

<b>Overpayments &amp; Underpayments Policy and Procedure</b>	
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<b>Document Version</b>	Final
<b>Date approved by Joint Negotiating Consultation Forum</b>	16 September 2015
<b>Date ratified by Remuneration Committee</b>	18 September 2015
<b>Date issued</b>	21 September 2015
<b>Review date</b>	31 March 2025

## **Executive summary**

This policy applies to all staff irrespective of their Age, Disability, Gender reassignment, Marriage and Civil partnership, Pregnancy and Maternity, Race, Religion and Belief, Sex and Sexual orientation.

This policy sets out Leeds Community Healthcare NHS Trust (LCH) policy and procedure on managing overpayments (including additional allowances or payments) made to all staff. It additionally sets out the process to be followed in respect of requests for salary underpayments.

This policy has been drafted to comply with statutory requirements. This should be read together with other relevant LCH policies, procedures, local guidance and contracts of employment.

The Policy and Procedure may be reviewed at the request of Management or Staffside by giving four weeks' written notice with reasons for the review.

# Overpayments Policy and Procedure

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# Overpayments Policy and Procedure

## 1 Introduction

Leeds Community Healthcare NHS Trust (LCH) is funded by public money and as such is committed to ensuring all staff are paid in a correct and timely fashion. Where staff are overpaid, the Trust has a responsibility to recover the overpayment from the employee and subsequently to identify any action which might be taken to avoid or minimise chance of a recurrence.

This policy is designed to outline the process for recovery of overpayment, aims to reduce financial risk of overpayment and provides a process for recovery. LCH will seek to recover overpayments in accordance with the Employment Rights Act 1996 and Standing Financial Instructions (SFIs).

Additionally, the policy sets out the process to be followed where an employee makes a request for a salary advance, i.e. an amount to be paid outside the normal payroll process due to a salary underpayment.

## 2 Aims and Objectives

This document sets out the LCH Policy and Procedure for dealing with overpayments (including any additional allowances or payments).

LCH will work with its Payroll provider to monitor these overpayments to identify how the occurrence/number can be reduced.

The policy sets out the procedure that must be followed to ensure the consistent management of a salary overpayment, made to either an existing or ex-employee of LCH.

## 3 Definitions

An **overpayment of salary** to an employee normally arises as the result of either an 'error of calculation', which results in a payment being made incorrectly, or as the result of incorrect, insufficient or late notification of a change to the individual's circumstances or contract of employment.

A **salary underpayment** refers to a situation when time has been worked or cost incurred, but in error this has not been processed in time for the next normal pay run, for example, because the process for claiming the time or expense was not completed in time for the payroll cut-off date. In some limited circumstances a payment in advance of the next salary run may be agreed when time has been worked or cost incurred that would normally be paid at the next pay run. This will be exceptional. It does not refer to upfront payments for costs, or work not yet incurred for which no payment will be made.

**LCFS** refers to the Local Counter Fraud Specialist.

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## 4 Responsibilities

**Chief Executive** will ensure that LCH has robust policies and procedures in place for the recovery of overpayments. In practice this responsibility is delegated to Heads of Service, Operational Managers, Finance and Workforce.

**Director** in charge of Workforce is responsible for, so far as is reasonably practicable, ensuring that overpayments are managed consistently and fairly.

**Staff** have a duty to comply with the policies and procedures. If an employee has any questions or concerns they should raise these with their line manager or the Workforce Department.

**Staff** must:-

- Seek clarification from the Payroll Department if unsure of the amount or any payments indicated on their pay slip.
- Check their pay advice slip each month to ensure that it is correct and to ensure that any changes to their contractual terms of employment have been actioned (e.g. increase/decrease in hours etc).
- Notify the Trust of any change of bank details in a timely fashion (i.e. in advance), where necessary in discussion with a pay clerk.
- Immediately report any pay discrepancy identified on their pay slip to their line manager. It is a criminal offence to knowingly retain a wrongful credit.
- Arrange with the line manager and Workforce the recovery of the overpayment immediately (i.e. out of the following month's salary) in the first instance or, by agreement, over the same period as the overpayment occurred.
- Be aware of and work to cut-off dates to guarantee payment of travel, subsistence claims or timesheets in the next pay period;
- Submit timesheets and travel and subsistence claims within two months of incurring the expense.
- Ensure they notify LCH of any change of address.
- Access support and advice from Staffside representatives. if required

