

# Support Notes on Commissioner's Advice

## The principles of determination incorporating priority

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**1. Section 140 of the Social Security Contributions and Benefits Act 1992 (SSCBA 1992) as amended by the Social Security Act 1998.**

No Support Notes

**2. "The nature, extent and urgency of the need" (Section 140(1)(a))**

No Support Notes

**3. "The existence of resources from which the need may be met" (Section 140(1)(b))**

No Support Notes

**4. "The possibility that some other person or body may wholly or partly meet the need" (Section 140 (1)(c))**

No Support Notes

**5. "Where the payment is repayable, the likelihood of repayment and the time within which repayment is likely" (Section 140(1)(d))**

No Support Notes

**6. "The relevant allocation" (Section 140(1)(e))**

No Support Notes

## 7. Priority

### *The need to prioritise*

The need to prioritise arises because the budgets are cash limited. When the Inspector has reached a conclusion as to the appropriate priority of the needs under consideration, he will then need to address all the other circumstances including the state of the district office budget. It is incumbent on Inspectors to meet the range of needs the budget is capable of meeting. Difficulties commonly arise where the budget is not meeting all high priority needs. Where this is the case, the Inspector will need to make a careful judgement as to whether the needs he is considering are comparable to those the budget is able to meet. The following example illustrates this point:

#### **Example 1.**

The applicant is a lone parent with four young children. She has recently separated from her partner following domestic violence and, after several weeks in a hostel for abused women, has been re-housed. The applicant has a severe back problem and the eldest child has mild asthma. This is well controlled by use of an inhaler.

The application is for a cooker, living room carpet and easy seating. The applicant has managed to get the children's beds and bedding from their father and has been given a bed for herself, a second-hand fridge and curtains.

Direction 4(a)(iii) is met and all the requested needs are urgent and important and are of high priority. The items will all have a substantial and immediate effect in improving the circumstances of the family and in easing their exceptional pressures.

The ADM guidance is that the budget can meet only highest priority needs and the budget is 'on target'. Contact with the RO reveals that the budget has only been meeting applications for cookers and beds. Although this approach is not supported in law it does indicate that the budget is under severe pressure. This very limited band indicates that only the most basic needs can be met, normally those to provide cooking and sleeping facilities.

*The crucial point is that the Inspector must decide whether the applicant's need for the cooker, carpet and easy seating is comparable to those the budget is able to meet. In the circumstances of this particular case it is suggested that the applicant's need for a cooker and easy seating are comparable. They will provide for the family's most basic needs giving weight to the fact that the applicant has a severe back problem. It is suggested that the need for carpet is less important and not comparable.*

## *The factors that influence priority*

The Inspector should consider the link between the nature and urgency of the needs and the reasons why the qualifying conditions are met. The same item in different circumstances may attract different priorities. In addition, whilst a number of items may qualify for an award, individual items within the application may attract different priorities. The Inspector will need to consider all of the circumstances of the case, weigh up all the various considerations and take account of the guidance of the Secretary of State. These principles are illustrated in the following examples:

### **Example 2.**

The applicant is a lone parent aged 26. She has a two year old daughter. She separated from her husband 6 months ago. She remained in the marital home and he now lives in rented accommodation close by. Since the separation she has been subject to constant harassment and physical abuse from her husband. She is afraid to leave her home in case she meets him. She has also had stones thrown through her bedroom windows. She is sure her husband is responsible for this but is unable to prove it. The Police have been involved. She has now been offered alternative accommodation by the Council in a different part of the town. She has applied for a CCG of £230. She needs £150 to meet removal expenses and she has also asked for £80 for a bed for her daughter who has outgrown her cot.

*In this case the family are considered to be facing exceptional pressures. The source of the pressures are clear – the breakdown of the applicant's marriage and subsequent abuse and harassment from her husband. A move to a property in a different part of town would have a substantial and immediate effect in improving the applicant's circumstances and easing the pressures that exist. There is a strong link between the need for removal expenses and the reasons why the family are under exceptional pressure. It is suggested therefore that a high priority is appropriate for the removal expenses. The fact that the applicant's daughter has unsuitable sleeping facilities will add to some extent to the pressures on the family. However, the need for the bed is not an important source of the exceptional pressures. While an award for a bed would improve the family's circumstances, it would not have a substantial and immediate effect in easing the pressures. It is suggested that a medium priority would be appropriate for the bed.*

### **Example 3.**

The applicant is a lone parent aged 30. She has two children who are aged 4 and 8. The applicant suffers from chronic depression. She is finding it increasingly difficult to cope. She has a number of debts to catalogue companies and says she cannot sleep at night. She is prescribed anti-depressants and her doctor has recently referred her to a counsellor. Her children are generally in good health but the elder child bed wets 5 or 6 times a

week. She has applied for a bed for the child and protective covers. She says the existing bed has been ruined by the child's bed wetting. The bed can no longer be used and the child has been sharing the applicant's bed for the last four weeks.

