

SOCIAL FUND

LEGISLATION

Social Fund is governed by **Articles 134-136 of the Social Security Contributions and Benefits (NI) Act 1992** and **Articles 62-64 of the Social Security Administration Act (NI) 1992 as amended by The Social Security (NI) Order 1998.**

Maternity and Funeral Payments are governed by the **Social Fund Maternity and Funeral Expenses (General) (NI) Regulations as amended.**

Cold Weather Payments are covered by the **Social Fund Cold Weather Payments (General) (NI) Regulations as amended.**

Social Fund Winter Fuel Payments are governed by the **Social Fund Winter Fuel Payments Regulations (NI) 2000 as amended.**

Other regulations include the **Social Fund (Applications for Review) (NI) Regulations** and the **Social Fund (Recovery by Deductions from Benefits) Regulations as amended.**

Northern Ireland (Welfare Reform) Act 2015

The Welfare Reform (Northern Ireland) Order 2015 (Articles 135 and 136)The Welfare Reform (NI) Order 2015 (Commencement No.1) Order 2016 (SR.No46/2016)

The Social Security (Payment on Account of Benefit) Regulations (NI) 2016



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GLOSSARY

AA – Attendance Allowance

BL – Budgeting Loan

CA – Carer’s Allowance

CCG – Community Care Grant

CL – Crisis Loan

CPAG – Child Poverty Action Group

CTC – Child Tax Credit

DLA – Disability Living Allowance

DfC – Department for Communities

ESA (IR) – Income-related Employment and Support Allowance

HMRC – Her Majesty’s Revenue and Customs

HSCTs – Health and social care trusts

HSSBs – Health & social services boards

JSA(IB) – Income-based Jobseeker’s Allowance

PC – Pension Credit

SFI – Social Fund Inspector

SFRO – Social Fund Review Officer

UC – Universal Credit

WTC – Working Tax Credit



INTRODUCTION

The Social Fund is a government fund designed to help people on low incomes with certain expenses which are difficult to meet out of weekly income. The Social Fund can be divided into two parts, a regulatory part and a non-regulatory part.

The regulatory Social Fund consists of payments for maternity expenses, funeral expenses, periods of cold weather and winter fuel. A person has a legal right of entitlement to these payments providing s/he satisfies certain conditions of entitlement contained in regulations.

The non-regulatory Social Fund currently provides Community Care Grants (CCGs), Budgeting Loans and Crisis Loans for a variety of other needs. There is no legal right of entitlement to these payments which are funded by a cash-limited budget.

CHANGES TO THE SOCIAL FUND

The benefit system in Northern Ireland will change drastically in the next few years with the introduction of welfare reform. The Social Fund will be reformed and partly abolished, starting November 2016.

Community Care Grants and Crisis Loans will be abolished on 31 October 2016.

A system of Discretionary Support will replace existing Community Care Grants and Crisis Loans for help with household items from 1 November 2016. This will be administered by the new Financial Support Service introduced by the Department for Communities (DfC - replaces the Department for Social Development and some of the functions of other former Northern Ireland government departments including Department of Employment and Learning. See: www.nidirect.gov.uk/articles/changes-government-departments). The new Discretionary Support system is intended to be a fast and responsive way for benefit claimants to receive short term financial help.

It is expected that the new Finance Support service will provide help in the following ways:

- Discretionary support;
- Short term benefit advances;
- Budgeting Loans;
- Maternity Grants;
- Funeral payments;
- Cold Weather Payment.

Discretionary Support itself will be in the form of loans (which have to be repaid) and grants (which do not have to be repaid). These can be claimed at local social security/jobs and benefits offices through Financial Support Advisers. This support will



be open to anyone whose income falls below a certain level (expected to be below the rate set for National Minimum Wage). Workers may therefore be eligible.

If a person requires urgent financial help after 31 October 2016 because s/he is awaiting a decision on a claim to benefit (or has notified the Department of a more favorable change in circumstances that will result in greater benefit entitlement), s/he will no longer be able to claim interim payments or a Crisis Loan but will instead have to claim a Payment on Account of benefit. If the person is awarded Universal Credit when it is introduced, this will form part of that payment. The person must demonstrate financial need which could result in a serious risk of damage to health or safety of themselves or a member of their family.

A person can request a Payment on Account of Benefit when eligible for any of the following benefits:

- Employment and Support Allowance (ESA);
- Jobseeker's Allowance (JSA);
- Income Support;
- Carer's Allowance;
- Pension Credit (PC);
- State Retirement Pension.

Cold Weather Payments will not change but if a person is entitled to Universal Credit, it will instead become part of that award.

Budgeting loans will largely remain the same. They will continue for those who have not yet migrated onto Universal Credit (UC). Where Universal Credit is payable, it will form part of that award and will instead be called Budgeting Advances and will be discretionary.

Budgeting Advances will only be available to claimants who are receiving Universal Credit and who have been in receipt of Universal Credit, ESA, Income Support, JSA or Pension Credit for at least six months and who have earned less than a certain amount (expected to be around £2,600 for single claimants and £3,600 for joint claimants).

A person can only claim a Budgeting Advance where they have not yet been receiving Universal Credit for six months where the advance is to cover an expense related to obtaining employment.

A person will not be able to claim a Budgeting Advance if there is still an amount owing from a previous Budgeting Advance. The minimum amount of advance is £100 and the maximum amounts are expected to be:

- single claimant with no children: £348;
- couple with no children: £464;
- couple with children or single parent: £812.



It is anticipated that Winter Fuel Payments will generally stay the same but the manner in which they are paid will differ. It is not known at present what this difference will be.

Sure Start Maternity Grants and Funeral Payments will remain unaffected but will form part of the Financial Support Service.

The Social Fund Commissioner will also be abolished. This will be replaced by a Discretionary Support Commissioner and Discretionary Support Inspectors.

1. RULES ON CAPITAL

Maternity and Funeral Payments, Cold Weather Payments and Winter Fuel Payments are not affected by the amount of capital someone has.

For CCGs the following rules apply:

- any capital held by a person and/or her/his partner below £500, or £1,000 if the person or partner is aged 60 or over, will not affect the amount of payment awarded;
- if a person and/or partner has capital of more than £500, or £1,000 if aged 60 or over, the payment is reduced by the amount of any capital over £500 or £1,000 if aged 60 or over.

For Budgeting Loans the following rules apply:

- any capital held by a person and/or her/his partner below £1,000 (£2,000 if 60 or over) will not affect the Budgeting Loan award;
- if a person and/or partner has capital of more than £1,000 (£2,000 if aged 60 or over), the payment is reduced by the amount of any capital over £1,000 or £2,000 if aged 60 or over.

All income and capital is taken into account for Crisis Loans, except for disregarded resources detailed in 4.3.3.

Any payment made under the Integration Loan Scheme can be disregarded for CCGs, Budgeting Loans and Crisis Loans.

2. OVERPAYMENTS

Where a person misrepresents or fails to disclose a material fact, any payment s/he received from the Social Fund may be recoverable. The original decision will be subject to revision if a regulated payment or to review if a non-regulated payment. The reviewing officer must ensure that:

- based on the evidence and law the decision was correctly made; and
- all the circumstances of any misrepresentation or failure to disclose and any new evidence which has been produced have been taken into account.



