

Change of Circumstances and Overpayments Policy Guidance

Higher Education Student Finance in England 2010/11 Academic Year

TO LOCAL AUTHORITIES
(For the attention of the Student Support Officer)

January 2010

Dear Colleague

2010/11 STUDENT FINANCE IMPLEMENTATION PROJECT: 'CHANGE OF CIRCUMSTANCES AND OVERPAYMENTS POLICY GUIDANCE'.

Attached is guidance for key delivery partners in the 2010/11 student finance implementation project: '**Change of circumstances and overpayments policy guidance**'.

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Introduction

1. This chapter provides policy guidance to LAs/SFE on how to deal with changes in the circumstances of a student that may have an impact on their entitlement to support, and on the recovery of overpayments of grants and loans from students who have received support under the Education (Student Support) Regulations 2009 which govern the provision for support for AY 2010/11.
2. This chapter deals with the following subjects:
 - students who have withdrawn from their course;
 - students who have suspended their study;
 - resuming payment of support; and
 - recovery of overpayments of loans and grants.
3. Policy guidance on previous study, including termination of eligibility and LA/SFE discretion can be found in the 'Assessing Eligibility' chapter.
4. LAs/SFE should refer to the 'Assessing Eligibility' chapter for policy guidance relating to students transferring courses. In all transfer cases, the written consent of the importing institution is required.
5. An 'overpayment' occurs, for example, when a student's entitlement is reassessed, and the result of this reassessment is that the annual entitlement to support is reduced to an amount less than that which the student has already been paid, or it comes to light that a student has been paid more than he is entitled to.

Policy

Withdrawals

6. There are separate provisions in the Education (Student Support) Regulations 2009 that govern payment of fee support and living cost support where a student has withdrawn from the course. These are summarised below.

Fees

7. No grant for fees (regulation 105) or fee loan or fee contribution loan (regulation 110) is payable if:
 - a) before the expiry of three months from the beginning of the academic year the eligible student ceases to attend the course, and
 - b) the HEI has determined or agreed that the student will not return to the course again during the academic year in respect of which the fees are payable, or at all.
8. The relevant date (three months from the beginning of the academic year) will be 1st December, 1st April, 1st July or 1st October, depending upon whether the academic year of the course in question begins on 1st September, 1st January, 1st April or 1st July respectively. Therefore, if a student has withdrawn from the course before the relevant date, and the institution has confirmed or agreed that he/she will not be resuming the

course later in that academic year, or at all, no grant or fee loan or fee contribution loan is payable for fees.

9. If, on the other hand, the student is in attendance on the relevant date but then withdraws later in the academic year, the grant for fees or fee loan or fee contribution loan is payable. The fact that the student may withdraw later in the year, or may indeed have withdrawn by the time that the fees are actually paid, does not affect their payment. The only circumstance where the fee payment is revisited is where there is a revised financial assessment (for example, where a provisional assessment is converted into a final assessment following receipt of accurate financial details) that affects the amount of grant for fees that an old-system student is entitled to for that academic year.

Grants and loans for living costs (general)

10. Regulation 104(b) defines a 'payment period' as a period in respect of which an instalment is payable, or would have been payable if the student's period of eligibility had not terminated.
11. Where students withdraw part-way through a payment period, regulations 106(14) and 106(15) give LAs/SFE discretion to determine whether a payment of grant for living costs should be made in respect of the whole of that payment period or only for the portion of that period during which the student was undertaking the course.
12. Regulation 106(11) provides that no grants for living and other costs are payable in respect of a payment period beginning after an eligible student's period of eligibility terminates. This covers cases where the student has withdrawn from, abandoned or been expelled from their course; cases where students' eligibility has been terminated because they have shown by their conduct that they are unfit to receive support; and cases where students' eligibility has been terminated because they have failed to provide requested information or who have knowingly provided materially inaccurate information. LAs/SFE do not have discretion to determine otherwise in these circumstances. Their discretion is limited to the payment period during which the student withdraws from the course.
13. Regulation 111(4) provides that the LA must not pay the first instalment of a loan for living costs or long courses loan (or in cases where the support is not being paid in instalments, any payment of a loan) to an eligible student before the institution has sent an attendance confirmation, unless an exception applies. Regulation 111(5) provides that an exception applies if the LA/SFE determines that owing to exceptional circumstances it would be appropriate to make a payment without receiving an attendance confirmation.
14. Regulation 112(11) provides that no loans for living costs or long courses loan are payable in respect of any payment period beginning after an eligible student's period of eligibility terminates.
15. Since September 2008, any student who has spent any time in prison or on remand within the academic year will not be entitled to any maintenance support whilst they are in prison. Maintenance support will be calculated on a pro-rata daily basis excluding the time in prison (see regulations 39(9) and 112(9)).

