

Support Notes on Commissioner's Advice

Direction 3: Only means

1. The burden of proof

Catalogues, credit and charities

The fact that the applicant has a catalogue debt does not in itself mean that he will be able to get further credit from the catalogue to meet his current need. Still less does it mean that the item in question is actually available from the catalogue. Before the Inspector could be satisfied that a catalogue was another means of meeting the need, the evidence would have to show both that the item was available from the catalogue and that the applicant could get enough extra credit from the catalogue to buy it. Be aware that some items from catalogues take a long time to be delivered.

Similarly, the fact that there is a charitable organisation in the area which may provide the items the applicant wants should not be taken to mean that they will meet his specific need unless there is evidence to show this. The evidence would need to show (on the balance of probabilities) that the charity will help the applicant to meet the need he has presented.

In cases like these, Inspectors should generally work on the basis of the evidence already available in the papers. They should not be making further enquiries in order to direct applicants away from the Social Fund towards charities.

Hostels, soup kitchens, friends and family

The above points apply also to applications for living expenses, where there is a possibility that the applicant might receive help from another source. Before asserting that an applicant could go to a hostel or soup kitchen, the Inspector would need to be satisfied:

- a) that the applicant can get to the relevant hostel/ shelter/ kitchen;
- b) that the particular organisation has the capacity to deal with another customer;
- c) that it can provide him with enough food etc. to prevent serious risk or serious damage to his health or safety.

In addition, the Inspector should not assume, without evidence, that the applicants' family or friends will be able or willing to provide for him through his time of need. The fact that an applicant's family have helped him through similar situations in the past does not necessarily mean that they will do so again.

Examples

The following examples illustrate what sort of evidence would be sufficient to support a finding that a crisis loan is not the only means of preventing serious risk etc.

Example 1: Mr A receives contribution-based JSA. He applies for a crisis loan for a washing machine. He is the lone parent of a five year old daughter, who suffers from eczema. Until two months ago, he had a washing machine of his own, but it broke down beyond repair and he has been unable to replace it. Since then, he has tried to do his laundry by hand, but he has been unable to get things properly clean. He says that this has caused his daughter's eczema to flare up to the extent that she has had to take 5 days off school.

The RO simply says, "Direction 3 not met. Applicant can use a launderette."

The inspector substitutes this decision. The applicant has made his case by providing evidence to show that there is a serious risk to his daughter's health. The RO, by contrast, has not provided sufficient evidence to support her assertion that the applicant has other means of preventing the risk available to him.

Example 2: Same situation as in the above example, except that the RO's decision is less vague. This time she agrees that this situation poses a serious risk to the health of Mr A's daughter. However she does not consider that a crisis loan is the only means of preventing the risk. She points to the fact that there is a launderette on the ground floor of the block of flats where Mr A lives. The inspector puts this point to the applicant in a letter. Mr A's reply is that he has always had a washing machine in the past. He does not think it fair that he has to manage without one now.

The Inspector confirms the RO's decision. He recognises that Mr A would prefer a washing machine of his own, but the evidence shows that there is a public launderette readily available to him.

2. Reasonableness

It might be reasonable, for example, to expect an applicant to use money he has saved up to pay his phone bill, but it would not be reasonable to expect him to use money he has set aside to pay his weekly rent.

3. Other social fund payments as other means

The issue here is how far the Inspector seeks information about budgeting loan awards in deciding whether there is money available to meet the applicant's needs. It is not appropriate to routinely contact the BA to find out whether the applicant has been awarded a budgeting loan. In the rare cases where there is evidence in the papers that the applicant has very recently been awarded a budgeting loan and has the money available then it would be appropriate to take account of that in the decision. However, it is unlikely that a budgeting loan would be considered as "other means" where the spending of that award would leave the applicant needing to apply for a further crisis loan to meet an important need.

Our Customer Led Review process will enable the Inspector to identify the evidence and issues in each individual case and seek information from the applicant as necessary.