A person will receive a written decision of any overpayment raised. If not satisfied and it is a regulatory payment, the usual rules for revision and appeal apply (see *Law Centre (NI) Encyclopedia of Rights, A9. Decision Making and Appeals*). If not satisfied and it is a Community Care Grant, a Budgeting Loan or a Crisis Loan, a person can ask for a review (see section 5.2).

3. THE REGULATORY SOCIAL FUND

Except in the case of some Funeral Payments (see 3.2.5.2), the regulatory Social Fund provides non-repayable payments. A person is entitled to any of these payments if s/he meets certain qualifying conditions laid down in regulations. Decisions on claims for these types of payments are made by a decision maker.

A person who is dissatisfied with a decision has a right of appeal to an appeal tribunal. The budget for these payments is not cash limited.

3.1 Sure Start Maternity Grant

A person can get a Sure Start Maternity Grant of £500 per new baby (or expected baby) where s/he or a member of her/his family is pregnant, has recently given birth, has adopted a baby or has been granted a parental order (see below).

From April 2011, payments for a second or subsequent child have been abolished, even if a Sure Start Maternity Grant application was not made for the first child. However, an amendment to the rules means that, from July 2012, entitlement is allowed for the children of subsequent multiple births where there already is a child under sixteen in the family.

To qualify for a Sure Start Maternity Grant, a person or her/his partner must have been awarded one of the following qualifying benefits:

- Income Support;
- Income-related Employment and Support Allowance (ESA(IR));
- Income-based Jobseeker's Allowance (JSA(IB));
- Child Tax Credit (CTC) at a rate higher than the family element, ie more than approximately £10.50 per week;
- Working Tax Credit (WTC) which includes the disability or severe disability element;
- Pension Credit (PC) – either the guarantee credit or the savings credit or both.

A person will be eligible where s/he received a backdated award of a qualifying benefit covering the date of claim for the maternity grant, as long as the claim for the maternity grant is made within the three months time limit.



If a person is not entitled to a qualifying benefit for example because s/he is under sixteen (or under 20 and in relevant education), a member of her/his family can claim a maternity grant for her/him if s/he is claiming a qualifying benefit for her/him.

The person or her partner or a member of her/his family (ie a dependent child or young person) must:

- be pregnant or have given birth within the last three months. A payment can be made for a stillborn child if the pregnancy has lasted 24 weeks; or
- have adopted a baby or child under a residence order providing the baby or child is no older than twelve months at the date of claim; or
- have been granted a parental order allowing her/him to have a child by a surrogate mother.

A person must not be subject to immigration control, although there are some exceptions. If in doubt, contact Law Centre (NI).

A person can claim:

- eleven weeks before the first day of the expected week of confinement; or
- up to three months after the date of the birth; or
- for an adopted baby or child under a residence order, up to three months after the date of adoption, residence order or parental order.

From 13 December 2010, a person can also claim if s/he:

- has been awarded a residence order;
- is a prospective adopter with whom a child is placed pending adoption;
- has been part of a certified overseas adoption;
- is a guardian and the parent (not a mother) who has responsibility for the child where the parents are not partners when the payment is claimed;
- is the guardian of a child who is less than twelve months old and is responsible for that child.

Rules on double payments and time limits may change when considering these amendments.

In all cases, the claim form must be signed by a health professional, such as a general practitioner, midwife or health visitor, confirming that relevant health and welfare advice has been received.

There is no provision for making claims outside the time limits. However, if a claim is refused because the person or partner:

- is not getting a qualifying benefit; and
- has made a claim for the qualifying benefit no later than ten days after the original claim for Sure Start Maternity Grant; and
- is subsequently awarded the qualifying benefit; and



- makes a second claim within three months of this award;

the claim will be treated as made on whichever is the later of either the date of the original claim or the date of the award of the qualifying benefit.

Note: The then Department of Health and Social Services (DHSS) issued guidelines suggesting that additional sums for maternity items cannot be made by way of a CCG. Law Centre (NI) believes this guidance is open to legal challenge. For further details contact Law Centre (NI).

Sure Start Maternity Grants will still be available after the introduction of welfare reform.

3.2 Funeral Payments

3.2.1 Who can claim?

A person can claim a Funeral Payment if:

- s/he or her/his partner has been awarded one of the following qualifying benefits:
 - Income Support;
 - JSA(IB);
 - ESA(IR);
 - Housing Benefit;
 - CTC at a rate higher than the family element, ie more than approximately £10.50 per week;
 - WTC which includes the disability or severe disability element;
 - PC – either the guarantee credit or the savings credit or both;

and

- s/he is not a person subject to immigration control. There are exceptions to this rule. Where in doubt contact Law Centre (NI);
- the claim has been made within the time limits.
- the funeral takes place in:
 - the United Kingdom (UK) or in the Republic of Ireland providing the deceased normally lived in Northern Ireland and had been resident in the UK at the date of death; or
 - a European Economic Area (EEA) country or Switzerland and the responsible person is an EEA national (or family member of an EEA national) who is, under specific European Community law, either treated as a worker or entitled to reside permanently in the UK; **and**
- the deceased person was ordinarily resident in the UK at the date of death (this does not necessarily mean s/he died in the UK); **and**



- s/he claims anytime from the date of death up to three months after the date of the funeral; **and**
- s/he accepts responsibility for the funeral; **and**
 - is the partner of the deceased; or
 - in the case of the death of a child or qualifying young person, is the person responsible for the child or qualifying young person unless there is an absent parent who is not in receipt of a qualifying benefit, or in the case of a still born child is the parent or the parent's partner; or
 - is an immediate family member (ie parent, son, daughter); or
 - where there is no partner or immediate family member, s/he is either:
 - (a) a close relative of the deceased; or
 - (b) a close friend of the deceased; **and**
- it is deemed reasonable for that person to accept responsibility for the funeral expenses.

Where there is no surviving partner, an immediate family test will apply. If no-one is deemed to be the responsible person when the immediate family test is applied, then the decision maker will apply the close relative test.

3.2.2 Immediate family test

Where there is no surviving partner, there is no entitlement to a Funeral Payment where an immediate family member of the deceased exists and s/he or partner is not in receipt of a qualifying benefit. Immediate family member means a parent, son or daughter. This test does not apply if the family member is ordinarily resident outside the United Kingdom.

The onus of proving whether another close relative is in receipt of benefit or not rests with the Social Security Agency [*DSD v Kerr (2004)*, TLR 7 May 2004 (HL)].

A parent, son or daughter will not be deemed an immediate family member if, at the date of death, s/he was:

- under eighteen years of age; or
- aged eighteen or nineteen and treated as a qualifying young person for the purposes of Child Benefit;
- awarded a qualifying benefit (or partner was awarded a qualifying benefit); or
- estranged from the deceased; or
- a wholly maintained member of a religious order; or
- a full-time student; or
- a prisoner or hospital in-patient receiving free treatment and s/he (or partner) had been in receipt of a qualifying benefit immediately before s/he entered prison or hospital; or



- ordinarily resident outside the UK; or
- receiving asylum support.

3.2.3 Close relative test

In the absence of a partner and where all immediate family members are in receipt of a qualifying benefit, the close relative test will be applied.

Close relative means parent, parent-in-law or step-parent, son, son-in-law, stepson or stepson-in-law, daughter, daughter-in-law, stepdaughter or stepdaughter-in-law, brother or brother-in-law, sister or sister-in-law. All close relatives have equal status.

