

Support Notes on Commissioner's Advice

Amounts of Award: Living Expenses

Benefit rates referred to in the examples in these Support Notes are all based on 2011/2012 rates, unless stated otherwise.

1. General Approach

Awarding less than the legal maximum

The following example illustrates how the amount of the award might be affected by the applicant receiving some other payment (a Child Benefit payment, a gift from a friend, or suchlike) during the period for which the crisis loan is being awarded.

Example: Mr R applies for a crisis loan of £350 for living expenses for him, his partner and his two children for 12 days (until his next JSA payment is due). The Inspector finds that he qualifies for an award, and calculates that the maximum that can be awarded for this 12-day period is £322.68. She notes, however, that Mr R is due to receive a Child Benefit payment of £33.70 on day 9 of the 12 day period. She deducts this from the Direction 18 maximum, thereby reducing the award to £288.98.

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

No Support Notes.

3. Calculating the Direction 18(1) maximum amount

Defining the period of need

The period of need will normally end when the applicant receives his next main benefit payment. However there may be cases where the period of need ends before this. The following example illustrates such a situation:

Example: The situation is the same as in the above example, except that in this case, Mr R receives his child benefit in four-weekly instalments. Therefore on day 9 of the 12 days before he receives his next JSA payment, he is due to receive a payment of £134.80.

Because Mr R is due to receive this Child Benefit payment, it is probably not appropriate to award the Direction 18 maximum for the full 12-day period (£322.68). This leaves two possible options. The Inspector could use the same method as in the first example and deduct £134.80 from this maximum figure. However this would leave the family with quite a meagre amount of money to manage on until the Child Benefit arrived. A better solution would be to pay the Direction 18 maximum for a shorter period – for the 8 days until his Child Benefit is due. This method would lead to an award of £215.12.

In such situations, where there are two or more possible ways of calculating the amount, the most appropriate method will generally be the one that is most beneficial to the applicant.

The mathematics of the calculations

Where a RO has made a maximum award for living expenses an Inspector should consider whether the RO has reached a legitimate figure for the maximum under Direction 18, remembering that there may be more than one legitimate maximum figure. Where a legitimate maximum figure has not been reached this is likely to be a Direction 1 flaw, unless the error has not knocked the decision off course.

Where the RO has not reached a legitimate maximum figure, or where the Inspector is the first to award a maximum figure, he should generally follow the approach to calculations set out in the Advice, examples of which follow:

Example Calculations for a Couple both over 18 with 4 children, requiring payment for 13 days:

- (1) Calculate Total Weekly Allowances:
(Weekly Personal Allowance x 60%) + (Weekly Child Rate x Number of Children)
 $(£105.95 \times 60\%) + (£62.33 \times 4) = £ 312.8900$
- (2) Multiply the Total Weekly Allowances by the Number of Days Payable
 $£312.8900 \times 13 = £4067.5700$
- (3) Divide the product of (2) above by 7
 $£4067.5700 \div 7 = £581.081429$
- (4) Round the product of (3) above, to the nearest penny. (In order to obtain an accurate result, figures should not be rounded before this point.)
£581.081429 is rounded down to £581.08.

Under this approach 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 in line with normal mathematical convention.

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

Example

An Inspector decides to pay a crisis loan to an applicant aged 18 years and her 2 children for a period of 9 days; and because of a change in benefit rates, 2 days are payable at 2010/2011 rates and 7 days at 2011/2012 rates.

The maximum crisis loan award is calculated 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).
 $(£65.45 \times 60\%) + (£57.57 \times 2) = £154.4100$

- (2) Multiply the Total Weekly Allowances for Period A by the Number of Days Payable in Period A.
 $£154.4100 \times 2 = £308.8200$
- (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).
 $(£67.50 \times 60\%) + (£62.33 \times 2) = £165.1600$
- (4) Multiply the Total Weekly Allowances for Period B by the Number of Days Payable in Period B.
 $£165.1600 \times 7 = £1156.1200$
- (5) Add the product of (2) above to the product of (4) above.
 $£308.8200 + £1156.1200 = £1464.9400$
- (6) Divide the product of (5) above by 7.
 $£1464.9400 \div 7 = £209.2771428571$
- (7) Round the product of (6) above to the nearest penny. (Again no figures should be rounded before this point.)
The product of (6) above rounds up to £209.28, and so the maximum crisis loan is **£209.28**.

Explaining the decision

Where awarding less than an applicant has requested Inspectors should generally give a brief explanation, along the lines set out in the following example:

Example:

You asked for £100 to last you the 12 days from 28 April to 9 May. However, I cannot pay this much because the law sets a limit. The payment will always be less than your usual Jobseeker's Allowance. The most I can pay you for this period is £69.43.

New applications within the same period

The Direction 18 and 20 maximums apply to award amounts on a particular application. Where an applicant, having received an award for living expenses, makes a fresh application for living expenses for the same period, the applicant may be able to receive another maximum award. However, in many cases Direction 7(2) will prevent decision makers from making a determination on repeat applications for living expenses

4. The Direction 18(2) maximum amount

No Support Notes.

5. The Direction 20 maximum amount

Where an applicant is receiving JSA at hardship rates he may be subject to Direction 17 restrictions, unless he is in a vulnerable group.

6. Grants for living expenses

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

The Secretary of State has provided the following guidance in respect of award amounts for living expenses payable under Direction 4(a)(iv):

303. It would normally be reasonable, where the prisoner or young offender joins their partner, to give the person who receives IS, JSA(IB), PC or ESA(IR) or payment on account of such benefits for each day, one seventh of the difference between the partner's benefit payment or payment on account of such benefit and the appropriate amount for a couple.

304. In cases, where the prisoner or young offender joins someone other than their partner, to give the person who receives IS, JSA(IB), PC or ESA(IR) or payment on account of such benefits for each day, one seventh of the appropriate personal allowance.

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.*

Awards that are part crisis loan/ part grant

Often the applicant's Social Fund debt is slightly below the £1500 maximum. In these circumstances, a crisis loan can be awarded, but the amount that can be awarded may be so limited that it is insufficient to meet the applicant's needs. A possible solution to this problem is for the Inspector to use his power under Direction 49 to look at a grant for the remaining need. Of course for a grant to be awarded the conditions of Directions 25 and 4 must be met, and the need must not be for an excluded expense such as board and lodging charges or fuel costs.

There is also one further obstacle. In order for the exclusion on daily living expenses to be lifted, the £1500 maximum debt must already have been reached. This limit is only reached when the applicant has accepted the crisis loan that takes him up to the £1500 maximum debt. In other words, a grant can only be awarded once the crisis loan has been accepted.

The most practical solution to this problem is for the Inspector to make his grant award conditional on the applicant accepting the crisis loan, and to incorporate both these awards in a single decision letter. While there is no specific statutory licence for making such conditional awards, there is nothing in the statute to prohibit it either. The alternative would be to award the maximum crisis loan and advise the applicant, if he chooses to accept the loan, to make a new application for a grant. This route involves extra inconvenience for all concerned. For this reason, Inspectors are advised to operate the "conditional grant" solution.