

Support Notes on Commissioner's Advice Amounts to Award: CCGs

1. The Order of Consideration

R (on the application of Taylor) v Social Fund Inspector EWHC Admin 1039 (24 November 1997) established that the state of the budget and the impact on the budget of a potential award are matters that should be considered after the assessment of priority.

However, having reached an assessment of the priority of an item and decided that the budget can meet that level of priority, an Inspector has a residual discretion not to make a payment. For example, an Inspector might decide to refuse a payment where a very large award would be required for an item and the impact on the budget would be disproportionate. Before adopting such an approach Inspectors should consult the Statutory Functions Team, who will arrange a meeting of the Case Issues Team if appropriate.

2. Relevant Considerations when Deciding Award Amounts

No Support Notes

3. All the Circumstances of the Case

No Support Notes

4. The Secretary of State's Directions: Direction 28 and 27

No Support Notes

5. The Secretary of State's Guidance

Inspectors must take account of the Secretary of State's guidance on award amounts. In most cases it will be appropriate to follow this guidance. However, the overriding duty of Inspectors is to have regard to all the circumstances of the case. The guidance cannot address all situations. In some cases an Inspector may decide not to follow the guidance.

The Secretary of State's guidance suggests that decision makers should generally base award amounts on the lowest end of prices, available locally from national high street chain retailers and/or national catalogue outlets, for items that meet the particular needs of the applicant and/or his family and are of reasonable and serviceable quality; and that awards should include enough for delivery and/or fitting where appropriate:

Lowest end of prices

Inspectors should usually base award amounts on the lowest end of prices for suitable and serviceable items available from national suppliers. However, it would not usually be appropriate to base an award amount on a price that is only available on one item available through one supplier – problems may arise if the item in question is not in stock. Inspectors should generally ensure the amount awarded would allow the applicant to buy one of two or more suitable and serviceable items available from a national supplier.

Available locally from national high street chain retailers and/or national catalogue outlets

Inspectors should usually base award amounts on prices available in the applicant's area from national high street chain retailers and/or national catalogue outlets. It is important only to use retailers/catalogues that actually have outlets in, or deliver to, the area in which the applicant lives. Particular care is required where an applicant lives in a remote location. Award amounts should not generally be based on on-line only retailers or on prices that are available for a short period only.

Items that meet the particular needs of the applicant and/or his family

When looking at the lowest end of prices an Inspector is looking at the lowest end of prices for items that will meet the particular needs of the applicant and/or his family. An Inspector must award enough for items that are suitable and that fulfil the aims of Direction 4.

In deciding what items will be suitable an Inspector must consider all the applicant's circumstances. The following can be important factors:

- **Disability** may give rise to the need for an item with adaptations. Sometimes more durable items may be required, for example, where a person can only walk by dragging one foot, tougher footwear may be needed.
- **Health problems** may give rise to particular needs. For example, a person with a bad back may need a more supportive and comfortable mattress. A person with incontinence may have a larger laundry load and may need a washing machine with a larger capacity and a faster spin cycle. A person with circulation problems may require warmer bedding and clothing.
- **A person's size** may be important. Although a single bed will be adequate for many single people, a large person may need a double, rather than a single bed. He may also require items of clothing that are only available from specialist shops.
- **Family size** may mean that higher specification/larger cookers, washing machines, fridges etc. are required. Smaller items may be adequate for a person living alone, depending on other factors such as health and mobility. However, it is suggested that the award of a mini-cooker to a single person would not usually be appropriate, unless the budget is under extreme pressure, or it is clear the applicant wants a mini-cooker.
- **Behavioural problems** may mean that more robust and durable items are required.
- **Living conditions** may have a bearing on a person's needs. For example, a person who is sleeping rough is likely to need a warmer and more weatherproof winter coat.

Items of reasonable and serviceable quality

Inspectors should base award amounts on prices available for items they are satisfied are of reasonable and serviceable quality. Poor quality items are likely to be a false economy and to lead to repeated applications to the Social Fund.

In considering what items are of reasonable and serviceable quality an Inspector should take account of all the circumstances, including the particular needs of the applicant and/or his family, which have been explored above. For example, it is not likely to be appropriate to award carpet of bedroom quality for high traffic areas in the home such as stairs; or to award items that are described as being for "occasional use", if they are to be used frequently.

Items must comply with relevant legislation. For example, gas appliances for use in flats or other multi-dwelling buildings must include a flame supervision device.

Include delivery and/or fitting where appropriate

Awards amounts for bulky items should generally allow for delivery.

In some cases an award should also allow for fitting. For example, it is particularly important that awards for cookers are sufficient to allow for fitting by a qualified professional, whether an electrician for electric cookers, or a Gas Safe fitter in the case of gas cookers. Fitting of carpets may also be important if an applicant or family member has mobility problems.

Some suppliers offer free delivery and fitting in respect of some items; however, often there are extra charges for these services.