The decision maker will apply two tests to determine who should reasonably be expected to take responsibility for the funeral:

- where there are one or more close relatives, the nature and extent of the contact each had with the deceased;
- where the contact of one or more close relatives is equal to or closer than that of a person claiming and one of those close relatives is not in receipt of a qualifying benefit, then it will be deemed that it is not reasonable for the person claiming to take responsibility for the funeral.

These two tests do not apply to family members ordinarily resident outside the UK.

The effect of this is that normally the close relative with the greater contact will be expected to take responsibility for the funeral. If the close relative with the greater contact does not qualify for a Funeral Payment, then a close relative with less contact who does qualify will not be able to successfully claim.

3.2.4 Close friend

Close friend is not defined within the regulations. If the person claiming is a close friend, the claim will only succeed where there is:

- no partner; and
- no immediate family member; and
- no close relative who had greater or equal contact with the deceased than the close friend.

3.2.5 How much?

3.2.5.1 Expenses covered

A payment will be made to cover the following expenses:

- in the case of burial the necessary cost of:
 - purchasing a new burial plot, including exclusive right of burial;
 - burial (including fees levied by private contractors);



- in the case of cremation the necessary cost of:
 - cremation including medical references;
 - a registered medical practitioner's certificate;
 - removal of pacemakers (limited to £20 if not removed by a doctor);
- the cost of documents necessary for the release of the deceased person's assets eg death certificate;
- necessary travel costs of one return journey within the UK or, where the funeral takes place in the Republic of Ireland, return journey to the Republic of Ireland in connection with arrangements or attendance at the funeral;
- the reasonable cost of transport in excess of 50 miles to transport the:
 - deceased to the funeral director's premises or place of rest;
 - coffin and bearers and one additional vehicle from the funeral director's premises or place of rest to the funeral;
- up to £700 for any other funeral expenses including funeral director's fees, undertaker fees and gratuities, chaplain and organist's fees, flowers;
- up to £120 of funeral expenses in the above categories not covered, or contributed to, by a pre-paid funeral plan or similar arrangement.

3.2.5.2 Deductions

From the amount payable, the following will be deducted:

- the value of the deceased person's assets if they are available to the person claiming (or member of the family) without having to go through legal procedures;
- any payment due to the person (or member of the family) under insurance policies, occupational schemes, burial club or similar arrangement;
- payments to the person (or member of the family) from a relative or a charity;
- any War Disablement Pensioners Funeral Grant payment.

From April 2013, all final benefit payments and tax credits owed to the deceased will be disregarded.

3.2.6 Time limits

A claim should be made within three months of the date of the funeral. There is no provision for making claims outside the time limits. However, similar time limits which relate to the award of a qualifying benefit under the Sure Start Maternity Grant also apply here (see section 3.1).

Notes: The then DHSS issued guidance suggesting that additional sums for funeral expenses cannot be made by way of a CCG. Law Centre (NI) believes that this guidance is open to legal challenge. For further details, contact Law Centre (NI).

Funeral Payments will still be available under welfare reform.



3.3 Cold Weather Payments

Certain people can claim a Cold Weather Payment of £25.00 for each week designated a period of cold weather. The Department has laid down rules as to what is a period of cold weather.

These state that any forecast or recording of, or period of, seven consecutive days during which the average of the maximum and minimum daily temperatures for that period is equal to or below 0°C will be considered a period of cold weather.

Northern Ireland is covered by seven weather stations which are linked to postcode areas. If any station forecasts or records a period of cold weather, then a person covered by that station may be entitled to a payment.

To qualify for a Cold Weather Payment, a person must:

- have been awarded Income Support, JSA(IB) or ESA(IR), for at least one day during the cold weather; and
 - Income Support, JSA(IB) includes any of the pensioner premiums, or the disability, enhanced disability or severe disability premiums or the disabled child premium; or
 - ESA(IR) includes the pensioner, severe disability or enhanced disability premium or the work related activity or support component; or
 - the person is responsible for a child under five years of age (ie s/he is a member of her/his family); or
 - the person receives the disability element or severe disability element of CTC;

or

- have been awarded PC for at least one day during the cold weather; **and**
- not be residing in a care home; **and**
- not be a person subject to immigration control. There are exceptions; if in doubt contact Law Centre (NI).

A Cold Weather Payment will be sent automatically to a person without the need for a claim. Where the local weather station forecasts a period of cold weather, the payment will be made in advance.

A cold weather payment cannot be made after the 26 weeks beginning with the last day of the winter season (1 November - 31 March) concerned in which the cold weather period fell. The amount of capital a person has does not affect the payment.

Cold Weather Payments would not change with the introduction of Welfare Reform. However, when Universal Credit is introduced, money for cold weather payments would likely be paid as part of the Universal Credit payment. Otherwise they will be paid as they are now.



3.4 Winter Fuel Payments

The Social Fund Winter Fuel Payment Regulations (NI) 2000 allow for Winter Fuel Payments to those of at least the qualifying age for Pension Credit (PC) regardless of whether they are receiving benefit or not.

Payment should be made automatically. If not, a claim must be made before 31 March following the qualifying week (see 3.4.1 below). Winter Fuel Payments will stay the same after the introduction of welfare reform but the way they are paid may change. At time of writing, it is not yet clear how this will happen in practice.

This payment is in addition to the Cold Weather Payments available through the regulatory Social Fund.

3.4.1 Who can claim?

The qualifying week is the week beginning on and including the third Monday in September of each year. So the qualifying week for winter 2016 to 2017 is 19 to 25 September 2016. Payment will be made for the winter following the qualifying week.

A person will qualify for a Social Fund Winter Fuel Payment if during the qualifying week s/he:

- is at least the qualifying age for PC; and
- Is ordinarily resident in Northern Ireland or habitually resident in a different EEA country whose average temperature in winter is not higher than the warmest part of the UK or Switzerland. In practice this means that a person will not be entitled to a Winter Fuel Payment if residing in Cyprus, France, Gibraltar, Greece, Malta, Portugal or Spain; and
- claims within the time limits.

3.4.2 Exclusions

A person is excluded from receiving a Social Fund Winter Fuel Payment if s/he:

- has been receiving free in-patient treatment for more than 52 weeks in a hospital or similar institution; or
- is detained in custody under sentence from a court; or
- is receiving PC, JSA(IB) or ESA(IR) and living in residential care throughout the qualifying week and the twelve preceding weeks (temporary absences are ignored); or
- is subject to immigration control and not eligible for social security benefits (but there are exceptions to this rule).



3.4.3 How much?

- £300 if 80 or over in the qualifying week; or
- £200 if under 80 in the qualifying week; or
- £100 (or £150 if 80 or over) if not receiving PC, JSA(IB) or ESA(IR) and living with or sharing a household with someone who also qualifies; or
- £100 (or £150 if 80 or over) if not receiving PC, JSA(IB) or ESA(IR) and living in residential care throughout the qualifying week and the twelve preceding weeks.

If a person is in receipt of PC, JSA(IB) or ESA(IR), s/he (and partner if applicable) will receive one payment of £200 (or £300 if over 80) despite sharing a household with anyone else who qualifies. This is paid to the person claiming.

4. THE NON-REGULATORY SOCIAL FUND

This part of the Social Fund consists of a system of repayable loans and non-repayable grants and:

- is budget limited;
- provides no legal right of entitlement to payments;
- has the majority of its budget allocated to loans;
- carries the right of entitlement to an internal review but not to an independent appeal.

