

Commissioner's Advice to Inspectors

Third Party Payments

This Advice deals with the power to make awards payable to a third party.

1. The power to make third party payments

The power to make third party payments is derived from section 138(3) of the Social Security Contributions and Benefits Act 1992. This allows for “a payment to a third party with a view to the third party providing, or arranging for the provision of, goods or services for the applicant”.

Section 139(5) of the Act states that payment of an award “shall be made to the applicant unless the appropriate officer determines otherwise”.

2. The Secretary of State's guidance on third party payments

SFG [8.02] 3120 to 3121 states:

“The award should normally be payable to the applicant. However, DMs also have power to make payment to a third party who can provide, or arrange for the provision of, the items covered by the award. See Sections 138(3) and 139(5) of the Social Security Contributions and Benefits Act 1992.

This power should only be used exceptionally – for example, where there is firm evidence that the award may not be used for its intended purpose. If you decide to make such a payment, document the reasons fully, since a DM's power to make payments to a third party can be reviewed like any other determination.”

3. The forms a third party payment may take

Such a payment may take two forms:

- It may be made payable to a third party who will provide the goods or services. For example, a payment may be made payable to a shop, which will supply a cooker.
- It may be made payable to a third party who will arrange for the provision of goods or services for the applicant. For example, a payment may be made payable to a social worker who will then obtain items for the applicant, or supervise the spending of the money.

An Inspector has no power to order a third party payment without specifying whom the third party is. It is not possible to delegate the choice of the third party to the applicant, to the Reviewing Officer, or to another.

4. The purposes served by third party payments

Third party payments do not guarantee that the items or services awarded will actually be purchased. However, if used appropriately, they increase the probability of this. They can play an important role in protecting the interests of applicants and in ensuring best value from budgetary expenditure.

5. The circumstances in which a third party payment may be appropriate

Normally payment should be made to the applicant. However, in exceptional circumstances a third party payment may be appropriate.

A third party payment may be appropriate in the following circumstances:

- Where the applicant or his representative has requested a third party payment.
- Where there is firm evidence that an award may not be spent on the items or services awarded, or that unserviceable items or inadequate services will be purchased. This might be evidence of the way previous awards have been spent. It might be evidence from a social worker. Exceptionally, it could be evidence that the applicant has been running out of money for daily living expenses because of spending benefit on alcohol or drugs.

6. Third party payments for living expenses

In most cases it is unlikely to be possible or appropriate to make third party payments in respect of living expenses. In such cases Inspectors could consider using the power conferred by section 139(2) of the Social Security Contributions and Benefits Act 1992 to “determine that an award shall be payable in specified instalments at specified times”.

7. Giving applicants an opportunity to comment, where a third party payment may be appropriate

Where a third party payment may be appropriate the applicant or his representative should generally be given an opportunity to comment on whether this is appropriate. He should also generally be given an opportunity to suggest a convenient supplier or suppliers. However, Inspectors may need to make it clear that a payment and/or use of a particular supplier is not guaranteed.