**Line Managers** must:-

- Endeavour to make certain that staff are paid correctly and on time by ensuring that pay related data and information is passed to the Workforce, payroll or pensions teams in line with current procedures, on a timely basis, wherever practicable;
- Ensure that Workforce Information are informed of all leavers at the earliest practical opportunity, so as to avoid overpayments to staff leaving the organisation.
- Ensure that pay slips are distributed to appropriate locations, which may include forwarding to the home addresses if appropriate;
- Correctly identify errors as soon as possible (before the recovery of the overpayment is agreed to prevent further overpayment);

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- Rectify any identified overpayment with the co-operation of the individual;
- Inform relevant staff regarding cut-off dates for submission of travel claims or variation/timesheets via the intranet.
- Be responsible for ensuring that employee working hours and other change of circumstance documentation are submitted in a timely manner and in accordance with Payroll deadlines.

Good working relations are vital for LCH to operate successfully and provide its essential services. Managers, trade unions and employees accept the responsibility of working together on issues regarding overpayments in good faith and with goodwill with the shared intention of facilitating good working relations.

Any decision to waive or vary recovery on the grounds that cost of recovery would be disproportionate to the amount overpaid must be agreed by the Director of Finance/Director of Workforce or deputy. Some of these decisions may have to be made by the LCH Audit Committee.

**Professional bodies and Trade Union organisations** accept the responsibility of working together on issues in good faith and with goodwill with the shared intention of facilitating good working relations.

Professional bodies and Trade Union organisations play a vital role in:-

- supporting employees in any meetings
- articulating the issues and suggesting solutions.

**Workforce** will work in partnership with Managers and Employee Representatives to ensure employees are treated fairly and consistently within the framework of the policy.

They will advise managers of options available should an issue arise for a member of staff under this policy.

The **Workforce Department** will:-

- Adhere to this policy for the recovery of any overpayment of salary;
- When the matter has been raised by Payroll, speak to the line manager to enable the employee to be informed, providing them with details of the overpayment as soon as the matter has been identified requesting them to contact the individual to make arrangements to repay the overpayment amount;
- Act so as to identify and avoid overpayments wherever possible;
- Process updates to employee information in a timely manner;
- Liaise with Staffside representatives e.g. Trade Unions.

**Payroll** will log all overpayments, for both current employees and employees who have left the organisation, including the reason for the error and provide a copy of this to the Workforce Department, Finance Department and report to LCH in line with the Service Level Agreement (SLA).

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**Local Counter Fraud Specialist (LCFS)** will be responsible for investigating any instances where there is a suspicion that fraudulent activity has taken place and will do so in accordance with the Trust's Anti-Fraud and Corruption Policy.

### 5 Equality Analysis

- 5.1 LCH expects the same standards of conduct of all employees. Managers should bear in mind the possibility that some employees may need assistance to follow or understand rules or procedures because of language or disability factors, for example. If such assistance is needed or requested, every reasonable endeavour will be made to provide it.
- 5.2 LCH aims to design and implement services, policies and measures that meet the diverse needs of its population and workforce, ensuring none are placed at a disadvantage over others.
- 5.3 LCH is subject to the equality duty as set out in the Equality Act 2010 and pay "due regard" for the need to:
- Eliminate unlawful discrimination, harassment and victimisation.
  - Advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not.
- 5.4 Due regard for advancing equality involves:
- Removing or minimising disadvantages suffered by people due to their protected characteristics.
  - Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.

Please see appendix 3.

### 6 Procedure

- 6.1 This procedure will standardise the process that will be followed to ensure the consistent management of a salary overpayment made to either an existing or ex-employee of LCH.
- 6.2 LCH has a duty to ensure that all employees are paid the correct salary, allowances and benefits, and receive the correct amount of annual leave entitlement.
- 6.3 LCH acknowledges that there are occasions when errors occur that result in employees receiving over paid salary, allowances or benefits. As public monies are involved, LCH has a responsibility to ensure that all overpayments are recovered.
- 6.4 This policy is intended to promote equity and fairness in ensuring that the error is corrected and any over payments are recovered or repaid appropriately.



