

the journal

and digest of decisions

Independent Review Service for the Social Fund
Spring 2003 issue 24

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INVESTOR IN PEOPLE

irs

Independent Review Service
for the Social Fund

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Editor's letter

Welcome to the 24th edition of the IRS journal and digest. This edition covers a variety of issues connected to social fund budgets. This is in response to requests from our readers and following the changes to Secretary of State's Direction 41 and guidance in 2002. Some of the areas covered by our writers are:

- responsibilities of the Area Decision Maker under Direction 41;
- identifying and calculating the state of the budget; and
- restricting the amounts of awards for budgetary reasons.

The remainder of the Journal covers Direction 7 and budgeting loans. Again these areas are covered following requests from our readers.

We are constantly looking at ways to improve the content of the Journal and we value all feedback from our readers. Please let me know if there is anything we can change or include to better meet your needs. We are particularly interested to know if there are any topics you would like to see featured in future editions. You can contact me at the usual IRS address, by telephone on 0121 606 2111 or by e-mail at np@irs-review.org.uk

I look forward to hearing from you.



Natalie Penrose

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News

Raising awareness of the right to an independent review

In order to ensure that applicants to the Social Fund are aware of their right to an independent review, we regularly distribute leaflets and posters to a range of organisations and public services. Since April 2002 we have distributed over 9000 packs. We have issued the packs to all Citizens Advice Bureaux, refugee councils and libraries. We have also sent packs to some councils, probation offices and welfare rights agencies. If you would like a pack, please contact **Avril Wharton** on the **Business Team** (0121 606 2191).

We have also exhibited at a range of conferences this year, including MIND, NACAB and Gingerbread.

New leaflets

The application form to request an Inspector's review (IRS1) has been updated. We have also developed a new leaflet about the Inspector's review (IRS4). If you require copies of the leaflets please contact **Avril Wharton** on the **Business Team**. Alternatively, the forms and all of our other publications can be downloaded from our web site at www.irs-review.org.uk

Alternative service available

Visually impaired customers, who require a copy of our information in Braille, on audiotape or in large print can call us on **0845 300 1964**.

We now offer an improved translation service. We are able to provide written translation in certain languages and oral translations using Language Line. Requests for this service should be made on **0845 300 1964**.

Workshops

Since April 2002 we have delivered approximately 300 workshops to welfare rights agencies and to Social Fund staff. The feedback received has been very positive. If you are interested in booking a workshop, please contact Lorraine Moran on the Business Team. Alternatively, a booking form can be downloaded from our Internet site at www.irs-review.org.uk

The Chief Executive of Jobcentre Plus has supported the delivery of IRS workshops to front-line staff with little or no knowledge of the Social Fund. Since summer 2002 over 100 workshops have been delivered. If you are interested in booking a Jobcentre Plus workshop, please contact **Linda Baldwin** or **Dorothy Dent** on **0121 606 2219**.

Amounts to award, Budgets and Area Decision Maker's Guidance

There have been changes to the Secretary of State's guidance on amounts to award and the Area Decision Maker's guidance. The changes can be found at paras 3363-3370, 3400-3402 and 7250-7263. An article on budgets is included in this Journal.

Self-Instruction Packages

A self-instruction package is now available. This gives a basic awareness of the Social Fund. If you would like a self-instruction package, contact **Avril Wharton** on the **Business Team**. More packages will be available next year.

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Delivery of area directorate meetings and reports

Patricia Instone or Jim Davies-Shuck. **Tel:** 0121 606 2160 or, **eMail:** pi@irs-review.org.uk or jds@irs-review.org.uk

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



Social Fund Budgets and the Inspector's Review

Do Inspectors take account of the budget? Do Inspectors and Jobcentre Plus Staff have different responsibilities in law? [Bob James](#) explains the legal position

"It's OK for Inspectors. They don't have to worry about the budget." This is the view we often hear expressed by some Social Fund decision makers. Some representatives/advisers also think that Inspectors are less constrained by the budget or that they work to different rules to those of Jobcentre Plus staff.

