

# *The* **Journal**

Issue 40 - Summer 2011

and the **Digest of Decisions**

**Inside:**  
**Changes to the Crisis  
Loan Scheme**  
**Digest of Decisions**  
**40.1 to 40.8**



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# Editor's letter

Dear Reader

**Welcome to the 40th edition of the Journal and Digest of Decisions.** This edition focuses on changes to the crisis loan scheme which came into force on 4 April 2011. Carlo Rioda's article sets out the key changes and what these mean in practice in relation to applications for items and also those for living expenses. We have complemented Carlo's article with case examples in the Digest of Decisions.

There have also been some changes to Direction 7, which is a procedural bar designed to prevent repeat applications for the same need within a specified time frame. Until recently, Direction 7(3) specified a time frame of 28 days for community care grant or crisis loan applications for items/services. From 4 July 2011 the period was extended to 12 months (although, as before, the Direction 7 bar will not apply if there has been a relevant change in circumstances). The bar will potentially apply whether a payment has been awarded or refused. We understand that a period of 12 months was chosen because this is broadly in line with manufacturers' guarantee periods and within the scope of the Sale of Goods Act. This change inevitably means that Direction 7 will be relevant in many more cases.

As always, please let me know if there are any issues you would like to see covered in the Journal, or if you have suggestions about what would help you in your work. You can reach me on **0121 606 2200**, or **[steve.jewell@irs-review.org.uk](mailto:steve.jewell@irs-review.org.uk)**.

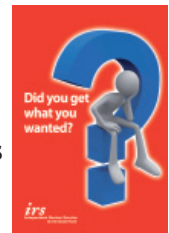
**Stephen Jewell**

# News

## Applying for an Independent Review

An Inspector's review can only be conducted after a Reviewing Officer in Jobcentre Plus has already carried out a review and made another decision. When this review decision is issued an IRS leaflet called, "Did you get what you wanted?", should be sent to each customer with the decision.

**If the customer is still unhappy with the review decision on their grant or loan application they can ask for an Inspector's review by filling in the tear-off on the leaflet, putting it in an envelope and sending it directly to us at 'Independent Review Service, Freepost'. It does not need a stamp. As soon as we receive the form, we will contact Jobcentre Plus to request the papers.**



If you want a stock of these leaflets please contact the Business Team on **0121 606 2222** and we will send them to you. Alternatively email us on **info@irs-review.org.uk**.

## How to obtain copies of the IRS Journal

Our Journal is now generated solely in an electronic format. This means we are no longer producing hard copies for distribution, which has clear environmental benefits. You are welcome to forward the Journal to colleagues both internally and externally to your organisation. We hope this approach makes the Journal widely available to as many interested parties as possible.

If you are reading this current Journal because we sent it via e-mail, then you need do nothing more. Your organisation will automatically continue to receive new Journals as they are produced. If, however, you have been given this Journal by someone else, and would like your organisation to be on our mailing list, then please contact the Business Team at the Independent Review Service. The easiest way is to email us at [info@irs-review.org.uk](mailto:info@irs-review.org.uk), providing your organisation's name, telephone number, email address and postal address. Alternatively, please telephone us on 0121 606 2222. *(We won't share your organisation's details with anybody else. We may contact your organisation occasionally with information about the Social Fund and the support that the IRS may provide.)* If you need to amend your organisation's details, or no longer wish to receive the Journal, then please let us know.

This Journal, together with previous editions, are available on our web-site, **[www.irs-review.org.uk](http://www.irs-review.org.uk)**.

# Changes to the Crisis Loan Scheme

**Budget** In April 2011 the Secretary of State introduced important changes to the crisis loan directions. In this article, Carlo Rioda gives an overview of these and other changes to the crisis loan scheme.

In March 2011 the Department for Work and Pensions issued a press release stating that from April 2011 it would be restricting the payment of crisis loans. The restrictions were to be introduced because of increases in crisis loan payments from the national loans budget, and in order to maintain the ability to pay budgeting loans from that same budget.

The crisis loan directions were changed on 4 April 2011. The changes to crisis loan payments apply to Social Fund applications made on or after 4 April. The restrictions are explored in more detail below, but they may be summarised as follows:

- Most expenses will no longer satisfy the qualifying conditions for a crisis loan unless they are needed as a consequence of a disaster.
- Subject to some exceptions, there will be a new cap of three crisis loan awards for living expenses in a 12 month rolling period.
- The maximum amount payable for living expenses in respect of the applicant and any partner has been reduced from 75% to 60% of the appropriate personal allowance.

## The new qualifying conditions

Direction 3 sets the qualifying conditions for crisis loans. Historically, Direction 3 required that an award would assist an applicant to meet expenses "in an emergency" or "as a consequence of a disaster" provided that "the provision of such assistance is the only means by which serious damage or serious risk to the health or safety of that person, or to a member of his family, may be prevented".

From 4 April 2011, the qualifying conditions for most expenses, including items of furniture and household equipment, are much stricter. For these expenses, an emergency will no longer suffice. An applicant will need to show a need to meet expenses as a consequence of a disaster. The Secretary of State's guidance suggests that a disaster will usually mean a sudden calamitous event or great misfortune causing significant damage to or loss of possessions or property. So, where an applicant has a need for a bed or a cooker because of wear and tear he is unlikely to satisfy the qualifying conditions for a crisis loan, even if his needs are particularly pressing. However, if such items are needed because of a significant fire or flood, for example, this may be regarded as a disaster. Decision makers will need to look at the extent of the impact of events such as fires and floods to decide whether there has been a disaster.

For a limited range of expenses the qualifying conditions have not changed. An applicant may still qualify for a crisis loan with either an emergency or a consequence of a disaster in respect of the following expenses: living expenses; some applications for rent in advance; charges for board and lodging accommodation; residential charges for hostels; travel expenses where the applicant is stranded away from home; and the cost of repaying the emergency credit on a pre-payment meter for a past supply of fuel in order to restore supply.

