

Commissioner's Advice to Inspectors

Direction 31

The Secretary of State directs that:

- (1) A determination made by a decision maker relating to a community care grant and a crisis loan must be reviewed where it appears that:
 - (a) the determination concerned was based on a mistake as to the law or the directions;
 - (b) the determination concerned was given in ignorance of, or was based on a mistake as to, some material fact; or
 - (c) there has been any relevant change of circumstances since the determination was made.
- (2) A determination made by a decision maker relating to a budgeting loan must be reviewed where it appears that the determination concerned -
 - (a) was based on a mistake as to the law or the directions; or
 - (b) was given in ignorance of, or was based on a mistake as to, some material fact.
- (3) Reviews referred to in paragraphs (1) and (2) above shall be undertaken by a decision maker (who may be the decision maker who made the original determination), or by a reviewing officer appointed for the purpose of carrying out social fund reviews.
- (4) A decision maker or reviewing officer to whom paragraph (3) above refers shall, in Directions 32 to 39 both be referred to as the reviewing officer.

This Advice deals with how Inspectors should treat applications which they have sight of but are not reviewing and have identified a relevant error in that application.

1. What does direction 31 require?

Direction 31 can only be invoked by Decision Makers and Reviewing Officers, not by Inspectors. It requires that a community care grant or crisis loan determination **must** (emphasis added) be reviewed where it appears that it was based on a mistake as to the Law or directions, given in ignorance of or was based on a mistake as to some material fact or there has been a relevant change of circumstances since the determination was made. The same criteria applies to a budgeting loan determination except that it cannot be reviewed following a relevant change of circumstances. An applicant does not have to request that a review be carried out for direction 31 to be invoked.

2. What action will the Inspector take?

In the course of looking at a previous application, an Inspector may note that it contains an error or that there has been a relevant change of circumstances which indicates that a review under direction 31 is appropriate. In these cases, the Inspector will advise the Reviewing Officer that he has identified an

error and point out that where there is an error or a relevant change of circumstances, he must review this determination under the terms of direction 31. By including this in his decision, the Inspector would be alerting the Reviewing Officer to a relevant piece of legislation which he must comply with and advising the applicant that a review of the earlier decision seems appropriate.

3. When would an Inspector suggest that a review under direction 31 may be appropriate?

An Inspector will alert the Reviewing Officer that a review under direction 31 may be appropriate where he has sight of a previous application for the purposes of direction 7 (or for other evidential issues) and identifies a relevant error, or change of circumstances which he cannot take into account, in that determination. Although not reviewing the previous application, the Inspector would have to look at that application to establish e.g. if direction 7 has been properly applied.