

Review



## Report for the period 1 April 2017 – 31 March 2018



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# Foreword



Dear Permanent Secretary

21 May 2018

As Discretionary Support Commissioner, I am required to present an Annual Report under the provisions contained in Article 136(6)(d) of the Welfare Reform (Northern Ireland) Order 2015.

Whilst this is my second Report, it is the first to cover a 12-month period of operation, from 1 April 2017 to 31 March 2018.

It is evident to me that Discretionary Support

is making a vital contribution in support of the most vulnerable and those most in need across Northern Ireland.

This report sets out the context in which the Office of the Discretionary Support Commissioner operates and the work undertaken during the 12-month period ending 31 March 2018, together with conclusions and observations.

Yours faithfully

A handwritten signature in black ink, which appears to read 'Walter Rader'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Walter Rader OBE MA Dip YCS  
**Discretionary Support Commissioner**

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# Executive Summary

During the period covered by this Report – 1 April 2017 to 31 March 2018

- The Office of the Discretionary Support Commissioner (ODSC) has been fully operational
- The Commissioner has visited both the Antrim-based Teleclaim Service Centre and Review Hub, together with the Dungannon Teleclaim Service Centre, and participated in both DS team meetings and a 12-month reflective review process
- ODSC has an advisory place on the Discretionary Support Change Control Group (Guidance)
- ODSC has carried out 166 Independent Reviews at the request of claimants
- Systems and processes have been refined, in light of use, to ensure that the Independent Review Service is efficient and effective
- Analysis of the work of Inspectors is provided and Commissioner’s Conclusions and Observations are set out



**Back row L to R:** Mark Egan, Office Manager; Inspectors, Amy Lucas, Fiona Douglas, Gary Toner, Deborah Quinn **Front Row L to R:** Inspectors, Marc Williams, Darren Todd; **Inset:** Nuala Baxter, Administration

# Introduction of Discretionary Support Arrangements

1. Discretionary Support is administered by the Department for Communities (the Department). The Welfare Reform (Northern Ireland) Order 2015 makes provision for the Department to make payments by way of a grant or loan to prescribed persons. These arrangements constitute the provision of Discretionary Support, which is available only in Northern Ireland. Arrangements came into operation on 28 November 2016.
  - 1.1 To access Discretionary Support (DS), a claimant must have had an 'extreme, exceptional or crisis situation' which places their, or a member of their

immediate family's, health, safety or wellbeing at significant risk. If eligible, the claimant may be offered a Discretionary Support loan or grant. If the claimant is unhappy with a Discretionary Support decision, they have the right to ask for a review within 28 days of the initial decision. The first review is carried out by a Departmental Review Officer (RO). If the claimant is unhappy with the outcome of the first review, they can ask for a further review by the Discretionary Support Commissioner, who is independent of the Department. [\[see Para. 7, Diagram A\]](#)

## Appointment of a Discretionary Support Commissioner

2. The Welfare Reform (Northern Ireland) Order 2015 makes provision for the appointment of a Discretionary Support Commissioner. The Commissioner is an independent statutory office-holder appointed by the Minister for Communities.

The independence of both the Commissioner and of his reporting is paramount to the role.

2.1 As detailed in the Welfare Reform (Northern Ireland) Order 2015, the Commissioner's role is:

- to monitor the quality of decisions of Discretionary Support Inspectors and give them such advice and assistance as the Commissioner thinks fit to improve the standard of their decisions
- to arrange such training of Discretionary Support Inspectors as the Commissioner considers necessary
- to carry out such other functions in connection with the work of Discretionary Support Inspectors as the Department may require
- to report annually in writing to the Department on the standard of reviews by Discretionary Support Inspectors

2.2 Under the Welfare Reform (Northern Ireland) Order 2015, the Department is required to publish the Commissioner's Annual Report.

