

the Digest of Decisions

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irs

Independent Review Service
for the Social Fund

Welcome to the 34th edition of the Digest of Decisions.

This digest covers:

- Direction 4a(iii)
- Review interviews and procedures for reviews
- Crisis Loans

As usual, we hope you find this edition helpful. All feedback on the content of the Digest is welcome.

You can write with feedback to the usual IRS address or e-mail us at np@irs-review.org.uk

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Application Details

Miss A applied for a community care grant (CCG) on 30 January 2006 for a washing machine (£250), a cooker (£300), a single bed (£120) and a fridge (£170).

Miss A was 16 years old and had a baby daughter who was 3 weeks old at the time of the application. Miss A had been living with a friend but was asked to leave when she got pregnant. She moved into a mother and baby unit where she stayed for nine weeks. She was then allocated her own unfurnished tenancy, a first floor flat and she moved in on 16 January 2006.

Initially Miss A's father had loaned her a washing machine, fridge and cooker but he needed these back as he had found accommodation of his own. Miss A also had a small tumble dryer. She did not own a bed and was sleeping on a mattress on the floor.

The Reviewing Officer's Decision

The Reviewing Officer (RO) offered Miss A an interview but she did not attend. The RO decided that Miss A did not qualify for a CCG as no part of Direction 4 was satisfied. In particular, he did not consider that Miss M and her family were under exceptional pressures.

Miss A requested an IRS review and stated that she desperately needed a bed. She had also now returned the borrowed cooker, washing machine and fridge and did not know how she was going to manage without them.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) wrote to Miss A and in his statement of issues asked how she was managing without the items she had applied for and the effect this was having on her.

In her reply Miss A stated that sleeping on the floor was causing her problems. She was not sleeping properly and was finding it difficult to feed her baby at night on the floor. She had no cooking facilities and was eating takeaway food and sandwiches. Miss A explained that her daughter was now three months old and would be weaned in four weeks. She felt it was very important that she had a fridge to store food as she could not go out each day to shop and did not want to expose her daughter to cold weather every day. If she had a fridge she could buy food for a few days in advance. She also needed the washing machine as she could not be sure that her daughter's clothing will be properly cleaned if hand washed. She also did not have the time to hand wash all her clothes, the baby's clothes, towels and bed linen and was struggling to keep up with this. There was no launderette locally and Miss A could not manage public transport with her young baby and the laundry.

The SFI took into account that Miss A was a vulnerable young mother who after being made homeless had stayed in a mother and baby unit. Miss A was now in her first tenancy and she was sleeping on the floor having very recently given birth. She was trying to manage without basic items such as a cooker, fridge and washing machine. Based on the new information the SFI considered that Direction 4a (iii) was met and that a grant would help to ease exceptional pressures on Miss A and her family. He considered that a cooker, bed, fridge and washing machine would have an immediate and substantial effect in helping to ease the exceptional pressures faced. These items would provide Miss A with her basic needs allowing her to store and cook food, provide her with sleeping facilities and help her to manage her laundry. An award was made for these items.

Comment

In Miss A's case there were a number of factors that placed her under exceptional pressures. She was 16 years old, had been asked to leave her home, was settling into her first tenancy, caring for a young baby and was without basic items in her home. However, not all young mothers setting up home for the first time will necessarily satisfy Direction 4a (iii).

Whether or not pressures are exceptional may depend on the number and extent of the problems and their cumulative effect. A family may be faced with one major problem which indicates there are exceptional pressures. Equally, a family may be faced with a variety of different problems which, individually, may be relatively minor but when considered cumulatively may amount to pressures that are exceptional.

For many families living on benefits the absence or breakdown of essential items will undoubtedly lead to a degree of stress. It is important to consider the effect of the lack of an item or items on the family. However, in itself, the combination of low income and the lack of a certain item or items is unlikely to lead to a finding that direction 4(a)(iii) is met. For the direction to be satisfied there should *generally* be additional factors, within the circumstances of the family, which place them under greater pressures than those normally associated with low income. These might, for example, relate to physical or mental health problems, the breakdown of a relationship or a sudden and unforeseeable domestic crisis.

Application Details

Mr M applied for a community care grant (CCG) on 24 January 2006 for a cot (£150), cot bedding (£50), pram (£80), a wardrobe (£120), a chest of drawers (£60) and maternity clothes (£150).

Mr M lived with his partner and two children aged six and eight years old. His partner was expecting their third child on 27 February 2006. Mr M suffered from lower back pain. Mr M's partner wanted clothing as she has ripped her old trousers so that they would fit her. They had a Moses basket for when the baby was first born but did not have a pram, cot or the bedroom storage unit. They had used the £500 maternity grant to buy baby clothes and a baby bath.