The types of payments are Community Care Grants (CCGs), Budgeting Loans and Crisis Loans. Each local social security office has appointed decision makers to make decisions on CCGs, Budgeting Loans and Crisis Loans.

By law, when making decisions on payments, decision makers must take into account:

- the nature, extent and urgency of need (Crisis Loans and CCGs); or
- a person's personal circumstances (Budgeting Loans only); and
- the existence of resources from which the need may be met; and
- a person's ability to repay (loans only); and
- whether there are other ways of meeting the need; and
- the money available in local office budgets; and
- directions and guidance issued by the Department for Social Development; and
- guidance issued by the area decision maker.

The Department issues directions and guidance to decision makers on how to operate the non-regulatory Social Fund.



Decision makers are obliged to follow both the law on the Social Fund and the directions issued by the Department. They must also have regard to guidance issued by the Department and by area decision makers.

Direction 40 sets out that decision makers must control the budget to give priority needs throughout the period of allocation. This is usually a period of twelve months running from April to March.

Direction 42 sets out that decision makers shall not make any CCG awards that exceed the budget. However, the High Court has ruled that the need and priority of an application for a CCG should be assessed before the budget is considered and taken into account.

Local guidance issued by area decision makers is important. Advisers should get a copy of guidance operating in their area.

4.1 Community Care Grants

4.1.1 Who can claim?

A person can apply for a CCG if s/he:

- is in receipt of a qualifying benefit (Income Support, JSA(IB), ESA(IR) or PC) on the date s/he claims the CCG. In some cases, this includes where the person receives a backdated qualifying benefit covering the date of claim for the CCG; or is less than six weeks away from discharge from residential accommodation and is likely to get Income Support, JSA(IB), ESA(IR) or PC when discharged;
- does not have too much capital. Any CCG awarded is reduced by the amount of capital the person has in excess of £500 (£1,000 if s/he, her/his partner is 60 or over). Capital is calculated as for her/his qualifying benefits;
- or her/his partner is not involved in a trade dispute unless the claim is for travel expenses to visit a sick person;
- is not a person subject to immigration control.

In addition:

- the CCG must not be for an excluded item, see 4.1.4;
- the CCG must generally be for at least £30, see 4.1.3, 4.1.10 and 4.1.13;
- the person must need a CCG for certain reasons.

A person claiming JSA(IB) who is subject to a Jobseeker's disallowance or sanction will be treated as not being in receipt of JSA(IB) unless entitled to a hardship payment. JSA hardship payments are classed as JSA(IB).



4.1.2 Priority needs and circumstances

Decision makers are given guidance in the Decision Maker's Guide as to which needs and circumstances should be given priority for a CCG.

4.1.2.1 Priority need

The priority needs should be considered within the following categories:

- high priority should normally be given if an award will have a **substantial** and immediate effect in resolving or improving the circumstances of the person applying **and** be very important in fulfilling the aims of Direction 4 (see 4.1.6);
- medium priority should normally be given if an award will have a noticeable effect, although not substantial and immediate effect, in resolving or improving the circumstances of the person applying, and meeting the aims of Direction 4;
- low priority should normally be given if an award for the item requested will have only a minor effect in resolving or improving the circumstances of the person applying **or** in meeting the aims of Direction 4.

4.1.2.2 Priority circumstances

The significance of a person's circumstances should be considered in deciding the priority of the application. The following circumstances are only a guide.

- A person's ability to cope with independent living may be difficult because of:
 - restricted mobility;
 - learning difficulties;
 - mental health problems;
 - physical disability;
 - mental or chronic physical illness.
- Experiences of physical or social abuse or neglect may leave a person especially vulnerable and lacking in confidence, for example young people from broken homes or who have never had a home.
- Returning to the community after a long period of residential or institutional care may leave a person very insecure and vulnerable particularly if s/he is setting up a new home on her/his own.
- A long period of sleeping rough may leave a person with little or no concept of how to live a settled way of life or cope with problems of budgeting on a low income.
- Unstable family circumstances may put the well-being of children at risk and increase the chances that they may have to be taken into care, for example a parent behaves irrationally or relationships within the family are at breaking point.
- Behaviour problems associated with drug or alcohol abuse are likely to add to difficulties of a vulnerable person trying to live independently and increase the need for a stable environment.



4.1.3 What can be awarded?

The minimum amount that can be awarded for a CCG in most cases is £30. There is no upper limit.

The following are examples of assistance that may be available depending upon a person's circumstances:

- clothing and footwear;
- removal expenses;
- fares when moving home;
- connection charges;
- storage charges for furniture;
- furniture and household equipment;
- minor structural repairs and maintenance costs;
- internal redecoration and refurbishment;
- bedding or extra warmth for the household;
- fuel connection costs;
- re-siting of fuel board pre-payment meters;
- heavy laundry needs;
- boarding out fees prior to adoption;
- overnight accommodation as part of a travel expenses payment.

This list is not exhaustive. A decision maker may award CCGs for other items or services if s/he considers the application to be of high enough priority.

4.1.4 Excluded items

Certain items will never be paid for by way of a CCG (Direction 23 and 29). These are:

- any need which occurs outside the UK;
- an educational or training need including clothing and tools;
- distinctive school uniform or sports clothes or equipment;
- travelling expenses to or from school;
- school meals and meals taken during school holidays by children who are entitled to free school meals;
- expenses in connection with court (legal) proceedings (including a community service order) such as legal fees, court fees, fines, costs, damages, subsistence or travelling expenses;
- removal or storage charges where a person is permanently rehoused following the imposition of a compulsory purchase order, or a redevelopment or closing order, or a compulsory exchange of tenancies, or pursuant to the Northern Ireland Housing



Executive's (NIHE) statutory duty to the homeless under the Housing (Northern Ireland) Order 1988;

- domestic assistance and respite care;
- any repair to NIHE or registered housing association property;
- a medical, surgical, optical, aural or dental item or service;
- work related expenses;
- debts to government departments;
- investments;
- costs associated with home or personal security measures other than locks, bolts, chains and door viewers for outside doors and windows;
- council tax, water charges, arrears of community charge or community water charges;
- installation, purchase, rental and call charges for a telephone;
- any expenses which NIHE, a health and social services board (HSSB) or a health and social services trust (HSST) has a statutory duty to meet;
- costs of fuel consumption and any associated standing charge;
- housing costs, including repairs and improvements to the dwelling occupied as the home or any garage, garden or outbuildings and deposits to secure accommodation, mortgage payments, rates, water rates, sewerage rates, service charges, rent, and all other charges for accommodation, whether or not such charges include payment for meals and/or services other than:
 - minor repairs and improvements;
 - overnight accommodation as part of travel expenses payment;
- any daily living expenses such as food and groceries, except where:
 - such expenses are incurred in caring for a prisoner or young offender on release on temporary licence; or
 - a Crisis Loan cannot be awarded because the person has reached the loan limit of £1,500.

4.1.5 Repeat applications

Under Direction 7, once an application for a CCG or Crisis Loan has been made, whether an award is allowed or not, no further application for the same item or service will be considered for 28 days, unless there has been a relevant change in circumstances. This could be a change in the person's circumstances or for example a change to the district budget or the law.

This rule does not apply if:

- the previous application was withdrawn before a decision was made; or



- a previous offer was declined or not responded to; or
- the Department decided the previous application was incomplete.

