

Independent Review Service

October 2000 Issue 17

The Journal and Digest of Decisions

Inside:

Potential Problems Faced by Customers of the Social Fund





Contents

October 2000 Issue 17

Asylum Seekers and Refugees	1
Mental Health Issues	2
Coming Out of Prison	3
Shared Parenting	5
Points From The IRS Postbag	8
Digest of Decisions, Issue 13	Centre Pages

Editor's Letter

The journal and digest of decisions is published three times a year. We are considering your recent requests for more issues and will let you know if this is possible.

Thank you for your feedback on our new style and continuing feedback on the content. For this issue we have included articles on subjects you have requested, eg; asylum seekers, ex-prisoners. We hope you find them interesting and informative and are always happy to consider requests for coverage of specific issues.

At the IRS we are planning for the coming into force of the Human Rights Act 1998. We hope to have some more information on the effects next time. New and amended legislation does give us the opportunity to rethink the way we work and interact with our customers. We envisage interesting times ahead.

Staff:

Editor: Linda Ellis **Editorial Team for the Journal:** Al Judge, Helen Jackson, Anne-Marie Nicholls, David Saville, Frances Hooper **Editorial Team for the Digest:** Patricia Instone, Jackie Hannaford, Lorraine James (Southwark Council Welfare Rights Unit), Maria Harrison (Stoke-on-Trent CAB), Paul Scott (Benefits Agency), Kayla Brady (Benefits Agency), Jim Ginn (OSFC) **Production Team:** Chris Fields, Toni Bourne, Shy Chitroda, Nelson Masih

Contributions and Letters to:

The Journal, 4th Floor Centre City Podium, 5 Hill Street, Birmingham B5 4UB. **Phone:** 0121 606 2100. **Fax:** 0121 606 2180. **eMail:** le@irssf.gov.uk. **Find the IRS on the Internet @:** www.irssf.gov.uk

Asylum Seekers and Refugees

by David Saville, of the Research & Development Team

The aim of this article is to explore the recent changes to asylum seekers' eligibility to approach the Social Fund for assistance, and to discuss some principles to apply, when considering applications from refugees and from those asylum seekers who are still eligible.

Definitions

The legal definition of a refugee is somebody who:

- has left the country in which they normally live, and;
- is unwilling to go back, and;
- has a well founded fear of persecution based on their race, religion, nationality, membership of a particular social group or political opinion.

If a person is accepted as a refugee, then they will have the right of asylum. This includes the right to claim benefits and apply to the Social Fund in much the same way as a British citizen.

An asylum seeker is someone who claims that she or he is a refugee. The asylum seeker will be allowed to remain in the UK pending the determination of his or her claim by the Home Office.

Social Fund Eligibility

S115 of the Asylum and Immigration Act 1999 dis-entitles asylum seekers from receiving most benefits, including a Social Fund payment. It is intended that these people will (if destitute) be supported by the National Asylum Support Service (NASS) through a mixture of accommodation, vouchers and cash.

Therefore, anyone claiming asylum on or after 3 April 2000 (when the relevant sections came into force) cannot be considered for any form of Social Fund payment unless and until they are accepted as refugees and granted asylum.

Under transitional provisions, the following asylum seekers will still be eligible to be considered. I refer to these as "eligible asylum seekers" in the rest of this article:

- Any asylum seeker who claimed asylum before February 1996.
- Any asylum seeker who claimed asylum at the port of entry between October 1996 and 2 April 2000, and who has not yet received an initial decision on his/her claim.

There are no special restrictions, on the right of people who have been accepted as refugees to approach the Social Fund, though they would still need to meet the normal eligibility and qualifying conditions.

Applications from refugees and eligible asylum seekers

I have focused this part of the article on applications for a community care grant, as this causes the most queries.

Asylum seekers often move to hostels or furnished accommodation when first arriving in the UK, and some stay with relatives. Such accommodation may well not be permanent, so the person may need to move to unfurnished accommodation, necessitating an application for furniture. Or a person or family may be moving from NASS accommodation after having been granted refugee status.

Other applications may be for items not provided in furnished accommodation, or for clothing, especially if the exporting country has a warmer climate than ours. People who have bought or been provided with cheap or substandard items may need help to replace them when they break down.