## Provision of Resources

3. The Commissioner appoints Discretionary Support Inspectors and other staff from persons made available to him by the Department so that his statutory duties can be discharged. This includes an Office Manager appointed to support the Commissioner in the running of his office, Inspectors and administrative support. All staff are Northern Ireland Civil Servants and are subject to NICS Terms and

Conditions. Whilst attached to the Office of the Commissioner, staff are required to operate in an independent role.

3.1 The Department provides for the running costs of the Commissioner's office through the normal Departmental budget allocation process. Accommodation and services, for example, IT support and internal audit, are provided by the Department.

## Relationship Statement

4. A Relationship Statement between the Discretionary Support Commissioner and the Department has been agreed and governs the interaction between the two entities. The Relationship Statement records the statutory basis for the post of Commissioner and sets out the functions of the office, together with the planning and reporting arrangements operated by the Commissioner.

## Context

5. I took up post as the first Commissioner on 1 September 2016. I titled my First Report 'Initial', as it covered a four-month period ending 31 March 2017. This report covers the operation of the Independent Review Service for the first full 12-month period, from 1 April 2017 to 31 March 2018.
- 5.1 I wish to acknowledge the staffing arrangements made available to me by the Department. I recognise my responsibility both for staff training and in supporting career development. I wish to encourage staff to realise their full potential, including developing new skills and additional experience which will be transferrable to their future roles. I also want to ensure the efficient and effective delivery of the Independent Review Service, and to this end systems and process are reviewed regularly.

