

the journal

and digest of decisions

Independent Review Service for the Social Fund

Summer 2002 issue 22

Inside: Evidence



INVESTOR IN PEOPLE

irs

Independent Review Service
for the Social Fund

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summer 2002 issue 22

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Welcome to issue 22 of the Journal and digest. The theme of this journal is **evidence**. Our writers, editorial team and Readers Panel have ensured that this edition covers the areas that cause the most difficulty; including corroboration and the inquisitorial role.

In particular, I would like to thank our 2 external writers : **Lorraine James** of Southwark Welfare Rights Unit and **Paul Hadley** a Reviewing Officer from the Benefits Agency. They have provided us with their views on interviews and have explained how they have found the process can be improved.

I would also like to draw your attention to The Social Fund Commissioner's Advice on Evidence. Due to the complexity of this area the advice is lengthy and is therefore included with this edition as an insert. The Advice can also be downloaded from our website **www.irs-review.org.uk**

As always, please let me know if there are any issues you would like to see covered in the journal or if there is anything we can improve to better meet your needs. You can contact me at the usual IRS address or e mail me at **np@irs-review.org.uk**



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news

Workshops

In 2001/2002 we delivered 230 workshops, we do not charge for these. Our new workshop packages on 4(a)(i), 4(a)(ii), a one-day community care grant package and a one-hour overview of the social fund are now available. Feedback from workshop attendees has been consistently positive. Bookings are now being taken for future months.

One self-instruction package is now available; a basic overview of the social fund. New packages on evidence, community care grants, crisis loans and budgeting loans are being developed and will be available later in the year.

If you are interested in booking a workshop or if you would like to receive a self-instruction package, please contact the business team (see contact details below). Alternatively, the packages and a workshop booking form, can be downloaded from our internet site at www.irs-review.org.uk

IRS publications

Since February, we have distributed over 4000 packs containing IRS leaflets and posters. We have issued the pack to all Citizens Advice Bureaux and libraries, and to some neighbourhood offices, councils, doctor's surgeries and other welfare rights agencies across the United Kingdom. A programme of further distribution is planned for 2002-2003.

In April 2002, we attended the Brighton Social Work and the London Gingerbread Conferences. We distributed leaflets, posters and the IRS journal and digest at both conferences.

Since December 2001, we have written articles for the Scottish Council for Voluntary organisations, RNIB, Arthritis Care, MIND and the Psychiatric Rehabilitation Association. If you would like to receive a pack of leaflets and posters or if you would like us to write an article for your publication, please contact the business team (see contact details below).

Feedback to the benefits agency

In 2001/2002, the Commissioner or a member of the senior management team met with social fund managers from all 13 Area Directorates. The most valuable discussions concerned:

- management of the social fund budget;
- why the substitution rate has changed in some areas; and
- the differences in approach to decision making by different Benefits Agency districts and the Independent Review Service.

We appreciate that there are a lot of changes to the Agency's boundaries planned. To take account of these changes, from April there was a short break in the Area Directorate Meetings programme to allow for the changes to happen. The meetings started again in the least affected areas in late May.

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If you live in Northern Ireland you should contact the Office of the Social Fund Commissioner. Please see the back cover for details.

evidence

- the basics



Patricia Instone goes back to basics to explain why the correct use of evidence is always at the heart of good decision making.

Why is evidence so important in social fund decision making?

Quite simply, it's from the evidence that we get the relevant facts. The law is applied to those relevant facts to arrive at the decision.

Evidence is, therefore, the raw material in social fund decision making. If the raw material is sound, and the processing is good, the right decision will follow. However, if there is something wrong with the raw material and/or the processing, the decision will not be properly supported.

What is evidence?

The Oxford Dictionary of Law describes evidence as 'that which tends to prove the existence or non-existence of some fact'.

What does this mean in practice for social fund decision makers?

Evidence can be almost anything. It is, for example, what is written on the application form, letters asking for a review, letters in support, computer records, what is said at the interview or in any telephone calls. It can be written

or verbal, or even, in some instances, physical. For example, an applicant's clothing or furniture could potentially be presented as evidence.