There are aspects of the circumstances of many refugees and asylum seekers which may be relevant to particular parts of Direction 4.

Direction 4(a)(i) could be relevant if the person has had a stay in, for example, an immigration detention centre or refugee camp, if she or he then needs help to establish in the community.

Direction 4(a)(ii) could be relevant as the customer may have suffered trauma, or physical or mental ill-treatment, which could make his or her entry into some form of "care" more likely.

Direction 4(a)(iii) is particularly important for customers with families. Paragraph 2753 of the Social Fund Guide refers. Pressures could include language difficulties, the need to adjust to a new culture and climate, the effects of any ill-treatment the family experienced before they arrived in the UK, and any racial harassment or hostility they may have experienced here. Health problems, or the lack of important items, could also contribute towards exceptional pressures.

Direction 4(a)(iii) cannot, however, assist the majority of single customers, because of the requirement that a payment ease exceptional pressures on the applicant "and his family".

For many single refugees or asylum seekers, the best chance of a payment will come from Direction 4(a)(v). Given that she or he will have fled (often in dangerous circumstances) to a strange country, it will often be easy enough to conclude that a refugee or asylum seeker has been without a settled way of life. The real question will often be whether she or he is setting up home as part of a planned resettlement

programme. This will be a question of fact (see issue 13 of the Journal for the IRS Best Practice on Direction 4(a)(v) and Paragraph 3093 of the Social Fund Guide).

If the customer satisfies part of Direction 4, the decision-maker will need to exercise discretion and decide whether to actually make a payment. The principles governing this are the same as for other customers. However, it is important to realise that the customer's particular circumstances may lead to some items being more important to him/her than they might be to others.

Conclusions

The same decision-making principles apply to refugees and eligible asylum seekers as to anyone else. However, it is important to be aware of the difficulties these people often face, so that decision-makers can correctly assess the need being presented to them and make best use of the Fund.

The Fund still has an important role to play in helping these often vulnerable people.

Mental Health Issues

by Social Fund Inspectors Frances Hooper and Holly Andrews

As Inspectors we became aware that there were special problems facing those with mental health incapacities and that this could affect the way those applicants made Social Fund applications. We noted issues such as the practical problems of form filling, attending interviews and how individuals were or were not able to state their case. We also needed to consider how the mental health incapacity impacted on the need for the requested items.

Many Inspectors, recently attended awareness sessions run by MIND (National Association for Mental Health). We also have various publications on this subject matter available to us in our open learning centre. We would like to share our newly gained knowledge with you.

Completing the initial application form can pose many problems for applicants. For instance, those suffering from depressive illnesses often experience an inability to concentrate and a lack of motivation. This may affect their ability to fill in a form, their ability to provide detailed information and the amount of time they will need to complete the application.

In our present society there is also still a certain amount

of social stigma attached to mental illness. This may mean that applicants feel some embarrassment and shame when describing their illness. Consequently, they may be unwilling to provide information on the symptoms and effects of their health problems. This can make it difficult for decision-makers at all levels to conclude from an application form what the need is, why it is needed and how important it is to the individual.

We recognise that conclusions regarding the severity of an applicant's condition cannot always be drawn from either a lack of additional benefits or medical treatment. Applicants may not have sufficient knowledge of the benefits that may be available to them, or may not have sought medical advice for their condition. Consequently, where the nature of a case gives us concerns we might seek further information from the applicant. This will then help us reach the right conclusion (See case 13.16).

In our experience many applicants do not attend their review interview at the Benefits Agency. This may be for various reasons. Those suffering from agoraphobia, social phobias or obsessive compulsive disorders may have great difficulty in even leaving their home. They

are unlikely to go to their interview. In such circumstances no further information is obtained. Although some applicants may indeed attend the arranged interview, their medication and/or condition can affect their ability to think or express themselves coherently. As a result of this, information obtained may be vague, inconsistent and difficult to understand. The interview process is often not an easy one for these applicants, or for Reviewing Officers. However, this is possibly the best opportunity to collate relevant information. If relevant questions are asked and answered this would be helpful for all parties concerned. If information appears to be lacking when we get the case, then we may consider it appropriate to seek further information. When extensive enquiries or contact with many different people is required, then we may need to refer the case back to the local office. Each of these scenarios would cause delay in concluding the case.