Grants for living costs

16. Maintenance Grant (MG), Special Support Grant (SSG), Higher Education Grant (HEG), Adult Dependants Grant (ADG) and Parents Learning Allowance (PLA) are payable in respect of 365 days. Where a student withdraws from their course part-way through a payment period, a reassessment of these grants should normally be based on the number of days that the student was undertaking, or can be treated as undertaking, the course from the first day of the academic year to the date of withdrawal.
17. However, under regulations 106(14) and 106(15) LAs/SFE have discretion, taking into account the student's circumstances, to extend the student's eligibility in respect of grants for living and other costs to the end of the payment period in which the student leaves the course. If a student who has attended their course in the AY ceases to attend that course in commencement of a custodial sentence, all payments should cease from the time of withdrawal and no discretion is to be given.

Example

Student A has an academic year starting 1 September.

His PLA entitlement for a full year, after income assessment, is £900.00.

Student A leaves his course on 27 October.

The first term ends on 8 December.

LA determines that PLA should not be paid beyond the date of withdrawal.

Therefore number of days for reassessment purposes = 57 (1 September – 27 October).

So, revised entitlement is as follows:

$$\frac{57}{365} \times £900 = £141$$

Disabled Students' Allowances (DSAs), Childcare Grant (CCG) and Travel Grant (TG) are based on a student's actual requirements. Where the student withdraws part-way through a payment period LAs/SFE have discretion under regulations 106(14) and 106(15) to extend the student's eligibility in respect of grants for living and other costs to the end of the payment period. However, the very nature of the DSAs, CCG and TG are that they are based on a student's actual requirements in respect of expenditure incurred whilst undertaking the course. Therefore, the fact that support may be extended to the end of the payment period in which the student withdraws from the course does not necessarily mean that these three grants should continue to be paid.

Loans for living costs

18. Where a student withdraws part-way through a payment period but the LA/SFE determines that the full loan instalment for that period is payable, it will not be necessary for the LA/SFE to reassess the amount of loan payable if the loan amount was properly calculated. The system will calculate the student's revised loan entitlement on the basis of 33% of the assessed loan where the student leaves the course in the first period, 66%

for the second period and 100% for the third period. The loan will be recovered in the normal way through the income contingent repayment procedure. For any students who has attended their course in the academic year and ceases to attend that course on commencement of a custodial sentence all payments should cease from the time of withdrawal.

19. Where the LA/SFE determines that loan support should not be paid beyond the date of withdrawal they should manually override the system generated figures in the relevant fields when approving the student's revised loan entitlement. The revised loan entitlement should be calculated using the method outlined in the following worked example.

Student B, a 2009 cohort student, has an academic year starting 1 September. There are 75 days in the first term. He is eligible for the full 'elsewhere' rate of loan (£4,950).

Having received the instalment of loan payable in respect of the first payment period, Student B leaves the course on 3rd October (having attended for 33 days) and does not return.

The LA/SFE exercises its discretion under regulation 106(14) and decides that Student B is only eligible for support for the number of days that he was undertaking the course.

The student's revised entitlement is as follows:

Maximum loan: £4,950 (full 'elsewhere' rate)

Number of days attended in term: 33

Number of days in term: 75

Number of terms in academic year: 3

$$\frac{33}{75} \times £4,950 = £2,178 \div 3 = £726$$

Reassessment of a student's loan entitlement resulting in an underpayment

20. When a student withdraws from a course it is possible that they are entitled to a higher amount of loan than they have so far claimed (for example, because their original assessment, which was provisional, has now been finalised). Regulation 86(3) provides that where an eligible student has applied for a loan for living costs or long courses loan of less than the maximum amount to which he is entitled in relation to the academic year, he may apply to borrow an additional amount which, when added to the amount that he has already applied for, does not exceed the relevant maximum applicable in his case.