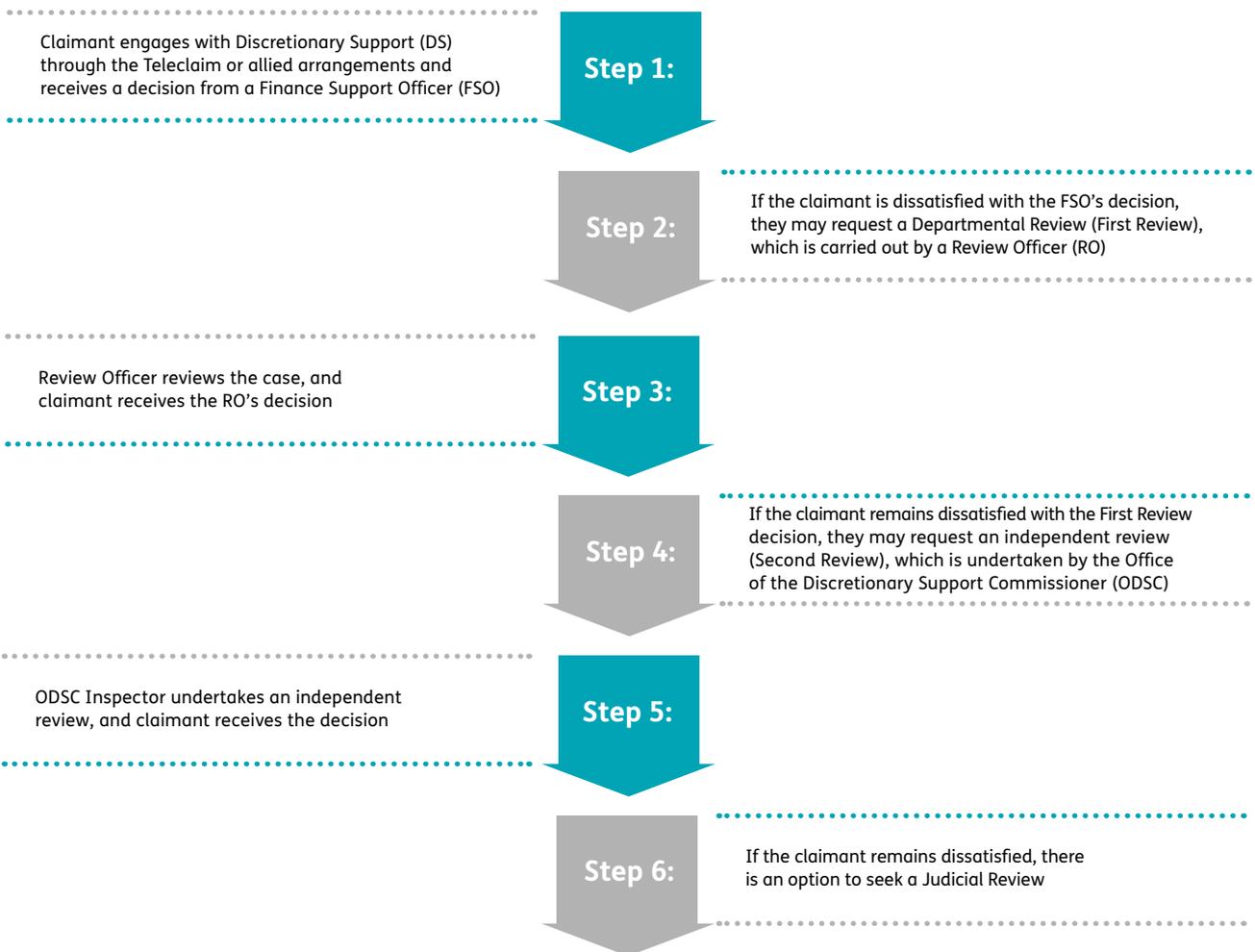
## Business Purpose

6. The purpose of ODSC is to deliver an Independent Review Service for claimants who are dissatisfied with the outcome of the First Review decision made by a Departmental Review Officer. ODSC Business objectives and values are set out at [Annex 1](#).

# The Discretionary Support Independent Review Service

7. The Independent Review Service provided by ODSC comprises a six-step process as set out in Diagram A below:

## Diagram A



# Report on the work of the Inspectors during the period 1 April 2017 to 31 March 2018

## Northern Ireland Claims and Reviews

8. During the 12-month period covered by this report, details of the total claims received across Northern Ireland, First Reviews undertaken by the Department, and independent, Second Reviews carried out by ODSC are set out in Table 1 below:

**Table 1**

Item	Number	Context
R1	67,005	The total number of Discretionary Support claims dealt with by the Department
R2	3,123	The number of claimant-requested First Reviews carried out by the Department, which represents 5%* of the total claims as set out in R1
R3	166	The number of independent, Second Reviews requested by claimants and carried out by ODSC Inspectors, which represents 5% of RO First Reviews at R2

[\*Percentages are rounded up or down to the nearest point using the convention under 0.5% rounded down, over 0.5% rounded up]

## Standard of Discretionary Support Inspectors' Decisions

9. As Commissioner, I have a statutory duty under Article 136 of the Welfare Reform (Northern Ireland) Order 2015 to monitor the quality of Inspectors' decisions and to give them advice and assistance to improve the standards of their reviews.
- 9.1 My team of Inspectors carry out reviews, as requested by claimants, of the decisions made by the Department's Discretionary Support Review Officers. [\[Para. 7, Diagram A, Steps 4 and 5\]](#)