### **A cap on the number of awards for living expenses and certain other expenses**

Following trials during 2009/2010 in a number of Jobcentre Plus Pathfinder districts, the Secretary of State has introduced Direction 14C. Subject to certain exceptions, this direction imposes a cap on awards for three of the expenses where an emergency can still satisfy the qualifying conditions for a crisis loan:

- living expenses
- travel expenses where the applicant is stranded away from home
- the cost of repaying the emergency credit on a pre-payment meter for a past supply of fuel

An applicant will not be eligible for a crisis loan award in respect of any of these expenses if he has had three or more "relevant awards" in a 12 month rolling period.

All awards in respect of the expenses listed above made on or after 4 April 2011 will be relevant if they fall within a 12 month rolling period, unless crisis loan awards for living expenses have been made in an alignment situation. Broadly speaking, an award will have been made in an alignment situation where an applicant was moving between work and claiming benefits, or vice versa, and was awaiting the first payment of benefits or remuneration.

Even where an applicant has three relevant awards Direction 14C restrictions will not apply if:

- The application is being made in an alignment situation; or
- The application is to meet expenses as a consequence of a disaster; or

- The application is to meet expenses in an emergency which:

(i) is not a consequence of an act or omission for which the applicant or his partner is responsible, and

(ii) the applicant or his partner could not have taken reasonable steps to avoid.

### **The maximum amount payable for living expenses**

Direction 18 sets out the maximum crisis loan award that may be paid in respect of living expenses. Maximum amounts for all other crisis loan expenses are governed by Direction 21. So a customer may receive the Direction 18 maximum for living expenses and an additional amount for other expenses, for example, an amount to repay the emergency credit section of a pre-payment fuel meter that had been used before the crisis loan application was made.

Historically, Direction 18 has provided that the amount of a crisis loan for living expenses payable in respect of the applicant and any partner should not exceed 75% of the appropriate income support personal allowance; and for each child the payment should not exceed the amount equal to the income support personal allowance that applies to a dependent child.

The Direction 18 maximum has been reduced for applications made on or after 4 April 2011, from 75% to 60% of the appropriate personal allowance in respect of the applicant and any partner. The maximum payable in respect of children has not changed.

### **Applications for crisis loans**

For community care grants, and crisis loans where a disaster is required, there is now only one application form; a new combined application form has been introduced, SF300 04/11. This form allows an applicant to apply for a grant, or a crisis loan, or both a grant and a crisis loan.

It is important to note that where from the SF300 form it appears that the applicant is only applying for a crisis loan, Direction 3 requires the decision maker to treat the application as one for a community care grant if the applicant is eligible for a grant, and satisfies the qualifying conditions for a payment under Direction 4(a)(i), (ii) or (iii).

The Secretary of State has also introduced a new application form for crisis loans for rent in advance, board and lodging charges and hostel charges, SF401R 04/11. For these kinds of expense this written application form must usually be completed. We understand that the Secretary of State may allow telephone applications for these kinds of expense if a customer needs to move urgently, for example within a couple of days.

No changes have been made to the way applications for crisis loans for living expenses are made, which is normally via a freephone telephone number.

### **Conclusion**

It is difficult to assess the likely impact of the wide-ranging changes to the crisis loan scheme. Overall, it seems likely that

the changes will lead to reduced crisis loan expenditure from the national loans budget. However, there are likely to be wider implications.

Customers who under the previous scheme might have been able to receive crisis loan awards for items of furniture and household equipment will find this is no longer an option, unless there has been a disaster. Those customers who are receiving a qualifying benefit (income support, income-based jobseeker's allowance, income-related employment and support allowance and pension credit) may choose to apply for a community care grant and/or a budgeting loan. However, customers who are not in receipt of a qualifying benefit, who may only be in receipt of incapacity benefit or contribution-based employment and support allowance, will not be eligible for a grant or a budgeting loan, and will not be able to look to the Social Fund for any help in respect of items, unless there has been a disaster.

In the coming months, by looking at the cases we see and feedback received from customers and representatives, the Independent Review Service will be looking at the impact of the changes to the scheme; the ways in which decision makers are applying the Secretary of State's revised directions; and any issues arising from the new ways of applying for Social Fund payments, in order to see what impact this has for Inspectors' decisions.

**A note from the editor**

Readers may find it helpful to refer to the 'Digest of Decisions' examples in this edition, all of which address contemporary case issues reflecting one or more of the April 2011 changes to the crisis loans scheme.

Digest examples 40.1 to 40.4 deal with crisis loan applications for help to purchase household items; example 40.5 covers an application for help with rent in advance; and examples 40.6 to 40.8 concern applications for living expenses.

If you need further information about any of the issues in this article, or wish to give feedback about the April changes, please contact our business team on **0121 606 2222** or at **info@irs-review.org.uk**.

**The Secretary of State's guidance at Part 3 – Crisis Loans:** paragraphs 73 to 93 address in detail issues relating to Direction 14C eligibility.

**The Social Fund Commissioner's Advice to Inspectors** includes advice on the qualifying conditions for community care grants under Direction 4(a)(i), (ii) or (iii). The relevant advice can be accessed through the following link:

**<http://www.irs-review.org.uk/infocent/commad/commad.htm#ccg>**

# The Digest of Decisions

Issue 40 - Summer 2011

**Inside:  
Cases 40.1-40.8**



INVESTOR IN PEOPLE

## Case 40.1 Crisis loan for items refused - Application not as a consequence of a disaster

### The application

On 18 April 2011 Mr A applied for a crisis loan of £790 for a cooker, a fridge, a set of saucepans, paint and paint brushes. He said he was applying for help because he had been affected by a disaster.