This rule does not exclude a different partner making a second application for the same item.

4.1.6 Qualifying conditions

Under Direction 4, CCGs may be payable to:

- assist the person, a member of her/his family or other person for whom s/he will be providing care to re-establish her/himself in the community following a stay in institutional or residential care; or
- help the person, a member of her/his family or other person for whom s/he is providing care remain in the community rather than go into institutional or residential care; or
- help the person set up home in the community as part of a planned resettlement programme following a period during which s/he has been without a settled way of life; or
- ease exceptional pressures on the person and her/his family; or
- help the person or her/his partner to care for a prisoner or young offender on home leave; or
- assist the person and/or members of her/his family with travel expenses in the UK in certain circumstances set out in 4.1.13.

A person should always argue the case for a grant on the basis of the factors that a decision maker must, by law, take into account (see introduction to section 3). The application must fit within Direction 4, otherwise no payment can be made.

The guidance in the Decision Maker's Guide and any local priority lists issued by the area decision maker may be used to the person's advantage. If there is no guidance in her/his favour or the circumstances of the claim are not covered in guidance, this does not automatically mean the application will fail.

Decision makers are legally obliged to look at each application on its merits, taking account of the law and directions and having regard to, but not being bound by, guidance and local priorities.

Only one third of the Social Fund budget is given to CCGs and an application needs to be well argued to succeed. Advisers should assist people to apply for a grant rather than loan whenever possible.

4.1.7 Moving out of care

Guidance suggests that institutional or residential care includes establishments providing significant and substantial care, supervision or protection because a person



is either unable to live independently in the community or might be a danger to others in the community if s/he were to do so.

Such accommodation may include:

- hospitals;
- residential care homes;
- nursing homes;
- homes and hostels;
- supported lodgings, eg landlady schemes used by health and social care trusts (HSCTs), HSSBs or voluntary organisations as part of a programme of rehabilitation;
- staff intensive sheltered housing providing a major level of personal care;
- prison;
- young offenders centres;
- training schools;
- HSSB/HSST care;
- special residential schools:
- foster care.

This list is not meant to be exhaustive and decision makers can consider awarding a CCG where a person is leaving or has recently left some other form of residential accommodation.

The following examples are of people who may have needed a high level of care, supervision or protection:

- a frail, elderly person, particularly with restricted mobility or who has difficulty in performing personal care tasks;
- a person with learning difficulties;
- a person with mental health problems;
- a person with physical or sensory impairment;
- a chronically sick person;
- a terminally ill person;
- a person who has misused alcohol, drugs or other substances;
- an ex-offender;
- a person without a settled way of life;
- a young person leaving HSSB/HSCT care or a special residential school.

This list is not exhaustive.

Guidance suggests a person will normally have been in care for at least three months or have a regular pattern of institutional and residential care.



Guidance also suggests that it will not normally be appropriate to award a CCG more than once to enable a person to set up home under Direction 4(a)(i) since setting up home marks the point at which a person finally ceases to be in institutional or residential care.

4.1.8 Moving house to care for someone

A CCG may be awarded if a person has to move to more suitable accommodation in order to care for someone (normally a close relative, but close friend or former neighbour may be considered) who is being discharged from institutional care and will be living in the same household.

4.1.9 Remaining in the community

CCGs are intended primarily to help a person live as independent a life as possible and remain in the community.

Where there is a threat of entering care, it does not need to be imminent but a higher priority will be given to a person where:

- the threat of entering care is immediate or imminent; and/or
- there is a direct link between the need for care and the items requested.

A CCG may be awarded to:

- improve a person's existing living conditions; or
- enable a person to move to more suitable accommodation; or
- enable a person to move nearer someone who can offer support.

Payments may also be made where a person has to move due to intimidation. Normally, the police and NIHE, where appropriate, will be contacted for verification. Where removal costs cover a move to Britain, the expenses are met by Bryson House.

4.1.10 Prisoner or young offender

A CCG may be awarded towards living expenses if a prisoner or young offender on home leave has no entitlement to Income Support, JSA(IB) or ESA(IR) in her/his own right and s/he:

- spends the leave with a person in receipt of Income Support, JSA(IB), ESA(IR) or PC; and
- will provide care.

The prisoner or young offender does not need to be in one of the priority groups.

The £30 minimum award does not apply to awards for living expenses for prisoners and young offenders on home leave.



4.1.11 Planned resettlement

A person who is setting up home as part of a planned resettlement programme following a period during which s/he has been without a settled way of life may qualify for a CCG.

A programme of settlement may involve help to set up home and help with matters such as budgeting skills, literacy skills, careers guidance and benefits advice. However, setting up home is more than just moving house, it is a process which may begin with a new home. A move to more suitable accommodation may be required to avoid the risk of returning to an unsettled way of life.

Guidance suggests that a person without a settled way of life may, for example, have been using:

- a night shelter;
- a hostel;
- an emergency winter shelter;
- temporary supported lodgings;
- the streets and sleeping rough;
- temporary accommodation provided by the Home Office pending a decision on an application for asylum.

This is not an exhaustive list.

Guidance also states that priority should be given to those who have experienced an unsettled way of life for a substantial period of time. Planned resettlement programmes may include programmes run by:

- local authorities;
- voluntary organisations;
- housing associations;
- registered charities.

Again, this list is not exhaustive and a person can argue that s/he is part of a programme planned by any other organisation or person.

Decision makers are advised to check that:

- a programme of resettlement exists at the accommodation the person is moving from; and
- the person is on such a programme.

4.1.12 Families under exceptional pressure

Family is not defined within the Social Fund. Guidance suggests it should generally be taken to mean couples, including those with children or caring for children. However, decision makers are at liberty to be flexible in their interpretation and therefore should



ensure that the full circumstances are taken into account. Therefore, it may include cases where a payment will relieve stress on both a single person living independently and other members of the family living elsewhere.

Social Fund guidance gives examples of when a family may be under exceptional pressure:

- the breakdown of family relationships. Priority is given to women leaving home because of domestic violence;
- a deterioration in a person's home, making it unfit or unsuitable for her/him and her/his family to live there;
- the presence of chronic sickness or persistent disability in a person's family.

These are only examples and a number of other circumstances may place a family under exceptional pressure and allow a CCG to be awarded. Guidance provides a number of particular examples where a payment may be considered. These include:

- moving to new accommodation due to the breakdown of a relationship;
- reconciliation of a relationship where a person returns to shared accommodation;
- a family needing to move home due to exceptional pressure, for example overcrowding;
- repair and replacement of items damaged by behavioural problems within the family;
- fuel board charges including re-connection charges. Priority will normally be given to families with a child under five or a child with a disability;
- minor structural repairs to keep the home habitable.

These are only examples. Other circumstances may also ease exceptional pressure, satisfy Direction 4 and allow a payment to be made.

4.1.13 Travelling expenses

A CCG may be awarded to cover travel expenses to help a person and/or other members of her/his family to:

- visit someone who is ill, for example a close relative, partner or friend (who has no relatives visiting already). This can cover visits to hospital, residential care or elsewhere if the person being visited is ill;
- attend a relative's funeral;
- ease a domestic crisis, for example, where a child is going into the care of a close relative or a friend;
- visit a child who is with the other parent pending custody proceedings. No payment will be made once custody has been decided;



- move to suitable accommodation within a reasonable distance where a person is coming out of care or a move will prevent the need to go into care or will ease exceptional pressure on the family.