The Reviewing Officer's Decision

Mr M did not attend the review interview. The Reviewing Officer (RO) considered that Mr M did not qualify for a CCG as no part of Direction 4 was satisfied. He also did not accept that the £500 maternity grant had been spent in the way Mr M described.

Mr M requested an IRS review and they no longer required maternity clothes as his wife had now had the baby. He also said that he suffered from asthma.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) asked Mr M in his statement of issues for more information about his back pain and asthma. He also asked Mr M to tell him exactly what he had bought with the £500 maternity grant.

Mr M did not respond to the SFI's initial enquiries. The SFI did not have a telephone number for Mr M so wrote to him again but Mr M still did not reply. The SFI agreed with the RO that D 4a(iii) was not met. Whilst the SFI accepted that Mr M's health problems and the lack of the items would cause the family some problems he did not consider that there were exceptional pressures. A grant was refused.

Comment

Mr M lacked some items in his home such as storage and sleeping facilities for the baby as it outgrew the Moses basket. However, he did have basic items such as cooking and sleeping facilities for the time being and there was nothing to suggest that his circumstances were causing exceptional pressures. There was little evidence about his health problems and unanswered questions about how he had spent the maternity grant. Mr M had not replied to the SFI's enquiries and had not made a case for his need for the items claimed. The only option was to refuse a grant.

In comparison with Case One, Miss A had moved into her first tenancy having been asked to leave her home, was 16 years old, caring for a young baby and lacked basic items such as sleeping and cooking facilities. She had provided detailed information about how the lack of the items was impacting on her.

Application Details

Miss H applied for a community care grant (CCG) on 6 February 2006 for a cooker (£260).

Miss H had a two year old daughter. Her cooker was broken. The rings and oven did not work. She had been told it would cost more to repair than replace.

The Reviewing Officer's Decision

Miss H told the Reviewing Officer (RO) during her telephone review that she was eating takeaway foods which she was finding expensive.

The RO did not consider that Direction 4 was met. He accepted that whilst the lack of a cooker may cause Miss H some problems he did not consider that Miss H was under exceptional pressures.

In her request for an IRS review Miss H explained that she had to have properly cooked meals as she suffered from gallstones and Irritable Bowel Syndrome (IBS).

The Social Fund Inspector's Decision

In his statement of issues the Social Fund Inspector (SFI) asked Miss H why she had not told the RO about her health problems. He also asked her to tell him more about these health problems and the effect they had on her.

In her reply to the SFI Miss H said that when she spoke to the RO she did not think her health problems were relevant but later realised that she needed to mention them in view of her need to cook a full range of meals. She told the SFI that she was diagnosed with gallstones just over a year ago and was waiting for an operation to remove her gall bladder. The IBS was diagnosed in September 2005 and was controlled with liquid medication and diet. She had to follow a balanced healthy diet and was not happy that she was able to do this without a cooker. She was eating takeaways and cold snacks. This was affecting her health as she was suffering from severe stomach cramps. She had been to see her GP who had increased her medication.

The SFI considered that the RO had reached his decision correctly based on the information available to him at the time. However, because of the new information provided by Miss H the SFI made a new decision.

Given Miss H's health problems and the lack of cooking facilities which impacted on her health the SFI considered that a grant would help to ease exceptional pressures on Miss H and her family. He considered that a cooker to provide Miss H with basic cooking facilities would be very important in Miss H's circumstances and was a high priority need. A grant was awarded for a cooker.

Comment

The information available to the RO was not sufficient for him to have found Direction 4 a(iii) met. The RO conducted a telephone interview but did not ask Miss H about her health problems, as he was not on notice to do so.

Following the new information provided by Miss H the SFI was satisfied that the lack of cooking facilities which had a detrimental effect on her health problems placed Miss H under exceptional pressures and a grant would help to ease those pressures.

Application Details

Mr R applied for a community care grant (CCG) on 10 January 2006 for a double bed (£160), a washing machine (£200), a single bed (£100), a cooker (£270) and a sofa (£250).

Mr R was receiving Income Support and had a dislocated shoulder. His wife was pregnant with their first child which was due in March. They had been living at their present home for nearly 12 months. They had not had a bed since they moved in and were sleeping on the carpeted floor. The sofa they had was very old and had been thrown out. They had no seating and were sitting on the floor. Their cooker did not work properly and they were trying to manage with just two rings and no oven. They were washing small items by hand. Mr R owed a friend £800 he had borrowed to buy carpets sometime ago.