The standard of proof

In criminal law, there are all sorts of rules about what evidence can or cannot be put forward. The jury has to be satisfied "beyond reasonable doubt" - i.e. they have to be sure that the accused has committed the crime.

However, the social fund is part of civil, administrative law, and decisions are not made in a court setting. All evidence is admissible - though this makes attention to quality all the more important - and the standard of proof is "the balance of probabilities". In other words, the test is it 'more likely than not'?

Inspectors often find that decision makers in the Benefits Agency require too high a standard of proof. This may result in their not accepting evidence because there is an element of doubt, or seeking corroboration when there is no need to do so. Judy Deakin covers corroboration in greater depth on pages 10 and 11 of this journal.

The burden of proof

The starting point is that it is up to the applicant to make out his case. In many cases, the applicant's evidence will be enough to enable the case to be decided.

However, there may be some cases where the information provided by the applicant, together with the other evidence available to the decision maker (e.g. computer records), does not meet

the required standard of proof. The decision maker will then have to decide whether further information should be sought. Again this is a situation where social fund differs from the classic court scenario.

Case law has confirmed that decision makers have a duty to make enquiries where they are on notice that further relevant evidence is available. Helen Ridgway deals with this issue in detail on page 4 of this journal.

Relevance

When reviewing a decision, a Social Fund Inspector must look at whether all relevant considerations were taken into account, or, conversely, whether any irrelevant considerations were taken into account (direction 1 to Inspectors, which is covered in journal 20). It is important, therefore, to identify what is - and what is not - relevant.

Evidence must be relevant to the issue in question. For example, if you are looking at whether an applicant is eligible for a community care grant, the relevant evidence concerns the receipt of a qualifying benefit on a specified date. There may be other information in the case which may be relevant at a later stage, e.g. about pressures on the family, but it is not relevant when considering whether direction 25 is met.

First-hand and expert evidence

Some pieces of evidence may be better quality than others. As a general rule, evidence which comes directly from someone's own experience is better quality than something which is second or third hand.

For example, an applicant may say that their bedding is old and worn. This is something which they would be best placed to know. Compare this with a telephone conversation with a housing support worker, who said that the house appeared to be reasonably furnished. This is second hand; it does not specifically refer to the state of the bedding, nor does it even indicate that bedding is included in the general statement; moreover, it is vague and imprecise. It is of much poorer quality than the applicant's evidence, and would, therefore, carry less weight.

The opinion of an expert in their own area of expertise will normally be of high quality. However, opinion evidence in other circumstances may not be. For example, a doctor would be able to give expert evidence about his diagnosis of an applicant's medical condition but not how the condition actually affects the applicant on a day to day basis e.g symptoms and degree of pain.

Quality of evidence

A lot of the pointers for assessing the quality of evidence are common sense.

Does it have the detail you would expect?

You might not expect someone to know exactly where they lost their purse over the course of a day, but you would expect them to know where they had been, when the purse was seen last etc.

Is it complete, comprehensive, accurate and clear?

Do you have a full picture of the situation from the evidence? If so, it is likely to be good quality. If not, there might be some questions over credibility, or there may be a need to make further enquiries.

Is it consistent, with a logical sequence of events?

Inconsistencies may affect the credibility of evidence. Where there is a conflict in the evidence the applicant should be asked to provide an explanation. This is especially important where the conflicting evidence comes from another source, so the applicant may not even be aware of it. Corroboration may be provided or sought where there are sufficient doubts about the credibility of the evidence.

For example, there would be a conflict in the evidence if an applicant who gave evidence that they had lost their benefit and had no money went on to state that they were eating take-away food each night. In this instance the decision maker would need to ask the applicant to explain this apparent conflict in evidence.

It should also be borne in mind that apparent inconsistencies may have a logical explanation. For example, an applicant may say on the application form that he needs a bed for his child because it has been ruined through bedwetting, but later say that it is broken. A ruined bed can also be broken. The applicant would therefore need to be asked to provide clearer and more detailed evidence about the condition of the bed and the circumstances in which the need arose.

Good evidence handling and correct outcomes

Putting all the evidence together takes skill and understanding. Failure to pay proper attention to the basics could result in an outcome that does not hold together and will not sustain the decision. However, apply the evidence correctly and the decision will be firmly supported and the outcome more likely to be right.

the inquisitorial role - should inspectors seek more evidence?