Mr A is 42 years old and receives income-based Jobseeker's Allowance. He has lived in his local authority tenancy for several years. He explained that two days before he made his application, he had been cooking chips in a pan of oil on his cooker. This led to a fire which caused considerable damage to his kitchen and some of its contents. He had not been very well, had gone into his living room while the pan was on, and fell asleep for about half an hour. The pan caught fire, destroyed the top of the cooker and the pans, and the kitchen walls were smoke-damaged. The wiring on the cooker had melted, so a friend, who is an electrician, removed it for safety reasons. In spite of thorough cleaning, the walls and ceiling, as well as the fridge, are still badly stained and smell strongly of smoke. Mr A has no household insurance, and makes the point that he has never asked for any Social Fund help before.

### The Decision Maker's (DM) and the Reviewing Officer's (RO) decisions

The DM phoned Mr A, and asked whether the Fire Service had attended the fire. Mr A explained that the council provides tenants with a kitchen fire extinguisher, and that although the kitchen was full of smoke, he could see that the seat of the fire was on the cooker, so he was able to put it out himself. No other rooms were damaged because Mr A had closed the door to the kitchen to keep the cooking smells in the kitchen. He added that he keeps all his pans on the top of the cooker

due to a lack of space, and that as well as the whole cooker being burnt and black, the wiring on the cooker and the fridge (which was adjacent to the cooker) had melted in parts.

The DM said that whilst he could see that things were very difficult now for Mr A, a crisis loan had to be refused because this type of event could not be seen as a disaster.

Mr A asked for a review, explaining that he was now struggling to make ends meet because he was having to buy expensive ready-cooked or take-away meals. He also disagreed about whether he had suffered a disaster: he said that if he had had insurance, any insurance company would have classed this as a disaster.

The RO confirmed the DM's decision to refuse a crisis loan, for the same reason.

### The Social Fund Inspector's decision

The SFI decided not to seek any further information because Mr A had given a clear account of the background and current impact of the incident, and the DM had obtained further information during his phone call to Mr A.

The SFI was satisfied that the RO's decision had been reached correctly; Mr A did not need to meet expenses as a consequence of a disaster.

### Commentary

Mr A had suffered a distressing event, and the effects of this were proving very difficult for him. However, the crisis loan scheme can only provide help with things like household items where the applicant needs to meet expenses as a consequence of a disaster. The central issue for all decision makers, including the SFI, was whether that was the case in Mr A's situation.

The notes on the application form, SF300, suggest that disasters are "*events of great or sudden misfortune, such as major flooding, a gas explosion, a chemical leak or a house fire, but not minor mishaps or damage. This list is not exhaustive, but a disaster does not include less serious situations such as a small fire in one room or a leak from a washing machine.*" This approach is echoed in the Secretary of State's guidance to decision makers. In fact, the guidance expands on this further, and suggests that, for example, a fire within an applicant's home caused by an overheating chip pan may or may not be considered a disaster. The severity of the event and the impact on the applicant and any family must be considered. The guidance goes on to suggest that, for example, minor smoke damage and a cooker that no longer works may be the result of a domestic mishap, not a disaster.

More generally, where the wider community is not affected, the guidance goes on to suggest that a disaster will normally put the applicant (and any family) into an extreme situation; it will be an event of sudden or great misfortune with significant consequences. It suggests that decision makers should take into account the degree of misfortune and damage, and the overall impact on the applicant (and any family).

In Mr A's case, the SFI took all of his circumstances into account, including what had happened, and the impact on his way of life since. She also had regard to the Secretary of State's guidance. The SFI did not underestimate the difficulties that Mr A would continue to face, but she could not conclude that Mr A was in an extreme situation, or was facing such significant consequences that the incident could be said to be a disaster. That finding meant that a crisis loan could not be paid.

## Case 40.2 Crisis loan for items refused - Application not as a consequence of a disaster

### The application

On 1 June 2011 Mr B applied for a crisis loan of £1275 for a bed, seating, a cooker, wardrobes, a chest of drawers, carpet, curtains, saucepans and a fridge freezer. He said he was applying for help because he had been affected by a disaster.

Mr B is 61 years old and receives Pension Credit. He had lived in Hampshire for 23 years, renting a room in a private house. His room was fully furnished and he had the use of a separate, fully equipped kitchen. Having reached pension age, Mr B decided to move back to Newcastle to be closer to his family. As his room had been fully furnished, Mr B has no furniture or household equipment of his own. He has secured an unfurnished flat in Newcastle, not far from his son and daughter. Mr B said he would not be able to move into his new home without the necessary furniture and household equipment.

### The Decision Maker's (DM) and the Reviewing Officer's (RO) decisions

By the time of the DM's decision, Mr B had notified a change of address to Newcastle. The DM phoned Mr B to find out how he was managing. Mr B explained that he had taken over the tenancy, but had not been able to move into his address due to the lack of household items. He was staying with his son. The DM refused a crisis loan as a payment was not needed as a consequence of a disaster.

Mr B asked for a review, explaining that he had now moved into his flat, he has a bad back and this was being made worse by sleeping on the floor at his address. He adds that his son and daughter cannot help him financially.

The RO phoned Mr B who explained that he has had back problems for over 20 years because he used to work as a bricklayer. He has not had any hospital treatment for 15 years though, and does not take medication other than occasional painkillers. His main problem is that he cannot carry shopping or bend over without discomfort. He sleeps on a mattress on the floor. He does not have a cooker and goes to his daughter's home for a meal every Sunday, buying take-aways or sandwiches during the week.

The RO confirmed the DM's decision to refuse a crisis loan, for the same reason. He also said that he had firstly considered whether the applicant satisfies the conditions of Directions 4(a)(i), (ii) or (iii), but the facts do not show that he does.

### The Social Fund Inspector's decision

The SFI decided not to seek any further information because two telephone interviews had been conducted with Mr B, and the RO's record was detailed about the current circumstances. In asking for an Inspector's review Mr B did not provide any new information beyond saying he disagreed with the outcome.

The SFI was satisfied that the RO's decision about the crisis loan had been reached correctly. Mr B does not need to meet expenses as a consequence of a disaster. The SFI also agreed that Mr B does not satisfy the conditions of Directions 4(a)(i), (ii) or (iii), and so did not go on to treat the application as one for a community care grant.