However, this is very much a misconception. This article aims to set the record straight and to explain the legal requirements that underpin the Inspector's work. It refers primarily to the use of the budget in community care grant cases.

The law

In reaching a decision about whether to make an award and the amount of award, the initial Decision Maker, the Reviewing Officer and the Social Fund Inspector are required to have regard to the state of the district budget and to take account of the Area Decision Maker's guidance. Section 140(1) of the Contributions and Benefits Act 1992 as amended by the Social Security Act 1998 provides:

In determining whether to make an award of a community care grant or a crisis loan to the applicant or the amount or value to be awarded an appropriate officer shall have regard, subject to subsection (2) below, to all the circumstances of the case and, in particular -

- (e) any relevant allocation under section 168(1) to (4) of the Administration Act.

What does this mean in practice?

In practice, each area is allocated its own budget and this must not be overspent. Directions 40 and 42 set out the principles of budget management. As the holders of area Social Fund budgets, Area Decision Makers are responsible for assisting decision makers in controlling and managing the amounts allocated for payments within the relevant district.

To do this they must carry out all the tasks outlined in Direction 41.

Direction 41

The Secretary of State directs that the Area Decision Maker (ADM) shall:

- (a) make a planned profile of the level of expenditure for the relevant decision makers throughout the period of the allocation and monitor actual expenditure against it; and
- (b) issue and monitor the effect of the guidance which specifies the levels of priority which may be met from the allocations for grants under direction 4 and crisis loans under direction 3;
- (c) issue information for the relevant decision makers as to the budgetary position of the grant allocation;
- (d) issue guidance which will specify the maximum amount available to each budgeting loan applicant, such amount to be based on the most recent baseline figure of which the ADM has been advised by the Secretary of State for this purpose;
- (e) on at least one occasion during every month review the planned profile made under paragraph (a) for grants the guidance under paragraph (b) and the information under paragraph (c); and
- (f) revise the planned profile, guidance and information reviewed under (e) above as is necessary to ensure that actual expenditure does not exceed the planned level of expenditure for the period of the allocation.

The Secretary of State has given guidance as to the sort of information that might be provided by Area Decision Makers under the Direction. This includes:

- how up to date the workload is;
- a comparison of year to date expected spend against actual spend;
- the types of needs that have been met to reach the current budgetary position (and over what period)
- whether amounts awarded have been restricted (and over what period)

The guidance also advises that decision makers should include this information with the papers sent to the IRS in the event of the applicant requesting a review by an Inspector.



When the Inspector undertakes his review he is, under section 38(7) of the Social Security Act, bound by the law and Directions. The Inspector must take account of both Direction 41 and any general guidance issued by the Secretary of State, and any guidance issued by the Area Decision Maker.

The above briefly explains the legal background and the duty the Inspector is under to take account of the budget. So, why and how, do so many problems and misconceptions arise because of the budget?

Common problems

There are a number of common issues that cause Inspectors difficulties. For example, we sometimes see examples at the IRS of what appears to be inappropriate use or management of the budget. These include:

- restrictive guidance - that is, local guidance written in such terms as to limit the decision maker's discretion. One such example is guidance that sets out a list of "client groups" and advises decision makers that awards can only be made to certain of the client groups;
- blocking at Direction 4 - decision makers finding that Direction 4 is not met when clearly this is not the case and cannot be sustained;
- decision makers introducing the budget into priority arguments – we sometimes see cases where the decision maker has found Direction 4 met but has argued that the priority of the need has to be reduced because of the pressures on the budget;
- decision makers failing to use discretion and applying local guidance rigidly when the accompanying evidence does not support this approach; and
- "gate-keeping" application forms: we have evidence from applicants and advisers alike that they are sometimes denied access to obtaining community care grant and crisis loan application forms or are deterred from making the type of application of their choice.

There might be any number of reasons for these approaches but underlying them all would often seem to be the need to protect a grants budget that is under pressure.