Does the Inspector have a duty to seek additional information or is each case judged only on the evidence available? Helen Ridgway explains why and when Inspectors will seek further evidence

The law

There are several pieces of case law that support the view that Inspectors have an inquisitorial role. The clearest indication is from Mr Justice Dyson (Ex Parte Roger Taylor):

'...He (the Social Fund Inspector) should have giventhe opportunity of dealing with the matters of detail that were troubling him. This is particularly so because the review procedure is essentially inquisitorial.'

In a Northern Ireland judicial review (Re: Ward) the judge said: 'The Inspector took the view that it was for the applicant to produce evidence why he should require a generator. On a narrow view of his function that might be a tenable position, but I do not find it easy to see how he can sensibly decide on an applicant's need without ascertaining what the possible sources are.'

Why is the inquisitorial role important?

To reach the proper conclusion the Inspector must identify the crucial issues of the case. He must then judge whether he has sufficient evidence available to decide those issues.

Some decisions can be reasonably made on the evidence already available. However, there will be other cases where there are clear gaps in the evidence. Here it will be appropriate to use the inquisitorial role to fill those gaps.

A useful analogy is looking at the various pieces of evidence as building blocks. They may fit together to form a strong wall. But if parts are weak, or there are gaps at crucial points, the wall will collapse. These weaknesses or gaps are the pieces of evidence the Inspector needs to obtain using the inquisitorial role.

The inspector's review

Since 1 January 2002 we have changed the way we

conduct the review. The new process is described in detail in journal 21.

The Inspector now looks at the papers before copies are issued to the applicant. The Inspector decides what the main issues are in the case, and outlines these to the applicant in a statement of issues. At this stage,



point from the irs postbag

The applicant was aged 37 and had separated from his wife a few months prior to his application. He had been homeless, staying with various friends, until obtaining an unfurnished tenancy.

He applied for a crisis loan for household items including beds and bedding for his two daughters so they could stay with him at weekends and holidays. His application was refused and the applicant attended the subsequent review interview. Little fresh information was obtained, although the Reviewing Officer (RO) revised the decision to the extent that he awarded a crisis loan for a cooker and bed. The applicant then asked for a further review by an Inspector saying he was "depressed in this situation and unable to manage".

Although the RO had not used direction 49 to consider a community care grant, the Inspector could not dismiss such an award. The applicant had recently separated and had children who he wanted to stay at weekends. Direction 4(a)(iii) fell for consideration. However, the Inspector knew nothing of what contact arrangements were in place for the applicant to see his children, their ages, how far away the children lived and their general circumstances. The Inspector found it necessary to seek such information before making his decision. This would have been unnecessary had the right questions been asked at the review interview.

he may also use his inquisitorial role to seek additional evidence that is crucial to the decision making process.

The statement of issues is sent to the applicant together with a copy of the relevant papers in the case. He is invited to make comments, particularly relating to the issues raised. He may do this in writing or by telephone, speaking to the Inspector who issued the statement of issues.

The Inspector may also make further enquiries if the applicant's response raises further important questions. These will be pursued in a way that is best for the applicant, usually by telephone or letter and exceptionally by visit.

When will the inspector seek more evidence?

It is important to stress that the inquisitorial role is not used to seek evidence the Inspector would simply prefer to know. It is only used to seek evidence that is crucial for the Inspector to decide the case.

Example One

Mr C requested a community care grant for clothing stating that he had lost weight in prison and all his clothing was too big. Mr C said he had only one set of clothing that fitted and that this had been borrowed from a friend after his release.

With the permission of the applicant the Reviewing Officer (RO) contacted the prison. The prison said that all prisoners attend clothing boards before release but did not comment specifically on the outcome of Mr C's clothing board. Mr C did not attend the review interview.

The RO decided that although Mr C qualified for a grant payment he found that the need was of insufficient priority. He based this conclusion on the fact that a clothing board was held.