The SFI noted that Mr B has been in receipt of pension credit for more than 26 weeks and does not currently have a social fund debt, and so suggested Mr B considers applying to Jobcentre Plus for a budgeting loan.

### Commentary

Mr B had applied for a crisis loan. Direction 3(6) requires that consideration be given first of all to whether Mr B would satisfy the conditions for a payment of a community care grant under Direction 4(a)(i), (ii) or (iii).

However, the information provided by Mr B does not indicate that he would meet any of these three grant requirements:

- he has not recently left care;
- although he has back problems, there is no reasonably foreseeable risk of him going into hospital or some other place of care; and
- his family have been helping him with some meals, but the information does not show that he and his family are facing exceptional pressures.

A crisis loan award for the furniture and household equipment can only be made if Mr B needs to meet expenses as a consequence of a disaster. Mr B moved to be nearer to his family, and he has found himself in a very difficult situation. But his need for furniture and household equipment was not due, for example, to a sudden calamitous event or great misfortune. Looking at all of the circumstances of the case, he does not need to meet the expenses of furniture and household items as a consequence of a disaster.

## Case 40.3 Applicant needs to meet expenses as the consequence of a disaster - Crisis loan awarded to prevent serious risk to health

### The application

On 12 May 2011 Mr C applied for a crisis loan of £2100 for a cooker, a washing machine, kitchen equipment, seating, a bed, bedding, living room and hallway carpets, lino for his kitchen floor, and decorating costs. He said he was applying for help because he had been affected by a disaster; his one-bedroom ground floor flat had been flooded the previous month.

Mr C is 42 years old and receives Incapacity Benefit because of asthma and a chronic back problem. He does not owe any money to the Social Fund. His council home had flooded following several days of localised heavy rainfall. The flat is situated on low-lying ground, at the bottom of a local housing estate, and properties in 4 streets had been affected by the flooding. The council had quickly moved Mr C into temporary bed & breakfast accommodation while they dried out his property, as well as carrying out some essential repair work.

The council had advised Mr C that he should dispose of all of his possessions due to the significant water damage. Mr C had no household insurance and no savings, and made this application to the Social Fund because he was ready to return to his home.

### The Decision Maker's (DM) and the Reviewing Officer's (RO) decisions

The DM said that Mr C did not meet the strict conditions of Direction 3, adding that only a handful of properties were affected during the flooding incident, and that most of those suffered only limited problems. He said Mr C should approach the council to see whether they would be running an 'emergency furniture' scheme.

Mr C asked for a review, and said he had moved back to his home because the council would not pay for the bed & breakfast accommodation any longer, and that his home was now 'just a shell'. He had asked the council about any other help they might be providing for tenants, but there wasn't any. Mr C went on to explain that his flat was the lowest-lying of all local properties, and that all the rooms in his flat had been under 6 inches of water for several days before water levels had subsided. He added that he was sleeping on a borrowed camp bed, which was making his back very painful, and the dust from the floors was aggravating his asthma.

The RO phoned Mr C, to check on the current situation. Nothing much had changed; Mr C had been to his doctor, who had prescribed strong painkillers for his back pain, and advised him to use his asthma inhalers more frequently if he feels he needs to. Mr C was shopping daily at the local supermarket, mainly eating cold foods or take-aways; because of this, and having to use a launderette weekly now too, he was now running out of money 2 or 3 days before each benefit payment was due.

The RO found that Mr C did, in fact, need to meet all of the expenses for which he had applied as a consequence of a disaster. He decided that there would be a serious risk to his health if Mr C did not get help to buy a cooker, kitchen equipment, seating, a bed, bedding, and carpets for the bedroom and the main living room (in paying the carpets, the RO gave particular weight to the aggravation of Mr C's asthma). The RO was satisfied that a crisis loan for those items was the only way of preventing a serious risk to Mr C's health, and awarded a crisis loan of £875.

Mr C asked for a review because the loan was not enough to replace all the things which had been destroyed. In particular, while he was washing small items of clothing and bedding by hand, it was too costly to use a launderette long term, and the floor of his kitchen was still rough and uncovered.

### **The Social Fund Inspector's decision**

The SFI went on to confirm the RO's decision. The SFI decided not to seek any further information because Mr C's

situation was clear, as was his grievance. It was agreed that he needed to meet the expenses of a washing machine and lino as a consequence of a disaster; but the key issue now was whether those items were needed to prevent a serious risk to his health or safety. The SFI noted that Mr C had been used to having these items in his home before the flood, and that the lack of them would pose new difficulties for Mr C. However, the lack of a washer and lino did not pose a serious risk to Mr C's health or his safety.

#### Commentary

Mr C had applied for a crisis loan as a consequence of a disaster. The facts suggested that this was a serious situation which had created significant damage. The initial DM had not assessed that evidence properly, and so reached the wrong conclusion about whether Mr C needed to meet expenses as a consequence of a disaster.

The RO put this right. The nature of the event itself and the impact on Mr C's life and home were all relevant factors. The RO decided there had been more than a minor mishap or damage; using the ordinary meaning of language, he found that Mr C had experienced a disaster. (The fact that other properties had been affected was also seen as a relevant factor and the RO was right to take this into account as well. However, it is worth stressing that in this particular case, even if Mr C's property alone had been affected in the way described, this would have been sufficient to constitute a disaster within the meaning of the direction).

Even so, a crisis loan could only be awarded if there would be a serious risk to Mr C's health or safety without each of the items requested. The RO was right to find that Mr C's worsening asthma and back complaints, and the fact that he was running out of money now that he had no domestic cooking facilities, meant that a crisis loan could be paid for many of his needs.

The crisis loan scheme had rightly stepped in to help Mr C recover from the effects of a disaster; but that does not mean that his former situation could be fully reinstated. Things would continue to be more difficult for Mr C than before, but the lack of a washing machine and kitchen lino did not present a serious risk to Mr C's health or safety.