# Case Reading

10. Case reading is the primary means by which I assess the standard of Inspectors' decisions and reports. As DS is still in the early period of implementation, I have decided to continue to read 100% of the case reviews which are undertaken.
- 10.1 My findings and advice are fed back to individual Inspectors, either by the Office Manager or through direct dialogue between myself, as Commissioner, and the individual Inspector. This process is augmented by additional training, staff meetings and peer-review sessions.
- 10.2 Whilst there is statutory provision for the claimant to seek judicial review through the Courts, in practice thus far the Inspector's independent review decision tends to provide the final resolution. It is vital, therefore, that Inspectors deliver high-standard decisions and that monitoring processes are robust.
- 10.3 In addition to complying with Discretionary Support Regulations and Departmental Guidance (which for the avoidance of doubt are the same as those which apply to FSOs and ROs), Inspectors' decisions must be based on the evidence and the facts to ensure justifiable decisions are reached in respect of each case.
- 10.4 All those who use the Independent Review Service have a right to know the reasons why the Inspector reached the decision in 'their particular case'. Inspectors' decisions must, therefore, be presented in plain language and in a concise manner. During my reading of cases, I consider whether the decision is justified, based on the evidence and facts of each case, and whether the decision is in keeping with DS Regulations and Departmental Guidance. In addition, I consider the clarity of the report to ensure it avoids jargon and communicates the reasons for the decision clearly and concisely to the claimant.
- 10.5 Although this is my second Report, it should be noted that this Report covers the first full 12-month period of DS operation. It remains early days in terms of the introduction of this new benefit and the associated process systems. The Departmental decision-making officers and ODSC Inspectors implementing the DS Regulations and Guidance are gaining valuable experiential learning and honing skills. In doing so they are both justified, and indeed required, to use their judgement and discretion in arriving at the decisions which they make.

10.6 My role as the Independent Commissioner affords me a unique overview of DS implementation. I maintain a clear understanding of the Discretionary Support system and process end to end, which enables me to ensure that my Inspectors are delivering relevant and timely reviews. To this end the Discretionary Support Inspectors and I visited staff and management in the Antrim and Dungannon Service Centres. These are the two hubs operating the Telephony and IT Teleclaim system

for Discretionary Support claimants. Antrim also encompasses staff providing the Departmental Review process. We have also participated in DS Team meetings and were involved in the 12-month reflective review process.

10.7 I have undertaken 166 case readings during the 12-month period covered by this report, which represents 100% of the cases dealt with by Inspectors. My findings are set out at Table 2 below:

**Table 2**

ITEM	NUMBER	CONTEXT
R4	157	Decisions taken by ODSC Inspectors were correct, based on the evidence and facts of the cases, which represents 96% of all independently reviewed cases [R3 of Table 1 above]
R5	9	Cases where the Commissioner required clarification by the Inspector as referenced at R6 and R7 below, which represents 5% of the total cases independently reviewed [R3 of Table 1 above]
R6	7	Cases [of the 9 at R5] where the Commissioner required the Inspector to seek further clarification from the claimant in respect of the evidence / facts of the case, which represents 4% of the total cases independently reviewed [R3 of Table 1 above]
R7	2	Cases [of the 9 at R5] where the Commissioner required the Inspector to explain in greater detail how, based on the evidence / facts available, DS regulation 10(1)(a) had been satisfied, which represents 1% of total cases independently reviewed [R3 of Table 1 above]

# Delivery Targets

11. Casework delivery targets were not included in either DS Regulations or Departmental Guidance for ODSC Inspectors. As Discretionary Support is unique to Northern Ireland, I, as

Commissioner, set initial casework targets which mirrored those that had been in place for Social Fund Inspectors, as set out in Table 3 below:

**Table 3**

ITEM	NUMBER	CONTEXT
R8	2	Urgent case review process (following a disaster as detailed in the DS Regulations)
R9	12	Standard case review process
R10	21	Complex case review process

# Performance against casework targets – 1 April 2017 to 31 March 2018

12. Inspectors have worked to a clear set of casework delivery deadlines

during the period. The results are set out in table 4 below:

**Table 4**

ITEM	NUMBER	CONTEXT
R11	11	Urgent review cases cleared within the target [Target at R8 of Table 3 above]
R12	141	Standard review cases cleared within the target [Target at R9 of Table 3 above]
R13	14	Complex review cases cleared within the target [Target at R10 of Table 3 above]

13. Having now operated the Independent Review Service during the first full 12-month period, I intend to revise the

casework delivery targets for the coming year and will set out the revised deadlines in the ODSC Business Plan 2018/19.