There is a possible conflict of evidence in this case that the Inspector needs to resolve using the inquisitorial role. The Inspector put the evidence from the prison to Mr C and asked him whether he attended a clothing board and if so, what the outcome of the board was. The Inspector also contacted the prison to establish whether they had records of what happened at Mr C's clothing board.

Contrast this with example two:

Example Two

Mr C is not in receipt of a qualifying benefit and is therefore not eligible for a community care grant or a budgeting loan. He requests a crisis loan for clothing. He has lost weight and has been borrowing his brother's clothes. His brother is currently working abroad and has no intention of returning in the foreseeable future.

In this case the crucial issue is whether the conditions of direction 3 are met, as Mr C cannot qualify for any other type of payment. Evidence about Mr C's own clothing stocks would add nothing to the case as the presence of borrowed clothing removes any serious risks. It would therefore be inappropriate and unnecessary for the Inspector to seek further evidence in this case.

To conclude:

- Case law shows that the Inspector has an inquisitorial role.
- The inquisitorial role is important because it allows the Inspector to seek further evidence where needed to decide the issues in the case.
- The inquisitorial role is not used to seek evidence the Inspector would simply prefer to know. It is only used to seek evidence that is crucial in order for the Inspector to decide the case.
- Evidence can be sought by telephone or in writing. In rare instances the Inspector will visit the applicant to obtain the evidence that is needed.

Where to find out more:

- Bob James' article on page 9.
- Digest: 18.8, 18.9, 18.10
- R v Social Fund Inspector, ex parte Taylor [1997] C.O.D.152 & Re: Ward [March 1992]. High Ct. NI (R.F 117C.)
- IRS Evidence Workshop and Self Instruction package (In development)

interviews

why they are important

Do all applicants have the right to an interview? Is it in an applicant's interest to attend an interview? Holly Andrews answers some common questions and queries

The interview is a very important stage in the process as it is a means of obtaining valuable evidence and resolving any conflicts in the evidence.

This article clarifies the legal position regarding interviews and highlights common areas of difficulty.

The law and natural justice

The Secretary of State's direction 33 requires that in cases that will not be resolved wholly in the applicant's favour, Reviewing Officers (ROs) should offer applicants the opportunity of a face-to-face interview. Telephone interviews can be offered if it is not practicable to interview the applicant in person or if the applicant has agreed to a telephone interview in place of a face-to-face meeting.

There are also exceptions to the general rules set out above. Interviews may not be offered where an applicant is not eligible for a payment, or where a partial award has already been made, or will be made on review. However, even where these exceptions apply, an interview can be offered if an applicant specifically requests a face-to-face interview or if the RO decides an interview is appropriate.

Interpretation and application of direction 33

The following examples highlight two areas of difficulty that Inspectors frequently identify in cases.

Example 1 – a lack of crucial information

Mr E applies for a community care grant for a cooker and a washing machine for himself and his family. It is not in dispute that he qualifies for a grant.

The Decision Maker finds the need for a washing machine to be of a high priority, but refuses an award for the cooker.

When the applicant asks for review, the RO does not offer an interview. This is because a partial award has already been made. He confirms



‘the interview is a means of obtaining valuable evidence’

the decision. In deciding that a cooker has insufficient priority to make an award, his decision relies on the fact that Mr E received a grant award for a cooker nine months previously. He considers that this item should still be available for Mr E's use and within its guarantee period.

In this case there is a clear unresolved issue. It is essential to establish what happened to the previous award for a cooker. The RO has not put the reason for refusal to Mr E. As such, he is unaware of the case against him and has not had proper opportunity to provide all relevant information.

In this case the RO should have offered an interview to clarify the evidence around the crucial issue in the case.

Example 2 – querying and clarifying conflicts or doubts about the evidence

Mr F has applied for clothing upon release from prison. He has returned to his previous home but states that all his clothing had been stolen in a break-in. No detailed evidence was given about the length of time Mr F was in prison, when the break-in occurred or what else was stolen.

The RO had difficulty accepting that all of Mr F's clothing was stolen whilst he was in prison. However, the RO did not ask for clarification or more detail at the interview. He made his decision on the basis that the old clothing should still be available to Mr F as he did not accept there was a break-in during the time he was in prison. In addition, the RO mentioned in his decision that Mr F appeared very well dressed at the interview and had adequate clothing.