## Case 40.4 Crisis loan application treated as an application for a community care grant payment

### The application

On 16 May 2011 Mr D applied for a crisis loan of £650 for a bed, a set of bedding, 3 sets of clothing and a bedroom carpet. He said he was applying for help because he had been affected by a disaster.

Mr D is aged 38 years, receives income-based Jobseeker's Allowance (JSA), and lives with his mother who owns her home. He had been in prison from October 2008 to April 2010, and on release was paid a community care grant to buy clothing, a bed and a set of bedding. Mr D has a Social Fund debt of £98.

Mr D explained that his bedroom is directly below the loft, and that 2 days earlier the water tank had split and the contents had gone all over his bed, bedding and carpet. His clothes had been on the bed and on the floor, as he does not have a wardrobe. The tank was a large, old galvanised metal one, and the water had been very rusty with slimy black sludge deposits. The soiling and smell were so bad that he had no option but to arrange for everything in the bedroom to be thrown out. He said that the bed and carpet were still in the garden if anyone wanted to inspect them. Mr D added that whilst his mother's buildings insurance had covered emergency repairs to the water tank and bedroom ceiling, neither of them had any contents insurance.

### The Decision Maker's (DM) and the Reviewing Officer's (RO) decisions

The DM phoned Mr D, who went over what had happened. He said that things were now making his role as a part-time carer for his mother very difficult because he can't get proper sleep, and is using the settee in the main room for rest. He explained that his mother has depression and diabetes,

and finds it hard to motivate herself. For example, she finds it hard to get out of bed, wash herself and cook meals. In fact, she struggles with things to such an extent that her benefits had recently been stopped because she did not reply to letters about attending a medical, and as a result Mr D was keeping both of them on his JSA income of about £67 a week.

The DM looked carefully at what had happened to Mr D's possessions, and took account of the Secretary of State's guidance about what could be classed as a disaster. He decided that although significant for Mr D, his need for furniture and household equipment was not something that could be called a disaster. As Mr D did not need to meet expenses as a consequence of a disaster, a crisis loan could not be paid.

Mr D asked for a review, explaining that he was now struggling to live financially, and that his mother's behaviour had become worse since the family's sleeping routines and care arrangements had been upset.

The RO said that there was nothing new in this latest information, and that all of Mr D's circumstances had been correctly considered by the DM, who had taken everything into account in making his decision. That decision was right, and a crisis loan could not be paid.

Mr D asked for an independent review, saying he could not take much more of the situation he was in, as he was finding it increasingly difficult to cope with his caring responsibilities.

### The Social Fund Inspector's decision

The SFI phoned Mr D to check whether anything had changed. Mr D explained that he was still sleeping in the living

room, with an old sheet on top of him, and that his mother's behaviour was increasingly volatile. In terms of clothing, he had one set of clothes that he could wear and another that he could wash; however, he had had 5 or 6 sets previously and wanted at least some of these to be replaced. He also pointed out that his room had only floorboards down now, which were not at all comfortable, and which would be draughty, especially in the winter.

The SFI acknowledged that Mr D had made a crisis loan application, and that the point of dispute so far was whether Mr D needed to meet expenses "as a consequence of a disaster". The SFI agreed with the RO that the qualifying conditions for a crisis loan were not met, but decided

that Direction 3(7) was relevant. This says that where a Social Fund applicant satisfies the conditions for a community care grant under Direction 4(a)(i), (ii) or (iii), then the application must be treated as an application for a community care grant.

Mr D satisfied one of those grant conditions – Direction 4(a)(iii) – because a grant would ease exceptional pressures on Mr D and his family. Those pressures were mainly around his mother's health problems and care needs, but these had been magnified by the water damage and the problems with Mr D's mother's benefit. The Inspector went on to award a community care grant for a bed and a set of bedding for Mr D, but did not award a grant or a crisis loan for anything else.

## Commentary

Prior to April 2011 there were separate application forms for community care grants and crisis loans, though the law provides for a community care grant to be looked at on a crisis loan application in certain situations, and vice versa. Since April, for most types of application, there is a single form which covers all the information needed to determine whether a crisis loan or a community care grant can be paid. Importantly, the form asks people applying for help with items or services whether they or their family have been affected by a disaster.

Just because an applicant believes they are applying for help in the event of a disaster, this does not mean that the application must be limited to consideration of a crisis loan only. There is nothing to prevent someone applying for both a community care grant and crisis loan using the same form but, failing this, under Direction 3(6) the DM is duty bound to first consider whether the applicant satisfies the conditions for a payment under Direction 4(a)(i), (ii) or (iii). And if any of those qualifying conditions are met, then under Direction 3(7) the DM must treat the application as an application for a community care grant. This applies even if the application is solely for a crisis loan. It is important to bear in mind that a grant payment does not have to result; as long as the qualifying conditions in Direction 4(a)(i), (ii) or (iii) are met, then all DMs are duty-bound to treat the application as one for a community care grant. Having done so, the further provisions of Direction 3(7) to 3(9) mean that the applicant will be considered for a community care grant, a crisis loan, or in some cases, a combination of the two.

In Mr D's case, whether or not the incident could actually be classed as a disaster, it is easy to see why he completed his application form to say that he was asking for help in a disaster. The RO later obtained some good quality, relevant information, but unfortunately did not consider the potential community care grant issues. The SFI identified that Mr D and his family were facing exceptional pressures, and paid a grant for the things that would do the most to ease those exceptional pressures. Those things were a bed and bedding to ensure Mr D could get proper rest to continue his caring role, and so that he could sleep in his bedroom instead of the living room, which had been making his mother's behaviour worse. The SFI refused a grant for a carpet and clothing, since a grant for these would not do quite as much in terms of easing the main sources of pressure.

The SFI went on to consider a crisis loan for the remaining needs, but decided that Mr D did not need to meet expenses as a consequence of a disaster. He looked at the severity of the event leading to the application and the impact on Mr D and his family. He noted that whilst this was a very difficult episode for Mr D and his mother, they were not in an extreme situation. Even taking account of the extent and nature of the disruption and damage from the incident, and the very real impact on Mr D and his mother, there had not been a disaster and so a crisis loan for the remaining needs had to be refused.