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- 6.5 This policy is applicable to all temporary and permanent staff, volunteers, Executives and Non-Executive Directors employed by LCH. Volunteers are also subject to this policy in relation to overpayment of expenses/allowances. This policy also applies to employees who no longer work for LCH who have been overpaid in previous salary payments or in their final salary payment.
- 6.6 This policy is designed to outline the process for recovery of overpayment, aims to reduce financial risk of overpayment and provides a process for recovery. LCH will seek to recover overpayments in accordance with the Employment Rights Act 1996 and Standing Financial Instructions (SFIs).

### **7 Prevention**

- 7.1 In order to take measures to prevent an overpayment occurring, it is necessary to reduce the possibilities for the occurrence in the first instance. The main reason for overpayments occurring within LCH is the late notification of information i.e. late termination notices or change of circumstances (via ESR directly or electronic SW2 form) after the effective date or late submission of termination forms (via ESR directly or electronic SW3).
- 7.2 The responsibility for notifying the Workforce department of changes to individuals' contracts / circumstances lies with the manager/ supervisor. It is therefore of the utmost importance that the timing of the submission of information is paramount in ensuring that the documentation is received in the appropriate department in ample time (i.e. in line with monthly payroll deadlines) for action and that overpayments do not arise or are minimal. Assuming the manager has provided full, clear information to Workforce Information, having regard to deadlines in respect of payroll, responsibility then passes to the Workforce department for processing the change.

### **8 Fraud / Intentional misrepresentation by the employee**

- 8.1 If an overpayment of salary is caused because the employee has intentionally misrepresented facts or relevant data, all possible steps must be taken to effect immediate recovery. The Trust's Local Counter Fraud Specialist will decide whether to carry out an investigation in accordance with the Trust's Anti-Fraud and Corruption policy. Action may culminate in criminal proceedings and/or disciplinary action being commenced/taken against an employee in the event of a failure to disclose an overpayment.
- 8.2 Where there is an allegation of fraud or potential fraud is discovered at any stage of looking into matters, the manager must report the matter immediately to the Workforce Department. This will allow the Workforce Department to immediately liaise with the LCH Local Counter Fraud Specialist, Director of Finance, or the National Fraud and Corruption reporting line. This is in accordance with the LCH Anti-Fraud and Corruption Policy.
- 8.2 The reporting of reasonably held suspicions or allegations of fraud is encouraged and protected under the LCH Hearing the Concerns of Workers' Policy (Whistle Blowing)

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NB: No member of staff should investigate a suspicion or allegation of fraud. In accordance with the Standards for Providers, only the LCH Local Counter Fraud Specialist and other representatives from NHS Protect can undertake such an investigation.

### **9 Recovery of losses to fraud and corruption**

- 9.1 The seeking of financial redress or recovery of losses should always be considered in cases of fraud, corruption and bribery that are investigated by either the LCFS or NHS Protect where a loss is identified. As a general rule, recovery of the loss caused by the perpetrator should always be sought. The decisions must be taken in the light of the particular circumstances of each case.
- 9.2 Redress allows resources that are lost to fraud, corruption and bribery to be returned to the NHS for use as intended, for provision of high-quality patient care and services.
- 9.3 Reporting the results of the investigation  
The investigation process requires the LCFS to review the systems in operation to determine whether there are any inherent weaknesses. Any such weaknesses identified should be corrected immediately.
- 9.4 If fraud, corruption or bribery is found to have occurred, the LCFS should prepare a report for the Director of Finance / audit committee meeting, setting out the following details:
- the circumstances
  - the investigation process
  - the estimated loss
  - the steps taken to prevent a recurrence
  - the steps taken to recover the loss.

### **10 Process around salary overpayments**

#### **10.1 Current Employees**

- 10.1.1 In the event of an overpayment being identified by the Payroll Department, the payroll officer will contact the Workforce department as soon as possible. It is important that the Workforce department notifies the line manager who should bring the matter and total amount of the over payment to the attention of the employee at the earliest opportunity. The line manager should advise the employee of the LCH procedure for reclaiming the full amount.
- 10.1.2 If an employee becomes aware of an overpayment they must contact and advise their line manager immediately. The line manager will liaise with the Workforce Department and the employee to resolve the matter to agree responsibility for making arrangements to recover the overpayment.

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10.1.3 Recovery of the overpayment should be made immediately (i.e. out of the following month's salary) in the first instance or, by arrangement, over the same period as the overpayment occurred (see example below). This should not be an unreasonable time period. It is the responsibility of the line manager, together with Workforce, to make arrangements with the employee for the recovery.

