

Commissioner's Advice to Inspectors

Amount of Award: Living Expenses

Direction 18 – Crisis Loans, amount to be awarded

18. (1) Subject to (2) and (4) the maximum amount that may be awarded under direction 3(4)(a) as a crisis loan in respect of living expenses for applicants, other than people whose income-based jobseeker's allowance is reduced by virtue of regulation 145 of the Jobseeker's Allowance Regulations 1996 (hardship cases), is the aggregate of -
- (a) an amount equal to 60% of the appropriate income support personal allowance, for the applicant and any partner; and
 - (b) for each child, an amount equal to the personal allowance applicable to dependent children, in respect of income support;
- but must not in any case exceed the difference between any sum already repayable to the social fund by the applicant and his partner and £1500.
- (2) In the circumstances referred to in paragraph (2A), the maximum amount that may be awarded by way of a crisis loan in respect of living expenses is the amount set out in paragraph (2B).
- (2A) The circumstances are that if an applicant's partner were to apply for a crisis loan, the expenses in respect of which a crisis loan may be awarded would be restricted by direction 17(1) because one or more of the circumstances in direction 17(2)(b) to (d) applies.
- (2B) The amount referred to in paragraph (2) is the aggregate of –
- (a) an amount equal to 60% of the appropriate income support personal allowance for the applicant only; and
 - (b) for each child, an amount equal to the personal allowance applicable to dependent children, in respect of income support;
- but must not in any case exceed the difference between any sum already repayable to the social fund by the applicant and his partner and £1500.
- (3) Where any step in the calculation under paragraph (1) or (2B) results in a fraction of a penny, that fraction may be rounded up or down to the nearest penny.
- (4) An award for expenses referred to in direction 3(4)(b) to (e) is not limited under paragraph (1) or (2) but the total sum awarded under direction 3(4) must not in any case exceed the difference between any sum already repayable to the social fund by the applicant and his partner and £1500.
- (5) This direction applies to an application for a crisis loan in respect of living expenses made on or after 4th April 2011.

This Advice deals with how to decide the amount of awards on crisis loan applications for living expenses made on or after 4 April 2011. Separate Advice papers deal with the issue of how much to award in other cases.

1. General approach

Generally, when making an award for living expenses, Inspectors should award the maximum amount as detailed in Direction 18 or 20. However, there may be some situations when it is appropriate to award less than the legal maximum. For example:

- (i) where the applicant has requested a lesser amount;
- (ii) where the applicant is due to receive some other payment (e.g. Child Benefit) before his main benefit is next paid;
- (iii) where the applicant has received some help either in cash or kind from another source, such as a relative or Social Services;

Directions 18 and 20 prescribe the maximum amounts in respect of living expenses only. The directions do not define what living expenses are. However, we can infer from Direction 3, that the expenses listed in Direction 3(4)(b) to (e) are not living expenses. The Secretary of State's guidance also suggests that living expenses are day to day living expenses, that these will mainly be food and groceries, but may also include ongoing fuel meter costs, nappies, toiletries, and cleaning/hygiene products.

The maximum amount for all other crisis loan expenses (i.e. expenses payable under Direction 3(2)(b), 3(3), and the expenses listed in 3(4)(b) to (e)) is governed by Direction 21, which is the subject of separate Advice.

2. The different maximum rules set out in Directions 18(1), 18(2) and 20

Directions 18(1), 18(2) and 20 set out three different maximums for living expenses, depending on the circumstances of the applicant:

- The Direction 18(1) maximum applies to the vast majority of crisis loan applications for living expenses, and is the main focus of this Advice Note.
- The Direction 18(2) maximum applies where, if the applicant's partner were to have made the application, Direction 17 restrictions would have applied because the partner is the subject of one of the benefit penalties listed in Direction 17(b) to (d).
- The Direction 20 maximum applies where the applicant's income-based jobseeker's allowance has been reduced to the hardship rate.

3. Calculating the Direction 18(1) maximum amount

Assuming there is a qualifying need in respect of each of the days concerned, the maximum award for living expenses should be calculated to cover the period from the date the application is treated as made to the day before the applicant's period of need is due to end, inclusive.

If there is no end in sight to the period of need, the Inspector should clearly define the period that his award is intended to cover and calculate the amount on this basis. In most cases this will not be longer than two weeks.

An amount for the applicant's partner can only be included in the award if the two "partners" are (or would be) recognised as a couple for benefit purposes.

The Direction 18(1) maximum is based on:

- 60% of the appropriate income support personal allowance for the applicant and any partner **plus**
- 100% of the appropriate income support personal allowance for each dependent child.

It does not matter whether the applicant actually receives income support. The maximum amount is based on the income support personal allowance that would be payable if the applicant were entitled to income support. The maximum amount is based on the income support personal allowances, not on applicable amounts; so no account is taken of premiums that might be payable.

However, any award for living expenses must not cause the combined Social Fund debt of the applicant and any partner to exceed £1500.

The mathematics of the calculations

Direction 18(3) provides that where any step in the calculation under Direction 18(1) results in a fraction of a penny, that fraction may be rounded up or down to the nearest penny.

This provision gives decision makers a general discretion as to whether they round figures during Direction 18 calculations. However, final award amounts should be rounded, as it is not possible to make a payment for a fraction of a penny. The general discretion afforded to decision makers is whether to round. A common sense interpretation of the direction, based on the ordinary meaning of the words, requires that once a decision to round has been made the rounding must be up or down to the nearest penny, following normal mathematical convention. So if £3.525 is to be rounded, it can only be rounded to £3.53.