This scenario is an example of where the interview has not been used correctly. Firstly, the RO ought to have put his doubts to Mr F. This could then have been discussed, giving him the opportunity to explain his circumstances. Secondly, an inappropriate inference regarding Mr F's stock of clothing has been drawn. The condition of one set of clothes is not an indicator of what other clothing stocks Mr F has available.

Common areas of difficulty for applicants

It is usually in an applicant's best interest to attend the interview. However, the cases we see at the Independent Review Service indicate that many applicants do not attend, even where they have been offered this opportunity. This may be for a number of reasons. Some common problem areas are set out below.

- Some offices often use standard letters that are automatically produced from the computer system. Whilst these letters do not actually discourage applicants from attending an interview, neither do they actively encourage them. Those letters also do not make it clear that interview times can be re-arranged.
- Some applicants feel too intimidated to attend. Instead of seeing this as a constructive opportunity to positively influence the outcome

of their case. Some applicants see the outcome of the review as a foregone conclusion and the interview a waste of time.

- Many may also feel intimidated by the legal language used. Speakers of English as a second language or people with literacy problems will find this experience a particularly daunting one. Some people may also feel uncomfortable discussing highly personal and private information face to face with a stranger. It is therefore important that ROs are aware of this and act accordingly with sensitivity and empathy.
- Some applicants may have physical or mental health problems that restrict their mobility. In turn, this may prevent them from attending an interview, or in some cases even feeling able to make contact with their local office. In these circumstances it may be more appropriate to reinforce the availability of a telephone interview, or if practically feasible for both an applicant and a RO, an interview in the applicant's own home.

Summary

To conclude:

- In cases that will not be resolved wholly in the applicant's favour, the RO should offer applicants the opportunity of a face-to-face interview. Telephone interviews can be offered if it is not practicable to interview the applicant in person or if the applicant has agreed to a telephone interview in place of a face-to-face meeting.
- The individual circumstances of the case should be considered when looking at whether to offer an interview.
- The interview should be used for clarifying evidence and resolving difficult issues. Reasons for a decision should be put to the applicant at this stage. He will then have an opportunity to provide all relevant information.
- Applicant's may have particular needs or difficulties that should be taken into account when conducting an interview.

Lorraine James of Southwark Welfare Rights Unit gives her view on interviews and highlights the value of independent advice and representation

The importance of an interview is essentially two-fold. Firstly, it enables the Reviewing Officer (RO) to meet with the applicant and explain the reason for disallowing the initial application. Secondly, it gives the applicant the opportunity to discuss their case, any change in circumstances and produce further supporting evidence.

Help and communication

People accessing the social fund are usually already disadvantaged through low income, poor housing and health. Those who are vulnerable, disabled or who have mental health or learning difficulties are at an additional disadvantage. This is exacerbated given the complex nature of Social Security law.

The ROs need to enter into productive dialogue with the applicant. They also need to explain the legal framework and ask for any additional information that is needed to decide the applicant's claim. In my experience, the process is greatly enhanced when the RO takes proper account of an applicant's individual needs or difficulties.

Administration and organisation

Problems can occur when the initial determination letters are not copied to the authorised representative. This can cause immediate difficulties in challenging the initial decision.

I have had mixed experiences of the way interviews are arranged and conducted. Many take longer than one week to arrange and agree a date. There can also be a long wait at the BA office even though a specific appointment has been agreed.

Due to the evident pressure of work on BA staff, the interview can feel rushed. Moreover, it can seem as though the applicant is being interrogated rather than given the opportunity to discuss their application. I have also encountered incidents where the RO has been abrupt, not explained procedures clearly or adopted an adversarial stance. Better training for some ROs would improve the service accordingly.

The role of the representative

The role of the representative is to ensure that ROs are in a position to be sufficiently informed of the applicant's circumstances to reach the correct decision. In my view, in order to achieve that, and without wishing to extend the dependence of applicants on experts, all applicants should as a matter of course be offered independent advice and representation.



