

Commissioner's Advice to Inspectors Income Resources (CCG cases)

Section 140(1) of the *Social Security Contributions and Benefits Act 1992*, as amended, provides that:

In determining whether to make an award of a community care grant... to the applicant or the amount or value to be awarded an appropriate officer shall have regard to... all the circumstances of the case and, in particular...

(b) the existence of resources from which the need may be met;

This Advice addresses how Inspectors should treat the issue of applicants' income resources in community care grant decision-making. There are separate Advice papers on *Capital Resources (CCG cases)* and *Crisis Loans and Resources*.

1. Order of consideration

The existence of resources from which the need may be met should be considered at the final stage of the decision-making process, after the priority of the need has been determined and the budget considered, at the point where the Inspector is finally deciding whether to make an award and how much to award. At this stage of the process the issue is no longer "Is this need important enough?" but rather "Should this important need be met by the Social Fund, or can the applicant meet it out of his own resources?"

This order of consideration is consistent with the Secretary of State's Guidance.

2. Which resources are relevant?

IS premiums

When considering what income resources exist from which the need may be met, Inspectors should be looking only at resources *over and above Income Support or Jobseeker's Allowance*. This is because receipt of IS or income-based JSA is a condition of eligibility for a grant. It would not make sense "to have IS receipt as both an eligibility criterion for CCGs... and the receipt of IS premiums as a reason to refuse such awards."¹ A person's IS is not just his personal allowance. It also includes any premiums he might receive. This is the minimum the law says that he needs to live on. It is not for the Social Fund to "iron out" the deliberate differences in minimum income that are created by the premiums system.

Extra benefits or income

Other benefits and income, which the applicant receives on top of his IS or JSA, can be considered as resources from which the need may be met, provided that the evidence supports this conclusion (see *Burden of proof*, below). One exception to this is the mobility component of Disability Living Allowance. This must always be disregarded when considering the issue of resources. This is because Section 73(14) of the *Social Security Contributions and Benefits Act 1992* prevents it being taken into account in any assessment of means for benefit purposes.

¹ Trevor Buck, *Social Fund Law and Practice*, second edition, page 193.

3. Burden of proof

As “he who asserts must prove”, it follows that the burden of proving that the applicant has “resources from which the need may be met” falls on the *decision-maker*. The Inspector must show, on the balance of probabilities (more likely than not), that the applicant can meet his need from his extra income. (The word “may” in the phrase “resources from which the need may be met”, should be taken to mean “can”. In a scheme such as the Social Fund, which relies on fact-finding, it is not enough merely to show a possibility that the need might be met from the resources.)

Where the applicant’s extra income is a benefit given primarily for the purpose of helping them meet extra expenses related to his disability (as in the case of DLA (Care) and Attendance Allowance), the Inspector’s *starting point* should be that this extra benefit is not a resource from which the need may be met, unless the evidence shows that it is.

4. Surplus income

Where the evidence shows that the applicant’s additional income is not used up by his expenses, this may affect the outcome of the case. At this point the Inspector will need to make a broad comparison between the amount of money available, and the amount required to buy the item(s) requested. Where the available extra resources are sufficient for the applicant to be able to buy the item(s) straightaway, it can be concluded that resources exist from which the need may be met. This may be a ground for refusing an item.