apply, benefits provided by FACS to FACS' employees must be provided 'in respect of employment'. In other words, there must be a nexus with employment before the benefit is regarded as a fringe benefit.

It is important for staff to repay outstanding monies as soon as practicable to ensure they are not impacted by FBT. For more information on FBT including the relevant statutory rates for current FBT years, visit the [Australian Tax Office's Fringe Benefits page](#).

There are two possible situations where a salary overpayment may be subject to FBT and as such may impact the employee's payment summaries etc:

Loan fringe benefits

- For FBT purposes, the requirement to repay an overpayment is considered to be a loan. When a loan is made to an employee and the employee is under an obligation to pay or repay that amount to their employer, a loan fringe benefit will arise unless a minimum statutory rate of interest is charged.
- The taxable value of a loan is taken to be the FBT statutory rate of interest for the relevant FBT year, less any interest actually paid by the employee.
- If the value of certain fringe benefits ([other than excluded fringe benefits](#)) that an employee receives is more than the specified threshold stipulated by the Australian Tax Office in an FBT year, FACS must record a grossed-up value of that amount (reportable fringe benefits amount or RFBA) on an employee's payment summary for the corresponding income year ended 30 June to the FBT year which the employee received them in.
- A RFBA may be included on an employee's payment summary and shown on their tax return. It is not included in their assessable income. Reportable fringe benefits are included in a number of income tests (e.g. to determine entitlement to certain income-tested government benefits) and as such the existence of an overpayment may impact on an employee's eligibility for certain income tested government benefits.

Debt Waiver Fringe Benefits

- According to section 14 of the *Fringe Benefits Tax Assessment Act (FBTAA) 1986*, a debt waiver fringe benefit arises where, in respect of an employment relationship, FACS releases an employee from the obligation to repay the overpayment.
- The taxable value of a debt waiver fringe benefit is equal to the amount of the debt waived.
- Taxable debt waiver fringe benefits may also give rise to a RFBA reportable on an employee's payment summary and as outlined above may impact an employee's eligibility for certain income-tested government benefits.
- An unrecoverable debt that is written-off as a genuine bad debt (as a result of hardship or statute limitations) is not considered a debt waiver fringe benefit.

5.4 Code of Ethical Conduct

The [Code of Ethical Conduct](#) provides for staff to advise their manager as soon as they become aware of a salary overpayment and they must cooperate in the process for repayment.

Refusing to co-operate or participate on a reasonable basis to enter into a repayment plan may be considered a breach of the Code. Such cases may be referred to the Professional Conduct, Ethics and Performance (PCEP) unit for consideration.

Failure to cooperate in a repayment process may be considered as failing to follow a reasonable direction and may constitute misconduct.

6 Roles and responsibilities

6.1 Employees

- Notify managers of planned and unplanned absences promptly and submit all leave and attendance records in a timely manner.
- Ensure that all planned leave is approved before it is taken.
- Promptly review each payslip for any anomalies as soon as the payslip is issued and actively report any pay anomalies within two weeks of payslip issue to Payroll Services.
- Following receipt of advice of overpayment, co-operate in negotiations with Payroll Services and FACS about repayment.

6.2 Managers

- Assist in negotiating repayment plans for salary overpayments for employees.

- Respond promptly to requests for leave, changes in working hours (or other salary variations) and termination requests via SAP HR Manager Self Service (MSS) in line with existing policy and procedures.
- Promptly advise Payroll Services of any unauthorised or unplanned employee absences which may affect pay, including but not limited to any long term leave of absence or extensions to leave arrangements (eg. Leave Without Pay), or where the employee's leave entitlement is exhausted or likely to be exhausted due to the absence. Note that Group Home staff are to promptly advise the Roster Support team instead of Payroll Services.
- Monitor and review monthly overpayment reports to identify trends and implement processes as appropriate to reduce incorrect payments to staff.
- Review and rectify issues or processes as appropriate that result in salary underpayments or overpayments.
- Promptly escalate non-payment of outstanding amounts to relevant officers.

6.3 District and Directorate Management

In the circumstances listed below, the manager will be required to meet with an employee to determine further action where an employee:

- refuses to co-operate or participate on a reasonable basis to enter into a repayment plan
- fails to pay monies in accordance with an agreed repayment plan
- fails to respond to the letter of demand.

In addition, the delegate will be required to:

- monitor and review monthly overpayment reports to identify trends, monitor staff repayment plans, and implement processes as appropriate to reduce incorrect payments to staff
- review cases where a recommendation to write-off an overpayment has been made by Payroll Services in line with the NSW Treasurer's Directions and FACS Delegations
- Review cost centres where errors are occurring to identify systemic issues, staff training and performance reviews.

6.4 Human Resources

- Oversee the governance and policy arrangements applying to the underpayment and overpayment processes through compliance monitoring and policy review.
- Monitor and review the policy and procedures for recovery of salary overpayment with Payroll Services.
- Develop and agree on mitigation strategies with Payroll Services to address persistent or systemic issues.

6.5 Roster Support Team

- Manage the rostering arrangements for rostered staff to minimise errors and apply roster adjustments to ensure accuracy.
- Promptly advise current employees of any rostering errors.

6.6 Payroll Services

- Manage the FACS payroll to accurately calculate termination and other salary payments to ensure accuracy prior to payment to employees.
- Identify and check the amount and components of any salary under or overpayment.
- In collaboration with affected employees, undertake corrective and recovery processes in a timely manner for salary under and overpayments.
- Perform all work required to complete salary adjustments in the next pay.
- Promptly advise current and former employees of any under or overpayments.
- Correct underpayments of \$100 or more to shift workers by the next scheduled ad hoc payment.
- Correct underpayments within the next salary payment cycle.
- Perform all work required to recover salary overpayments including issuing recovery letters and contacting current and former employees to arrange recovery of the overpayment.
- Respond in a timely manner to review requests from employees.
- Provide accurate and timely monthly reports on salary overpayments and the status of recovery actions to the department. These reports will include the reasons for the overpayment, amount of the overpayment, and location and current status of recovery action.
- Identify persistent issues related to a type of transaction, location or other initiatives to HR.
- Make a recommendation to HR and Finance to write-off an overpayment in line with the NSW Treasurer's Directions and FACS Delegations.

6.7 Professional Conduct, Ethics and Performance (PCEP)

- Manage individual cases that are referred to PCEP where staff have not participated in a repayment after receiving the three notification letters.

6.8 Legal Services

- Assist in the timely resolution of debt recovery.
- Advise on the relative merits of pursuing debt recovery via litigation.
- Advise on write off.
- Represent and advise the Department in litigation, mediation and settlements.

7 Monitoring, evaluation and review

Monitoring and evaluation of the implementation of this Policy will occur based on the frequency and value of under and overpayments, and the success of prevention and recovery strategies through regular reporting and through the FACS Operational Performance Framework.

This Policy will be reviewed every three years or when any significant new information, legislative or organisational change warrants amendments to this document.

Reviews of this Policy will be undertaken in consultation with stakeholders to ensure the procedures are fair, relevant and effective.

8 Support and advice

For advice and support about this policy please speak with:

- your manager
- HR Advisor by contacting (02) 9765 3999
- Business Services on (02) 9765 3999 or email MyPay@facs.nsw.gov.au.

If you are reviewing a printed version of this document, please refer to the Intranet to confirm that you are reviewing the most recent version of the Policy. Following any subsequent reviews and approval, this Policy will be uploaded to the intranet and all previous versions removed.