Paul Hadley, a Reviewing Officer in Co Durham, explains how his office ensures that an open and customer focused interview process is provided

Administration

As a centralised review team for a district with six offices, interviews are arranged using our own appointment letters. This is done because using the computer system can result in letters being received after the arranged date. In one particular office a very high rate of attendance has resulted from this arrangement compared to previously.

Obtaining relevant information

Unfortunately, the application forms for community care grants and crisis loans often fail to elicit a lot of the necessary information. The review interview gives the customer the first real opportunity to explain their circumstances in full. It is therefore important to preview cases properly to draw out the correct information from the customers.

Role of the reviewing officer

Before centralised reviews, it appeared that questions were being asked to back up the decision rather than looking for new or extra information. As Reviewing Officers (ROs) we are not there to justify decisions that have been made but to obtain appropriate and relevant information so that the right decision is made. In my experience where information is obtained effectively customers thank you for listening to them and giving them the chance to explain their circumstances.

Importance of attendance

The most difficult review decisions are those where the customer fails to attend the appointment and there is insufficient information on which to base the decision. Unfortunately, some customers think that the review interview is a waste of time. Many of these applicants ask for a review by the Independent Review Service and go on to provide the Inspector with additional information which could have been obtained at the interview. This is very frustrating for ROs as they would rather have the opportunity to discuss the customer's circumstances with them, make their own decision and then give the customer the option of an Independent Review Service review if necessary.

I think it is important to remember that with a paper review system the review interview is usually the customer's one and only chance to see someone face to face and tell their side of the story. It is important to use that opportunity to obtain as much relevant information as possible to ensure a better quality decision is made.



more evidence please

Bob James highlights the most common reasons Inspectors will seek more evidence

When a case reaches an Inspector, there is often a wealth of evidence before him. An application form has been completed, letters have been written giving reasons for review, and generally, the applicant will have been interviewed. Given this scenario, it would seem unlikely that an Inspector would have need to seek further information. Yet, often, the Inspector needs to seek additional evidence.

Why are there gaps in the evidence?

Sometimes, the Reviewing Officer (RO) will fail to ask relevant questions at the review interview. The RO will have already seen the background to the application and the decision made by the Decision Maker, and may, perhaps subconsciously, have pre-judged the outcome. Alternatively, it might be because the applicant is unsure as to the evidence he should put forward to fully support his case.

For his final decision to be sound and sustainable, the Inspector must identify relevant facts from the evidence. The outcome must then be supported by the facts. In the absence of relevant facts, the Inspector will be compelled to ask further questions.

Listed below are just a few of the more common examples, which illustrate where gaps in evidence occur and where Inspectors find it necessary to ask further questions.

How a previous award was spent/used

Often, the basis of a decision to refuse payment is that an award was made for the same item(s) in the not too distant past. However, in itself, this would not sustain the decision. The Inspector would need to know how much was previously awarded, how the award was spent and why the need now exists to replace the items.

How an applicant spends additional benefits that are in payment in respect of health problems/disability

ROs will sometimes argue that additional benefits are in payment and so the applicant should be able to meet

his need(s) from these benefits. However, unless this is supported by information to show the income is available to be used to purchase the requested items the decision will not be sustainable. The Inspector may seek more evidence in these cases.

How the applicant is managing for basic needs such as sleeping and cooking facilities

Unless the information within the papers is clear, the Inspector will need to make further enquiries to establish the facts. This information is usually crucial, in grant or crisis loan cases that turn on qualification or priority.

Exactly what stocks of clothing or bedding the applicant has

An argument that “clothing and bedding are medium or low priority needs” is unlikely to be sustainable unless it is supported to some extent by evidence which shows what items are available to the applicant and their condition.

How pressures or health problems impact on a family's/individuals day to day life

Often, the papers will document the diagnosis of an applicant's health problems. However, it is not always established how severe these problems are and how they impact on the applicant and/or his family. This information can be crucial. One example is that of an applicant who requests help to replace his washing machine. It is recorded in the papers that the applicant has arthritis. However, it is not known how severe the arthritis is or how it impacts on the applicant to manage his laundry by other means. Again, the Inspector would most likely need to establish this before making a priority assessment.

To conclude

These are just a few examples of situations where an Inspector needs to seek more evidence or clarify existing evidence. Underlying all of this is the basic requirement that the final decision must be supported and sustained by relevant facts.

prove it!