Budgets under extreme pressure

The Secretary of State's guidance suggests that exceptionally, where a budget is under extreme pressure (for example, because it cannot meet all high priority needs) it may be appropriate to base award amounts on prices available from a local supplier. However, the supplier must be reputable, and the items must still meet the needs of the applicant/family and be of guaranteed serviceable quality.

6. The Amount the Applicant Requested

Where an applicant has requested an amount that falls within the lowest end of prices generally available for suitable and serviceable items it will usually be appropriate to award the amount that has been requested. If the amount requested does not fall within the lowest end of such prices an Inspector will usually award an amount that does.

In some circumstances it may be appropriate to award more than an applicant has requested, for example, if it is unlikely that the applicant would be able to obtain a suitable and serviceable item, with delivery and/or fitting where appropriate. Where an applicant has asked for an amount for a second hand item, Inspectors should exercise considerable care, especially in relation to white goods. Second hand items should not be awarded unless the Inspector is satisfied the item in question is suitable and serviceable. In some cases it will be clear that an applicant has not asked for enough money for a suitable and serviceable item. In other cases an Inspector may need to make further enquiries before deciding whether to award more than requested.

Sometimes applicants ask for large amounts for an item, for example, £2000 for a bed. In such cases an Inspector may need to obtain more information. If an applicant needs an item with special features an Inspector may need more information about this. Sometimes expert evidence is necessary about a person's needs, the different options for meeting them, and the suitability of the item requested. Expert evidence may come from an occupational therapist or a medical practitioner. Such evidence may be important both in deciding whether to make a payment, and in deciding on the amount of any award.

7. How to approach Awards made by Reviewing Officers

Directions 1 and 2 to Inspectors

Where a Reviewing Officer has made an award, an Inspector is required by Direction 1 to decide whether the award amount decision was reached correctly, even if the applicant has not disputed the award amount.

If the evidence does not show that a suitable and serviceable item can be obtained, with delivery and fitting where appropriate, with the amount awarded, there is likely to be an important error in the Reviewing Officer's decision. If the Reviewing Officer did not provide evidence about prices in his decision, but other evidence about prices available to the Inspector shows that an appropriate amount has been awarded, the failure to provide evidence is unlikely to represent an important error.

Other important errors may in this context involve failing to take account of all relevant considerations and failing to exercise discretion, for example, in relation to whether to follow the Secretary of State's guidance.

Where a Reviewing Officer's decision has been reached correctly, Direction 2 requires Inspectors to have full regard to all the original circumstances, to any new evidence and to any relevant changes in circumstances. New evidence or changed circumstances may suggest that an increased award is appropriate.

Even where circumstances have not changed and where new evidence has not been provided an Inspector must satisfy himself that the Reviewing Officer's award amount decision is a right one.

It is important to note here, that arriving at appropriate award amounts is not an exact science. A decision maker has discretion, he needs to take account of a wide range of factors and to reach sometimes difficult judgements about the suitability and serviceability of items on offer from a range of suppliers. In many cases there will be more than one right award amount. Inspectors should be careful to allow Reviewing Officers a reasonable degree of latitude on the question of award amounts.

Deciding whether to Increase Award Amounts

When deciding whether to increase award amounts, an Inspector should consider first:

- whether the existing evidence suggests that an appropriate amount has been awarded; and
- whether the applicant has disputed award amounts.

If an Inspector is not satisfied that an appropriate amount has been awarded and/or if the applicant has disputed award amounts, he may need to raise the issue of award amounts with the applicant and to seek further information about the applicant's needs, and about other matters such as whether, and if so, how an award has been spent.

It is important to look closely at the reasons an applicant has given for asking for an Inspector's review. It may be that an applicant is asking for a review simply in respect of items that have not been awarded. Alternatively, the applicant may be disputing the amounts that have been awarded for particular items. Where amounts have been disputed an Inspector may need to seek further information about the applicant's needs, or how the Reviewing Officer's award has been spent. However, sufficient information may

be available about the applicant's needs, and it may be possible to infer from what has been said that the Reviewing Officer's award has not yet been spent.

An Inspector should consider increasing award amounts where the evidence suggests that the amounts awarded were insufficient, even if the applicant has not specifically disputed award amounts. However, where the evidence suggests an appropriate amount has been awarded, and the applicant has not disputed the amount of the award, an Inspector will not generally increase award amounts or raise the issue of award amounts with the applicant.

Where the evidence suggests that a larger award may be appropriate, for example, because the Reviewing Officer should have awarded a larger amount, or because the applicant has spent more on an item than he was awarded, an increased award is not automatic. An Inspector should consider all the circumstances and the following questions may be important:

- Was the award enough to buy a suitable and serviceable item, with delivery and fitting where appropriate?
- Has the applicant spent the award and if so how?
- If the applicant has bought the item, how much did it cost, and how suitable and serviceable is it?
- Where an applicant has spent more on an item than he was awarded, what is the source of the money, and what impact has the use of this money had on the applicant and others?
- Have the applicant's actions been reasonable, bearing in mind any learning difficulties, health problems and other relevant factors?
- Would an additional payment make a material difference to the applicant's circumstances?
- What is the position of the budget?