For instance, if an employee received £200 per month for two months they are required to pay back £200 per month over a two month period.

10.1.4 In the event of satisfactory arrangements not being made through discussion then a letter will be sent to the employee from the manager within two weeks of the overpayment being discovered (Appendix 1). This letter will outline the reason for the overpayment, the sum of the overpayment and the period covered. Included in this letter the line manager will advise the employee that a meeting will be arranged with the individual to discuss the overpayment and recovery procedure. The individual will be encouraged to have support at this meeting from a Trade Union Representative or work colleague.

10.1.5 Following the meeting, the line manager will send the employee a second letter confirming the sum to be repaid, the amount per repayment instalment and the period covered (Appendix 2). Included in the letter will be a statement that should the individual leave LCH before the full amount is repaid, then the balance will be recovered from their final salary. A copy of this letter will be provided to Payroll and Finance for their files. Two copies of the letter will be sent to the individual, one of which should be signed and returned. A copy of this letter will be retained on the employee's personnel file, along with all other overpayment correspondence. Once received, the Payroll Department will start the deductions from salary with immediate effect.

### 10.2 Employees Who Have Left The Organisation

10.2.1 Where an individual has left the employment of LCH, the Payroll Department will contact the Workforce Information department and the line manager to make them aware. Following this, the payroll department will send a letter to the individual within 2 weeks of the overpayment being discovered. This letter will outline the reason for the overpayment, the sum of the overpayment and the period covered together with notification that an invoice will be raised by Finance for recovery of the overpayment. The Payroll Department will, at the same time, notify the Finance department by completing an invoice request form which Finance will action upon receipt. Once the invoice is raised payment will be subject to the LCH debtor invoice payment terms (payment within 14 days).

If payment is not made then the process of recovery will take place in accordance with the LCH Debt Recovery Policy. If appropriate LCH will seek recovery of overpayments through the civil court process. In addition to any order to repay this could affect an individual's credit rating.

10.2.2 Any overpayment that is not recovered will be charged to the department/service budget.

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### **10.3 Overpayments affecting multiple employees**

- 10.3.1** Where a systems error or defect has caused a number of overpayments to different individuals, it may not be possible for managers to have individual conversations with staff concerning the overpayment, as the time involved to co-ordinate this activity may be significant. As such, staff will be notified by either the Workforce Information or Payroll departments, in most cases by email.
- 10.3.2** Depending on the circumstances of the overpayment, it may firstly be necessary to notify staff that an overpayment has occurred in the first instance, before all the details are clear. This early notification of the error would alert staff to the possibility of a recovery of an overpayment but would not the details of amount or the month in which recovery will be made.
- 10.3.3** Once details are clear the payroll or Workforce Information department will inform all affected staff of the details of the overpayment, including sum, first recovery month and overall recovery period. Staff will be provided with contact details of the person handling the overpayment in order to raise queries. Staff will be able to request a meeting to discuss / dispute the overpayment or recovery process. At this meeting the individual will be encouraged to have support from a Trade Union Representative or work colleague.
- 10.3.4** The overpaid sum could then be recovered as set out in the communication to the member of staff. In cases where the member of staff has left the organisation, the procedure as above in section 9.2 would apply.

### **11 Process for Salary Underpayments**

- 11.1** A salary underpayment may occur due to:
- Late or erroneous filing of documentation around starting, leaving or change of contract
  - Late or incorrect submission of documentation around additional payments, e.g. timesheets for unsocial hours or overtime
  - a claim for travel expenses was submitted accurately and in good time by the member of staff but was not approved in time to be paid via the normal payroll process.
- 11.2** The key principle in respect of an underpayment of salary is that the position will be rectified in the next available salary payment.

Any employee who experiences an underpayment of their salary should report this to their line manager in the first instance.

Underpayments in respect of late or incorrect submission of documentation by the employee with regards to overtime, unsocial hours or expenses will be processed and paid in the next available salary payment.

Underpayments caused by an error on behalf of management, which cause a shortfall in the basic pay expected (i.e. pay without overtime, expenses, etc.) will be processed and paid in the next available salary payment. Payment in advance of

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this would be considered where an employee has suffered a significant shortfall in the pay they expected to receive as a result of an underpayment.

