

# Commissioner's Advice to Inspectors

## Amount of Award: Living Expenses

**Please Note:** *This Document will be revised shortly, to reflect changes to Secretary of State's Directions effective from 3 April 2006*

Direction 18(1) prescribes that:

"The maximum amount that may be awarded as a crisis loan in respect of living expenses... is the aggregate of –

- (a) an amount equal to 75% of the appropriate income support or... income-based jobseeker's allowance personal allowance for the applicant and any partner; and
- (b) for each child, an amount equal to the income support personal allowance at the rate applicable to children before... their 16<sup>th</sup> birthday...;"

provided that the amount does not cause the applicant and partner's combined Social Fund debt to exceed £1000.

Direction 18(2) provides special rules for applicants whose partners are under certain JSA disallowances or sanctions.

Direction 18(3) provides that:

Where any step in the calculation under paragraph (1) or (2) results in a fraction of a penny, that fraction may be rounded up or down to the nearest penny.

Direction 20 provides special rules for applicants who are receiving reduced (hardship) JSA.

This Advice deals with how to decide the amount of awards for living expenses. 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;

### **2. Calculating the legal maximum**

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Commissioner's Advice on Amount of Award (Living Expenses)  
Agreed by Quality Forum 7/8/01. Effective from 4/2/2002  
Amendment Agreed by Quality Forum 11/6/03. Effective from 16/6/03.  
Amendment Agreed by Quality Forum 2/10/03. Effective from 15/10/03.

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 mathematics of the calculations*

Direction 18(3) now provides that where any step in the calculation under Direction 18(1) or (2) 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 75%) + (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:

$$\frac{((\text{Weekly Personal Allowance} \times 75\%) + (\text{Weekly Child Rate} \times \text{Number of Children})) \times \text{No. of Days Payable}}{7}$$

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.

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\* That is, the personal allowance for a child applicable to children before the first Monday in September after their 16<sup>th</sup> birthday (although at 7 April 2003 there is actually only one child rate).

*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 75%) + (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 75%) + (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.)

### **3. 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 £1000 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.