

Support Notes on Commissioner's Advice

Amounts to award: Crisis Loans for items

1. Order of consideration

This order of consideration is consistent with that laid out in paragraph 4024 of the Secretary of State's Guidance.

2. Deciding the amount

The Secretary of State's Guidance at Part 3, section 247 advocates a different approach to the issue of award amounts. It says that "the amount of the loan will be the smallest sum needed for the provision or repair of any item or service which you consider should be met as a crisis loan."

However this guidance should be treated with caution for two reasons:

- It will only allow the smallest sum to be awarded whereas the direction allows "the reasonable costs" to be awarded. This, in effect, sets a different maximum to that in the direction;
- Its tone is mandatory and could possibly be open to question in the light of the *Stitt, Roberts et al* JR. The use of the word 'will' is "the language of direction rather than guidance."

Inspectors should be cautious about giving weight to this guidance. The Inspector has the discretion to award any amount, up to the Direction 21 maximum.

The Direction 21 maximum

Where the amount requested is within the Direction 21 maximum, the Inspector should normally award this amount, unless there are exceptional circumstances (see below).

The amount requested could be over the Direction 21 maximum for several reasons:

- (a) Because it would take the combined social fund debt of the applicant and his partner over (or further over) £1,500;
- (b) Because the evidence shows that it would be cheaper to repair the existing item than to buy a new one;
- (c) Because, although the applicant is requesting a repair, the evidence shows that it would be cheaper to buy a new item;
- (d) Because the amount requested to buy a new item or service is unreasonable.

Applying the Commissioner's Advice

The principle of generally awarding the amount the applicant has requested (unless it is outside the Direction 21 maximum) does not mean that Inspectors should (necessarily) pay for larger, expensive items because the applicant has requested them.

However, where appropriate, consideration should be given to the costs of delivery and/or installation of items; such as cooking appliances which need to be installed by a qualified person. A household item urgently needed to remove a crisis will be of no use to the applicant unless it is in his home fulfilling its intended function. For example, the award of an amount for a cooker insufficient to have it installed, would not meet an applicant's need for cooking facilities. It is therefore important to ensure that any award for a cooker is sufficient to purchase a suitable appliance and have it delivered and installed by someone qualified (this is also in line with Direction 21). This is likely to be more of an issue for crisis loans, given that there is less scope for larger award amounts than in the community care grant context and so the Inspector may award from the lowest range of prices. The applicant need not have specifically requested an amount for such charges and this could apply to other appliances.

Examples

The following examples illustrate how the above principles should be applied:

Example 1:

Miss F is the lone parent of 2 children. She has depression and anxiety, for which she takes medication. She applies for a crisis loan of £300 for a double bed. Her bed has broken and has been discarded. She is currently sleeping on the floor. She is not sleeping well and this is making her depression worse. The Inspector decides that her need for somewhere to sleep (a bed) satisfies the conditions of Direction 3 and can be met by the budget. However he decides that £300 is not within a reasonable range to meet her need for a bed. He decides to award the reasonable amount of £120.

As a matter of principle, Inspectors should not routinely award single beds to single people if they have requested a double bed. If the amount requested is reasonable for a bed, it should generally be awarded. If, as in this example, the amount was unreasonable, the Inspector should reduce the amount. Argos sells a range of beds – both single and double – for less than £120, so in this example, Miss F can buy a single or a double bed.

Example 2:

Mr S has recently gained the tenancy of an unfurnished property. He is in receipt of Incapacity Benefit and signs sick with alcohol dependency. He states he cannot afford to eat takeaway foods each day. He has lost weight over the last month. He makes an application for a crisis loan of £250 for a cooker and does not refer to any additional delivery or connection charges. The Inspector decides that direction 3 is met for cooking facilities and there is

sufficient money in the budget to make a payment. She decides that £250 is a reasonable amount to buy the appliance, and also to pay for any delivery and connection charges. She awards a crisis loan of £250 as Mrs S has the ability to repay.