# ODSC Inspectors' Review Outcomes during the reporting period

14. In undertaking their Independent Review Service duties (Second Review), ODSC Inspectors' decisions have resulted in the actions set out in Table 5 below:

**Table 5**

ITEM	NUMBER	CONTEXT
R14	11	Cases where Inspectors changed the decision made by ROs from disallowance of DS to an award of a DS Grant,* which represents 7% of total cases independently reviewed.
R15	2	Cases where Inspectors changed the decisions made by ROs from a Loan to a Grant,* which represents 1% of total cases independently reviewed.
R16	2	Cases where Inspectors changed the decisions made by ROs not to award a DS loan to the award of a DS loan,# which represents 1% of cases independently reviewed.
R17	15	Cases where Inspectors decided that regulation 10 was satisfied and returned cases to the ROs to consider regulation 11 Loan or regulation 12 Grant, which represents 9% of the cases independently reviewed.
R18	136	Cases where inspectors upheld the decisions made by the Departmental Review Officers, which represents 82% of the cases independently reviewed.

[\* The total additional spend resulting from R14 and R15 was £12,273.13 in grants from the DS budget]

[# The total additional loan spend resulting from R16 was £359.99 from the DS budget.]

[\*# Note: The ODSC does not hold a budget for the loan or grant decisions made by Inspectors. Such awards come from the DS central budget; therefore in the reporting period Inspectors' decisions resulted in additional spend from the DS budget of £12,633.12]

## Actions taken by ODSC

15. During the reporting period my office provided feedback to the Department on our findings and the trends we observed in relation to the cases reviewed by the Inspectors. During the period of this report ODSC has:
- Made improvements in the standard of our work, taking into account the views of our stakeholders and the reflective learning from the case-reading process
  - Maintained a Learning Log as the basis for shared learning and advice
  - Provided advice and information to the public, claimants and their advisers, as well as to staff of the Department, about Discretionary Support, the role and work of ODSC, and the right of claimants to seek an independent (Second Review) Discretionary Support review
- Provided advice to the DS Change Control Group (Guidance) to improve Departmental Guidance and processes
  - Supported the Department to improve standards of Discretionary Support decision-making and operational delivery through feedback, advice and attendance at DS Management / Staff meetings
  - Focused business resources to achieve the most efficient and effective outcomes delivering value for money

## Resources

16. During the reporting period ODSC was allocated funding by the Department for salaries of £175,000. In addition, there was funding of £12,000 to provide for Travel and Subsistence, Staff Training and Development, Computer charges, Postage and Stationery. The Department also provides accommodation and Internal Audit functions.
- 16.1 In my Initial Report last year, I gave an undertaking that I would keep resource management under review. I can confirm that ODSC has delivered the Independent Review Service to casework targets and achieved a modest in-year saving. I will continue to monitor budget allocation and casework targets in the coming year.

## Conclusions and Observations

17. As Commissioner, I am privileged to have a unique, independent overview of Discretionary Support processes. I offer the conclusions and observations set out below from that independent

perspective. My Office stands ready to discuss these matters as a contribution to the efficient and effective development of Discretionary Support delivery.

## Justification of Decisions

18. As Commissioner I take the view that, in the interests of natural justice, it is a requirement for both Departmental DS decision-makers and ODSC Inspectors to fully justify the decisions set out in their respective reports. It is vital that decisions be clearly written and understandable by claimants, their representatives / support workers, and the Officers subsequently involved with the case.

decision is made, it is likely that the rationale supporting that decision was clearly established in the mind of the decision-maker. Consequently that rationale / justification must be set out clearly in the decision-maker's report.

18.1 As decision-makers become familiar with DS processes, a 'shorthand / abbreviated' form of report writing may tend to be adopted. This approach should be avoided. Without clearly set-out justifications, it can be challenging for claimants, ROs, Auditors and Inspectors to understand how the decision was either arrived at or is being justified. When an outcome

I encourage decision-makers not just to say that a regulation was met or not met but to set out briefly their justification as to 'why' it was met or not met.