What costs will be met?

The £30 minimum award for CCGs does not apply to awards for travelling expenses.

An award can be made for:

- the standard rate of public transport excluding air fare; **or**
- the cost of petrol up to the cost of public transport where it is available or in full where public transport is not available or a person is unable to use it; **or**
- taxi fares where no public or private transport is available or the person claiming or her/his partner is unable to use public transport due to physical disability, frailty or age; **and**
- the cost of an escort's fare if a person cannot travel alone; **and**
- reasonable costs of necessary overnight accommodation.

For hospital visits, decision makers are asked to take account of home savings. Home savings is the amount of money that may be saved from benefits because a member of the family is in hospital. The principle is that where a benefit is paid in respect of a person who is in hospital and a significant portion of the money is not being spent on that person, then consideration should be given to offsetting the amount of any home savings against the cost of hospital visits. In deciding how much, if any, should be offset, any additional expenses that have arisen from the admission to hospital should be taken into consideration.

Claims for travel expenses should be made before the journey is undertaken, otherwise a person may not qualify for a grant.

4.2. Budgeting Loans

CCGs, Budgeting Loans and Crisis Loans must be applied for separately and there are separate application forms for each type of payment.

It is not possible for a person to apply for a Budgeting Loan and have her/his application considered for a CCG or vice versa. Budgeting Loan applications can only lead to Budgeting Loan decisions.

4.2.1 Who can claim?

A person is eligible for a Budgeting Loan if s/he fulfils the conditions listed below:

- s/he is in receipt of Income Support, JSA(IB), ESA(IR) or PC when a decision is made on her/his application. The High Court has decided that it must be the claimant and not her/his partner;



- s/he or partner has been in receipt of Income Support, JSA(IB), ESA(IR) or PC for 26 weeks before a decision is made on her/his application. Any breaks of 28 days or less are disregarded;
- s/he and partner satisfy the capital rules;
- s/he or partner is not involved in a trade dispute;
- the loan application is for:
 - a qualifying expense; and
 - a minimum amount of £100;
- her/his (including partner) total Social Fund debt does not exceed £1,500;
- s/he is likely to be able to repay the loan;
- s/he is not a person subject to immigration control.

4.2.2 Qualifying expenses

Only certain categories of expenses will be considered. These categories are specified in Direction 2 as follows:

- furniture and household equipment;
- clothing and footwear;
- rent in advance and/or removal expenses to secure fresh accommodation;
- improvement, maintenance and security of the home;
- travelling expenses;
- expenses associated with seeking or re-entering work;
- debts for any of the above categories.

An application for any item or expense which falls outside the scope of these categories will be refused.

A list of categories is included on the application form. The person is required to indicate the amount s/he is requesting and the category or categories s/he is applying for help with. A person does not have to justify the amount sought or provide a breakdown of item details when applying for help.

There are no restrictions on repeat applications for Budgeting Loans.

4.2.3 Decision making

Decision makers do not exercise discretion when deciding an application for a Budgeting Loan. Budgeting Loan decisions are based on common factual criteria relating to a person's personal circumstances. However, because the overall budget for these loans remains cash-limited, applications still need to be prioritised.

As with Crisis Loans and CCGs, the prioritisation of Budgeting Loan applications is based on relevant facts. For Crisis Loans and CCGs, primary legislation provides for all



the facts of the case and the nature, extent and urgency of need to be taken into account. For Budgeting Loans, a person's personal circumstances, as specified in directions, are to be taken into account.

Each person's personal circumstances are assessed and will receive a set weighting to determine the priority of an application. In conjunction with local budget limits, each person's weighting level establishes the maximum size of Budgeting Loan debt s/he can have. The actual size of any individual loan is then dependent on the amount of Budgeting Loan debt in existence at the time of application (subject to capital and ability to pay considerations).

4.2.3.1 Weightings for personal circumstances

All Budgeting Loan applications are subject to an assessment of personal circumstances under Direction 50. The assessment is based on:

- the people who are members of a person's household.

A person's household includes a partner, ie husband, wife, civil partner or cohabitee, that s/he is living with and any child or qualifying young person aged eighteen or under.

This assessment is then weighted as follows:

- a household containing only one person is weighted as 1;
- a household containing only a person and partner is weighted as 1 1/3;
- a household containing one or more children/qualifying young people, aged eighteen or under, is weighted as 2 1/3.

Once the assessment and appropriate weighting have been applied, a decision on whether or not to award a Budgeting Loan and, if so, for what amount, can be made.

4.2.4 Awards

The amount of award will depend on:

- the size of the local budget;
- a person's weighting level;
- any outstanding Budgeting Loan debt;
- a person's ability to repay;
- a person's excess capital.

Taking account of the total loan budget allocated to the district and likely demand, the area decision maker profiles the yearly budget for Budgeting Loans. A maximum Budgeting Loan is then calculated for each level of weighting. This represents the maximum size of total Budgeting Loan debt a person is allowed. This may be adjusted throughout the year depending on the demands on the budget. It may also vary from area to area.



The actual amount of award offered on application will depend on how much, if any, outstanding Budgeting Loan debt a person has (subject to capital, ability to repay and total Social Fund debt considerations).

If the person claiming and her/his partner have no outstanding Budgeting Loan debt, s/he will receive:

- the amount applied for if this is equal to or less than her/his maximum;
- the maximum if the amount applied for exceeds this.

If the person claiming and her/his partner have outstanding Budgeting Loan debt, the amount awarded, if any, will be her/his maximum amount less any outstanding Budgeting Loan debt.

A loan may not be offered where the difference between any outstanding Budgeting Loan debt and her/his maximum is less than £100.

Any budgeting loan award is reduced by the amount of capital a claimant or partner has above £1,000 (or £2,000 if a claimant or her/his partner is over 60). Capital held by children, refugee integration loans and Family Fund payments are ignored.

4.2.5 Repaying Budgeting Loans

Under Direction 10, the maximum award that may be made is £1,500 (less any outstanding Social Fund debt of the person or partner). The minimum loan is £100. Direction 11 further directs that no Budgeting Loan will be awarded in excess of what a person can afford to repay.

Loans must normally be repaid within 104 weeks. Repayment terms are decided by officers acting on behalf of the Department.

Repayment will normally depend upon what other financial commitments the person has.

The maximum recovery rate for loans is 20 per cent of available income, ie Income Support, JSA(IB) or ESA(IR) applicable amount or PC appropriate minimum guarantee excluding housing costs plus CTC and Child Benefit.

4.2.5.1 Repayment options

Where a person has requested a loan (within her/his maximum) which cannot be repaid within 104 weeks at standard repayment rates, s/he may be offered a number of repayment options depending on whether or not there is any outstanding Social Fund Loans still to be paid off. The options are:

■ **in the case of no outstanding loan debt:**

- an award repayable at the standard rate (5,10 or 12 per cent) subject to a maximum award of 104 times this rate (see Example 1); or
- an award repayable at the higher rate (up to 20 per cent) subject to a maximum of 104 times this rate (see Example 2);



Example 1

A person applies for £200; s/he has no current Social Fund debt.

Her/his standard repayment rate if £5 (5 per cent rate).

Person will receive one offer:

£200 @ £5 per week over 40 weeks.

Example 2

A person applies for £500, s/he has no current Social Fund debt.

Her/his higher repayment rate if £20 (20 per cent rate).