The Reviewing Officer's Decision

The Reviewing Officer (RO) was not satisfied that Direction 4 was met. He accepted that Mr R had a shoulder problem and some debt but considered that as they had managed without a bed for nearly 12 months and had some cooking facilities they were not under exceptional pressures.

Just after the RO's decision Mr R was awarded a budgeting loan (BL) of £458.56. In his request for an independent review he stated that he had bought a bed for £129 and a cooker for £250 with the BL but still needed seating, a washing machine and a bed for his unborn child.

The Social Fund Inspector's Decision

In his statement of issues the Social Fund Inspector (SFI) asked Mr R to tell him how sleeping on the floor had affected Mr R and his wife. He also asked Mr R how the condition of the cooker and lack of a washing machine affected them and why they wanted a bed for their baby that was not yet born.

In his response Mr R told the SFI that sleeping on the floor was causing his wife to have back pains and neither of them were sleeping well. His wife had low blood pressure and getting up from the floor had caused her dizziness and sickness. They had been managing for about six months with just two cooker rings working so had bought a small camping stove but this was not working properly and they had not been able to prepare proper meals. Mr R explained that they had a cot for the baby which they bought with the maternity grant but wanted a bed for when the child grew out of the cot. Mrs R was washing small items by hand and her sister was taking the remaining washing to her home once a week for them. Whilst Mr R's sister was content for this arrangement to continue Mr and Mrs R would prefer to have washing facilities of their own.

The SFI did not consider that the RO had reached his decision correctly. The RO knew that Mrs R was in the latter stages of her pregnancy and that the sleeping, seating and cooking facilities were far from adequate for someone in this condition. He also knew that Mr R had a problem with his shoulder and owed a friend £800. Taking into account the cumulative effects of these factors the SFI considered that Direction 4 a(iii) was met and a grant would help to ease exceptional pressures on Mr R and his family.

The SFI considered the most important items in Mr R's circumstances were those providing proper complete cooking facilities and somewhere to sleep and sit comfortably and these were high priority needs. He awarded a grant for a double bed (£129), cooker (£250) and sofa (£250). The SFI did not consider that a washing machine and bed for their unborn child were as important as the high priority things. The family had adequate laundry arrangements. They were hand washing some items and the other laundry was being done by Mrs R's sister. The baby had not yet been born and therefore would not need a bed in the immediate future. These needs were of insufficient priority to be paid.

Comment

Although Mr R had already bought a bed and cooker with the BL the SFI decided that a grant could still be awarded for these items.

Where an applicant does not have access to a budgeting loan, or a crisis loan, this is a relevant matter for consideration when deciding whether there are exceptional pressures. It may also increase the priority of an application. The possibility of a social fund loan will not, however, detract from an application. In some cases an applicant will purchase items requested during the course of a review, using a budgeting loan. They often do so, not having received the right decision on their grant application, because of the urgency of their needs. It is not generally appropriate to place weight on such purchases when reaching decisions on qualification or priority. Whilst decision makers must take account of relevant changes in circumstances, they have the power to give little or no weight to such changes, where this is appropriate.

On the other hand if the applicant had received a BL at some stage prior to the CCG application and had purchased the items he needed this would be relevant when considering the grant application.

Application Details

Miss E applied for a community care grant (CCG) on 13 February 2006 for clothes and footwear (£150), a wardrobe (£120), chest of drawers (£80), bedding (£70), bedroom carpet (£220) and a washing machine (£260).

Miss E was 16 years old and at the time of her application was 32 weeks pregnant. She had an operation due to an ovarian cyst in August 2005 and had been advised to rest completely during her pregnancy because of complications. Her mother was looking after her. Miss E, her mother and two sisters had recently moved to new accommodation as her estranged father had severe mental health problems and was harassing them.

Miss E's bedding was old and worn and she needed clothing, as her clothes were too small. Her shoes were worn and her wardrobe and chest of drawers old and broken. The family's washing machine was not working and her mother was taking the washing to Miss E's grandmother's home to wash.

The Reviewing Officer's Decision

The Reviewing Officer (RO) sent Miss E a letter asking her for more information about what bedding and clothing she had and why she could not use a launderette to do her laundry. The RO did not give Miss E the option to take part in a telephone review and told her that if she did not reply in writing within 5 days he would make a decision on the information he had.

Miss E replied to the RO's enquiries. She stated that her bedding was worn and the launderette was too expensive. None of her clothing fitted her and she was now confined to the house as all she could wear was her mother's dressing gown.

The RO was satisfied that he had enough information to review the case and as he was making a partial award decided not to offer Miss E an interview. He considered that given the reasons for the family's move, Miss E's recent health problems, her young age, pregnancy and lack of adequate clothing, a grant would help to ease exceptional pressures on Miss E and her family (her unborn child). He found Direction 4a (iii) met.