## Case 40.5 Crisis loan to meet rent in advance expenses in an emergency

### The application

On 8 June 2011 Miss E applied for a crisis loan of £500 to cover 4 weeks' rent in advance. She said she needed to move urgently because her landlord had given her notice to quit nearly 2 months ago. The situation had now become more pressing because the kitchen ceiling had fallen in, following a significant water leak in the bathroom of the flat above.

Miss E is 29 years old and receives Income Support. She is the lone parent of a son aged 5, has no savings, and owes £280 to the Social Fund for previous loans. On her application form she explained that her landlord issued the notice to quit because he planned to sell the property. She had begun looking for a new property because of this, but the more recent problem in the kitchen now meant that she and her son cannot use the cooker, fridge or sink due to water and plaster damage. Her landlord had refused to make temporary repairs, or to renew the electrical appliances, because the sale of the property is imminent.

Miss E had located a suitable furnished property through a letting agency, and submitted a letter from them which confirmed that a specific property was available from 1 July 2011, and a copy of the signed tenancy agreement was attached. The letter also confirmed that they had reduced the usual deposit to a sum of £100, which she had paid, but that Miss E would also need to pay the £500 rent in advance before the keys would be released. Miss E explained that her mother had given her the money to pay the £100 deposit, but was unable to help her any further.

### The Decision Maker's (DM) and the Reviewing Officer's (RO) decisions

The DM said that help by way of a crisis loan could only be considered if she had suffered a disaster. And while he sympathised with the difficulties Miss E was facing, the kitchen incident was confined to one room, and could not reasonably be called a disaster. In any event, he continued, Miss E needed to take the matter up with her current landlord.

The RO did not contact Miss E, and agreed with the DM that although he could well understand why Miss E wanted to move, the extent of the damage in the kitchen, and its effects, were not such that the situation could be called a disaster.

Miss E asked for a review because she now had less than a week to go until she had to leave under the notice to quit, and she was desperate to make a new start with her son. Without help, she and her son would have nowhere to stay, as her mother's home was already overcrowded. In addition, the letting agent had already phoned her twice to remind her that the property would be released back onto the rental market on 1 July if she had not paid the rent in advance.

### The Social Fund Inspector's decision

The SFI phoned Miss E to make a final check that the prospective property set out in the letting agent's letter was still available. She confirmed that it was, and that she must move in by the end of the week if she is to secure it. She also confirmed that remaining in her current home was not an option because the landlord had now sold the property.

The SFI found that the RO had not applied the law correctly. It was true that there had not been a disaster, despite the collapse of the kitchen ceiling. However, as Miss E was asking for help with rent in advance, not things for her kitchen, the RO should have considered whether Miss E needed help to meet expenses in an emergency.

The SFI concluded that Miss E was in an emergency and had a very urgent need to move, and that her circumstances met all of the conditions for a crisis loan. He went on to find that she was likely to repay a loan of £500 within a reasonable period of time, and awarded a crisis loan for the full amount Miss E needed.

### Commentary

The DM and the RO focused exclusively on whether there had been a disaster. If Miss E had been applying for help to repair or replace kitchen items, or to repair the kitchen ceiling, that issue would have been central.

However, Direction 3(4)(b) makes separate provision for crisis loans for rent in advance, as long as the expenses are to secure fresh accommodation and the landlord is not a local authority. In such cases an applicant may qualify for a crisis loan, if he needs to meet expenses in an emergency or as a consequence of a disaster. In Miss E's case there was an emergency and so the SFI went on to consider whether an award was the only means of preventing a serious risk to the health or safety of Miss E and/or her family.

The SFI was satisfied on all of these points: he awarded a crisis loan for rent in advance because Miss E needed to move urgently to new privately-rented accommodation; there would be a serious risk to her family's health if they became homeless; and Miss E had no other way of paying for the rent in advance.

## Case 40.6 Crisis loan refused - Three relevant awards within 12 month rolling period

### The application

Mr F is 32 years old, and receives Jobseeker's Allowance (JSA). On 13 July 2011 he applied for a crisis loan of £100. This was to help him buy food and pay for fuel for his flat for 2 weeks. He had received his usual fortnightly JSA a day earlier, and had lost his money later that day. He explained that he had withdrawn his money from the cash machine at the bank, bought some cigarettes and a newspaper, and caught the bus into town to do his main fortnightly shop. When he reached the front of the shop he realised he had lost the notes, and although he checked with the bus company, nothing had been handed in.

He went on to add that his flat is 'all electric', and the card pre-payment meter is almost at the maximum of the £5 emergency supply. He normally buys £25 worth of cards to pay for electricity over a fortnight, and spends about £60 to £70 on food for the same period.

### The Decision Maker's (DM) and the Reviewing Officer's (RO) decisions

The DM said that this was the fourth crisis loan that Mr F had needed for living expenses since 4 April 2011. On 13 April he had applied for a crisis loan because he had run out of money a week before his next benefit was due; on 20 May he had applied for a crisis loan because he had bought a second-hand fridge with his JSA when his own fridge unexpectedly broke down; and on 14 June he had paid all of his benefit over to a money lender. Mr F had been paid a crisis loan on each of those three occasions.

The DM accepted that Mr F had lost his money. Even so, he explained that Direction 14C sets a limit on the number of crisis loans for living expenses that any person can be awarded within a 12-month rolling period. That limit is three, and since this was Mr F's fourth such application, and because Mr F could have taken reasonable steps to safeguard his money and so avoid the emergency he was now in, a crisis loan could not be paid.

Mr F asked for a review, saying that he realised he had experienced a run of bad luck lately, but pointed out that he had not asked for a crisis loan for over 2 years before the one in April. He said he was now desperate for food.

The RO did not contact Mr F, and argued that the issue was clear: the DM had applied Direction 14C correctly, and a crisis loan could not be paid.

Mr F asked for an Inspector's review, asking how it could be right not to pay him a loan if everyone believes he has lost his money.