18.2 As Commissioner I support the audio recording of the Teleclaim process and take the view that it protects the interests of both claimants and Departmental Staff. Audio recordings have been a valuable point of reference for ODSC Inspectors. This not only applies to an Inspector's

consideration of a case but in particular when there is a dispute raised by a claimant about 'who said what'.

18.3 ODSC Inspectors have identified examples from Teleclaim recordings where clear information has not been given to a claimant regarding:

- DS family income or debt thresholds
- Arrangements regarding loan or grant availability in a rolling 12-month period
- Clarification of the implications where, during the initial Teleclaim conversation, the claimant does not have all the information to hand and opts to proceed with the claim, without fully realising that by doing so they have agreed to leave out a number of the items originally sought at the start of the Teleclaim. There have been examples where this has resulted in a claimant being placed in an even more extreme, exceptional or crisis situation

I invite staff to be aware that the Teleclaim process is recorded, and I encourage them to ensure that clear and

concise information is given during each conversation.

18.4 For the avoidance of doubt, I wish to state clearly that, when undertaking Independent Reviews at the request of claimants, ODSC operates within the same Discretionary Support Regulations and Departmental Guidance which apply to the Teleclaim Centres. I have seen evidence in FSO and RO written decisions and heard in the audio recordings how the impression has been communicated to claimants that ODSC operates to different rules or criteria from Departmental staff. This is both factually incorrect and unhelpful.

I seek the support of DS Management to ensure that claimants are given factually correct information about the role of ODSC.

18.5 I welcome the establishment of the DS Change Control Group (Guidance) (DSCCGg), on which my office has a place in an advisory role. The Group is an essential forum in which to consider DS developments in a structured and objective manner. ODSC values our participation in DSCCGg.

# Loans

19. The DS outstanding debt threshold, encompassing both legacy debt and DS loan debt, is set by the Department [Part 6, reg. 21(4)]. Where a claimant exceeds the threshold of outstanding debt, they cannot access Loans from DS. It has been cited that the DS threshold, currently set at £1,000, helps to manage down claimant's debt levels.

19.1 ODSC has identified a trend over the past year which seems to indicate continuing high levels of claimant 'legacy debt', up to almost £1,500 in some cases. In such cases it is frequently noted that the claimant does not have DS debt.

19.2 As a result of further investigation, ODSC has established that the source of the legacy debt would appear to be Budgeting Loans. As Commissioner I observe that an apparent consequence of the ongoing existence of Budgeting

Loans is the continued level of legacy debt in excess of the DS threshold. This prevents claimants from accessing DS Loans.

As Commissioner, I take the view that two elements of benefits (Budgeting Loans and the DS debt threshold, the latter with a stated aim of managing down claimant's debt) are demonstrably in opposition. I am unclear if this situation will be addressed with the roll-out of Universal Credit. I invite DSCCGg to consider this apparent anomaly.

[Commissioner's Note: Commissioner understands that when a claimant moves to Universal Credit (UC), access to Budgeting Loans will cease. There will, however, be access to a Budgeting Advance under UC, albeit with different criteria and limits.]

# Income threshold

20. As part of DS there is a threshold set for family income [Part 4, reg. 15 and Departmental Guidance]. During the period covered by this report, ODSC has independently reviewed a number of cases where the family income threshold has been exceeded, thus preventing access to DS.
- 20.1 The income threshold set for the reporting period was £15,600. This figure was applied to both individuals and family units. Thus an individual claimant living on their own was subject to the same income threshold as a family unit.
- 20.2 Where a family unit claimed Child Tax Credit (CTC), there was a correlation between the payment of CTC and the family income exceeding the DS threshold. Claimants frequently made the argument that CTC was a payment in relation to a child / children and that they felt penalised because CTC was not disregarded under DS.
- 20.3 When DS was introduced it was cited that this new, Northern Ireland-only, mitigation would be available to low-wage families. The Departmental Guidance states – Discretionary Support Eligibility Part 1, para. 1 – “Through Discretionary Support (DS) the Department aims to alleviate

the most extreme, exceptional or crisis situations which present a significant risk to the health, safety or well being of low income and vulnerable households through the provision of financial support.”