The RO considered that as Miss E was now unable to go out due to her lack of clothing, this was a high priority need in Miss E's circumstances and awarded a grant of £100 for clothing. The RO considered that the other items were medium priority and could not be paid.

Miss E asked for an independent review. She was satisfied with the award for clothing but still needed the other items.

The Social Fund Inspector's Decision

In his statement of issues the Social Fund Inspector (SFI) asked Miss E what footwear and bedding she had, the condition of these and what was currently on the floor in her bedroom. He asked Miss E to tell him how the lack of flooring, storage and washing arrangements were impacting on her and her family.

In her response Miss E stated that she no longer needed any footwear as she had bought two pairs of trainers from the £100 awarded for clothing. Before this she only had a pair of trainers that were worn and in poor condition. She had one sheet, two pillows, two pillowcases, one quilt and one quilt cover. These were all very worn and old and the fitted sheet had started to rip at the corners. Her bedroom floor was wooden with hardboard nailed on top and no floorcovering. The room felt very cold and was also very dusty. Her grandmother had now bought the family a washing machine.

The SFI did not consider that the RO had reached his decision correctly because he had not offered Miss E an interview. The SFI commented that even though the RO had written to Miss E and then made a partial award Direction 33 still required him to offer an interview. The Reviewing Officer needed to explain his decision in order to alert Miss E to the case she had to answer.

The SFI agreed with the RO that Direction 4 a(iii) was met. He considered that the most important items in Miss E's circumstances were adequate clothing and footwear so she could leave the house and bedding and bedroom carpet to give her comfortable and warm sleeping facilities especially given her pregnancy. He concluded that clothes, footwear, sheets, quilt, quilt cover, pillows and bedroom carpet were high priority needs as they would be very important in easing the exceptional pressures faced by Miss E and her unborn child.

He did not consider that a washing machine, wardrobe and chest of drawers were of sufficient priority to be paid. The family had now been given a washing machine and although the wardrobe and chest of drawers would help to keep Miss E's room tidy they were not as important as clothing and having somewhere suitable to sleep.

Comment

Direction 33 states that if the RO cannot change the decision wholly in the applicant's favour the applicant must be given the opportunity to take part in a telephone review. At the review interview the RO must explain the reasons for his decision and allow the applicant to provide further information. Miss E was not offered an interview and although the RO did write to her to obtain some further information this was not sufficient and the law had not been applied correctly.

Reviewing Officer did not notify applicant of telephone review

Case 34.6

Application Details

Miss S requested a community care grant (CCG) on 24 January 2006 for a single bed (£138) and a fridge-freezer (£460).

Miss S was in receipt of Income Support and had one daughter aged six years. Miss S suffered from migraines and depression for which she was described anti-depressants. Her daughter wet the bed.

Miss S was applying for a bed for her daughter as it was ruined through bedwetting and a fridge-freezer as hers had broken beyond repair.

The Reviewing Officer's Decision

The Reviewing Officer (RO) stated in his decision that Miss S's mobile phone was turned off and he could not conduct a review interview so was making his decision on the information already held. The RO had not written to Miss S advising her that he would be contacting her.

The RO considered that given Miss S's health problems and her daughter's bedwetting that a grant would help to ease exceptional pressures on Miss S and her family and Direction 4 a(iii) was met. He considered that a bed and a fridge-freezer were high priority needs in Miss S's circumstances and made an award of £138 for a bed and £200 for a fridge-freezer. He restricted the amount awarded for a fridge-freezer as he considered the £460 Miss S had requested was outside the reasonable range of prices and also the budget was being managed by restricting amounts to the lower end of the price range.

In her review request Miss S stated that the amount awarded for a fridge-freezer was not sufficient to get the item delivered.

The Social Fund Inspector's Decision

In his statement of issues the Social Fund Inspector (SFI) advised Miss S that £200 was enough to buy a fridge-freezer including delivery from national suppliers. He asked Miss S to tell him why she did not consider this amount was sufficient and whether she had now spent the grant award.

In her response Miss S told the SFI that she had now bought a fridge-freezer for £295 plus £30 delivery and a bed for her daughter for £225. She had borrowed the difference and was struggling to pay this back.

The SFI did not consider that the RO had made his decision correctly as he had not followed the required procedural steps with regard to offering Miss S an interview. The RO had not notified Miss S in writing of the review.

The SFI considered that given the pressure on the budget the RO was right to restrict the amounts. This was reflected by the Area Decision Maker's guidance. He considered that the amounts already awarded by the RO were sufficient for Miss S to buy a bed and fridge-freezer of serviceable quality. No further award was made.