*In this case Direction 4(a)(iii) is considered met. The effect of the applicant's mental health problems, which appear to be deteriorating, the financial problems and the child's bed wetting combine to place the family under exceptional pressures. The fact that the eldest child now has to share the applicant's bed will significantly add to the pressures. A CCG to provide the child with suitable and independent sleeping facilities would have an immediate and significant effect in easing the pressures. It is suggested that the need for the bed and protective covers is high priority.*

#### **Example 4.**

The applicant is aged 58. She lives with her husband who is 61. She is allergic to household dust and suffers from chronic asthma which can be severe at times. She has had a number of short term hospital admissions – the most recent being three months earlier. She uses a number of inhalers to control her condition and has recently commenced a course of steroid injections. Her husband is in generally good health. She has applied for a vacuum cleaner and a single bed. Her vacuum cleaner has broken down beyond economic repair. She is unable to keep the dust down in her house and her asthma attacks are increasing in frequency. She is finding it difficult to sleep at night and is keeping her husband awake which is making him grumpy. She wants a single bed for the spare room so they can sleep separately.

*In this case, it is suggested that both directions 4(a)(ii) and (iii) are met. It is also suggested that in terms of meeting the aims of the directions a vacuum cleaner is very important but a bed is less so. A vacuum cleaner will clearly have a significant impact as it will enable the applicant to limit the amount of dust in the house which will benefit her health. Separate sleeping might be desirable but would have less impact in terms of meeting the aims of the directions. It is suggested that a high priority would be appropriate for the vacuum cleaner and a medium priority for the bed.*

#### **Example 5**

The applicant is a lone parent with six children aged 4, 6, 9, 12, 14 and 15. She has arthritis which is extremely painful when it "flares up". She is prescribed medication for the condition. Her three eldest children are said to be "out of control". They are always in trouble at school. They have also caused, and continue to cause problems between the applicant and her neighbours. Her eldest son has to attend court in the near future and is likely to be served with an ASBO. She has a number of debts and has recently had bailiffs call to her home but did not let them in. She also has an outstanding Social Fund loan of £1460. She is finding life increasingly stressful and difficult. On top of

everything else her cooker has broken down and is beyond economic repair. The family are living on take away food from the chip shop.

*In this case it is considered the family are under exceptional pressures. The source of the pressures are the applicant's physical and mental health problems, her inability to cope with her children, her relationship problems with her neighbours and her financial problems. There is no direct link as such between the exceptional pressures and her need for a cooker. However, the Inspector must consider all the circumstances of the case together with the Secretary of State's guidance. The applicant is unable to provide cooked meals for her children. Her inability to provide proper care for her children is likely to impact on her feelings of stress and inability to cope. There are additional financial pressures in having to buy take away food. Her lack of a cooker will clearly add to the other pressures that confront her. In these circumstances it is suggested that a cooker would have a substantial and immediate effect in improving her circumstances and that a high priority is appropriate.*

## **8. Priority considerations and reasoning**

No support notes.

## **9. Crisis Loans**

There will be cases where it may be appropriate to refuse a community care grant but to award a crisis loan to meet the need. This is because the two types of payment are intended to meet needs in different circumstances. The following example illustrates the principles involved.

### **Example 6.**

The applicant and his partner have two children aged 8 and 2. A third baby is due very shortly.

The applicant lost his job, together with his tied cottage, 5 months earlier. The family have since been staying with the applicant's brother and his family in conditions described as overcrowded. They have now been awarded their own tenancy however. This is some distance from both their previous home and the applicant's brother. The elder child has had to change school again and is finding it difficult to adapt.

The applicant had an accident at work two years ago and injured his left knee. The problem has been getting steadily worse and further tests are being done. However, the applicant does not need any aid to help him walk.

The application is for a single bed and bedding. The youngest child is currently sleeping in a cot but is getting too big for it. He is able to climb out and has

fallen on a couple of occasions. Moving this child to a bed will also leave the cot available for the new baby when it is born.

*The family are under exceptional pressure. They are coping with the loss of both a job and their home and have to resettle in a new area. The elder child has been affected by the changes to his schooling and the applicant's knee injury is worsening. The concerns over the youngest child's sleeping arrangements will add to the pressures, but are not one of the main sources.*

*The need for a new bed is a normal need, not one that has arisen in special circumstances. It has no link to the main sources of pressure. While an award would have a noticeable effect in improving the family's circumstances it would not have a substantial and immediate effect in easing the family's exceptional pressures. It may remove one of the minor sources of pressure but the award will have no impact on the other, more major sources.*

*In this case it is suggested the bed would be of medium priority for a community care grant.*

*However, when looking at a crisis loan the considerations are different.*

*In this case the youngest child does not have adequate sleeping facilities and it may be accepted that the applicant is unable to meet the immediate short-term need (for a bed) in an emergency. The need cannot be met in any other way, and an award is the only means of preventing serious risk to the younger child's health or safety. The award will enable the child to be moved from his cot to a bed, removing the serious risk of him falling out of his cot.*