During the reporting period it has been the experience of ODSC that very few low-wage families (which sought a second review) were below the threshold. There have been examples of the threshold having been exceeded by £25 to £100. ODSC contends that this is due to the application of a single threshold to both an individual and a family unit.

As Commissioner, I take the view that the application of a single threshold to both individuals and family units is at best unfair and at worst discriminatory. I take the view that this matter should be addressed. There may be merit in considering an income threshold for individuals and a higher one for family units. I invite DSCCG to consider the matter.

## Disasters

21. During the reporting period I have issued Commissioner's Advice to ODSC Inspectors in relation to the interpretation of disasters. I have taken the view that the description of disasters as set out in DS regulation 3 and in Departmental Guidance takes as its starting point an assumption that disasters are likely to affect a number of people and / or a geographical area. Whilst the guidance is described as 'not exhaustive', it may, nonetheless, have the unintended consequence of prioritising, in the minds of decision-makers, a somewhat restricted view of a disaster.
- 21.1 I issued advice to my Inspectorial team in terms of how the determination of "disaster" may, based on the evidential circumstances, be interpreted more broadly than the scope detailed within the Departmental Guidance. I shared my view with the Department, and I welcome that this matter has been taken up by the DSCCGg and look forward to further clarification being provided.

## Inspectorate decisions

22. ODSC Inspectors operate under the same DS Regulations and Departmental Guidance as FSOs and ROs. Inspectors, along with ROs, as detailed in Discretionary Support Inspectors' Review Guidance paras. 34 to 34.1, cannot reduce the value of either a loan or a grant already awarded to a claimant which would 'disadvantage a claimant', even if in their view, the award was incorrect.
- 22.1 If, in the opinion of an Inspector, either a DS Grant or Loan was offered incorrectly, or if the value of any such Grant or Loan was too high, the Inspector will set out the justification for their view in the decision report. The report will also include reference to the fact that the claimant cannot be disadvantaged. There have been limited numbers of times when this has occurred.

## I commend the reading of ODSC Inspectors' reports to Management as a further source of learning opportunities in the development of Discretionary Support training.

- 22.2 As a result of the Independent Review Service, ODSC Inspectors can increase the amount originally offered in either a DS Loan or Grant. Such increases must be justified in the Inspector's Report, and a process exists in the Discretionary Support Computer System to take this action.
- 22.3 During the reporting period I have seen evidence that ODSC Inspectors, in the course of their Review, have found additional facts / evidence which were pertinent to the initial claim, although not discovered at the time. In the examples which I have seen the additional facts / evidence related to:
- Example a.** Cases were it was originally deemed that the claimant was eligible for DS, having met regulation 10(1)(a) but, based on the facts / evidence available to the FSO / RO at the time of the application, the FSO / RO decided that neither a DS Loan (regulation 11) or Grant (regulation 12) could be paid and the claimant received what is described as a nil offer.

**Example b.** Cases where it was deemed by the FSO / RO that the claimant did not meet the initial eligibility criteria set out in regulation 10(1)(a) on the basis of the facts / evidence available at the time of the application. Therefore the initial decision and first review decision were based on the claimant not being eligible for DS.