Comment

Some parts of the Social Fund law and Secretary of State's guidance were changed with effect from 14 November 2005. Changes were made to Direction 33 and the Secretary of State's guidance (reviews) states that the applicant should be given notice of the date and time of the interview, or if appropriate and with the agreement of the applicant, the interview may proceed on first contact. Under no circumstances should the applicant be pressured into participating in a telephone review on first contact. It should be made clear to the applicant that a future date and time can be arranged so that the applicant can be better prepared for the interview.

In Miss S's case the RO made limited effort to contact her. He did not follow the correct procedures and Miss S was not given sufficient opportunity to make any representations in relation to her application. Although the RO made an award for all the items Miss S had applied for he did not change the decision wholly in Miss S's favour and therefore an interview was appropriate.

Application Details

Mrs I applied for a community care grant (CCG) on 15 November 2005 for a bed (£79), bedding (£59) and carpet for the stairs and landing (£200) and bedroom (£150).

Mrs I was in receipt of Income Support and Disability Living Allowance middle rate care and lower rate mobility. She suffered from multiple sclerosis, chronic liver disease, pancreatitis, osteoporosis and a condition which caused her joints and limbs to swell. She had also suffered a brain haemorrhage. Mrs I relied on her daughter for day-to-day care.

Over the New Year some slates had become loose on Mrs I's roof and the rain had come through, ruined her ceiling and damaged her bed and carpets in her bedroom, landing and stairs. The council had repaired the roof but there was still a large hole in her bedroom ceiling. She was sleeping on the sofa downstairs.

The Decision Maker's decision

The initial decision was made on 16 November. The Decision Maker did not find any part of Direction 4 met and a grant was refused. Mrs I requested a review on 27 November 2005.

The Reviewing Officer's Decision

The Reviewing Officer (RO) made his decision on 14 December 2005 and considered that as the repairs to the ceiling had not been completed there was a risk that any replacement items would be damaged. He did not consider that any part of Direction 4 was met and a grant was refused.

Mrs I requested a further review on 22 December 2005 using an IRS1 (the form used to request an independent review). She stated that she was still sleeping on the couch and needed the items urgently or she could end up in hospital. She said that if she were awarded a grant for a bed she could put this downstairs.

Further Reviewing Officer's Decision

The RO did not send the case to the IRS but telephoned the Local Authority housing repairs on 6 January 2006 who confirmed the damage to Mrs I's property and stated that although the external repairs had been completed the internal repairs had still to be done. This work was booked but it would be another two or three weeks before it could be completed.

The RO made a new decision stating he had now confirmed that Mrs I's ceiling was damaged and repairs were going to be done. He did not consider whether Direction 4 was met but awarded high priority to a bed and bedroom carpet and medium priority to bedding and stair carpet. No reasons were given for this decision and a grant was paid of £179 for Mrs I's high priority needs.

Mrs I requested a further review on 22 January 2006 again on an IRS1. She said that she had asked for a stair carpet as it had got wet and dirty and was curled and uneven. She had already tripped on the stairs and hurt her shoulder. Her daughter had taken the carpet up and thrown it away. The stairs were uneven and because of her illnesses her balance and mobility were poor. Mrs I stated that she no longer needed bedding as her daughter had bought her two sets. This request was sent to the IRS and was received on 3 February 2006.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) did not consider that the RO had reached his decision correctly. The RO had made a second decision after Mrs I had requested a review by a SFI and the RO should have sent Mrs I's case straight to the IRS. The Reviewing Officer's second decision was outside his jurisdiction. He had not followed the correct procedures.

The SFI considered that given Mrs I's health problems and the care she received from her daughter the RO should have found Direction 4 a(ii) and 4 a(iii) met as a grant would help Mrs I to stay in the community and ease exceptional pressures on her and her family. The SFI considered that it was very important Mrs I had suitable sleeping facilities, carpet in her bedroom for warmth and safety and carpet for the top landing and stairs. He considered that these items were high priority needs and having confirmed Mrs I had bought a bed and bedroom carpet with the £179 awarded by the RO awarded an extra grant of £200 for the landing and stair carpet.

Comment

The Social Fund Guide states:

If a letter requesting a further review, or expressing dissatisfaction with the RO's decision is received in the office the RO must:

- *Prepare the papers as described in the Review Guide and;*
- *Send the papers to the IRS without delay*

If the application for SFI review is unsigned, or from a third party and does not contain the applicant's signature, the RO must send it immediately to the IRS with all the appropriate papers.

The IRS will decide whether to accept the application.