EXAMPLE:

Student C, a 2009 cohort student, begins a course in October 2010, having been assessed as entitled to £3,564 for the year (the 72% non-income assessed element of the £4,950 'elsewhere rate'), payable in three instalments of 33%, 33% & 34% or £1,176, £1,176 and £1,212.

Student C then withdraws from the course in the December of the same academic year. He receives a revised support notification from his LA/SFE, showing his loan entitlement for the period in which he withdrew to be £1,526.

As he only received £1,176 in October he may apply for the remaining £350 if he wishes to, provided that he does so not later than one month before the

end of the academic year, or one month after the date on which he receives the revised support notification, whichever is the latter.

Extra weeks' loan / Long courses loan

21. Where students have in an academic year attended their course for longer than 30 weeks and 3 days, they may be eligible for extra weeks' loan (or long courses loan as it is known for most students who commenced their course on 1st September 2008 or later). The amount of extra weeks' loan / long courses loan is added to the main student loan and paid in three instalments of 33%, 33% and 34%. Students are only eligible for the extra weeks' loan / long courses loan when they have attended for at least 30 weeks and 3 days.
22. If they have not attended for more than 30 weeks and 3 days a reassessment should be processed showing the amount of main student loan reassessed less any extra weeks' loan / long courses loan.

EXAMPLE:

Student D is a 2009 cohort student and his course has an academic year of 33 weeks.

Original assessment:

Student loan:	£4,950 (full 'elsewhere' rate)
Long courses loan:	£249 (3 extra weeks @ £ 83 per week)
Total loan for year:	£5,199
Student D withdraws during the first quarter, therefore:	
Loan received in first quarter:	£1,715 (33% of £5,199)
Loan due on reassessment:	£1,633 (33% of £4,950).

The household contribution towards fees and living costs

23. In cases where the student's residual household income **includes the income of his or her parents**, the Regulations make no provision for the apportionment of an assessed student contribution except in a case where more than one member of a family is receiving support. In the case of someone who is the only student in the family and who leaves their course, the assessed household contribution is not altered as the parents' residual income has been included in the calculation of household income. The student's annual entitlement is calculated on the basis of the assessed household contribution for that year, and that entitlement is then reduced in accordance with the Regulations. The following example helps to illustrate this:

Student E is an old system student eligible for the 'elsewhere' rate of loan (£4,745). His residual household income is such that the contribution is assessed as £1,400.

As an old system student this will offset the full £1,310 tuition fee and leaves a balance of £90 to be offset against Student E's loan entitlement. Student E leaves the course at the end of the first term and does not return.

As a result, he is only eligible for support in respect of the first quarter of the academic year. His revised entitlement will be as follows:

- a) 33% of full-year loan rate (£4,745) = £ 1,565.

b) £1,565 less the assessed household contribution to the loan (£90) gives a loan entitlement of £1,475.

Student F is a 2009 cohort student eligible for the 'elsewhere' rate of loan (£4,950). Her residual household income is such that the contribution to loan for living costs is assessed as £300. She is not eligible for any supplementary support products (Adult Dependants' Grant, Childcare Grant, Parents' Learning Allowance, Long Courses Loan or Travel Grant); therefore this is the only contribution that is applied to her.

As a 2009 cohort student this will offset against Student F's loan for living costs entitlement. Student F leaves the course at the end of the first term and does not return.

As a result, she is only eligible for support in respect of the first quarter of the academic year. Her revised entitlement will be as follows:

a) 33% of full-year loan rate (£4,950) = £ 1,633.

b) £1,633 less the assessed household contribution to the loan for living costs (£300) gives a loan entitlement of £1,333.

24. This same principle will apply where the household income includes the income of a spouse, civil partner or partner. It will also apply if more than one member of the household is an eligible student and a split contribution has been calculated. In a split contribution case the same procedure outlined in examples E and F above should be followed but the "assessed household contribution" will be that proportion of the contribution which has been allocated to the student.

Suspensions

Circumstances when a student may suspend their studies

25. Some full-time students may have to interrupt their studies for a variety of reasons. These may include illness, pregnancy, caring responsibilities, financial difficulties, bereavement or premature termination of a work placement. In some of these cases, when the students are ready to resume their studies, their institutions may not allow them to do so immediately. The institution may often require the student to wait until the beginning of the next academic year, or require the student to resume their studies at some later point in the next academic year, for example at a point comparable to when the student had left the course in the previous academic year.

