

Commissioner's Advice to Inspectors

Housing Costs: General

Direction 29(d) excludes:

“housing costs, including repairs and improvements to the dwelling occupied as the home, including any garage, garden and outbuildings, and including deposits to secure accommodation, mortgage payments, water rates, sewerage rates, service charges, rent, and all other charges for accommodation, whether or not such charges include payment for meals and/or services, other than:

- (i) minor repairs and improvements; or
- (ii) charges for accommodation applied for under direction 4(b);

Direction 23(2)(f) excludes:

“housing costs, including repairs and improvements to the dwelling occupied as the home, including any garage, garden and outbuildings, and including deposits to secure accommodation, mortgage payments, water rates, sewerage rates, service charges, rent and analogous charges for accommodation, other than:

- (i) payments for intermittent housing costs not met by housing benefit, income support or income-based jobseeker's allowance or for which direct payments cannot be implemented such as the cost of emptying cess pits or septic tanks; or
- (ii) rent in advance which is payable to secure fresh accommodation where the landlord is not a local authority; or
- (iii) charges for board and lodging accommodation and residential charges for hostels, but not deposits, whether included in the total charge or not; or
- (iv) minor repairs and improvements;

This Advice is based on the general principles contained in the [Commissioner's Advice on the Interpretation of Exclusions](#). It explains what is meant by the term “housing costs”. A separate Advice paper deals with “minor repairs and improvements”, an important exception to the housing costs exclusions.

1. The “generic” exclusion

Directions 29(d) and 23(2)(f) both refer to the generic category of “housing costs”, and go on to list examples of expenses falling within this category. However, the lists are not exhaustive. Some expenses, whilst not listed as examples, will fall into the broad category of “housing costs”. For example, in *R v. Social Fund Inspector and Secretary of State for Social Security, ex parte Smith*, it was decided that the Inspector was correct to exclude a caravan as a housing cost. The Court also went some way towards defining the generic term, “housing costs”. It found that housing costs “are in commonsense the costs of a person’s accommodation”.

The lists of specific examples given in Directions 29(d) and 23(2)(f) cover a wide range of different costs, and help to define the scope of the term, “housing costs”. The examples, can also enlarge the natural meaning of “housing costs” (see *R v. Social Fund Inspector, ex parte Ledicott*). It is suggested that if an expense falls within one of the categories of specific expenses listed, in Direction 29(d) and/or in Direction 23(2)(f), this will usually represent a housing cost. Exceptionally, it may not be possible to find that a particular expense, falling within one of the categories of specific expenses, actually represents a housing cost. (See section 6 below, for an example.) In such cases the housing costs exclusions would not apply.

2. Mobile accommodation

Ex parte Smith established that a caravan can be a housing cost. In reaching this conclusion the Court held that “[a]ccommodation can take many forms, and we see no warrant for distinguishing between accommodation which is mobile and accommodation which is immovable”. It follows that other forms of mobile accommodation, such as house boats and tents can also constitute housing costs.

When looking at specific cases, Inspectors should consider whether the request is really for mobile accommodation, for something that will form a dwelling place. If it is not, and is simply for a temporary shelter from the elements, the item in question will not fall into the generic category of housing costs.

3. Expenses associated with securing accommodation

In *Ex parte Smith* the cost of acquiring a caravan was found to represent the costs of a person’s accommodation, and a housing cost. It follows, that housing costs, and the costs of a person’s accommodation, include the costs of securing accommodation. This is supported further by the fact that Directions 29(d) and 23(2)(f) expressly include “deposits to secure accommodation” as an example of housing costs. Direction 29(d) also excludes “all other charges for accommodation”, and Direction 23(2)(f) “analogous charges for accommodation”.

Expenses necessarily incurred in order to secure specific accommodation should generally be excluded as housing costs. Such expenses are likely to include: stamp duty, conveyancing fees and VAT charged on them, the registration of a deed, and the registration of a mortgage associated with the purchase of a particular house; VAT

payable upon the purchase of mobile accommodation; and the cost of drawing up an inventory and tenancy agreement in respect of a particular property.

Estate agents fees are paid upon the sale of a property. Such fees do not relate directly to the purchase of another property and are unlikely to represent housing costs.

The costs of registering with a letting agent to receive notification of suitable tenancies, or of preliminary reference or credit checks not related to the taking up of a particular tenancy are not likely to represent housing costs. These expenses are not necessarily incurred in order to secure specific accommodation.