Although Mrs I requested an independent review using an IRS1 the RO made a further decision. It was not clear from the papers why he chose to do this but for whatever reason this was he had not followed the correct procedures. The RO's actions delayed Mrs I's case reaching the IRS by a month and it was only through her persistence requesting a further review that the case was eventually sent for an independent review.

Application Details

Mr C applied for a community care grant (CCG) on 10 February 2006 for a bed (£100), clothing (£200), washing machine (£200), fridge (£150), cooker (£150), carpets (£600), pans, cutlery and plates (£45).

Mr C was released from prison on 23 January 2006 after a six-month stay. When he returned to the property he had been living in before he went into prison he found the property boarded up and all his belongings had gone. Mr C was homeless at the time of his application and was looking for accommodation. He only had one set of clothing and some pumps given to him by the prison.

The Decision Maker's decision

The Decision Maker (DM) made his decision on 12 February 2006. He decided that Direction 4 a(i) was not met as Mr C had one set of clothing and did not yet have a property he did not need help to establish in the community following his stay in care.

Mr C requested a review on 15 February 2006.

The Reviewing Officer's Decision

The Reviewing Officer (RO) made his decision on 20 February 2006. He considered that given Mr C's prison stay and lack of clothing Direction 4 a(i) was met and a grant would help him to establish in the community following his stay in care.

He awarded Mr C a grant of £100 for a jacket, shoes, a shirt, a jumper, jeans, a t-shirt, socks and underpants. The RO considered that as Mr C did not yet have any accommodation the other items were of medium priority and could not be met from the budget.

Mr C requested a review on an IRS1 on 27 February stating that he needed a cooker, bed, bedding and all the other items as he had now been allocated an unfurnished tenancy and needed to move in as soon as possible.

Further Reviewing Officer's Decision

The RO made a further decision on 01 March taking into the account the new information. He considered that Direction 4 a(i) was still met and that a cooker, bed, pots and pans, and cutlery along with the clothing already awarded were high priority needs. He paid a grant for a cooker £150, a bed £100, pots, pans and cutlery £45 and confirmed the £100 already paid for clothing. The RO considered the washing machine, fridge and carpets would not be as important as the other items in helping Mr C establish in the community and these were medium priority needs.

The RO then sent the case to the IRS on 02 March 2006. Mr C had not requested a further review.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) did not consider that the RO had reached his decision correctly. The RO did not follow the correct procedures, as when the IRS1 was received he should have sent the case straight to the IRS not made a further decision.

The SFI wrote to Mr C for more information about his needs. No response was received. The SFI confirmed the RO's decision and no further award was made.

Comment

In this case although the RO's actions only slightly delayed Mr C's case in reaching the IRS and it was sent without Mr C having to make a further review request the RO did not follow the correct procedures. Even if new information comes to light or there is a change in circumstances after the RO's decision, if the applicant requests a further review or expresses dissatisfaction with the RO's decision the case must be sent directly to the IRS. In this case because of the new information the RO decided to make a new decision and a further payment was made. However, although Mr C may have been happy with this the RO was wrong not to send the case straight to the IRS.

From 24th April 2006 people who are dissatisfied with the review decision that their local office has made can apply directly to the IRS. People can write to the IRS on the **IRS1 leaflet** or in a letter, using the freepost address; INDEPENDENT REVIEW SERVICE, FREEPOST explaining why they want a review.

When we receive direct applications for an Inspector's review we will contact the relevant Jobcentre Plus office as a matter of urgency and arrange for all papers to be sent directly to us. As soon as we receive the papers the Inspector will contact the customer within 3 working days to set out the relevant issues in the case and ask any relevant questions. This will mean that cases such as Mr C's will become less frequent as once the RO has made his decision any further review requests will come direct to the IRS.

Reviewing Officer did not follow correct procedures

Case 34.9

Application Details

Mr J applied for a crisis loan (CL) on 15 December 2005 for clothing and footwear (£120) and living room carpet (£150).

Mr J was in receipt of Incapacity Benefit and Industrial Injury Disablement Benefit. He had suffered a back injury at work two years ago and was unable to sit or walk for long.

At the time of his application Mr J owed the Social Fund £45.

The Reviewing Officer's Decision

On 16 January 2006 the Reviewing Officer (RO) wrote in his decision "a review where possible should include a chance for the applicant to put forward all points in a conversation. I have no telephone number to contact the applicant so I am conducting a paper review now to speed up the process but I am offering at the same time a time slot so that a spoken review can also take place if Mr J has any further points to put forward. After this spoken review I can look again at the decision to see if it was correct, or if there is any new information on which I can change the decision. After that review there is a further independent review that can be used to check that decisions have been given correctly using all the information supplied."