When looking at priority we have found it especially important to consider the link between the requested items and the applicant's specific needs. For instance,

someone with schizophrenia may find a television or a radio very important in helping them to manage their auditory hallucinations. Someone suffering from an obsessive compulsive disorder may attach extreme importance to cleanliness and hygiene. Consequently, a request for a vacuum cleaner or washing machine will be of much greater significance in such cases.

Those with manic depression may experience periods of mania and elation. This can result in episodes of irrational spending on goods or travel and subsequently culminate in related community care grant or crisis loan applications. In these cases, it is important that we remain objective. It does not help to apply our own ways of coping or managing, or our likely behaviour to what has occurred in the application.

It is important that each application is looked at on its own merits. It is especially important that all the available evidence is considered carefully and further enquiries made if these are likely to help.

Coming Out of Prison

by Patricia Instone, a Social Fund Inspector

It is probably fair to say, that anyone coming out of prison will have various problems, practical, psychological and emotional. There are many organisations who can and do offer support with the emotional and psychological problems faced by these people. The Social Fund cannot be of direct help with these areas, but may be able to assist with some of the practical problems. This is a brief look at the type of help which may be available.

It is perhaps useful to start with a brief, simplified overview of the arrangements for the release of convicted prisoners. Adults receiving a custodial sentence of less than four years are likely to be released from prison at the half way point. If the sentence is for more than a year, the offender will be supervised in the community for half of the remaining period. However, they are at risk of being recalled to prison if they are convicted of another offence, or any other breach of their licence conditions, before the end of the whole period of the sentence. Adults serving a sentence of over four years, become eligible for release on parole after half their sentence, but may remain in custody until two thirds of the sentence is completed. There are no laid down early release dates for those serving life sentences.

Home Detention Curfew (HDC), more commonly known as tagging, allows selected short term prisoners to spend up to the last two months of their custodial sentence subject to an electronically monitored curfew of at least nine hours a day. It is available to those serving sentences of less than four years, and the length of time under HDC will depend on the length of the sentence. A risk assessment is carried out, which includes issues such as the likelihood that the offender will comply with the curfew; the likelihood of re-offending and the risk which the offender may pose to the public. Certain categories of prisoner are not eligible for HDC. HDC is intended to assist prisoners in making the transition from custody to the community. It represents a significant restriction on the liberty of offenders and places on them, the responsibility to comply with their curfew or face being returned to prison. Those on HDC can be recalled to prison if they breach any licence condition, and this would include any re-offending.

Those charged with an offence but awaiting trial or sentence may be remanded in custody. Remand prisoners may be released at any time if bail is granted by the courts. They are normally allowed to wear their own clothing while on remand.

Prisons have a duty to offer clothing to some prisoners, to ensure they have stocks of certain specified levels when they are released. However, the experience of some organisations involved in criminal justice matters, suggests that this is not always done, or done properly. Prisoners serving short sentences may not have the right to a clothing board. If there is any doubt, decision-makers could check with the prison exactly what was offered. Even if a clothing board is offered, the applicant may have had good reasons for refusing. Nevertheless, it would be reasonable to expect him or her to say what those reasons were.

Community care grants

It is sometimes possible for a prisoner to be able to anticipate what help they will need. For example, they may have had accommodation arranged for them, and been told what items are provided and what they will have to arrange for themselves. It is possible to apply for a community care grant before leaving prison, under the eligibility provisions of Direction 25(2)(b). This means that a prisoner is eligible for a community care grant while still in prison, if they would satisfy the conditions of Direction 4(a)(i), the application is made within six weeks of their planned release date, and they are likely to be in receipt of a qualifying benefit (Income Support or income based Jobseeker's Allowance) when they are released.

While this provision can be helpful when there are identified needs on release, applications for clothing and items for accommodation which has not yet been secured, can be more problematic. In these cases, it may be that the need can be better assessed after the prisoner has been released. Prisoners may also miss out on the opportunity for a review interview if they are still in custody, though some Reviewing Officers liaise with the prison or Probation Service to arrange an interview shortly after release if possible.