8. Drafting

The extent to which an Inspector will need to give reasons for an award amount decision will depend on a number of factors, including the extent to which award amounts are in dispute, and the extent to which the reasons for the decision are obvious.

Where a decision maker is awarding less or more than an applicant has requested for an item, a brief explanation will usually be required. Where an Inspector is awarding a new item, rather than the second hand item requested, an Inspector should make this clear. Some indication of where an item may be obtained at the price paid should be supplied. However, it should be clear to the applicant that this evidence has been used as a guide to prices only.

An Inspector will not usually need to supply an applicant with detailed price information, but this may be appropriate in contentious cases. An Inspector may also need to give a more detailed explanation of how award amounts have been reached in more complex cases; for example, some cases involving awards for flooring or travel expenses.

9. Examples

IMPORTANT NOTE: the prices referred to in the examples below are included for illustrative purposes only; they should not be used as a guide to the cost of suitable and serviceable items.

Example 1

Mrs A has applied for a grant for various household items, including £180 for a bed for herself. She is a single woman in good health. She and her children have fled domestic violence and have moved into an unfurnished flat with nothing but a few sleeping bags. It is March and the district budget is on course, having been meeting all high priorities throughout the year.

The Inspector decides a bed for Mrs A has high priority under Direction 4(a)(iii) and therefore enough priority for an award.

The Inspector identifies two national suppliers who deliver in Mrs A's area. Supplier A's cheapest suitable and serviceable bed with delivery costs is £108.94 and its next cheapest is £109.93; Supplier B's cheapest suitable and serviceable bed with delivery costs is £110.00 and its next cheapest is £125.00.

The Inspector decides that the amount Mrs A has requested is not at the lowest end of prices. The Inspector might decide to award £110, which is at the lowest end of prices, and should ensure that a suitable bed is in stock at one of the suppliers.

Example 2

Mr B has applied for a grant for a gas cooker (£500) and a winter coat (£65). Mr B lives alone in a local authority flat. He suffers from severe health problems including arthritis and he receives a substantial amount of care from his daughter and a neighbour. Mr B can only walk a few metres at a time. He attends frequent appointments with his GP and his local hospital. He has circulation problems and a low immune system. It is particularly important that he is able to keep warm and that he maintains a healthy diet. His gas cooker has been condemned and he is no longer able to close his winter coat because he has put on a substantial amount of weight due to his mobility problems and his medication. Mr B provided evidence that his ill health had been aggravated because he was not able to maintain an adequate diet and because he was unable to keep warm enough. It is December and the budget is on course meeting only high priorities.

The Reviewing Officer decided that a cooker and a winter coat had high priority for a grant award under Direction 4(a)(ii). He awarded £199.99 for a gas cooker, quoting Supplier C, and he awarded £40 for a winter coat, stating that winter coats are available for this price in local shops. Mr B asked for an Inspector's review, complaining that he had not been awarded enough to buy a cooker and a winter coat.

The Social Fund Inspector decided to telephone Mr B to find out more about what items would be suitable for Mr B and to find out whether Mr B had spent the award. Mr B told the Inspector that he was able to operate a normal gas cooker, although his daughter would do much of the cooking on his cooker, but he had no idea where he would be able to get a new gas cooker for £199.99. He said that he was able to get clothing from regular high street stores, but because of his health problems he needed

a particularly warm and weatherproof coat, for attending appointments, and for staying warm in his home, which he found he could not heat adequately. Mr B had not spent any of the money from the award.

The Social Fund Inspector looked at the cookers available from Supplier C. The two cheapest gas cookers, both with flame supervision devices, had four burners, a grill and a single oven, measured H90, W50, D60cm, were both priced at £199.99 and included free delivery and a 12 month guarantee. However, an extra £74.95 was required for a Gas Safe fitter to connect the new cooker, bringing the total cost to £274.94. The Inspector was satisfied these cookers were suitable for Mr B and would be serviceable. The Inspector also looked at prices for comparable cookers at Supplier D, where the total cost of the cheapest cooker with delivery and connection came to £267.48. The Inspector decided that the Reviewing Officer's decision had not been reached correctly, as the evidence did not show that a gas cooker could be purchased and safely installed with the £199.99 awarded. The amount the applicant requested was clearly not at the lowest end of appropriate prices. The Inspector decided to award a grant of £274.94 for a gas cooker with delivery and connection. This represented an amount at the lowest end of prices, and should ensure that a suitable model is in stock at one of the suppliers.

The Social Fund Inspector looked at price information for winter coats available in the area. He was unable to find a winter coat for £40 that looked as if it would offer sufficient insulation and protection for Mr B. Having looked at prices across a number of suppliers the Inspector concluded that £65 was at the lowest end of prices for a winter coat suitable for Mr B, and he awarded a grant for this amount.

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