Reassessments for students who are absent from their course

26. Regulations 106(17) and 112(12) relate to a relevant payment period during any part of which a student is absent from the course. Regulation 106(17) provides that no grants for living and other costs shall be payable during that period, unless the Secretary of State determines that, taking into account the circumstances of the individual case, part, or indeed all, of the grants otherwise due in respect of that period may be paid. Regulation 112(12) makes similar provision for loans for living costs and long courses loans.
27. In the case of full-time undergraduates, regulation 106(19), in the case of grants for living and other costs, and 112(14), in the case of loans for living costs and long courses loans, allow for an automatic disregard of absence for 60 days if the student is ill. Such students are eligible for full support during this period. Institutions may also make payments from the Access to

Learning Fund during this period. If a student has spent any time in prison the first 60 days are not disregarded in these cases.

28. Regulations 106(17) and 112(12) respectively give LAs/SFE the discretion to determine that all or part of the grant or loan support due is payable where the student is absent from the course for reasons other than illness, or where the illness exceeds 60 days. Regulations 106(18) and 112(13) respectively provide that in deciding whether it would be appropriate to pay all or part of the grant or loan support, consideration should be given to:
- the reasons for the student's absence;
 - the length of the absence; and
 - the financial hardship caused by not paying all or part of the support.
 - If the student is in prison then no further support should be paid for that time.
29. In these circumstances, institutions also have discretion to make payments from the Access to Learning Fund, provided that the LA/SFE has determined that the student has not abandoned, withdrawn from or been expelled from the course.

Extending student support to students who suspend their studies

30. The lack of financial support has often led to financial hardship and to some students withdrawing from their courses. Clearly, it is not in the public interest for students to withdraw from their courses in these circumstances, given that any expenditure on their tuition fee and living costs support would therefore have effectively been wasted. This is not in the interests of either the student or the taxpayer. It is important that LAs/SFE use the discretionary powers available to them to avoid students having to drop out due to financial pressures.
31. LAs/SFE should be aware that their discretionary power to determine that part or all of the student support is payable can be exercised in circumstances other than illness. The list of circumstances in paragraph 25 is neither prescriptive nor exhaustive. LAs/SFE should be particularly sympathetic towards those students who have dependants.
32. In deciding on the exercise of their discretion, LAs/SFE should consider each case on its own merits. LAs/SFE may wish to consider the reasons for the absence, whether the student will face financial hardship during their absence, and the prospect of the student returning to the course. LAs/SFE should also take account of how the institution treats the student's absence, particularly if the institution has given the student permission to be absent, and on what terms.

Monitoring of LA/SFE discretion

33. The Department monitors LAs/SFE' use of discretion. BIS officials may occasionally contact some LAs/SFE for information on the number of students notified as being absent from their course, the number of determinations made, and the circumstances in which such determinations are made. It is good practice, therefore, that LAs/SFE maintain a record of such determinations.

Students without financial support

34. Although amendments to Social Security (Students) Regulations allow students who have suspended their studies to claim JSA once they have recovered or ceased caring duties, there are other students who do not qualify for JSA and may be left without any source of financial support. These may include:
- Students waiting to rejoin their course after the expiry of one year since suspension;
 - Sick students waiting 28 weeks to receive Income Support; and
 - Students deemed unavailable for work and not entitled to JSA because they are doing significant amounts of work in preparation for their return to their course.

Benefit provision for students who have suspended their studies

35. Full-time students who have suspended their studies due to illness or caring responsibilities and who are required to wait until their institution allows them to rejoin their course are able to claim Jobseekers Allowance (JSA) and Housing/Council Tax Benefit from when they recover from illness or the caring duties end, until the day before they rejoin their course, but not exceeding one year.
36. JSA is not payable to students who are entitled to a student loan. However, JSA can be paid subject to the student satisfying the normal criteria for receipt of that benefit. JSA is payable up until the day before the student rejoins their course but not exceeding one year.
37. Students who have suspended their studies are not eligible for payments from the Access to Learning Fund while in receipt of JSA.