In this case, the amount requested for a cooker was a reasonable amount. Inspectors should not routinely award or restrict awards to mini-cookers for single people unless exceptional circumstances apply. The applicant did not refer to delivery and connection charges and there would be no need for the Inspector to specifically refer to this aspect in her decision; but the Inspector can be satisfied that the award offers sufficient scope to buy a suitable appliance and meet any delivery and/or connection charges.

Exceptional circumstances

In some exceptional situations it may be appropriate to award less than the applicant requested, even if the amount was not outside the Direction 21 maximum. For example:

- (a) Where the applicant is near his £1,500 social fund debt limit;
- (b) Where the applicant has limited ability to repay a loan;
- (c) Where there is evidence that the district budget is significantly overspent or that it is under such pressure that it can only be kept on target by restricting the amount of the award.

Where the total amount that the Inspector can award is seriously limited, awarding smaller items and smaller amounts may permit the Inspector to meet a wider range of needs than would be possible otherwise.

Example: Ms N applies for a crisis loan for items for the unfurnished flat she has just moved into: a cooker (£250), a bed (£110) and a washing machine (£250). She is in receipt of Incapacity Benefit only, so she is not eligible for a grant. Her needs all meet the conditions of Direction 3, but the total amount she can receive as a crisis loan is limited because her social fund debt is £1,380. The Inspector concludes that she will not be able to award a crisis loan to meet all Ms N's needs, but that she can go some way towards meeting her immediate needs for cooking and sleeping by awarding smaller items. She therefore decides to award a mattress for £60 and a microwave for £60. This is a good use of discretion.

3. How to treat awards made by Reviewing Officers.

The Inspector has to adopt the correct approach whether or not the applicant has raised the amount of award as an issue.

Inspectors should consider whether the RO's decision on award amounts was reached correctly, and whether it is a right decision, irrespective of whether the applicant has raised the issue of award amounts.

If the Reviewing Officer's reasoning shows he has not exercised his discretion, or his decision is not sustainable on the evidence, then the decision is likely to fail Direction 1, even if the outcome remains unchanged.

Where it may be appropriate to increase award amounts the decision to increase award amounts may depend on whether an applicant has bought the items in question, and how much he has spent on the items in question:

- An Inspector has to weigh up the competing interests of providing a remedy in respect of the RO's decision and using public funds in a responsible and effective way.
- Where an applicant has bought the item in question with the amount awarded it would not usually be appropriate to increase the award amount, unless there is some inadequacy in the item that has been purchased.
- Where an applicant has not yet bought the item in question it will usually be appropriate to increase the award, unless there is some other reason for not doing so.
- In some cases an applicant may have spent more on a particular item than was awarded for that item. In such cases an increased award may be appropriate depending on the source of the extra money and the other circumstances of the case.

Where an increase in award amounts may be appropriate it may be necessary to raise the matter in the Statement of Issues. In some cases the Inspector will need to ask the applicant whether he has spent any of the money awarded, and if so what items have been bought and at what cost. It will usually be appropriate for an Inspector to state that he will assume that the applicant has bought the items awarded, unless the applicant provides evidence to the contrary. In other cases there may already be sufficient evidence in the papers about what has happened to the monies awarded. If an applicant has raised the issue of award amounts it may be possible to infer that he has not yet bought the items concerned.

If an applicant does not respond to the issue of award amounts raised in the Statement of issues it would not usually be appropriate to increase award amounts, especially if it is clear that enough has been awarded to purchase serviceable items.

Where the RO's decision on award amounts was not reached correctly an Inspector will generally need to address the question of award amounts explicitly in his decision. In cases where the applicant has remained silent on the issue the reference may only be a brief one.

In some cases where an RO has awarded less than requested, an applicant spends more than the amount awarded on the item in question. In such cases an Inspector should consider whether the amount spent is reasonable, and whether it is appropriate to award that larger amount.