However, if an applicant is seeking a tenancy agreement for a specific property, and no agreement will be entered into until the applicant pays for a reference/credit check, this expense is likely to represent a housing cost.

4. Repairs and improvements

The exclusion of repairs and improvements is a very broad one. It is not confined, for example, to work necessary to keep the home fit for human habitation. It covers not only repairs, but also improvements to the dwelling occupied as the home. In addition, the dwelling occupied as the home includes any garage, garden and outbuildings. So the stocking of a garden with trees is potentially a housing cost.

A repair will generally put right something that is defective. An improvement will upgrade something, or add something to a property that was not there before. An improvement can be objective or subjective, and so the addition of something to a dwelling to suit the particular needs or tastes of the occupiers is covered by the exclusion.

Generally, the main question for Inspectors will be whether a repair or improvement is one to the dwelling occupied as the home, or whether it is to something else:

Is the repair or improvement to the dwelling occupied as the home?

The directions only exclude repairs or improvements to the dwelling occupied as the home (including garage, garden and outbuildings). In this context, it is often necessary to refer to land law to decide whether something is or will become part of the land (the real estate or property).

There are two groups of items that are treated as being part of the land. The first group concerns items that become part and parcel of the land, such as a brick built into the wall of a house, or items essential to the convenient use of the land, such as windows or doors in a house. The second group concerns fixtures. An item will become a fixture if it is annexed (or attached) to the land for the permanent and substantial improvement of the land. (Items attached to the land, but not for the permanent and substantial improvement of the land, are known as fittings.) Fixtures pass with the land on sale, unless there are express provisions to the contrary in the contract of sale.

Fixtures may be contrasted with chattels, which are movable items of personal property. Chattels do not pass with a property on its sale, unless there are express provisions to the contrary. Caravans, tents, and houseboats are all chattels. However, similar principles can be applied in deciding whether a repair or improvement to one of these is actually a repair or improvement to the dwelling occupied as the home.

Aids and adaptations

Disabled people often need special aids and adaptations to help them live independently in their homes. Careful consideration must be given to whether the items in question represent repairs and improvements to the dwelling occupied as the home, using the guidelines outlined above. If they do, they will generally represent housing costs, even though the need has been prompted by disability.

For example, if concrete ramps are installed in a garden to allow a disabled person greater enjoyment of the garden whilst in his wheelchair, the ramps are likely to

become part of the property and the dwelling occupied as the home. The ramps may not be objective improvements. However, they are subjective improvements to the dwelling occupied as the home, as they adapt the dwelling to suit the needs of the disabled occupier.

It is suggested that stair lifts will not generally become fixtures, given the way in which they are usually attached to a property and the general purpose of annexation. This view is reinforced by the fact that there is a second hand market for stair-lifts.

Measures to protect the dwelling occupied as the home

The same principles apply here. Careful consideration must be given to whether the items in question represent repairs and improvements to the dwelling occupied as the home, using the guidelines outlined above. If they do, they will generally represent housing costs, even if the need has been prompted by a need for greater security for the dwelling and/or the person.

In Northern Ireland only, Direction 23(2)(h) excludes costs associated with home or personal security measures other than only locks, bolts, door chains and door viewers for outside doors and windows. This direction excludes payments in respect of home security measures that would fall within the minor repairs and improvements exceptions to the housing costs exclusions. The existence of Direction 23(2)(h) does **not** therefore imply that home security measures cannot be housing costs.

5. Board and lodging charges

Charges for board and lodging, whether paid to parents, hostels or private landlords, are housing costs. This is clear from Direction 29(d), which specifically includes “rent, and all other charges for accommodation, whether or not such charges include payment for meals and/or services” within the general category of housing costs. This means that community care grants cannot be awarded for any such charges.

Crisis loans, however, can be awarded for board and lodging charges and residential charges for hostels (but not deposits). This is because of a specific exception to the exclusion (Direction 23(2)(f)(iii)).

6. Travelling expenses and overnight accommodation

Direction 29(d)(ii) exempts from the housing costs exclusion “charges for accommodation applied for under Direction 4(b)” – that is to say, for overnight accommodation applied for in connection with travelling expenses.

Community care grant awards can also be made for overnight accommodation as part of a travelling expenses award under Direction 4(a). Where these expenses are

incidental to the travel, they do not represent the costs of a person's accommodation. They are not, therefore, housing costs. The exemption provided by Direction 29(d)(ii) in relation to charges for accommodation applied for under Direction 4(b) should be seen as a precautionary measure, to ensure that these will not be excluded. It does not imply that such costs under Direction 4(a) will be excluded.