Procedures for suspending study

38. The administrative procedures to be followed when a student suspends and resumes study on the same course are set out in the 'Change of Circumstances: Administration' Guidance. Although LAs/SFE have the discretion to determine continuation of student support, HEIs and students themselves have an important role in this process. It is essential that there is prompt interaction between the student and the institution, and that institutions promptly notify LAs/SFE when students temporarily suspend, or indeed withdraw from their courses.
39. Students should, in the first instance and at the earliest opportunity, contact their institution. The suspension process should involve the student receiving support and advice from a range of staff at the institution, particularly course tutors, welfare and financial advisers. Institutions should consider the reasons for suspension and reach an agreement on the best course of action for the student, either withdrawal or suspension. The student and the HEI should agree the likely period of absence and then arrange to keep the position under review. The student should then ask the institution to complete the agreed 'Notice of Student Suspending Study' form (the 'Change of Circumstances: Administration' Guidance), confirming that they are suspending their studies, giving the reasons for suspending and providing an agreed date of return.
40. It is the responsibility of institutions to notify the student's LA/SFE as soon as it is agreed that the student will suspend study. The student should also be advised to approach their LA/SFE, requesting that they be assessed for

continued support if required. Whenever possible a joint approach to the LA/SFE from the institution (supporting the case to extend student support) and the student is recommended. The process would enable the LA/SFE to make a timelier and better informed decision on whether to continue student support, and it would also reduce the possibility of confusion arising over whether a student has withdrawn from the course or has suspended their studies.

Students suspending their studies and returning later in the same term

Fees

41. In cases where students suspend their studies for whatever reason but then return to the course during the same term, regulation 105(4) will not apply. The full fee will still be payable even if the break in study occurs during the term in which the fee payment becomes due. Thus, if a student starts to attend in September 2010, then suspends studies on 27th October but returns to the course on 4th December, the full fee will still be payable, even though the student will not actually be attending the course on 1st December (see also paragraph 8).

Grants and loans for living costs

42. In accordance with regulations 106(17) and 112(12) no grants or loans for living costs will be payable during the period in which the absence falls, unless the LA/SFE decides that, in view of the circumstances underlining the absence, payment should be made either in full or in part. If the period of absence falls across two periods, then whether or not the student should receive support during either of those two periods will depend upon the extent of the absence in each period. If the absence covers more than half of one period, then the student might not receive support at all for that period. Again, LAs/SFE have the discretion to decide whether or not it would be appropriate to pay full or only partial support, or none at all, in respect of either of those two periods. If a student spends any time in prison they are ineligible for any support whilst serving a custodial sentence.
43. Where the student is deemed to be eligible for support for only part of the academic year, the Regulations do not allow the assessed student contribution to be reduced.

Students suspending their studies and returning later in the same academic year

44. EXAMPLE 1:

Student G is an 'old system' student. She began her course in September 2006, and having repeated an earlier year of course will begin the fourth (final) year of her course in September 2010. However, she suspends her attendance in October, having attended for 45 days of the first term and having been paid the instalment of loan due in respect of the first period. There are 75 days in the first term. She returns to the same course in January in order to complete it, but will be repeating the first term.

Student G is originally assessed as being eligible for £1,310 grant for fees and for the final year 'elsewhere' rate of maintenance loan of £4,391.

As an old system student a household contribution of £200 is assessed, which reduces her grant for fees to £1,110.

(Although she is not in attendance on 1st December the fact that she intends to return later in the academic year means that the fee is still payable.)

The LA/SFE decides that **Student G** is eligible for loan support for the 45 days during which she attended the course, and reassesses the loan entitlement for the first period as £878.

$$\frac{45}{75} \times £4,391 = £2,634 \div 3 = £878$$

Student G's entitlement to support for the remainder of the academic year is therefore calculated as follows:

STEP 1:

Original maintenance loan of £4,391 is payable in three instalments of 33%, 33% and 34%. That is £1,449, £1,449 and £1,493 respectively.

STEP 2:

If reassessed loan entitlement for first quarter is £878, then the total reassessed loan for the full year is: £878+£1,449+£1,493 = £3,820.

EXAMPLE 2:

Student H is a 2008 cohort student and begins the second year of his course in September 2009. However, he suspends his attendance in October, having attended for 45 days of the first term and having received payment of the instalment of maintenance loan due in respect of the first period. There are 75 days in the first term.

Student H is eligible for the £4,745 'elsewhere' rate of maintenance loan. As a current system student his household income is below the threshold where a contribution would be applicable.

However, instead of returning to the original course, **Student H** starts a new course in January, the academic year of which runs from 1st January to 31st December.

STEP 1: The LA/SFE will need to action the case as a transfer.