The budget and the Inspector's decision

Let's look more closely at the role of the budget in decisionmaking and how Inspectors approach this. Case Law (Regina v Social Fund Inspector ex parte Taylor [1998] C.O.D 152) established that priority must be decided without any consideration of the budget allocation or its state. Priority is to be decided on the basis of the nature, extent and urgency of the need,



'calculating the state of the budget..'

taking account of the Secretary of State's guidance. Priority may only be assessed as high, medium or low.

Once the Inspector has decided the priority of the need, he then has to decide whether to make an award, and the amount of any such award, based on all the circumstances of the case. One of these is the state of the district office budget. An Inspector should make an award for needs that merit payment in the light of the state of the budget.

The Inspector will consider:

- whether the budget is over or underspent against expected profile;
- the extent of any under or overspend; and
- what level and type of need the district has been meeting in getting to this budget position.

If, for example, the budget is about on target and has met all high priorities throughout the year, it is likely the Inspector will pay high priority qualifying needs.

If, however, the district is not spending as planned the Inspector may make awards for a different range of needs, in terms of their nature, extent and urgency, than the budget has been meeting. The degree to which Inspectors may do this will relate directly to the degree of over or underspend that exists. The greater the variance from planned spend, the more prepared the

Inspector will be to make an award that runs counter to the range of needs the district office has been meeting.

Identifying the state of the budget

The factors which show the state of the budget are the percentage variation of actual spend from planned spend and how that position has been reached. Relevant evidence will include:

- the district budget profile (planned spend) to the relevant month end;
- actual spend to the relevant month end;
- the percentage of any over or underspend against planned spend;
- the ADM's guidance on the level of priority that may be met from the budget.
- any evidence about the types of needs the budget has been meeting or typical amounts awarded for specific items; and
- information about outstanding work. A budget may on the face of it appear to be underspent but this may be solely because there is a backlog of cases to be decided.

Calculating the state of the budget

In order to identify the state of the budget, the Inspector will compare a district's actual expenditure to the relevant month end against its planned expenditure in the same period. The simplest formula for this is:

$$\frac{\text{Actual spend to the relevant month end}}{\text{Profiled spend to the relevant month end}} \times 100$$

This tells the Inspector what percentage of the planned spend has actually been spent. A figure of less than 100% reveals an underspend by the amount it is below 100 and a figure of over 100% reveals an overspend by the amount above 100.

Occasionally, a budget may become overspent before a particular month end, when compared with the profiled spend to the end of that month. Inspectors should take account of such overspends.

Examples

It may be useful to look at a couple of recent examples where the state of the budget has been central to the Inspector's decision.

Example 1

The applicant was a lone parent with two children. The applicant had chronic health and mobility problems and both children suffered from asthma and eczema. She had applied for various household items including saucepans (£30) and a cooker (£450). She did not have any of the items applied for. An award was refused. The Reviewing Officer found direction 4(a)(iii) met but decided the needs were of insufficient priority for an award to be made. The Reviewing Officer had said they were needed due to normal replacement and were medium priority. The budget could not meet all high priorities.

The Inspector was unable to confirm the decision as he was not satisfied that all relevant considerations had been taken into account. The Inspector made his own decision. Given the circumstances of the family, and the nature and urgency of the needs (to provide a vulnerable family with basic cooking and eating facilities) he decided a high priority was appropriate.

The Inspector then considered the position of the budget and identified that it was 9% overspent against planned profile. This position had been reached even though the Area Decision Maker's guidance was that high priority needs could be met only to the extent the budget allowed. Despite the pressures on the budget the Inspector decided the need for cooking facilities (a cooker and saucepans) were still sufficiently compelling to merit an award. The Inspector reached this conclusion after taking account of the ages of the children, the health problems in the family and the fact that the family had no cooking facilities available in their home and no other reasonable means of obtaining hot food.

The Inspector then considered the amounts requested and the local guidance. He decided that £30 for saucepans and £450 for a cooker were prices within a broad and reasonable range. However, because of the significant pressures on the budget and large overspend the Inspector decided that it was appropriate to restrict the amounts awarded. He awarded £10 for saucepans and £160 for a cooker. These amounts were sufficient to enable the applicant to obtain new items from a reputable supplier.