- 11.3 A request to receive payment earlier than the next salary payment should be made to the member of staff's pay clerk. Requests will only be considered where the underpayment has caused a shortfall to the basic salary, due to management error. Where a request for such a payment is approved, the amount agreed will be paid to the employee's normal bank account for salary payments and recovered from the following salary month's pay. Requests should, under normal circumstances, be responded to and then, if accepted, actioned, within 5 working days.

### **12. Disciplinary**

- 12.1 All staff should be aware that failing to report an overpayment that could result in a monetary loss to the LCH may result in disciplinary action being taken or in extreme cases where no satisfactory arrangement can be reached to repay monies owed, the case may be referred to the Local Counter Fraud Specialist for further investigation.
- 12.2 Where it has not been possible to arrange a repayment plan with the employee LCH will issue an invoice which will be subject to the LCH Debt Recovery Policy.

### **13. Appeal Process**

- 13.1 Should an employee feel aggrieved about this process this may be raised through the LCH Grievance Policy.

### **14 Right to be Accompanied**

- 14.1 An employee has the right to be accompanied by a Trade Union representative or work colleague, not acting in a legal capacity, in any meeting regarding an overpayment of salary. The role of the representative is to assist and support the employee and to speak on the employee's behalf within the procedure. The representative must not answer questions for the employee or disrupt the process.
- 14.2 The employee is responsible for arranging their own representation for such meetings. Making such arrangements should not cause undue delay to the process as it is in the interests of everybody to deal with overpayments promptly. The unavailability of a particular representative should not be a reason for delaying matters for more than a few days and in line with statutory requirements.

### **15. Records**

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- 15.1 Management is responsible for keeping records of meetings with employees regarding overpayment issues. The records will usually be notes of meetings rather than a verbatim record.

### **16. Mental Capacity Act (MCA 2005 Code of Practice)**

- 16.1 This Act applies to all persons over the age of 16 who are judged to lack capacity to consent or withhold consent to acts which are considered by health and social care professionals to be in the best interests of their welfare and health.
- 16.2 The Mental Capacity Act 2005 imposes a legal requirement on health and social care professionals to 'have regard to' relevant guidance within the Code of Practice when acting or making decisions on behalf of someone who lacks capacity to make the decision for themselves. Furthermore, they should be able to explain how they had regard to the Code when acting or making decisions.
- 16.3 Detailed guidance is available in the Mental Capacity Act 2005 Code of Practice (<http://www.dca.gov.uk/legal-policy/mental-capacity/mca-cp.pdf> ).

### **17. Risk Assessments**

- 17.1 Overpayments cause a financial risk to the organisation and the debt recovery process.
- 17.2 There are systems in place to monitor the overpayments to reduce the occurrence to a minimum where this is in the control of LCH.

### **18. Training Needs**

- 18.1 All new managers will be made aware of the need for timely submission of payroll information to reduce the risk of overpayments.
- 18.2 All staff will be made aware of this policy upon commencement of employment with LCH or at a departmental induction. Copies can also be viewed on the LCH Intranet
- 18.3 Payroll deadlines will be communicated via the LCH intranet.

### **19 Monitoring Compliance and Effectiveness**

- 19.1 The process for monitoring and checking overpayments will be carried out by the Payroll provider and this information will be provided to LCH in line with the SLA.
- 19.2 Overpayments, costs and recovery will be recorded and monitored by the Finance Department. Application of this policy will be monitored by the Workforce Department. The Director of Finance will initiate all overpayments to be investigated and processes reviewed to reduce further risk.

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19.3 The LCH Internal Auditor will be provided with the information regarding overpayments upon request in line with audit requirements.

### **20 Approval and Ratification process**

20.1 This policy will be approved by JNCF and will then be ratified by the Remuneration Committee.

20.2 The policy will also be submitted to the LCH Audit Committee.

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### **21. Dissemination and Implementation**

- 21.1 Dissemination of this policy will be via the Workforce Department, Finance Department and Community Talk.
- 21.2 Further implementation will require Operational Directors/General Managers/Heads of Service to communicate at a local level to ensure all staff understand their responsibilities for adhering to the policy.

### **22. Review arrangements**

- 22.1 The Overpayments Policy will be reviewed after 3 years or in response to any significant change in requirements or legislation.