### The Social Fund Inspector's decision

The SFI confirmed the RO's decision. This was because it was Mr F's fourth crisis loan application for living expenses since 4 April, and he had been paid on the previous three.

Although there are some exceptions to the general bar on fourth and subsequent crisis loan applications for living expenses (see the *Commentary* below), Mr F came within the scope of the limitations set by Direction 14C, and this meant that even though he had no money for food or fuel, a crisis loan could not be paid.

## Commentary

Direction 14C came into force on 4 April 2011. This is a new provision which, in most cases, sets a limit of three crisis loan awards for living expenses and emergency fuel costs (and some emergency travel expenses) in a 12-month rolling period. Only applications which resulted in a “relevant award” are counted towards the limit. Most crisis loan awards for living expenses are likely to be classed as relevant awards, although Direction 14C makes it clear that any award for “alignment” (i.e. an award for living expenses where someone is waiting for their full benefit or first wages) will not count.

All decision makers must therefore look at whether there are 3 relevant awards in the 12 months ending on the date on which the current application is made. Mr F had already had 3 crisis loan awards for daily living expenses. Those awards were all since Direction 14C came into force, and all three were relevant awards that had to be counted as part of the decision-making process on this current application. All three were also within 12 months of the current application date, meaning that this fourth application was ‘caught’ by Direction 14C unless certain exceptions apply in respect of the current application.

Those exceptions cover:

- where the current application is to meet expenses as a consequence of a disaster; or
- where the current application is to meet expenses in an emergency which is “not a consequence of an act or omission for which the applicant or his partner is responsible, and the applicant or his partner could not have taken reasonable steps to avoid”.

These exceptions did not apply to Mr F’s application. The loss of his money was something that Mr F could have taken reasonable steps to avoid, so the final exception in particular did not apply on this occasion. So this left all the decision makers, including the SFI, looking at a fourth application since 4 April 2011, where there were three previous relevant crisis loan awards, and where none of the exceptions applied to the current application.

## Case 40.7 Fourth crisis loan awarded for living expenses in 12 month period - Could not have taken reasonable steps to avoid emergency

### The application

Mr G is a 43 year old married Jobseeker, and he has an 18 month old son. On 4 July 2011 he applied for a crisis loan of £50. This was to help him buy food and pay for fuel for 4 days. He had received his usual fortnightly Jobseeker's Allowance on 24 June, and his next benefit was due on 8 July.

Mr G explained that during the evening of Saturday 2 July his son had suddenly become very unwell. His son was very distressed, and Mrs G was particularly worried about a sudden rash which had developed. Mr G phoned NHS Direct, who suggested he waited until the morning to see whether things had settled down. Overnight, however, Mr G's son developed a high temperature and began projectile vomiting, and because he and his wife were extremely concerned about him the couple decided to take their son urgently to the hospital Accident & Emergency department. Mr G does not have a car, and lives in a semi-rural location, so this meant he had to pay for a taxi to get to the hospital.

After keeping Mr G's son under observation for 12 hours, the family were sent home in the early afternoon of Sunday. As there was no public transport, and the hospital was unwilling to provide hospital transport, Mr G also had to pay for a taxi to get back home. The taxi costs were £20 each way, and the couple had spent about £10 on food and drinks in the hospital canteen. Mr G explained that this was their final £50, which they would normally expect to have lasted them for food until the next benefit payday. He confirmed that there was no food left in the house, and that they had no friends or relatives who could help them.

### The Decision Maker's (DM) and the Reviewing Officer's (RO) decisions

The DM noted that this was the fourth crisis loan that Mr G had needed since 4th April 2011. Two of the previous three loans were when Mr G had run out of money before his benefit was due, and the third one was when Mrs G had lost her purse containing all of the family's benefit money. Mr G had been paid a crisis loan for living expenses on each of these occasions.

The DM accepted what Mr G had said. Nevertheless, although he was not unsympathetic, the fact remained that Mr G was now asking for expenses in an emergency for the fourth time since 4 April, and the DM went on to explain that Direction 14C sets a limit on the number of crisis loans for living expenses that any person can be awarded within a 12 month rolling period. That limit is three, and since this was Mr G's fourth such application, a crisis loan could not be paid.

Mr G asked for a review, highlighting the fact that his son was recovering from a serious virus, and that there was no food in the house for any of them to eat.

The RO confirmed that the DM's general approach was right, but that the DM should have checked to see whether any of the exceptions set out in Direction 14C(3) applied to Mr G. The only one that was relevant, he said, was the one set out in Direction 14C(3)(b). This would allow the RO to fully consider an award on the current application if it was being made in an emergency which is "not a consequence of an act or omission for which the applicant or his partner is responsible, and the applicant or his partner could not have taken reasonable steps to avoid".

The RO decided that there were other things Mr G could have done, the most obvious ones being to heed the advice of NHS Direct, or, having made the decision to go to the hospital, to call an ambulance. The RO phoned Mr G to put this to him. Mr G explained that his son's condition had deteriorated very quickly, and his wife was in such a state that he had agreed to call a taxi because the situation had become very distressing for all of them. He doubted that the hospital would have sent an ambulance given that he had discussed things with NHS Direct earlier in the evening, and they had suggested that going to hospital was not necessary. The RO asked him why someone else could not have taken the family to hospital. Mr G said that his father drives, but he is aged 75 and lives in the next village; Mr G was not prepared to wake him and worry him in the middle of the night. In any event, Mr G added, that would all have taken too long given the emergency situation he was in.

The RO went on to confirm the original decision. Like the DM, he had some sympathy with Mr G, but nevertheless the current crisis was one that had come about directly as a result of Mr G's choices; in short, he had created the crisis because he decided to go to the hospital, and moreover, to go by taxi, using money that he knew was for food and fuel. The RO went on to confirm the DM's decision.

Mr G faxed a request for review by a Social Fund Inspector, saying that they were all feeling ill now through a lack of food, and he went on to argue that the refusal to pay a loan where there is a sick child is inhumane.