Person will receive two offers:

£500 @ £20 per week = 25 weeks;

£500 divided by 104 weeks = £4.81 per week.

• **in the case of outstanding loan debt:**

- an award repayable at the standard rate subject to a maximum award of the standard rate times the number of weeks remaining between the repayment of an existing loan and 104 (see Example 3 Option 1);
- an award repayable at the higher rate subject to a maximum of the higher rate times the number of weeks remaining as above (see Example 3 Option 2);
- an award equal to the amount which can be paid within 104 weeks by combining the proposed loan and the existing Social Fund debt and setting a higher repayment rate subject to the 20 per cent maximum (see Example 3 Option 3).

Example 3

A person applies for £900, s/he has £300 current Social Fund debt which s/he will be repaying at £5 per week for the next 60 weeks. Her/his standard repayment rate is £5 (5 per cent rate).

Person will receive three offers:

Option 1: £220 @ £5 per week = 44 weeks (total 104 weeks);

Option 2: £880 @ £20 per week (20%) = 44 weeks (total 104 weeks);

Option 3: £900 + £300 (current debt) = £1,200 divided by 104 = £11.54 per week.

A person will receive a written decision on her/his application with details of loan offers and repayment options. S/he has fourteen days to respond from the date the decision was sent.

The rate of repayment, period of repayment and method of recovery are decided by officers acting on behalf of the Department and are, therefore, not subject to internal review. Repayment rates can be varied in exceptional circumstances eg if the repayment terms are causing hardship.



Recovery of a loan can be made from other social security benefits payable to the person applying or her/his partner. The main benefits excluded from Social Fund loan recoveries are Child Benefit, Attendance Allowance and Disability Living Allowance.

If a person starts work and is no longer on any social security benefit, then the Department will seek to make a voluntary arrangement to recover the loan. In the absence of an agreement, the Department could take court action to recover.

Under welfare reform, Community Care Grants and Crisis Loans for household things and living costs would be replaced by a new type of help called Discretionary Support which will offer a combination of loans which must be paid back and grants which do not have to be paid back. At time of writing, the exact details are not yet known. Budgeting Loans will largely stay the same for those not transferred on to Universal Credit. A person in receipt of Universal Credit when it is introduced, will instead claim a Budgeting Advance (please see *Introduction* for more information).

4.3 Crisis Loans

Under Direction 3, Crisis Loans are available to cover expenses in an emergency or arising from a disaster where such assistance is the only way of preventing serious risk to the health or safety of a person or a member of her/his family. Crisis Loans are also available to cover rent in advance to a landlord (other than NIHE), where a CCG is being awarded to assist a person coming out of residential or institutional care.

An application for a Crisis Loan can be made by phone but satisfactory evidence of a person's identity and details of the application must be confirmed in writing before payment is made. The Department may require an applicant applying for a crisis loan for living expenses to attend an interview at a local social security office in order to make a claim.

4.3.1 Who can qualify?

Crisis Loans are not restricted to people on certain benefits and can be paid to anyone aged sixteen or over who has insufficient resources to meet immediate needs (Direction 14).

4.3.2 Excluded persons

Under Direction 15, a Crisis Loan may not be awarded to a person who is:

- in residential accommodation provided by a HSST or a nursing home or residential care home or hospital unless it is planned to discharge the person within the next two weeks; or
- a prisoner or person lawfully detained; or
- fully maintained by a religious order; or



- treated as being in full-time relevant education and who is not entitled to Income Support or, JSA(IB) or ESA(IR); or
- a full-time student who is not receiving Income Support, JSA(IB), ESA(IR) or Pension Credit (unless the expenses arise out of a disaster).

4.3.3 Income and capital

Decision makers are expected to take into account all income and savings before making any payment. Certain income can be ignored including:

- Social Fund payments;
- Housing Benefit;
- the value of a person's home or premises bought for occupation within six months;
- business assets;
- money acquired on the strict understanding that it be used to undertake essential repairs or improvements on the home;
- personal possessions except those bought in order to secure entitlement to a Crisis Loan;
- payments under Personal Social Services (Direct Payments) NI Order 1996 and payments under Sections 18, 35 and 36 of the Children (NI) Order 1995 except where the payment was for the same item that is being claimed by way of a Crisis Loan;
- payments from Independent Living (Extension) Fund and Macfarlane Trusts;
- payments under the Integration Loan Scheme;
- any other resources which it is reasonable to disregard in particular circumstances.

4.3.4 What can normally be awarded?

Decision makers guidance provides examples which may be covered by a Crisis Loan. These include:

- disasters, for example fire or flood;
- emergency travel expenses, for example where a person is stranded away from home;
- living expenses, for example to cover living costs until next or first payment of benefit or first payment of wages. Payment may be made to cover a person on compulsory unpaid holidays or with savings over £16,000 which cannot be realised and who has no other source of income. Payments for living expenses for more than fourteen days will only be made in exceptional circumstances;
- hospital fares, where the hospital fares scheme operated by the HSSB does not apply and the ill health is serious. A person can make an application for her/himself and, where necessary, for an escort;



- reconnection charges where fuel supply has been disconnected and a direct deduction for fuel is going to be made from a social security benefit;
- money to secure accommodation, particularly where a person is homeless or threatened with homelessness;
- rent in advance to a landlord who is not NIHE, up to a maximum of four weeks where a person is leaving residential or institutional care and a CCG is being made under Direction 4.

These are only examples and there are a range of other situations and circumstances in which a payment of a Crisis Loan can be argued.

4.3.5 How much will be awarded?

The amount which will normally be awarded is the smallest sum necessary to alleviate the need or remove the crisis.

Under Direction 18, the maximum amount for living expenses is 60 per cent of the appropriate Income Support, JSA(IB), ESA(IR) or PC personal allowance for the person and any partner, plus a personal allowance for each child.

Under Direction 22, no Crisis Loan will be awarded unless a person can afford to repay the loan. Under Direction 21, any loan awarded must not leave the person and partner owing more than £1,500 to the Social Fund.

4.3.6 Crisis Loans and repayments

Crisis Loans and repayments are subject to the same guidance as Budgeting Loans. Crisis Loans, however, are often recovered at a rate of 20 per cent of available income. Repayment over a longer period should be negotiated where this causes hardship.

4.3.7 Excluded items

Under Direction 23, certain items are excluded from payment by way of a Crisis Loan. These are items 1-16 excluded from CCGs (see 4.1.4) plus:

- garaging, parking, purchase and running costs of any motor vehicle except where payment is considered to be for emergency travel expenses;
- mobility needs;
- holidays;
- TV or radio licence, aerial, rental or purchase costs;
- costs of purchasing, renting or installing a telephone and of any call charges;
- housing costs, including repairs and improvements to the dwelling occupied as the home, any garage, garden or outbuildings and deposits to secure accommodation, mortgage payments, rates, water rates, sewerage rates, service charges, rent and analogous charges for accommodation, other than:



- payments for intermittent housing costs not met by Housing Benefit, Income Support, JSA(IB), ESA(IR) or PC or for which direct payments cannot be implemented such as the cost of emptying cesspits or septic tanks; or
- rent in advance which is payable to secure fresh accommodation where landlord is not NIHE; or
- charges for board and lodging accommodation and residential charges for hostels, but not deposits, whether included in the total charge or not; or
- minor repairs and improvements.
- after Universal Credit is introduced, if a person needs help until her/his benefit claim has been paid, s/he will be required to ask for a Payment on Account of Benefit, instead of what is now called a Crisis Loan.