Example 2

The applicant was a 70 year woman who lived alone. She suffered from angina and anaemia. She also had a stomach ulcer and severe digestive problems, which meant she had to follow a special diet. She applied for a Community Care Grant for a cooker (£200), fridge (£130) and living room carpet (£120). Her cooker and fridge had broken down beyond economic repair and her living room carpet was worn. The budget was on target but had not been meeting all high priority needs.

The Reviewing Officer had decided that Direction 4(a)(ii) was met. He had gone on to consider the priority of the needs and decided that all three items were high priority. Taking all the relevant factors into account, the Reviewing Officer made an award for the cooker and the fridge. He went on to explain clearly why an award was not being made for the living room carpet even though it was a high priority need. The Inspector was able to confirm the decision had been reached correctly and was fully sustainable on the evidence. The Inspector was also satisfied it was the right one in all the circumstances.

The two case examples demonstrate how and when the Inspector will use the budget. Firstly, the Inspector will determine the priority of the need(s) – i.e high, medium or low. He will then decide whether to make an award and the amount of any award based on all the circumstances of the case. These will include the state of the budget and the ADM's guidance. If the evidence in respect of the budget shows it to be more or less "on target", any award the Inspector decides to make will generally be in line with those the budget has been meeting. The greater the variance from target, in terms of over or underspend, the more the Inspector will need to consider whether it is right to depart from the guidance.

To conclude

This article hopefully clarifies any misunderstandings people may have regarding the way Inspectors approach the budget. To summarise:

- The same law and Directions bind all Decision Makers, Reviewing Officers and Inspectors. Their approaches to decision making and reviews should be the same.
- Inspectors are reliant on good quality evidence being submitted by Area Decision Makers and Reviewing Officers in respect of the position of the district budget.
- The greater the variance from planned spending, the more likely an Inspector will be to take a wider view of the situation.

Rob Jenkins, a Welfare Rights officer, gives his view on Social Fund budgets and the Inspector's review

Social Fund applicants often find themselves let down by the Fund purely by reference to the budget. On a national basis, it is rare that anything other than a high priority item is paid, and even then some high priority items are refused in order to defend the scant resources remaining. On a less obvious level, other applicants are refused a grant on the basis of not meeting the conditions under Direction 4, when it is clear that they do. Various 'gate-keeping' measures are employed as a means of reducing the pressure on the budget, rather than ensuring a high standard of decision-making. NACAB has recently published a report - "Unfair and Under-funded" - which gives repeated examples of the problems caused, and calls for substantial increases in the budget as a means of reducing poverty and social exclusion.

Budget Impact at a local level

The budget places Decision Makers and Reviewing Officers in an impossible position. There is insufficient funding for all those items which will have "a significant and substantial impact in resolving the circumstances of the applicant".

An Area Decision Maker is required to ensure that local officers make decisions with regard to the state of the district budget. It may be quite legitimate not to pay all high priority claims, but my perception is that officers who are so involved in defending the budget may fall into the trap of rigid decision-making, or failing to explore an applicant's circumstances in sufficient detail.

It is this situation which leads to poor decisions and accusations of there being a calendar or postcode lottery. Even where claims are accepted it is often the case that the amounts are reduced without adequate explanation. I have even heard it said that an applicant should limit the total amount requested as awards will never be made above a certain level.

Social Fund Inspectors and the budget

A Social Fund Inspector's review is of course subject to the same Directions and guidance as at local level. There is, however, a perception that Inspectors are more likely to change decisions than Reviewing Officers. The statistics published by the Independent Review Service back this up. I suggest some differences can be explained by looking at the structure of the decision-making process.

The Inspector will be aware of the restrictions imposed by the budget, and will usually accept that the Reviewing

Officer has correctly applied the Area Decision Maker's information about the state of the budget. The Inspector will not, however, face the immediate pressure of having competing high priority claims for the same money.

As an example, the Digest carries repeated examples of the Inspector deciding that an applicant qualifies under Direction 4 where previously it had been denied. Having more information about the claim may of course, also assist the Inspector.

