

ARK HOUSING ASSOCIATION LIMITED (ARK)

POLICY REF: HR41

Version 1.0 – June 2018

OVERPAYMENTS AND UNDERPAYMENTS POLICY

1.0 ARK'S VALUES

1.1 Our organisational values are the basis for everything that we do, from providing housing, care and support to tenants and service users to ensuring that staff have clear standards of performance set. ARK believes that everyone should have the opportunity to lead a happy, healthy and safe life. We value:

- The worth of each person
- Trusting relationships
- Understanding difference
- Challenging oppression
- Personal and organisational accountability
- Caring for our physical environment
- Enjoyment

1.2 All ARK policies and procedures are underpinned by our values and we will ensure that our employees are treated fairly, consistently and in line with our values.

2.0 PURPOSE

2.1 ARK is required to ensure that employees are paid correctly at all times. However, if an overpayment of salary or any other payment (either expenses and/or benefits) is made for any reason, ARK reserves the right to take the necessary steps to recover the overpayment from the employee. Similarly ARK will take steps to correct any underpayment of salary or any other payment to which an employee is entitled as soon as it is brought to the attention of the HR Team and passed to the Payroll Team.

3.0 LEGISLATION

3.1 The law relating to salary deductions and recovering overpayments in salary is set out in the Employment Rights Act 1996.

4.0 SCOPE

4.1 This policy applies to all employees and ex-employees of ARK. The policy is in place to ensure that the action taken when dealing with an overpayment is consistent throughout ARK.

5.0 BACKGROUND

5.1 The definition of an overpayment is where an employee is paid an amount in excess of their contractual entitlement. Likely causes of an overpayment may include:

- A leavers form not being completed, received or processed on time;
 - Later or no notification of sickness absence/unpaid leave;
 - An employee not returning from maternity leave;
 - Overtaken annual leave entitlement when leaving ARK;
 - A processing error made by the Payroll Team or HR Team;
 - A late change of variation to contract notification;
 - Incorrect salary scale and point.
- 5.2 Section 14 of the Employments Rights Act 1996 provides that it is not unlawful to make deduction from wages to recover an overpayment of salary providing that the employee was not given an expectation of entitlement of the payment.
- 5.3 Whilst it may not be the employee's fault if they were to receive an overpayment from ARK, the position is that it would not be acceptable for an employee to simply assume that they had received a substantial increase in pay without there being some reason for the employee to believe that this is the case. Any substantial increase in salary other than through receiving a pay increment through completing the competency assessment process within the employee's pay grade would usually be supported by a confirmation letter sent to the employee from the HR Team.
- 5.4 Any ARK employee who suspects that he or she has received an overpayment should contact the HR Team as soon as possible. The Payroll Team will double-check the employee's payment record and confirm whether or not an overpayment of salary or any other payment has been made.
- 5.5 Where an overpayment (or an underpayment) has been identified either by ARK or by an individual employee, the Payroll Team will ensure that the employee's personal tax and NI contributions are recalculated within 7 days of the overpayment (or underpayment) being identified. This action is to ensure that there should be no detriment to an employee as a result of personal tax and NI adjustments following recovery of any overpayment (or an underpayment) made by ARK.
- 5.6 All ARK employees have a responsibility for checking their monthly payslip and to advise the HR Team if they consider they have been overpaid when compared to their regular monthly salary payment and the additional payment / increase in salary etc. has not been supported by a confirmation letter from the HR Team.
- 5.7 All budget holders are required to review on a monthly basis all salaries and any other payments that are charged to their cost codes. They have a responsibility to query any unusual items or unexplained variances with their finance team.
- 6.0 OVERPAYMENT OF SALARY OR ANY OTHER PAYMENTS FOR EMPLOYEES**
- 6.1 If an overpayment of salary or any other payment has been identified, the HR Team will provide the employee with:
- Written notification of the overpayment;
 - The reason for the overpayment;
 - The amount of the overpayment;

- A repayment schedule. The overpayment should ideally be repaid within the same tax year that the overpayment has arisen.

- 6.2 If the employee considers that, due to exceptional circumstances, the repayment will cause financial hardship or if they dispute the amount of the overpayment, it is their responsibility to contact the HR Team.
- 6.3 If, during the period of repayment of an overpayment, the employee's contract terminates, the outstanding balance will be deducted from their final salary payment.
- 6.4 If, during the period of repayment of an overpayment, the employee's salary is affected by any of the following: Statutory Payments only, Sickness Absence - Half Pay, Maternity Absence – Half Pay or Nil Salary then the overpayment may be re-negotiated subject to repeating the above process.

7.0 OVERPAYMENTS OF SALARY OR ANY OTHER OVERPAYMENTS PAID TO EMPLOYEES WHO HAVE SUBSEQUENTLY LEFT ARK.

- 7.1 If an overpayment is identified after an employee leaves ARK the following procedure will be followed:
- The HR Team will provide the former employee with written notification of the reason for the overpayment, the amount overpaid and the repayment demand.
 - The address used will be the last known home address held on the employee's HR record. Full re-payment will be requested to be paid.
 - ARK will reclaim monies through the small claims court should repayments not be made.

8.0 UNDERPAYMENTS OF SALARY

- 8.1 If you have received an underpayment of salary, please contact your line manager in the first instance.
- 8.2 Underpayments will be checked by payroll and as detailed in Section 5.5 the Payroll Team will ensure that the employee's personal tax and NI contributions are recalculated within 7 days of the underpayment being identified. This action is to ensure that there should be no detriment to an employee as a result of personal tax and NI adjustments following any underpayment made by ARK.
- 8.3 Any monies due to you will be paid in the following month's salary payment if the underpayment has arisen as a result of the employee not checking their MyView in advance and advising Payroll that their salary is incorrect.
- 8.4 In exceptional circumstances Payroll will make a payment the next working day, if possible, if the underpayment is as a result of the employees line manager not updating the employees hours correctly.

9.0 PROCEDURE

- 9.1 The notification process and template letters are attached see Appendix 1.

Approved by SLT in:	August 2018
Approved by Board of Management in:	September 2018
Approved by Unite	???
Next review of policy due by:	June 2021