Prison is regarded as a form of institutional or residential accommodation in which someone receives care. Therefore, the most common route to qualify for a community care grant for someone coming out of prison is Direction 4(a)(i). A payment may be made to promote community care where such assistance will help the applicant establish themselves in the community following a stay in institutional or residential accommodation in which they received care. The use of the word "following" implies that there must be some link between the need to establish in the community and the stay in prison.

The Secretary of State's guidance suggests that the length of time the applicant has received care should normally

be either a period of three months or more, or a pattern of frequent or regular admissions to institutional or residential care, clearly linked to the nature of the applicant's disability or circumstances. Although decision-makers must take account of this guidance, it is not binding. Given the acknowledged effects of "institutionalisation", it is likely that someone who has been in prison for this length of time will be in need of help with establishment in the community. The issue

'establishment can be a gradual process, someone may still be in need of help several months after being released'

is not likely to be so clear cut with a shorter period. Some people might need help, others may not. Therefore, if there is clear evidence that the applicant is in such need,

Direction 4(a)(i) may be met, even if the period in prison is less than three months (see case 13.11).

Inspectors sometimes see cases where the applicant has been out of prison for some time, and it has been decided that Direction 4(a)(i) cannot be met because of the length of time which has elapsed since release. However, establishment can be a gradual process, and someone may still be in need of help several months after being released. This is especially so if the sentence was long, and/or the arrangements on release were temporary or unsettled. There can be no hard and fast rule on how long it would take someone to establish in the community. Each case must be decided on its individual circumstances (see case 13.12).

Concerning as it does, the promotion of care in the community rather than in institutional or residential accommodation, Direction 4(a)(ii) can be looked at as the other side of the coin to Direction 4(a)(i). There are many overlapping areas. For example, some licence conditions may be linked to the need for establishment, but others may not. However, breach of any of these conditions could result in a recall to prison. Therefore, a grant to help the applicant keep to the conditions may help them remain in the community.

However, it is unlikely that Social Fund decision-makers at any level will be persuaded that Direction 4(a)(ii) is met just because the applicant may re-offend. Anyone is at risk of imprisonment if they persistently offend or commit a single crime of sufficient seriousness. Those already under supervision will be very aware of the likely consequences of further offending. This is largely

a matter within their own control. Nevertheless, if there are factors which would mean that the applicant is vulnerable and in need of help to remain in the community, Direction 4(a)(ii) may be met (see case 13.14).

Those subject to probation supervision will have to conform to certain conditions. The supervising officer may draw up a programme to address the offender's specific needs. These may cover a wide range of activities and targets, but can include matters relating to living independently in the community. Help may be given with benefits, budgeting, life skills, looking for work, training or accommodation etc. In some cases this can be a planned programme of resettlement. If someone under supervision has been without a settled way of life and is now setting up home, they may qualify for a community care grant under Direction 4(a)(v). If necessary, enquiries should be made from the supervising officer about the details of the programme. The IRS best practice note on Direction 4(a)(v) was published in issue 9 of the Digest of Decisions (with issue 13 of the Journal).

Having someone return to the family after being in prison, whether it be spouse, parent or child, can lead to problems in adjustment. In such cases, there may be exceptional pressures on the applicant and his or her family. The applicant may qualify for a community care grant under Direction 4(a)(iii).

When it comes to considering the priority of the need for a community care grant, it is important to look at the individual circumstances of each case. Some people will adapt to being back in the community quicker than others. It is helpful to look at the length of time in prison, and how the applicant's circumstances have

changed from before their imprisonment. What problems are they likely to have? What help or support are they being given? How would the items/services requested help with establishment? What impact would they have and how important are they to the process of establishment? These can then be related to the law and guidance on priority to reasonably conclude the appropriate level of priority. Research has shown that for people coming out of prison the dominant problems are housing, debt, unemployment and addiction.

Budgeting loans

The eligibility conditions for a budgeting loan in Direction 8, allow for breaks in the claim for a qualifying benefit of up to 28 days. Therefore, if a single person is in prison for longer than 28 days, they are unlikely to be able to have a budgeting loan when they get out. However, there may not be a break in claim if a partner was in receipt of IS or JSA during that time.