Judy Deakin explains why and when decision makers should seek corroborative evidence as confirmation or proof

Decision makers and representatives often tell us that they find it difficult to assess when corroboration should be sought.

This article explains what corroboration is and when it might be appropriate to request or provide it.

What is corroboration?

The Oxford Dictionary of Law defines corroboration as:

‘Evidence that confirms the accuracy of other evidence in a manner particular’.

It is therefore other evidence that confirms what has already been said.

When is corroboration unnecessary?

The Social Fund Guide states at para 2070:

Exceptionally, it may be appropriate to ask the applicant for any corroborating evidence they may have, such as:

- estimate of cost of repair;
- estimate of cost of replacement; or
- relevant evidence of a medical condition, e.g. an existing doctor’s note, a letter from a hospital.

It is therefore not necessary for decision makers to ask for corroboration as a matter of course. The strict rules that apply to income benefits, including Income Support or income-based Jobseekers Allowance do not apply to the Social Fund. The civil law standards apply.

Generally, the direct evidence of the applicant about something within his experience will be good evidence, and as such would normally be accepted. If, however, the applicant’s evidence is not plausible or if it contains inconsistencies or it is evasive, the decision-maker should resolve the difficulties. One or more of the following may achieve this:

- putting to the applicant the problems with his evidence and asking him to explain or account for this; and/or
- asking the applicant for more information to clarify the situation; and/or
- seeking corroborative evidence either via the applicant or directly from a third party, with the applicant’s permission.

For example:

The applicant states that he has been diagnosed as an insulin dependent diabetic and requires a fridge to store his insulin at a stable temperature. The applicant is in receipt of income-based Jobseekers Allowance.

This evidence is plausible and contains no inconsistencies. As such it should be accepted as fact.

Not plausible

The applicant applies for a community care grant for clothing. He states that he has been released from prison with no clothes. The decision maker does not accept this statement as fact because it is not plausible that the prison released the applicant naked. Further information will be necessary to clarify this piece of evidence.

Inconsistent evidence

The applicant applies for a cooker. On the application form she states that her cooker has broken down completely and cannot be used at all. At the interview she says that only the rings are working and this makes it difficult to cook for her family. This evidence is inconsistent. It is self contradictory and clarification will be needed.

More likely than not

All decision makers should:

- look at the evidence presented by the applicant;

- draw facts from the evidence, and
- decide on the balance of probabilities if it is more likely than not that what the applicant is saying is accurate.

In social fund matters the standard of proof required is the balance of probabilities, i.e. it must be more likely than not, or in other words the decision maker has to



point from the irs postbag

Miss M was disabled, received Disability Living Allowance (DLA) care and had a carer who helped her at home. She lived with her four children who were all under six. She was about to move to a larger property. The application was for a range of household items and £850 for removal expenses. In total the applicant requested £9000. Miss M said that all of the requested items had worn out or were too small for her new home.

Reviewing Officer (RO) and the Inspector (SFI)

The RO did not think it was plausible that all of the applicant's furniture had worn out at the same time. He was also unclear about why the applicant needed to meet removal expenses if all of her items were beyond use. However, he concluded that direction 4(a)(iii) was met as the applicant was in poor health, received DLA and had a young family. He awarded a grant of £650 for basic items of furniture. The Inspector confirmed this award.

IRS customer service team(CST)

The applicant felt the award was not enough for her needs. The CST looked at Miss M's case and concluded that the RO and SFI should have sought more information in this case to clarify the following areas:

What was the nature of the applicant's disability? How did it impact on her day to day life? What help did her carer provide and how often? Did she have special needs or requirements as a result of her disability?

What condition was the existing furniture in and how were the family currently managing?

What items was the applicant planning to move to her new home by the removal company?

Conclusion

The applicant was able to provide the CST with detailed, clear and consistent evidence about her existing furniture and her health problems. The evidence clarified that the applicant was severely disabled; she had some items of furniture that could be used and some items that were beyond repair; she also had an urgent and compelling need for items that had not been awarded by the RO. A S38(5) review was conducted and the amount of the award was increased.

be more than 50 per cent sure. So in social fund matters 51% sure is sure enough.