Conclusion

The budget is fundamental to the way that the Social Fund operates. Decision-making at a local level is hamstrung by the need to preserve it. The legislation allows for wider access to grants than the funds that exist to make those payments. Without a substantial increase in the budget, eligible and qualifying applicants with high priority needs can miss out unless they are prepared to pursue a claim to the Independent Review Service. If the Inspectors were unable to preserve a high standard of decision-making access to the Social Fund would be denied to many people who appear to meet all the criteria for a payment.

The Social Security Select Committee's report on the Social Fund in 2001 made the recommendation that:

"The community care grant budget should be raised substantially to a level which ensures that all applications which are classed as high and medium priority needs are met to the full amount required".

Although the budget was subsequently increased, it was not to the level suggested. I expect such an increase would have a positive impact, not only for applicants, but also in terms of the quality of decisions made.

My greatest concern is that only a minority of applicants are prepared to pursue a claim through to the Independent Review Service. Some will not even make an application having been put off by the reluctance of a local office to provide an application form. The insufficiency of the budget is the primary reason for the arbitrary operation of the Social Fund. The Inspectors may remedy those deficiencies in the cases they see – but for the remaining applicants the problems persist.



Gavin Scott, a Social Fund Decision Maker at Durham Office, gives his view on the impact of the budget on decision-making

In Jobcentre Plus offices Social Fund budgets are allocated on a district basis, with separate amounts being allowed for loans and grants. The annual budget is divided into 12 monthly amounts depending on, for example, historical spending patterns or estimated peak demand periods.

Grant budget issues can be very pressing for decision makers because the available budget is so limited. In my district, for example, guidance for most of this financial year has indicated that not all high priority needs can be met, and Social Fund staff remember that in the last few days of last year, no applications could actually be processed as the budget had been exhausted. This position was reached in spite of guidance changes and other budgetary controls.

It is also worth noting that Decision Makers see a far larger volume of applications than Reviewing Officers, and may view budget issues against a background of the seemingly very real possibility of running out of available money. In other words, Decision Makers are perhaps concerned that budgets simply could not sustain the increased spending which closing any gap between them, Reviewing Officers and IRS Inspectors could involve. It is perhaps these kind of issues which give rise to some differences in approach between decision makers and the IRS.

Decision makers may feel, for example, that awarding requested amounts, where a choice of items may be available at lower costs, tends to increase overall pressure on a limited budget without actually increasing the number of awards being made.

Decision Makers are keen to decide applications in a fair and correct manner, and recognise that they, and the IRS, should work to the same set of laws. However, I think that Social Fund staff feel closer to budgetary pressures because it is they who deal with the highest volume of claims, produce exception reports where budgets do not meet "in month" targets, and explain the Social Fund's limitations to customers as part of their daily routines. Budget related gaps between Jobcentre Plus and the IRS are probably, in large part, about Decision Makers' perceptions, and experience, that they must manage a limited resource which cannot meet all community care needs.

jobcentreplus



In 2001/2 the Independent Review Service reviewed 3,562 budgeting loan applications. This equated to 14% of our total workload. In comparison we reviewed 14,444 community care grants and 6,847 crisis loans, 59 % and 27% of our workload respectively.

We changed:

- 10% of budgeting loans decisions

compared to:

- 60% of community care grant decisions; and
- 34% of crisis loan decisions.

The number of budgeting loan decisions changed is relatively low in comparison with community care grants and crisis loans. This is because budgeting loan decision-making is largely decided on set criteria which has a more limited scope for discretion than for community care grants and crisis loans.

The Inspector's Review

The Inspector's role in reviewing budgeting loan decisions is set out in the Secretary of State's Directions 3 and 4 to Inspectors. Direction 3 requires an Inspector to consider if the decision made by the Reviewing Officer is:

- legally sustainable on the evidence;
- that discretion regarding the applicant's maximum possible loan has been exercised; and
- that the correct procedure has been followed.

If an Inspector is satisfied that the decision has been reached correctly, he must then consider the factors set out in Direction 4. This requires him to consider:

- the applicant's personal circumstances that existed at the date of the original determination;
- any new evidence that existed at that date; and
- any changes to the Area Decision Maker's guidance and the district office budget.