Crisis loans

There is nothing specific in the directions regarding crisis loans for ex-prisoners. Nevertheless, some discharged prisoners will not be able to have a grant. For example, because they are not in receipt of either of the qualifying benefits or they do not satisfy any part of Direction 4. Moreover, experience suggests that there may be an increased risk of having clothing and possessions lost, stolen or disposed of while in prison. Homelessness may be a problem. The Secretary of State's guidance, notes that homeless people may be at particular risk if they have to sleep rough, and that for young people, prolonged homelessness increases the risk of offending. If a grant cannot be awarded, a crisis loan may be appropriate.

Shared Parenting

by Gill Collinge, of the Research & Development Team

At the IRS, for some time we have accepted that families extend beyond the benefit assessment unit. Children and their parents, including a parent who does not receive benefit for the children, are a family whether or not they live in the same house. However, the importance of ensuring each parent could provide for their children's needs, maintaining contact and sharing the responsibility of caring for them, may not have been fully appreciated.

Parental responsibility was defined in the Children Act 1989 as, "All the rights, duties, powers, responsibilities

and authority which by law a parent of a child has in relation to a child and his property".

- If the child is born while the parents are married, then each parent automatically has legal parental responsibility, even if the parents separate or divorce. This also applies where parents marry after the child's birth.
- If the child is born to parents who are not married, only the mother automatically has legal parental responsibility. The father can acquire legal parental

responsibility through a Parental Responsibility Order through the court, or by registering with the mother's consent, a legal binding written agreement called a Parental Responsibility Agreement. These need not confer residency or contact rights.

In many cases we see, parents do not have legal parental responsibility. However, this does not prevent us from considering the need of the child to maintain contact with and to have the support of each parent.

Many Social Fund applications are made to meet expenses for the following reasons :-

- a) a breakdown in a relationship;
- b) changes in an established situation of children visiting or staying;
- c) a parent wanting to establish or re-establish a relationship with their child;
- d) fares to enable parents to meet with their children.

Careful consideration of the circumstances as they are presented is important. Having a real understanding of the issues associated with shared parenting, can help when evaluating the evidence to reach the right conclusion.

For example: an applicant may be trying to articulate how important it is to their child and themselves

'if the child is born to parents who are not married, only the mother automatically has legal parental responsibility'

to be involved in issues such as upbringing, discipline, outings, sleepovers or simply being a Dad or Mum. (Professional articles on this issue frequently refer to the need of

the child to be reassured that there is a home with both parents and that there is not one "caring" and one "absent" parent).

Or:-

An applicant's ability to explain their situation may be affected by communication problems or by an assumption that everyone knows that both parents need to be involved with their child's care.

Some of the questions, which may be useful for decision-makers to consider or applicants or their representatives to address, are:

- what was the situation prior to the application being made? What involvement has the parent had with their child? If there was not much contact, what problems did this cause?
- what has happened during the time of the application? How has contact been or not been able to be maintained? Has the amount of involvement changed? Has there been an improvement or deterioration in the situation? What is the impact of the changes on the child and the applicant?
- what is planned for the future? This may not happen but it is an indication of what could happen if a certain series of events occur.

Arrangements for shared parenting might be decided by the parents or the court. If it is a court decision it is unlikely to be a matter for them to decide how the arrangements are practically put into effect. The fact that the parents live one mile or 100 miles apart will not exert much influence on a court decision. If the matter has to go to court it is likely any order made will be flexible, to prevent the parents having to return to court should their situation change. For example, a parent who is on benefit now, may be working in the next few months and more able to afford the cost of travel. The court will most likely change an order only when the need is to protect the interest of the child.

The difficulties for children in maintaining contact with each parent are great. The psychological effects on them can last throughout their lives. Practically it is very difficult to enforce agreements or orders. Statistics show 40% of divorced/separated mothers admit to thwarting contact (UK Government Children First consultation paper 1998). Many applicants do not have agreements or orders so they are very much dependant on what the other parent is willing to allow.