The RO did not find Direction 3 met in respect of the carpets or clothing. He said 'it is not known what clothing the applicant already possesses and what has happened to his existing clothes. There is no risk to Mr J's health and safety with out living room carpet and clothes'.

Following receipt of this decision which included an invitation for Mr J to contact the RO Mr J telephoned the social fund section on 07 February 2006. He told the RO that he had no coat. He had shirts but no jumpers and his shoes were worn and were over two years old. There was no floorcovering in the living room and this room was cold.

The RO made a further decision on 10 February 2006. Based on the new information he concluded that Direction 3 was met for a coat, a jumper and a pair of shoes as without these items there was a serious risk to Mr J's health and safety and a CL of £60 was awarded.

Mr J requested an IRS review of this decision on 16 February 2006.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) considered that the RO had not reached his decision correctly because he had not followed the correct procedures. The SFI said that the RO should have offered Mr J an interview before he made his first decision.

The SFI wrote to Mr J for more information about his need for living room carpet and clothing. Mr J did not reply and the SFI upheld the RO's decision to award a CL of £60 for a coat, a jumper and shoes.

Comment

Direction 33 requires that except in certain circumstances the applicant must be given the opportunity to take part in an interview. This must take part before the RO's decision.

In Mr J's case the RO decided to review the case in advance of any such interview because he was unable to telephone Mr J. He did write to Mr J to offer him an interview although he had already reviewed Mr J's case. When Mr J contacted the RO in response to his letter the RO then carried out a second review on the basis of the new information. The RO did not follow the correct procedures and although his intention may have been to review Mr J's case as quickly as possible he did not apply Direction 33 or the law of natural justice correctly.

Crisis Loan

- Wrong interpretation of Direction 3

Case 34.10

Application Details

Miss L applied for a crisis loan (CL) on 06 March 2006 for living expenses of £90.

Miss L had one daughter aged 10 years old. She had received her Income Support of £90 that morning and was next due on 13 March 2006.

On Sunday 5 March 2006 two police officers came to Miss L's home to arrest her for outstanding fines amounting to £270. She managed to borrow the money from friends, family and neighbours to pay this but when she received her benefit the next day she had to use this to pay back some of the money she had borrowed. Miss L stated that she was concerned that if she had not paid the fine she would have been arrested and her daughter placed in care. Miss L provided a receipt for payment of the fine.

The Reviewing Officer's Decision

The Reviewing Officer (RO) considered that as Miss L had made 21 crisis loan applications in the last year and had also knowingly put herself in the present situation that her need had not arisen as a result of an emergency or consequence of a disaster. The RO did not consider that Direction 3 was met and a crisis loan was refused.

The Social Fund Inspector's Decision

The Social Fund Inspector (SFI) did not consider that the RO had reached his decision correctly. He said there was no reason to doubt Miss L's evidence that she had borrowed money to pay the fine and that she had used her benefit to repay part of this money. The SFI had little information about Miss L's previous crisis loan applications and considered that the RO had given too much weight to these.

The SFI accepted that Miss L was without sufficient resources to meet her immediate short-term needs and that she needed to meet expenses in an emergency. The fact that Miss L had used her benefit to repay the money she had borrowed left her in an emergency. A crisis loan was the only means of preventing serious risk or damage to Miss L's health and safety and Direction 3 was satisfied.

The SFI awarded Miss L the maximum crisis loan of £86.03.

Comment

The RO considered that Miss L did not need to meet expenses as a result of an emergency. Direction 3 (a) states:

..... a social fund payment may be awarded to assist an applicant to meet expenses.....

*a. in an emergency, or as a consequence of a disaster, provided that the provision of such assistance is the only means by which serious damage or serious risk to the health or safety of that person, or to a member of his family, may be prevented; or
.....*

The direction does not require a need should have arisen as a result of an emergency. It requires that an award will assist an applicant to meet expenses in an emergency. A decision maker must consider whether an applicant's circumstances are such that he is in an emergency.

In Miss L's case the RO also took into account that 21 previous crisis loan applications had been made in the last 12 months. The fact that so many applications had been made in a relatively short period of time would lead a decision maker to examine Miss L's evidence closely and if necessary test or seek corroboration. However, the decision maker cannot jump to conclusions or make assumptions simply because he has reason to doubt the evidence. Instead he needs to make enquiries to establish the facts on the balance of probabilities.

Crisis Loan

- Incorrect interpretation of emergency

Case 34.11

Application Details

Miss B applied for a crisis loan (CL) on 28 February 2006 for living expenses of £135.