### **23. Associated documents**

Anti-Fraud and Corruption Policy  
LCH Payroll SLA  
Hearing the Concerns of Workers Policy  
Secretary of State Directions 2004  
LCH Debt Recovery Policy  
Grievance Policy  
Statement of Written Particulars (Contract of Employment)  
Disciplinary Policy

### **24. References**

Employment Rights Act 1996  
LCH Standing Financial Instructions (SFIs)



# Overpayments Policy and Procedure

## Appendices

### Appendix 1

#### **Strictly Private and Confidential Without Prejudice**

<Name>

<Address>

<Date>

Dear <Name>

#### **Overpayment of Salary**

I am writing to inform you that you have been overpaid by the amount of £XX.XX for the period <Date> to<Date>.

The reason for this overpayment is due to <Reason>.

A meeting has been arranged on <time>, <date> in <venue> to discuss the recovery of this overpayment with me in accordance with the Trust Overpayment Policy and Procedure. You are encouraged to bring your Trade Union Representative or a Work Colleague with you. Please could you ring me on ext.< xxx> to confirm your attendance.

A member of the Workforce Team may also be present at this meeting.

A copy of the Overpayment Policy and Procedure is enclosed for your information.

Yours sincerely

<Name>

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## Appendix 2

### Strictly Private and Confidential Without Prejudice

<Name>  
<Address>  
<Date>

Dear <Name>

#### Overpayment of Salary

Thank you for attending the meeting on <Date>, I am writing to inform you of the actions agreed regarding the overpayment which has been made to you between <Date> to <Date>.  
<Insert agreed actions for repayment>.

Please note if you leave the Trust before the overpayment has been paid back in full then the remaining money will be deducted from your final salary payment.

There are two copies of this letter enclosed, please sign and return one and retain the second for your records.

Should you have any queries regarding the content of this letter please do not hesitate to contact me on <Phone Number>.

Yours sincerely

<Name>

.....  
I have read the above information and agree with the actions outlined.

Signed ..... Date .....

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## Appendix 3: Equality Analysis (EA) – Relevance Screening Form

<b>1. Name of the document</b>	Overpayments & Underpayments Policy			
<b>2. What are the main aims and objectives of the document</b>	The specific aim of the policy is a procedure for the handling of cases of overpayments of salary and allowances to all staff as well as around salary underpayments.			
<b>3. Is this a key strategic document?</b>	<b>Yes</b>		<b>No</b>	
			No	
<b>4. What impact will this document have on the public or staff?</b>	<b>High</b>	<b>Medium</b>	<b>Low</b>	<b>Don't know</b>
			Low	
<b>Explain:</b>				
<b>5. Is there any evidence, or reasons that different groups have different needs, experiences, issues and priorities in respect of this particular document?</b>	<b>Yes</b>		<b>No</b>	
			<b>No</b>	
<b>Explain:</b>				

If you have answered **Yes** to question 3, you should move straight on to EA.

If, for question 4, you have answered **Low** there is no need to continue to conduct an EA.

If for question 4 you have answered **Medium** and **No** for question 5, there is no need to conduct an EA.

If, for question 4 you have answered **Medium** or **Don't Know**, and have answered **Yes** or **Don't Know** for question 5 you should move on to a **Stage One** EA.

If, for question 4 you have answered **High**, you need to conduct an EA.

	<b>Equality Analysis</b>	<b>None</b>
<b>6. Based on the result of the screening, is an EA required?</b>		None

Antony Williamson, Workforce Intelligence Manager

**Policy Consultation Process**

<b>Title of Document</b>	Overpayments Policy
<b>Author (s)</b>	Antony Williamson, Workforce Intelligence Manager Iain Kennedy, Counter Fraud Specialist
<b>New / Revised Document</b>	Revised
<b>Lists of persons involved in developing the policy</b>	Steve Hartley, Financial Accountant Cherrine Hawkins, Assistant Director of Finance Nigel Collins, Workforce Information Team Leader Bryan Machin, Executive Director of Finance and Resources
<b>List of persons involved in the consultation process</b>	Senior Management Team (SMT) JNC Members JNCF Members Assistant Director of Workforce HR Managers Iain Kennedy, Local Counter Fraud Specialist Mark Johnson, Payroll Manager Ann Hobson, Deputy Director of HR Peter Ainsworth, Head of Support Services Staffside