Application of Direction 4

If asking for a community care grant, the most likely question to be answered is, "will an award ease exceptional pressures faced by the applicant and his family?" {Direction 4(a)(iii)}. However, there will also be cases where Direction 4(a)(ii) is the issue. The question here to be answered is, "will an award help the applicant or a member of his family remain in the community rather than enter institutional or residential

care?”. As with all decision-making, some cases involving separated parents and children will qualify and some will not. The individual circumstances will inform the decision.

Application of Direction 3

We have seen cases where a crisis loan has been refused because the decision-maker relies on an assumption that children have one safe place to stay. For example their normal place of residence. In these cases the argument can be that a serious risk to health or safety exists to those children, due to a situation causing an interruption in visits or stays with the other parent. For a decision-maker to then conclude that there are “other means,” in that they can stay with the parent where they normally reside is unlikely to be correct.

Priority

For all cases the Secretary of State has given guidance about considering high, medium and low priority needs. Para 3351 of the Social Fund guide gives examples of circumstances which may affect the priority of the need. Two of those quoted could be relevant in shared parenting cases:

- experiences of physical or social abuse or neglect may leave someone especially vulnerable and lacking in confidence. For example:
 - young people from broken homes, or
 - young people who have never had a home.
- unstable circumstances may well put the well being of children at risk and increase the chances that they may be taken into care, for example:
 - a parent behaves irrationally, or
 - relationships within the family are at breaking point.

These situations will not apply to all cases and the guidance does state that it is important to use your discretion and judgement when assigning a priority to an application.

In some cases it will be high priority for both parents to be able to provide at least eating and sleeping facilities for their child. It may be an important factor that one parent does not receive any financial assistance to meet their child’s needs other than by way of an award from the Social Fund. In other cases, replacing worn out basic items may be high priority to enable established shared parenting arrangements to continue. It may also be high priority to provide items to enable the parent and child

to start building a relationship. It is important that both the physical and mental well being of the child or parent is taken into account.

The difficulty of financing needs in general is recognised in the budgeting loan scheme by ignoring budgeting loans that were awarded during the partnership when the applicant is seeking a loan following a breakdown in the relationship.

Fares

Direction 4(b) separates out expenses of travel prior to any custody hearing. The Secretary of State’s

guidance seeks to ensure that neither parent is seen by the court to be in a less advantageous position simply because he or she cannot afford the fares. Under this direction there is no specific provision for continuing to meet this expense after the hearing is completed and indeed the guidance suggests it would not be appropriate to make a grant award once the responsibility has been decided by the court. Once an order is made the court is not involved in how any contact takes place. However, requests for travel expenses can also be considered under Direction 4(a) and all the circumstances can be taken into account when considering the need.

‘experiences of physical or social abuse may leave someone especially vulnerable and lacking in confidence’

Under this direction there is no specific provision for continuing to meet this expense after the hearing is completed and indeed the guidance suggests it would not be appropriate to make a grant award once the responsibility has been decided by the court. Once an order is made the court is not involved in how any contact takes place. However, requests for travel expenses can also be considered under Direction 4(a) and all the circumstances can be taken into account when considering the need.

Conclusion

When deciding an application involving shared parenting, the child’s welfare is one of the main considerations. Another consideration is the child’s or parent’s physical or mental well being. The issues to be decided are likely to be wider than just, “my child needs a bed”. It may be the difference between a parent being able to take an active part in their child’s life and a child being denied a parent.

Seeking corroboration from a court order or a Parental Responsibility Agreement is unlikely to help the decision-maker as many parents have reached mutual agreements without the need to go to court.

Arguments put forward by decision-makers such as, a child already has a home with one parent, or the child need not visit their other parent, are unlikely to be found reasonable by Inspectors.

Points From The IRS Postbag

Anne-Marie Nicholls takes a look at more issues from the IRS Postbag

Shared Parenting

A query from a Reviewing Officer in a case concerning shared parental responsibility raised the issue of what constitutes a family.

The applicant had three children who normally lived with their mother. However, they usually stayed with him every weekend and for school holidays. His flat was damaged by a flood of water from an upstairs flat. The damage was such that the children were not able to stay. The flood damage and not being able to have the children to stay caused considerable stress for the applicant. The Inspector accepted he qualified for a community care grant as a family facing exceptional pressure which would be eased by an award.