### **The Social Fund Inspector's decision**

The facts of this case were clear to everyone: the central issue was whether this fourth crisis loan application in an emergency, within a year, should be refused solely on that basis. Or, whether it could, in fact, be considered in the normal way because it fitted one of the exceptions allowed for in Direction 14C.

The SFI decided that she had enough information to determine that, and the other issues in the case. She looked at what had happened, at what Mr G had done, and why he had done so. She considered Mr G's actions had not been unreasonable. The emergency arose because of the sudden deterioration of the health of the child (which was not an act of the applicant or partner), and this necessitated travel expenses so that the child could receive urgent medical attention. The applicant could not have taken reasonable steps to avoid this situation. This meant that the general bar on fourth and subsequent crisis loan applications did not apply to the current application, and the SFI went on to award a crisis loan.

### Commentary

Both the RO and the SFI in this case had correctly identified the central issue on which the decision turned: whether Mr G's situation was one of the exceptions to the general bar on fourth (and subsequent) crisis loan applications made in an emergency. The details of the application were otherwise clear and not in dispute.

Direction 14C(3)(b) allows a fourth or subsequent crisis loan application for living, travel or fuel expenses to escape the general bar where the current application is made in an emergency which:

- is not a consequence of an act or omission for which the applicant or his partner is responsible; and
- the applicant or his partner could not have taken reasonable steps to avoid.

This final point may not always be clear cut, and can give rise to difficult judgments for decision makers. The extent to which the applicant exercised control over how his money was spent is likely to be an important consideration, but it is also important to remember that consideration must be given to all the circumstances of the case. Mr G felt his son's health was worsening, the situation was increasingly worrying and stressful for everyone, and having already sought medical advice earlier in the night Mr G needed to make an urgent decision about the next course of action. He felt that the only alternative open to him was to use money set aside to live on to get his son to hospital. In this sort of situation it would be an overly harsh interpretation of the Direction to argue that he could have taken reasonable steps to avoid the emergency.

Having decided that the application was not barred by Direction 14C, the Inspector had to apply all the other usual crisis considerations (as set out in Direction 3), such as whether there was a serious risk to anyone's health or safety, and if so, whether a crisis loan was the only means of preventing that serious risk.

## Case 40.8 Previous crisis loan for living expenses does not count as relevant award

### The application

Miss H is the lone parent of one son aged 18 months. She receives Income Support each Monday.

Miss H applied for a crisis loan of £90 on Tuesday 7 June 2011. She had lost her purse while out doing her main weekly shop. The purse had been on top of the hood of her baby's pushchair. She bought a couple of small things from a freezer shop, and she had her purse at that stage; she discovered it was missing when she arrived at the large supermarket when she went to look for a £1 coin to get a trolley. She had walked from her home to both shops and retraced her steps, as well as asking the staff in the freezer shop if a purse had been found, without success. Miss H said she also gets child benefit and child tax credits, but these are paid 4-weekly, with her next payment not being due for 10 days. All of this meant she needed money for food and for her electricity meter from Tuesday to Sunday inclusive, after which her next Income Support would be due.

### The Decision Maker's (DM) and the Reviewing Officer's (RO) decisions

The DM phoned Miss H, and said he had some concerns because Miss H had been paid for 3 crisis loans for living expenses over the last 5 months:

- in January she had used her benefit to repay a loan to her brother;
- in mid-April she had spent most of her benefit on buying clothes for her son after his were ruined by a faulty washing machine; and
- in May she had used her benefit to pay for travel expenses to visit an aunt who was ill.

The DM put it to Miss H that there was a pattern emerging of her being unable to manage her benefit, and that crisis loans were not intended to top up normal benefit money. Miss H denied this, and said that she was devastated to have lost her purse; she always takes care of her money, and usually keeps her purse in a bag rather than loose on the hood of the pushchair. However, her son had not been very well on Tuesday, and had been 'playing up' all the time they had been out that morning. She said this must have distracted her into placing her purse on the hood. She did not notice anything unusual, so the only explanation is that the purse must have fallen off the pushchair between the freezer shop and the large supermarket.

The DM accepted Miss H's evidence. However, he concluded that Direction 14C applied, as this sets a limit on the number of crisis loans for living expenses that any person can be awarded in a 12-month rolling period. That limit is three, and since this was Miss H's fourth such application, a crisis loan could not be paid.

Miss H asked for a review, saying this was the first time she had lost her money, and that she and her son had eaten the 2 freezer meals she had purchased. She also needed to buy more food for the rest of the week, as well as milk and nappies for her son. She stressed that they were both starting to feel unwell.

The RO confirmed the DM's decision to refuse a crisis loan, for the same reason.

### The Social Fund Inspector's decision

Like the DM, the SFI accepted Miss H's evidence about the loss of her purse. That being the case, Direction 14C had to be considered. This new direction,

effective from 4 April 2011, does indeed generally set a limit of 3 crisis loan awards in a 12-month rolling period. Crucially, however, those awards have to have been made on or after 4 April 2011. And the SFI noted that in Miss H's case, only 2 of the previous awards had been made since that date.

The SFI decided there was a clear error in the way the DM and RO had applied the law to the facts of Miss H's case. Her application was not 'barred' by Direction 14C, and he went on to award a crisis loan because all of the other conditions for a loan were met.

### Commentary

Direction 14C has been introduced from 4 April 2011, and for most applicants this will limit the number of crisis loan awards for living expenses, certain travel expenses and fuel, where the application is made in an emergency. That limit is 3 "relevant awards" in a 12 month rolling period; however, the direction only allows previous crisis loan awards to be counted if the award was made on or after 4 April 2011.

Miss H had indeed had 3 crisis loan awards, all less than 12 months on from her latest application for a crisis loan. But crucially, the earliest of her awards was before the Direction 14C start date of 4 April 2011, so that first crisis loan was not a relevant award. This left only 2 relevant awards before the current application, and that is not enough to trigger the bar in Direction 14C.