If an Inspector is unable to confirm the decision made by the Reviewing Officer because it falls at either Direction 3 or 4; then he will either substitute the decision with his own, or, refer the case back to the Reviewing Officer. In practice, we very rarely refer

Budgeting Loans and the Inspector's Review

How many budgeting loan cases does the IRS receive? How many are changed and why? [Esther Wright](#) explores the facts and figures.

budgeting loan cases back. The limited nature of the scheme, in respect of the facts that can be taken into account, means that the Inspector can obtain the evidence required to make a new decision. This serves the best interests of the applicant by bringing the case to a speedy conclusion.

Reasons for changing a budgeting loan decision
The decision has been made using wrong information

Sometimes decisions are made using the wrong factual criteria. After examining the relevant papers an Inspector may discover that important information relating to the applicant's personal circumstances has been overlooked or interpreted incorrectly. There may be enough evidence for the Inspector to change the decision. Or, it may lead him to make further enquires in order to get the correct information.

Example

Mr F's maximum possible loan had been based on him having received Income Support for 6 months. His outstanding budgeting loan debt prevented an award being made. In his letter requesting an Inspector's review the applicant wrote that he had been receiving Income Support for over 5 years. Having taken account of the applicant's comments the Inspector made further enquires with the local office and found that the applicant had been receiving Income Support for at least 3 years (the maximum period allowed). If the Reviewing Officer had used the correct facts an award would have been made. The Inspector was able to make a new decision, taking all the correct facts into account.

Discretion regarding the budget has not been exercised

When deciding an applicant's maximum possible loan the Reviewing Officer has to have regard to the position of the district office's budget. If the Reviewing Officer has not taken the position of the budget into account in his decision and it is under or overspent the Inspector can change the decision.

Example

The Reviewing Officer decided that an award could not be made. The budget was underspent by 10% when he made his decision. If he had taken this into account and increased the applicant's maximum possible loan by 10% then an award could have been made. The Inspector finds that the decision has been made incorrectly and makes a fresh decision.

There has been a change in the Area Decision Maker's guidance on maximum amounts

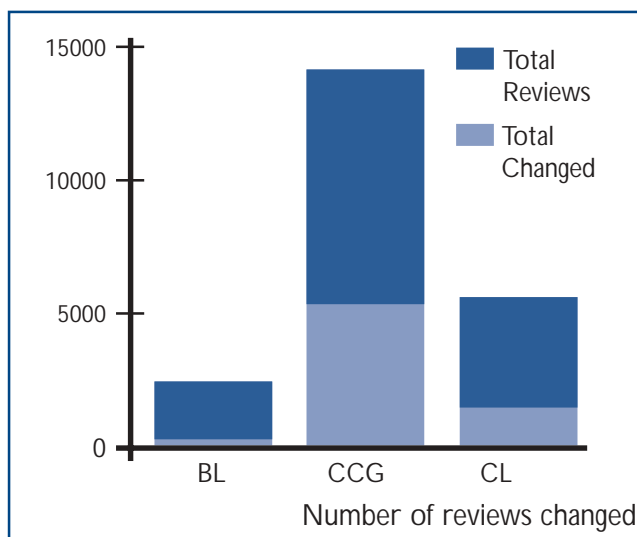
An applicant's personal circumstances are fixed at the date of the original determination. However, an Inspector is required to consider any change made to the Area Decision Maker's guidance. If the guidance has increased or decreased since the Reviewing Officer's decision then a higher or lower maximum possible loan may result.

There has been a change of circumstance regarding the district office budget

An Inspector is also required to have regard to the latest position of the district office budget. If there has been a change since the Reviewing Officer's decision and the budget is now underspent then the Inspector may be able to make an award.

To conclude:

- Inspectors can and do change decisions on review. In 2001/2 we changed about 10% of the cases we reviewed. However, if the correct factual evidence relating to the applicant's personal circumstances has been used, and, discretion exercised regarding the applicant's maximum possible loan, then it is unlikely that a decision can be changed.
- The IRS review process can lead to new information that existed at the date of the original determination being provided by the applicant requiring the Inspector to change the decision.
- The Inspector can take into account changes in the Area Decision Maker's guidance or budgetary position of the district office that have occurred since the Reviewing Officer has made his decision.