The Reviewing Officer queried how an award would ease exceptional pressure on the applicant and his family when the children normally stayed with their mother. He also queried whether the exceptional pressure was on the applicant rather than him and his family. The Customer Service Team Inspector's response was that a family can exist where the members do not live together. This did not apply in this case, however, because the family did live together at times. There was a clearly established pattern whereby at weekends and school holidays, the children normally resided with their father. This represented a significant period of their lives. The major disruption, the cessation of regular, routine visits to their second home, would have a serious impact not only on the applicant but on the children. The conclusion that the applicant and his family were under exceptional pressure, which would be eased by an award, was a correct interpretation in these circumstances.

Members of a family do not necessarily have to be living together to be regarded as such. Families who live together part of the time can face pressures in the same way as families living together all the time.

Prisoners

An application highlighted the need to put forward all the relevant evidence as early as possible, as well as the valuable effect the input from a representative can have.

The applicant had been in prison for a year. She was then homeless for a year before acquiring a flat. She requested furniture, wanting her three children to be able to stay with her. The Inspector refused an award as the qualifying conditions for a community care grant had not been met.

The applicant wrote to state she did not have any items for her flat. As she had not provided anything different to that before the Inspector, the case was not re-opened.

A representative became involved. She described how the applicant had previously been to prison and lost her home and belongings. She was released, re-offended and was sent back to prison. She was released again with nothing to come back to. She was homeless for a year before finding accommodation and setting up her first home following her time in prison.

The Customer Service Team Inspector reviewed the decision and made an award in the light of the new evidence, accepting the applicant was establishing herself in the community following a stay in institutional accommodation in which she had received care.

Asylum Seekers

A family of refugees who had arrived from Kosovo, with only the clothes they were wearing, had requested a Social Fund payment for a long list of items. The issue was which items to award to help ease the exceptional pressure on them.

The family moved into a tenancy. The Reviewing Officer awarded beds and bedding for the applicant and his three dependant children, a fridge, cooker, pots, pans, cooking utensils, crockery, cutlery and a suite. He refused a table and chairs, wardrobes and beds for his two non-dependant adult children. They were his daughter who was receiving benefits in her own right and his son who had been living in England for almost a year before he had arrived. The Inspector upheld the decision.

The applicant's representative wrote to say the decision was morally wrong. The Customer Service Team Inspector did not re-open the case. While understanding the applicant's desire to have his son and daughter with him, they both had some form of income of their own with which to contribute to their own needs. Providing wardrobes and a dining table and chairs would add to domestic comfort and convenience but was not so important in easing exceptional pressures on the family as the other items awarded.

The information provided by the representative did not show any grounds to review the case. For example, these grounds might be, if the law had been interpreted or applied incorrectly or there were new facts which might have impacted on the decision.

Qualification - Direction 4(a)

Subject to directions 25 and 26, a social fund payment may be awarded to promote community care -

- (a) by assisting an applicant with expenses, including expenses of travel within the United Kingdom (except those excluded by these directions) where such assistance will -
 - (i) help the applicant, a member of his family, or other person for whom the applicant (or a member of his family) will be providing care, to establish himself in the community following a stay in institutional or residential accommodation in which he received care; or
 - (ii) help the applicant, a member of his family or other person for whom the applicant (or a member of his family) will be providing care, to remain in the community rather than enter institutional or residential accommodation in which he will receive care; or
 - (iii) ease exceptional pressures on the applicant and his family; or
 - (iv) allow the applicant or his partner to care for a prisoner or young offender on release on temporary licence under rule 6 of the Prisoner Rules 1964 or, in Scotland, on temporary release under Part XIV of the Prisons and Young Offenders Institutions (Scotland) Rules 1994; or
 - (v) help the applicant to set up home in the community as a part of a planned resettlement programme following a period during which he has been without a settled way of life; or

If you would like to contact us:

Independent Review Service

4th Floor, Centre City Podium

5 Hill Street

Birmingham. B5 4UB

Phone: 0121 606 2100

Fax: 0121 606 2180

eMail: sfc@irssf.gov.uk

Website: www.irssf.gov.uk