

Support Notes on Commissioner's Advice to Inspectors

Direction 4 to Inspectors

1. When does the Inspector use Direction 4?

No Support Notes.

2. The tests in Direction 4

Once the Inspector has determined that the case satisfies Direction 3, Direction 4 allows him to look at the case again, having regard to limited factors that may have changed since the original decision was made. These primarily concern the Area Decision Maker's guidance and the state of the budget.

Direction 4 (1) (e) and Direction 4 (3) allow him to take into account any changes to the guidance suggested by the Area Decision Maker that have occurred since the original decision, and any changes in the state of the budget. He must look at these two factors together and determine whether these will have an impact on the outcome of the decision.

He must also consider any new evidence that existed at the date of the original decision that has since come to light (Direction 4 (1) (c)), and any increase in the amount owed to the fund by the applicant, and any sums repaid following any increase. Direction 4 (1) (f) allows the Inspector to take into account any increase in the amount of outstanding social fund debt accrued by the applicant or his partner since the original decision was made. This concerns the applicant's ability to repay a further loan. If after applying Direction 4, the Inspector decides that he will make a new decision, although the applicant's outstanding budgeting loan debt must be fixed at the date of the original decision, the amount he now owes to the fund as a whole must be considered in accordance with Directions 10 and 11.

The applicant's personal circumstances and the amount of their outstanding budgeting loan debt must remain the same as they were at the date of the original decision.

Example 1:

The date of the RO's decision is 28/10/02. In his decision he applied the Area Decision Maker's guidance of £281.41. The budget was on target. Since his decision the guidance figure has changed to £307.38. The budget is now 6% underspent.

In this case, the Inspector may decide that it is reasonable to base his decision on the revised guidance, given the budget underspend, if this made a difference to the outcome.

Example 2:

The date of the RO's decision is 4/11/02. At the end of October the budget was on target. By the date of the Inspector's review the budget is underspent by 7%. The Area Decision Maker's guidance has remained the same.

In this case, it would be reasonable for the Inspector to allow a maximum amount 7% (the amount of the underspend) higher than that suggested by the Area Decision Maker, if this made a difference to the outcome.

3. Following the Direction 4 review

When deciding whether to make a fresh decision under Direction 4, the Inspector should consider whether, using the factors he is allowed to update, the outcome of the decision will be changed. The Inspector would have regard to the relevant factors but would generally only decide to make a fresh decision using updating circumstances as specified by the Direction, if the outcome is changed.

Example

The outcome of the RO's decision is that an award could not be made. He had determined the applicant's maximum amount to be £422.11, using the maximum amount of £281.41 suggested in the Area Decision Maker's guidance. The applicant's outstanding budgeting loan debt was £250.00, too high for a further loan to be awarded. The budget was being spent as planned. Since the date of the RO's decision, the maximum amount suggested in the guidance has increased to £307.38, due to a slight underspend in the budget. The Inspector could choose to base his decision on the increased amount suggested in the guidance, as specified in Direction 4 (1) (e). However, by doing so he may change the applicant's maximum amount to £461.07, still insufficient for a payment to be made. Therefore the Inspector would have regard to the change in the guidance but is likely to decide not to use the higher amount suggested in the guidance.

When making a fresh decision, the Inspector should clearly explain in his decision why he has gone on to make a fresh decision.