As there is discretion as to when to round a decision maker can in some instances legitimately arrive at a number of different maximum amounts under Direction 18.

In the interests of consistency, where Inspectors are the first to make a maximum award for living expenses on an application, they should generally adopt the approach outlined below:

- (1) Calculate Total Weekly Allowances:
(Weekly Personal Allowance x 60%) + (Weekly Child Rate x Number of Children)
- (2) Multiply the Total Weekly Allowances by the Number of Days Payable.
- (3) Divide the product of (2) above by 7.
- (4) Round the product of (3) above, to the nearest penny. (Figures should not be rounded before this point.)

Steps (1) to (3) may be summarised as follows:

$$\frac{((\text{Weekly Personal Allowance} \times 60\%) + (\text{Weekly Child Rate} \times \text{Number of Children})) \times \text{No. of Days Payable}}{7}$$

Figures should not be rounded until the end of the calculations. At this point figures should be rounded up or down to the nearest penny.

Where benefit rates are to change or have changed, during the period in respect of which a crisis loan is to be paid

In such cases, a slightly different approach is appropriate. The old benefit rates should be used for the period before the change, and the new rates for the period after the change. The calculations should be performed as follows:

- (1) Calculate Total Weekly Allowances for the period before the change (Period A):
(Weekly Personal Allowance x 60%) + (Weekly Child Rate x Number of Children).
- (2) Multiply the Total Weekly Allowances for Period A by the Number of Days Payable in Period A.
- (3) Calculate Total Weekly Allowances for the period after the change (Period B):
(Weekly Personal Allowance x 60%) + (Weekly Child Rate x Number of Children).
- (4) Multiply the Total Weekly Allowances for Period B by the Number of Days Payable in Period B.
- (5) Add the product of (2) above to the product of (4) above.
- (6) Divide the product of (5) above by 7.
- (7) Round the product of (6) above to the nearest penny. (Again no figures should be rounded before this point.)

4. The Direction 18(2) maximum amount

The Direction 18(2) maximum amount is designed to stop a person from side-stepping Direction 17 restrictions by getting his partner to apply for a crisis loan.

In certain circumstances Direction 17 restricts a crisis loan to expenses which are the consequence of a disaster, where the applicant is the subject of a trade dispute or where a person is or has been the subject of a disallowance, a sanction or a work-focused interview sanction.

The Direction 18(2) maximum will apply where, if the applicant's partner were to have made the crisis loan application, Direction 17 restrictions would apply because of a disallowance, a sanction or a work-focused interview sanction. The maximum does not apply where the partner is the subject of a trade dispute.

The approach to calculating the Direction 18(2) maximum is basically the same as for the Direction 18(1) maximum, except that instead of allowing 60% of the appropriate income support personal allowance for a couple, it allows for 60% of the appropriate income support personal allowance for a single person. No amount can be paid in respect of the partner. However, a full personal allowance amount may be paid in respect of each child.

5. The Direction 20 maximum amount

Where an applicant's income-based jobseeker's allowance applicable amount has been reduced to hardship rates, for example, because he has been sanctioned, the Direction 20 maximum amount will apply.

The Direction 20 maximum is, in effect, the lesser of:

- The Direction 18(1) maximum; and
- The applicable amount of the hardship jobseeker's allowance in payment.

This rule is designed to ensure that an applicant will not receive a crisis loan at a level that is higher than the rate of hardship jobseeker's allowance in payment.

6. Grants for living expenses

There are no directions on how to decide the amount of awards for living expenses in grant cases. The maximum amounts set by Directions 18 and 20 do not apply to CCGs and the £30 minimum for grant awards does not apply to living expenses cases (Direction 28(b)). The amount of the award is therefore a matter for the Inspector's discretion, having regard to all the circumstances of the case and taking account of any guidance issued by the Secretary of State.

Daily living expenses are usually excluded from the grant scheme. But the exclusionary direction (29(f)), specifies two different situations in which such awards can be made. Inspectors are advised that each of these two situations requires a different approach to deciding the amount of the award.

Situation 1: Where a grant is being awarded under Direction 4(a)(iv).

The Secretary of State has issued guidance on the amount that it is normally appropriate to award where the grant is being made under Direction 4(a)(iv). This guidance is not intended to be followed rigidly, but Inspectors are advised to treat it as a useful starting point when making this type of award.

Situation 2: Where a crisis loan cannot be awarded because the Social Fund debt of the applicant and his partner has reached the £1500 maximum.

In the absence of any guidance from the Secretary of State on how to calculate the amount of the award in these circumstances, Inspectors are advised to use the formulae contained in Directions 18 and 20 as their starting point. The rationale for taking this starting point is based on the structure of the Social Fund scheme, which is set up with the intention that needs for living expenses should be met primarily by crisis loans. Awarding a grant for living expenses is a last resort when the crisis loan scheme is unavailable. It therefore makes sense to bear in mind the rules that apply to crisis loans when considering how much to award in this sort of grant case.

Inspectors should not, however, limit their discretion by treating the formulae of Directions 18 and 20 as rigid limits in grant cases. The evidence may show that a larger amount is appropriate (e.g. the applicant may have unusually high living costs due to sickness or disability). In these cases Inspectors should feel free to award an amount that is reasonable.

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