Original course

Student H is not in attendance on 1st December and will not return to the original course. Therefore no fee is payable in respect of the original course.

The LA decides that **Student H** is eligible for maintenance loan support in respect of the 45 days during which he attended the original course, and reassesses the loan support for the first quarter as £949.

The LA notifies the SLC of the revised entitlement for the original course.

New course

Student H starts the new course in January. As the academic year of the new course runs from January to December his maintenance loan entitlement for the first academic year of the new course will still be payable in three instalments, the first becoming due in the quarter beginning on 1st January. The LA/SFE should reassess as follows:

Student H is eligible for the £4,745 'elsewhere' rate of maintenance loan, with no household contribution applicable.

The LA would calculate maintenance loan entitlement as normal.

The SLC will adjust payment accordingly, taking into account any overpayments from a previous assessment.

Overpayments

45. In order to provide the maximum amount of flexibility, the Student Support Regulations for 2010/11 allow for an overpayment of any **grant for living and other costs** to be recovered from any other grant that is payable to the student under regulations made under section 22 of the Teaching and Higher Education Act 1998 (regulation 115(2)). All withdrawals and suspension will be treated in the same manner so recovery is possible whether the student stays on the same course or changes course, irrespective of whether the course is full-time, part-time or postgraduate. The position on fee support is different as this is paid directly to institutions, and overpayments would be recovered directly from the institution concerned (regulation 113). Likewise, any overpayment of a college fee loan would be recovered directly from the appropriate college or permanent private hall (regulation 114).
46. The Student Support Regulations allow for an overpayment of **loan for living costs or long courses loan** to be recovered from any further loan for living costs which is payable to the student (regulation 115(11)), regardless of whether the student withdrew or suspended their studies. Where part or all of an overpayment of a loan for living costs or long courses loan is outstanding when the student leaves or completes his course, the method of recovery will depend on the circumstances in which the overpayment occurred.

Overpayments of grants for living and other costs

47. Regulation 106(20) applies where the LA/SFE has already paid out grants for living and other costs and then reassesses the amount due.
48. If the amount of grant to be paid has increased, the LA/SFE should process the reassessment through the single system as soon as possible. The student's instalments of grant for the year will be increased to reflect the increased entitlement to support.
49. If the reassessment results in a **reduction** in entitlement to grant, the amount overpaid will be recovered in full from the next instalment(s) of that grant or any other grants which remain to be paid within the current academic year.
50. The student will receive a payment schedule letter detailing the amounts to be recovered.
51. If there is still an amount outstanding after any remaining instalments of grant due in the current academic year have been reduced to zero, then that amount is to be recovered in accordance with regulation 115.
52. Regulation 115(3)(a) provides for an overpayment of grant for living and other costs to be subtracted from 'any kind of grant payable to the student from time to time pursuant to regulations made under section 22 of the Teaching and Higher Education Act 1998'. In other words, the overpayment may be recovered from a grant payable in respect of a later academic year of the current course, or in respect of a later course (irrespective of whether the later course is full-time, part-time or postgraduate).
53. Alternatively, under regulation 115(3)(b) the LA/SFE may recover an overpayment of a grant for living and other costs by taking such other action as is available. For example, where the student is no longer attending the course, the SLC may seek to recover the overpayment directly from the student, for example by initiating proceedings in the county court.

54. The LA is obliged by regulation 115(2) to recover overpayments of grants for living and other costs unless they consider that it is not appropriate to do so. They may, however, exercise discretion as to how and when to go about this. For further information please see: Change of Circumstances and Overpayments Administration Guidance, section Overpayments Administration Guidance from section 73.

Disabled Students' Allowances paid to third parties

55. DSAs are generally paid direct to the suppliers of equipment or other support. It is an option for LAs/SFE to recover an overpayment of grants for living or other costs from DSA monies earmarked to pay a supplier.

For example, a student is assessed to be eligible for DSAs and equipment worth £3,500 is ordered from a supplier. It subsequently comes to light that there is an overpayment of grants for living and other costs of £1,000 outstanding from a previous course. The LA/SFE has the option to recover the overpayment from the DSA monies earmarked to pay the supplier. This will mean, of course, that the student's remaining DSA is not enough to pay the supplier in full. The question then arises as to who is liable to pay the balance. Whether the LA/SFE is liable will depend on the facts of the particular case, and before seeking to recover an overpayment from DSA money earmarked to a supplier the LA/SFE should satisfy itself that it will not be liable to pay the supplier.