Miss B was single and in receipt of Income Support. She suffered from asthma, underactive thyroid and depression. She had received two weeks benefit of £135 on 28 February 2006 and was next due on 14 March 2006.

Miss B stated that she had purchased her television license £126.50 that morning and only had enough money to buy her bus ticket to get to her local Jobcentre Plus office and for a snack. She had no money for food or fuel and there was no one she could borrow from.

The Reviewing Officer's Decision

The Reviewing Officer (RO) spoke to Miss B who told him that had she not paid her TV licence she would have been fined £1000. She had no food and was worried the lack of food might affect her health.

The RO considered that Miss B had deliberately put herself in a crisis situation. He said that TV licences can be paid gradually over the whole year and if the TV was such a vital part of Miss B's life she should have planned for it. The RO refused a crisis loan as he did not consider Miss B's need was as the result of an unforeseen disaster or emergency and Direction 3 was not met.

The Social Fund Inspector's Decision

The Social Fund Inspector did not consider that the RO had reached his decision correctly. The SFI said the RO had misinterpreted Direction 3. The direction does not limit assistance 'in an emergency' to assistance in unforeseen circumstances.

The SFI considered that Miss B needed to meet expenses in an emergency and was without enough money for food and other daily living expenses until she received her next benefit. The SFI was satisfied that Direction 3 was met and a crisis loan was the only means of preventing serious risk or damage to Miss B's health and safety. He awarded the maximum crisis loan of £84.30.

Comment

The term "emergency" is not defined in the law or directions, however the Social Fund Commissioner advises the following interpretation:

An unforeseen circumstance or pressing need, either of which requires immediate remedy or action.

The direction looks primarily at the applicant's current circumstances, rather than at how those circumstances arose. This means, for example, that the direction is wide enough to cover self-inflicted crises. Note that the direction refers simply to expenses required 'in an emergency', not 'as a consequence of' an emergency. The emergency does not have to be a separate event that causes the applicant's need. The applicant's needy situation may itself be an emergency.

Commissioner's Advice to Inspectors

Direction 4(a)(iii)

Direction 4(a)(iii):

...a social fund payment may be awarded to promote community care by assisting... with expenses... where such assistance will... ease exceptional pressures on the applicant and his family.

This Advice deals with the meaning of “family” and “exceptional pressures”. It also lays down principles to guide the Inspector's general approach to Direction 4(a)(iii).

1. “Family”

There is no definition of family in the Social Fund law or directions. For the purpose of Direction 4, Inspectors should take a broad and flexible approach to the definition of “family”. This should include couples (with or without children, married, in a civil partnership or unmarried, heterosexual or homosexual), and both nuclear and extended family. Additionally, a pregnant woman and her unborn child should be considered as a family once the pregnancy has advanced to 24 weeks. In certain cases there may be a relationship of long-term inter-dependence between people which justifies regarding them as “family”, even though they are unrelated by blood, marriage or adoption.

“and his family”

For Direction 4(a)(iii) to be met, an award must ease exceptional pressures on both the applicant and his family. This means that

- the applicant must have a family
- both he and his family must be under exceptional pressures and
- an award must ease the pressures on both him and them.

An award does not have to solve the problems of the applicant and his family. Nor does it have to ease them to a great extent. The extent to which an award would ease the pressures is a matter for priority. For the direction to be met it is sufficient that the award would ease the pressures to some extent.

2. Exceptional pressures

Whether or not pressures are exceptional may depend on the number and extent of the problems and their cumulative effect. A family may be faced with one major problem which indicates there are exceptional pressures. Equally, a family may be faced with a variety of different problems which, individually, may be relatively minor but when considered cumulatively may amount to pressures that are exceptional.

Inspectors should not define the pool of comparison too narrowly. The fact that a particular family's problems are common in their locality does not prevent them being exceptional in the terms of Direction 4(a)(iii). Neither should Inspectors limit the pool to social fund applicants. They should take an objective view of the circumstances as presented.

For many families living on benefits the absence or breakdown of essential items will undoubtedly lead to a degree of stress. Inspectors need to consider the effect of the lack of an item or items on the family. However, in itself, the combination of low income and the lack of a certain item or items is unlikely to lead to a finding that direction 4(a)(iii) is met. For the direction to be satisfied, there should *generally* be additional factors, within the circumstances of the family, which place them under greater pressures than those normally associated with low income. These might, for example, relate to physical or mental health problems, the breakdown of a relationship or a sudden and unforeseeable domestic crisis.

What amounts to exceptional pressures is a question of fact for the Inspector to determine, looking objectively at all the circumstances and drawing conclusions and reasonable inferences from the evidence.