

Commissioner's Advice to Inspectors

Direction 3: Serious Risk

The Secretary of State directs that:

- (1) ...a social fund payment may be awarded to assist an applicant to meet expenses... -
- (a) in an emergency, or as a consequence of a disaster, provided that the provision of such assistance is the only means by which serious damage or serious risk to the health or safety of that person, or to a member of his family, may be prevented; or...

This Advice deals with the interpretation of the phrase “serious damage or serious risk to the health or safety of that person...”

1. “*damage*” or “*risk*”

As there is no punctuation in the phrase “serious damage or serious risk to the health or safety...”, the damage must relate to the person’s health or safety. Damage to property or family relationships would not, in itself, meet the tests of Direction 3.

The word “damage” denotes actual harm to the person’s health or safety. The word “risk”, on the other hand, relates to something that may or may not happen. It is a hazard or a chance of bad consequences. If the evidence shows that there is a chance of bad consequences for the customer’s health or safety in the foreseeable future, then there is a risk. The consequences will be in the future, but the risk will exist now.

Direction 3 does not require that serious damage or risk should already have occurred or be in the process of occurring. Where an applicant has to act imminently in order to avert serious damage or risk, Direction 3 may be met. The Commissioner’s Advice to Inspectors on Direction 3: Emergency/Disaster examines this issue in greater detail.

2. “*serious*”

The damage or risk must be “serious”. This suggests that the damage or risk must be more than trivial or insignificant, and must involve more than mere discomfort or inconvenience. However it is not necessary that medical intervention be required before damage or risk can be deemed “serious”.

In the case of “risk”, the seriousness applies both to the potential consequences and to the chances of them happening. In other words:

- the potential consequences to health or safety must be serious; and

- there must be a ‘serious’ chance that they will happen in the foreseeable future.

There is an interplay between these two factors. If the potential consequences are extremely serious (e.g. life-threatening), then the probability of them happening does not have to be very great in order for the risk to be deemed ‘serious’. However if the potential consequences are less serious, there needs to be a greater likelihood of them occurring in order for the Inspector to regard the risk as ‘serious’.

Inspectors should consider the consequences of not making an award. Are these likely to be serious?

3. “health or safety”

The term “health” includes both physical and mental health. It means more than the mere absence of illness. “Safety” refers to “the state of being protected from or guarded against hurt or injury; freedom from danger”¹.

4. Items and living expenses

When looking at the applicant’s needs consider whether the lack of the items/expenses is likely (on the balance of probabilities) to result in serious damage or serious risk to the health or safety of the applicant, or to a member of his family. Whether the lack of an item presents a serious risk to health or safety is a question of fact. It has to be decided from the evidence before the Inspector, including any inferences that can reasonably be drawn from that evidence. The following considerations may be relevant:

- How the applicant is managing without the items he is applying for.
- Any health problems the applicant or a member of his family have and whether these increase the importance of his need.
- The age, vulnerability and other circumstances of the applicant or a member of his family.

In all cases Inspectors should take account of the likely consequences of leaving the applicant without the items he has applied for.

Where the applicant has applied for items consider the impact on the applicant of the absence of such basics as adequate sleeping and heating facilities and the means to provide an adequate diet.

In the particular case of living expenses consider the likely impact of leaving the applicant without such basic things as food or power, even for a very short time.

¹ *The New Shorter Oxford English Dictionary*, 1993