5. SOCIAL FUND REVIEWS

5.1 What can be reviewed?

Decisions taken by decision makers on Community Care Grants, Budgeting Loans and Crisis Loans can be reviewed by a Social Fund Review Officer (SFRO). Reviewable decisions include:

- the amount of a grant or loan;
- the refusal of a grant or loan;
- whether grants or loans should be paid to third parties;
- whether payment should be by instalments;
- refusal to determine a repeat application;
- refusal to treat an application for a Crisis Loan as an application for a CCG;
- overpayments in consequence of a misrepresentation or failure to disclose material facts.

Decisions on maternity, funeral, cold weather and winter fuel payments can be appealed to an appeal tribunal.

A decision maker may raise and recover payments made where a person has misrepresented or failed to disclose a material fact. Decisions on these overpayments can also be reviewed.

The review system has two stages:

- an initial review by the SFRO;
- a further review by the Social Fund Inspector (SFI).



5.2 Review by Social Fund Review Officer

A person who is not satisfied with a decision of a decision maker can apply for a review. The review will be carried out by a SFRO.

If the SFRO decides not to revise the decision wholly in the person's favour, in most cases the person must be given the opportunity to have a phone interview (or in some cases to attend an interview in person, accompanied by a friend or representative) if s/he wishes, before a determination is made (Direction 33).

The review may take place in the office, in the person's home or over the phone. Where a phone interview is conducted, it must be fully recorded and a copy of the account of the interview sent to the person.

An application for review must be made in writing to the local social security office. It must be signed by the person applying and give reasons why a review is sought. The request for review must be within 28 days of the date of decision by the decision maker. These time limits can be extended where there are special reasons.

When carrying out a review of a Community Care Grant or Crisis Loan decision, a reviewing officer must have regard to all the circumstances of the case, and in particular to:

- the nature, extent and urgency of the need;
- the existence of resources which meet the need;
- whether any other person or body could wholly or partly meet the need;
- the district budget;
- Social Fund directions;
- national and local guidance;
- likelihood of repayment and time it would take (Crisis Loans only).

The SFRO conducting the initial review must also consider the factors set out in Direction 39. These are:

- whether the decision maker applied the law correctly in arriving at the decision on review, in particular:
 - that the decision is sustainable on the evidence;
 - that all relevant considerations were taken into account and that irrelevant considerations were not taken into account;
 - that the law and the Department's directions were interpreted correctly;
- whether the decision maker acted fairly and exercised discretion to arrive at a conclusion that was reasonable in the circumstances, ie a decision that a reasonable decision maker could have reached (Crisis Loans and CCGs only);
- whether the decision maker should have exercised discretion in relation to the maximum amounts specified in local guidance as available to people applying for Budgeting Loans;



- whether the required procedural steps have been followed;
- that the person applying had sufficient opportunity to put the case and there has been no bias.

The SFRO must then take into account all the circumstances of each case, especially those required by law (see section 3). In addition the SFRO must consider:

- in reviewing CCGs and Crisis Loans:
 - all the circumstances which existed at the time of the original determination;
 - any new evidence which has since been produced;
 - any relevant change of circumstances;
- in reviewing Budgeting Loans:
 - the person's personal circumstances as they existed at the time of the original decision;
 - the material facts confirming the person's personal circumstances which existed at the time of the original decision;
 - any new evidence supporting the material facts which confirms the person's personal circumstances existing at the time the original determination was made and which has since been produced;
 - any new loan debt the person has received;
 - the relevant budget and the maximum amounts at the time of the review decision.

The Decision Maker's Guide suggests that SFROs should also check Departmental guidance and ensure that sufficient information about the circumstances of the case has been obtained. SFROs may seek further information, if necessary, and can take account of any change of circumstances or new evidence provided by the person applying or her/his adviser.

If, at the initial review stage, the decision maker decides not to revise the decision wholly in a person's favour, then a further request for review of the decision can be made to the Social Fund Inspector (SFI).

5.2.1 Reviews initiated by a decision maker

Under Direction 31, a decision maker must review any decision made by her/himself or any other decision maker. The review can be conducted by either the decision maker who made the decision or by a SFRO.

A review must be initiated where:

- the decision was based on a mistake as to the law or the directions; or
- the decision was given in ignorance of, or was based on a mistake as to some material fact.

In addition, a SFRO can also review a decision where:



- there has been a relevant change of circumstances (except for Budgeting Loans).

In relation to CCGs, changes of circumstances which occur after an award has been made will not normally initiate a review.

5.3 Review by Social Fund Inspector

A request for further review to a SFI must be made in writing and signed by the person applying within 28 days of the date of the review decision. These time limits can be extended where there are special reasons. The request for a further review must be made directly to the Office of the Social Fund Commissioner.

This letter and all the papers associated with the claim will be sent to the person and her/his adviser who will then usually have eight days to make any further comment. It is possible to check the reasons for the decision and make a full submission on why the claim should be reviewed. Further evidence can still be submitted at this stage.

A SFI can uphold or overturn the review decision of the SFRO. The SFI can also send the matter back for further consideration and a decision by the decision maker. This may be done where there was insufficient information to make the original decision. In such cases, the person may be turned down again and the case can go back to the SFI for a second time.

In limited circumstances, it may be possible to challenge the decision of a SFI by way of judicial review in the High Court. Legal advice must be sought on the possibility of a High Court challenge.

6. LEGISLATION

Social Fund is governed by **Articles 134-136 of the Social Security Contributions and Benefits (NI) Act 1992** and **Articles 62-64 of the Social Security Administration Act (NI) 1992 as amended by The Social Security (NI) Order 1998.**

Maternity and Funeral Payments are governed by the **Social Fund Maternity and Funeral Expenses (General) (NI) Regulations as amended.**

Cold Weather Payments are covered by the **Social Fund Cold Weather Payments (General) (NI) Regulations as amended.**

Social Fund Winter Fuel Payments are governed by the **Social Fund Winter Fuel Payments Regulations (NI) 2000 as amended.**

Other regulations include the **Social Fund (Applications for Review) (NI) Regulations** and the **Social Fund (Recovery by Deductions from Benefits) Regulations as amended.**

Northern Ireland (Welfare Reform) Act 2015



The Welfare Reform (Northern Ireland) Order 2015 (Articles 135 and 136)The
Welfare Reform (NI) Order 2015 (Commencement No.1) Order 2016 (SR.No46/2016)

The Social Security (Payment on Account of Benefit) Regulations (NI) 2016

7. FURTHER INFORMATION

Welfare Benefits and Tax Credits Handbook, 18th Edition, CPAG, 2016/2017, from April 2016, £61.00*.

Social Fund Guide is available on the Department for Social Development website.

Legislation covering Social Fund can be purchased through The Stationery Office. The English legislation, which is broadly similar to Northern Ireland, is contained in: Trevor Buck, *The Social Fund Law and Practice*, £89.00, 3rd Edition, March 2009.

Social Security Legislation 2015/16, Volume II, plus March 2015 Supplement, £165.00*.

*available from CPAG, 94 White Lion Street, London, N1 9PF.

Legislation can also be accessed through the Law and Legislation section of the DfC website (called the Blue Volumes): www.communities-ni.gov.uk/services/law-relating-social-security

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