Equipment supplied before the student starts the course / delivered after the student has left the course

56. A DSA assessment may be provided before a student has started their course to ensure that any equipment or other support that they need can be arranged and delivered for the beginning of term. In some cases it may be appropriate to supply DSA equipment early as well, for example where training in the use of the equipment is necessary before the student starts their course. However, if the student subsequently does not start the course, this may constitute an overpayment (see regulation 115(4) in the case of a full-time student, regulation 149(5) in the case of a part-time student or regulation 159(4) in the case of a postgraduate student).
57. Similarly, a student may start his course, then abandon it and then receive DSA payments or equipment after he has abandoned the course (possibly because the LA had not been notified that the student had left the course). This may constitute an overpayment (see regulations 115(6)-(8) in the case of a full-time student, regulations 149(7)-(9) in the case of a part-time student or regulations 159(6)-(8) in the case of a postgraduate student).
58. LAs/SFE will be able to accept the return of the equipment, a monetary repayment or a combination of both. For example, where the student has received two items of equipment through the DSA, the value of the items is equal to the amount of the overpayment and it is possible to return one item to the supplier and secure a full refund but not possible to return the other item, the amount of the overpayment can be reduced by the amount refunded and paid to the SLC with the student still having to make up the difference if the remaining amount of the overpayment cannot be recovered from any other grant for living and other costs.

Overpayments of loan for living costs or long courses loan

59. Regulation 112(15) applies where a loan for living costs or long courses loan has already been paid and the LA/SFE then reassesses the amount due.

60. If the amount of loan for living costs or long courses loan to be paid has **increased**, the LA/SFE should process the reassessment through the single system as soon as possible. The student's instalments of loan for the year will be increased to reflect the increased entitlement to support.
61. If the reassessment results in a **reduction** in entitlement to loan for living costs or long courses loan, the amount overpaid will be recovered in full from the next instalment(s) of loan for living costs or long courses loan which remain to be paid within the current academic year.
62. If there still remains an amount outstanding, then it is to be recovered in accordance with regulation 115.
63. The student will receive a payment schedule letter detailing the amounts to be recovered.
64. Regulation 115(10) provides that the LA/SFE may recover an overpayment of loan for living costs or long courses loan if:
 - a) the overpayment is a result of a failure of the student to provide promptly information which might affect either his/her eligibility for a loan, or the amount of loan for which he/she is eligible; or
 - b) any information which the student has provided is inaccurate in a material particular; or
 - c) the student has failed to provide information which the LA/SFE considers to be material in the context of the recovery of the loan.
65. The method of recovery in these circumstances is either subtracting the amount of the overpayment from any loan for living costs or long courses loan payable to the student under regulations made under section 22 of the Teaching and Higher Education Act 1998 or such other action as is available.
66. Where the reason for the overpayment is not one listed in regulation 115, the LA/SFE may subtract the amount of the overpayment from any loan for living costs or long courses loan payable to the student under regulations made under section 22 of the Teaching and Higher Education Act 1998.
67. These methods for recovering an overpayment can be carried out before the income contingent repayment procedure begins.
68. Where an LA/SFE decides to exercise these powers they must advise the SLC Business Services Funding Team of their intentions and keep them fully advised of any developments. This will ensure that the income contingent repayment procedures are not taken at the same time by the SLC.

Overpayments made as the result of an internal error

69. The Regulations do not specifically cover circumstances where a miscalculation by the LA or the SFE results in a student receiving payment of a higher amount than he or she is entitled to. However, regulation 115(1) provides that an eligible student must, if required by the Secretary of State, repay any amount paid to him under Part 5 or Part 6 of the Regulations which **for whatever reason** exceeds the amount of support to which he is entitled under Part 5 or Part 6. And regulation 114(2) provides that the Secretary of State must recover an overpayment of any grant for living and other costs unless he considers it is not appropriate to do so.

- 70.** Our view, therefore, is that LAs/SFE should always carry out the re-assessment even when the overpayment has resulted from an internal error. LA should advise the SLC of the circumstance that caused the overpayment to arise to allow the SLC to negotiate the most appropriate method of recovery where the student is unable to make repayment in full. SLC will negotiate the recovery of the overpaid amount on a case by case basis. This is carried out by SLC in line with BIS guidelines to recover payments to which students are not entitled.