Examples of common areas of difficulty:

Broken cookers

It would not normally be appropriate to ask for confirmation that a cooker is beyond economical repair.

Example

The applicant states that his 10 year old cooker is broken. The oven and three of the rings no longer work.

Neither clarification or corroboration is required in this case as the applicant's evidence is both plausible and consistent. The cooker is old and therefore could feasibly have broken. It is also likely that the applicant would incur cost in providing evidence from a third party.

Compare this to the example on page 10 about a broken cooker where the evidence was inconsistent and clarification was needed.

Police reports for lost and stolen money in crisis loan cases

Applicants' representatives frequently tell us that their clients are asked to provide a crime number if they have lost their money or had it stolen. This is often required even before they are given an application form for a crisis loan.

There may be a number of reasons why an applicant does not want to visit their local police station. A reluctance to report the loss does not mean that the applicant's statement is any less credible. The decision maker should examine the evidence presented by the applicant and decide if on the balance of probabilities the applicant's statement can be accepted as fact.

Summary

- Decision makers should not ask for corroboration as a matter of course.
- If the applicant's evidence is consistent and plausible then it is not necessary to ask for any further proof.
- Decision makers should examine the applicant's evidence and decide on the balance of probabilities whether what the applicant is stating is fact.

2002/2003

customer service standards

We aim to clear all cases at the earliest opportunity. We have agreed with our staff that the following customer service standards will apply.

Overall customer service standards

95% of routine cases will be cleared within 12 days.

97% of express cases will be cleared within 24 hours.

90% of complex cases, warranting further enquiry or investigation, will be cleared within 23 days.

In order to deliver the overall standards, the following internal targets will guide our work:

Administration

- Cases will be registered on the day they are received.
- Cases will be allocated and passed to the Inspector by the morning of day 2.

Decision making

- Cases needing no enquiry or investigation will be cleared by day 3.
- In all other cases, a statement of issues and relevant papers will be sent to the applicant by day 3.
- Decisions will be issued within 4 days of the applicant's response, or the end of the waiting period, whichever is earlier.
- When further enquiries or investigations are needed, a decision will be issued within 3 days of the response or the end of the waiting period whichever is earlier.

Post-decision

- All post decision correspondence will be acknowledged on the day of receipt.
- Necessary investigations will be completed within 6 days.
- On completion of the investigation, a full response will be issued within 2 days.
- In complex cases where legal or policy advice, third party evidence or a visit is needed, a full response will be sent within 30 days.

Telephone service

- A telephone service will be provided for customers between 9.00 am and 4.30 pm, Monday to Friday.

2001/2002

customer targets? ...how did we do?

We aim to clear all cases at the earliest possible time, and in any event to specific standards. Our achievements last year against those standards were as follows:

Registering cases

We aimed to register 95% of cases within 1 day and 100% within 2 days...

We achieved 99.5% and 99.9%

Making the decision

We aimed to clear 97% of express crisis loan cases within 24 hours...

We achieved 99.7%

For routine cases that required no additional written information, we aimed to clear 95% in 12 days and 99% in 15 days...

We achieved 98.7% and 99.7%

For routine cases where a written request for information had to be made or where written information had to be obtained in order to proceed with the review, we aimed to clear 90% in 20 days...

We achieved 96.2%

After the decision

We aimed to respond to complaints or enquiries where no further enquiries were necessary within 1 day in 60% of cases and within 3 days in 99% of cases ...

We achieved 80.1% and 99.9%

We aimed to clear 98% of post decision correspondence within 15 days where only the recall of papers was required...

We achieved 98.3%

We aimed to clear 91% of post decision correspondence within 20 days where the recall of papers and additional information was required...

We achieved 89.8%

We aimed to resolve 90% of post decision correspondence at the first attempt...

We achieved 91.3%

We aimed to issue an interim reply to enquiries and complaints where further enquiries were necessary within 1 day in 60% of cases and 3 days in 100% of cases ...

We achieved 66.7% and 99.1%

We aimed to clear 95% of complaints about express cases within 24 hours of receipt...

We achieved 96.9%

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