

Commissioner's Advice to Inspectors

Crisis Loans and Resources

Direction 14 says that a crisis loan...

"...shall only be awarded to an applicant if... he is without sufficient resources to meet the immediate short-term needs of himself... [and/or]... his family."

Direction 3 says that a crisis loan can only be awarded where it is:

"the only means by which serious damage or serious risk to the health or safety of [the applicant], or to a member of his family, may be prevented."

This Advice deals with the effect that applicants' resources, both income and capital, should have on decision-making in crisis loan cases. Separate Advice papers deal with *Capital Resources (CCG cases)* and *Income Resources (CCG cases)*.

1. Crisis loans for items and income resources.

Direction 14

Unless an applicant has sufficient resources to meet all his and his family's immediate short-term needs immediately, then he is eligible for a crisis loan. However, the burden of proof is on him to show, on the balance of probabilities, that his resources are insufficient.

Direction 3

If an Inspector intends to assert that the applicant's income resources are another means by which serious risk or serious damage to health or safety might be prevented, the burden of proof is on him to show this (on the balance of probabilities).

Surplus income

It should not be assumed that someone has surplus income available to him simply because his income is higher than the basic IS personal allowance. Those who receive levels of benefit above the basic allowance do so because their expenditure is likely to be higher. The Inspector should therefore start from the premise that extra premiums and benefits are not available to the applicant to meet the needs for which he is applying.

However where the evidence shows that the applicant's expenditure is significantly less than his income, the existence of resources may affect the outcome of the case. At this point the Inspector will need to make a broad comparison between the amount of surplus income and the amount required to buy the item(s) requested. Where the surplus is sufficient to enable the applicant to buy an item *straightaway*, it can be concluded that other means are available to meet the need. In such a case Direction 3 would not be met for that item.

If, however, the applicant would have to *save up* over a period of weeks to buy the item, then it cannot be concluded that other means of preventing serious risk or serious damage are available. The Inspector could only speculate that the applicant might soon be able to buy the item, if he saved up. This is not an adequate basis to refuse an award.

Disability Living Allowance (Mobility)

When considering the issue of resources, the mobility component of DLA should always be disregarded. 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. It applies equally to CLs for items and for living expenses.

2. Crisis loans for living expenses and income resources

In living expenses cases, it is reasonable to expect applicants to meet their daily living expenses from their regular income unless the evidence shows that this income is unavailable because it has been lost, stolen or spent.

3. Direction 14 and capital resources.

The test of Direction 14 requires Inspectors to consider whether the applicant has capital resources that would make him ineligible. As Direction 27 does not apply to crisis loans, this includes all capital resources, not just those in excess of £500 or £1000. However it may be that although the applicant has significant capital resources, they are not available to meet his immediate short-term needs. For example, they may be tied up in a savings account, which requires a long notice period for withdrawal. Such resources should be disregarded for the purposes of Direction 14. The Secretary of State's Guidance contains a helpful list of resources that may fall into this category.

4. Direction 3 and capital resources.

Capital resources may also be an issue for Direction 3. There may be cases, for example, where Direction 14 is met because the applicant's capital resources are not sufficient to enable him to meet all his immediate short-term needs, but they are sufficient to constitute other means by which the need for a particular item may be met. In such cases, any resources the Inspector has disregarded for the purposes of Direction 14 should also be disregarded for Direction 3.