Direction 7

When can repeat applications be made for the same item or service? [Julie Gregory](#) explains how Direction 7 works in practice

Direction 7 prevents applicants from making repeat applications for the same item or service within a specified time period, unless their circumstances have changed in some way relevant to their application.

If Direction 7 applies then an applicant's needs and circumstances cannot be taken into account and a payment cannot be considered.

Interpreting Direction 7 and applying it to an individual's particular circumstances can be complex. The wording is very technical and involves looking at both the current and previous application. This article is in response to frequent requests for us to focus on this difficult area.

The Law

Direction 7 stems from the provisions made in the Social Security Contributions and Benefits Act (SSCBA) 1992, as amended by the Social Security Act 1998.

What is the "specified period"?

The law talks about a "specified period". Direction 7 says this period is "within 26 weeks of a previous application".

Section 140 (4) (a) of the SSCBA states that:

"a Social Fund officer shall not determine an application which is made before the end of a specified period after the making of an application by the same person for a payment such as is mentioned in section 138 (1) (b) above to meet the same need and without there having been any relevant change of circumstances since the previous application".

Direction 7 itself states:

The Secretary of State directs that:

A decision maker shall not determine an application for a crisis loan or grant from the social fund made within 26 weeks of a previous application for a crisis loan or grant for the same item or service for which a payment has already been awarded or refused, unless there has been a relevant change in the applicant's circumstances.

This 26-week period starts from the date that the application is treated as being received at the local benefits office (i.e. the date stamped on the application form).

What does the “same person” mean?

Section 140 refers to the “same person”. This means that if a different person in the same family/household makes an application within the specified time period then Direction 7 will not apply.

What payments does Direction 7 apply to?

Direction 7 only applies to community care grants and crisis loans.

Direction 7 will apply to applications for the same item or service made by the same person within the preceding 26 weeks. Whether the decision on the original application was to award or refuse a grant or loan is irrelevant.

It is important to remember that for Direction 7 to apply there has to have been a refusal or an award. For Example;

- Application 1 for a cooker was made on 15 January 2002. A payment was refused.
- Application 2 for a cooker was made on 15 May 2002. Direction 7 was applied. Consequently, there was no award or no refusal on application 2.
- Application 3 for a cooker was made on 15 August 2002. Direction 7 does not apply as the last application on which a payment was awarded or refused was over 26 weeks ago.

What are the “same needs”?

Section 140 refers to the same need and Direction 7 refers to the same item or service. As Direction 7 is subject to the law it stems from, it is important that any decision maker looks at the item or service and the need it is intended to meet. For example, an applicant could apply for the same item (i.e. a bed) but for a different need (i.e. for a different member of the family). Direction 7 would not apply.

What is a relevant change in circumstances?

The change must be relevant to:

- the applicant’s need for the items or services he requested on his earlier application; or

- the reasons for refusing or awarding a payment on the first application.

The change does not have to be major but it must be relevant to the applicant’s need or the reasons for refusing or awarding the grant.

Example 1

Mr X applies for clothing. He only has one set of clothing. He is refused and a few weeks later he moves to a new home. He makes a second application for clothing. His new home is the same size as his last one and has the same heating facilities. His circumstances have changed since his first application; he has moved house. However, it is not a relevant change because his need for clothing remains the same. Direction 7 applies.

Example 2

The same situation applies but this time Mr X has moved to a flat without heating. This change is relevant as his need for clothing in a house without heating is more urgent.

It could, in fact, be the case that an applicant’s circumstances change for the better.

Example

A homeless person (on the streets or in temporary accommodation) finding permanent accommodation. The positive nature of the change is irrelevant. The applicant’s need has changed and this change will have an impact on the reasons the original decision was made.

What changes will not be relevant?

There must be an actual change in an applicant’s circumstances. New information about a pre-existing situation is not sufficient.

For example:

- Mrs X applies for a fridge on 10 January. Her fridge broke down over the Christmas period and she is finding it difficult to manage. Her application is refused.
- Mrs X makes a second application on 10 February. On this application Mrs X provides more detailed evidence about why she needs the fridge. In

particular, she explains how the lack of a fridge is affecting her family's health and her ability to budget. It is clear from the evidence that the circumstances have been the same since the fridge broke down over Xmas.

- She has explained the circumstances that existed at the time of her earlier application more fully. The new information may clarify the reasons for needing a fridge but it is not a relevant change in her circumstances. Direction 7 applies.

In this sort of case it is appropriate for a Decision Maker or Reviewing Officer to consider Direction 31 (see below).

What if the decision maker decides that the decision made on the previous application was wrong?

Direction 31 says that a decision maker (including a Reviewing Officer) must review a decision if it appears it is based on:

- a mistake in the law or the Directions;
- it was taken in ignorance of or is mistaken about a fact; or
- there has been a relevant change in circumstances.

This means that if a decision maker is looking at a previous application to see if Direction 7 applies and it seems that the original decision is wrong for one of the above reasons, then they must review the decision made on that previous application.

It does not matter that the applicant has not asked for a review of that previous application. It is a duty imposed by the Secretary of State under Direction 31. This applies whenever a decision maker looks at a previous application, whether he is thinking of applying Direction 7 or looking at a previous application for any other reason.

Inspectors do not have the power to do this. They can only review the application that the applicant has asked them to review. However, an Inspector will point out in his decision that he believes the decision on the previous application to be in error. The Reviewing Officer will then consider reviewing the previous decision when he has received the Inspector's

decision. The applicant can also request a review of the previous application.

What can the applicant do if Direction 7 has been applied correctly and there has been no change in his circumstances?

If an applicant has made a fresh application instead of applying for a review of the original application then the applicant can still apply to have the decision on the original application reviewed.

If the original decision was made over 28 days ago, then the applicant must give reasons for their delay in applying for a review. The Reviewing Officer will consider the reasons for the late application and decide whether it will be accepted.

In Summary

To reach a decision about whether to apply Direction 7 several steps must be followed. A decision maker must:

- decide which date the current application was treated as made;
- establish whether the current application was made within 26 weeks of a previous application for a grant or crisis loan for the same item or service;
- decide whether or not the current and the previous applications are clearly for the same item or service;
- decide if there has been a relevant change in the applicant's circumstances; and
- if there has not been a relevant change, establish whether the original application was decided correctly or if that decision needs to be reviewed under Direction 31.

More Information

If you want to know more about Direction 7 please read the digest in the centre of this Journal. The digest contains additional examples of how Direction 7 applies in practice and includes the Commissioner's Advice on this issue. Alternatively, visit our website at www.irs-review.org.uk to download the Commissioner's Advice from the Information Centre.

irs publications

The Journal

issued three times a year, free of charge, to help advisors and social fund practitioners assist their customers and improve awareness of the right to an independent review [www](#)

IRS 1

a leaflet which provides information on how to apply for an independent review. Includes an application form to apply for an independent review. Issued with all Reviewing Officer's decisions from the Benefits Agency [www](#)

IRS 3

a leaflet which provides information on the action to take if dissatisfied with our decision. Issued with all Inspectors' decisions [www](#)

IRS 4

a leaflet which provides information on the purpose of community care grants and the Inspector's review [www](#)

Basic Guide to the Social Fund

a booklet which provides basic information about the social fund

Social Fund - A basic overview

Self Instruction Package with self assessment questions and case studies [www](#)

Workshop information

a leaflet which provides information on the different types of free workshops available. Includes a booking form for completion [www](#)

Factsheet

Two factsheets are available, one provides detailed information about the IRS and the review process, the other provides basic information about the social fund

IRS poster

a poster, issued free of charge, to improve awareness of the right to an independent review [www](#)

All publications are posted free of charge. If you require copies of the above forms or would like further information please contact Avril Wharton:

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Alternatively the items above which are marked www can be obtained from our website. They are available to download at www.irs-review.org.uk in the Information Centre section.

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