- 22.4 I have read a number of cases where, as a result of the Independent Review undertaken by an ODSC Inspector, additional facts / evidence have been uncovered which were relevant at the time of the initial claim. In these circumstances the Inspector justifies in their decision why in relation to Example a the additional facts / evidence justify reconsideration of the possibility of a DS Loan or Grant. In relation to Example b, the Inspector may justify on the basis of additional facts / evidence established why the claimant should be deemed to have met regulation 10(1)(a).
- 22.5 Under current arrangements the Inspector, having justified their decision in their report, is required to return the case to the Department for the matter to be considered further.
- 22.6 As Commissioner, I have seen evidence, albeit on a limited number of occasions, that such cases have a tendency to bounce back and forward between the Department and my office as the

claimant seeks further independent review. This process inevitably consumes time and resources, in addition to causing frustration and anxiety for the claimant.

As Commissioner I take the view that, in the limited number of cases where these situations are encountered, there is much to commend ODSC Inspectors having the authority to implement the

decision they have justified. This would serve to streamline the current arrangements and provide a more efficient and effective review process. I invite DSCCGg to consider the matters I have outlined in Paras. 22.2 to 22.6 above with a view to granting ODSC Inspectors authority to follow through on justified decisions.

## Claimants' Ownership of Household Items

23. During the reporting period Inspectors have identified a number of occasions when claimants move from one property to another and seek support with the purchase of what are described as 'household items'. Such items may also be sought as a result of moving from institutional care, via a hostel, to living in the community.

23.1 Reasons for moving include: domestic violence; threat and / or intimidation; downsizing to a more appropriate size of property due to illness or

disability; moving from a hostel to more permanent accommodation with bedroom space for children; a move necessitated by the landlord wishing to sell property; damp and insanitary conditions; and a move from institutional care to living in the community.

23.2 Such moves may also be from the private rented sector to social housing. A common factor is often that the claimant has lived in a furnished property for a number of years and does not own what might

be regarded as basic household items including white goods, settee, table, chairs, bed, storage units and general household items.

23.3 In the circumstances outlined above, it can be challenging to consider which items, if any, may merit DS support. It can also be difficult to identify where within DS Regulations and Guidance such matters are covered. The issue is that if a claimant has had no reason to own the items sought, it cannot be reasonable to expect the claimant to have such items when moving to unfurnished accommodation.

23.4 ODSC Inspectors have confirmed that social housing is likely to be offered in a basic / shell format. It is likely that a PVC tile covering may be provided in the bathroom and kitchen, with all other floors being either bare concrete or wood. It is unlikely that any form

of window covering (blinds / curtains) will be provided. Basic items such as a cooker and general white goods are not normally included in the social housing tenancy arrangements.

23.5 As Commissioner I take the view that it would be helpful to consider how DS Regulations and Departmental Guidance cover what might be regarded as basic human rights, including a method to cook / make a meal, a bed on which to sleep, and a place to sit. This is in the context that there are claimants who, for a number of reasons, do not own basic items of household goods.

I invite DSCCGg to consider the points at Paras. 23 to 23.5 above and how DS Regulations and Guidance can be clarified.

# Office of the Discretionary Support Commissioner

## Business Objectives

- Deliver impartial, independent review decisions to published standards
- Make improvements in the standard of services provided and in doing so seek, and take into account, the views of claimants and stakeholders
- Provide advice and information to the public, claimants and their advisers, to staff of the Department, and to stakeholders, about the role and work of the Office of the Discretionary Support Commissioner (ODSC), highlighting the right of claimants to seek an independent review of a Discretionary Support decision made by a Departmental Review Officer
- Support the Department to improve standards of Discretionary Support decision-making and operational delivery through an annual report and advice
- Focus business resources to achieve efficient and effective outcomes delivering value for money

## Business Values

Business values guide staff in the delivery of their work and focus the contribution made both individually and as a team.

The ODSC business values are to:

- place claimants at the centre of the review process
- treat claimants, stakeholders and colleagues with respect and courtesy
- respect and accept the differences of others in accordance with Section 75 obligations
- work to improve standards of service provided for claimants of Discretionary Support
- be receptive and responsive to the external environment and the way it influences and shapes our business future
- engage in reflective learning and use this process to make improvements to the independent review service
- recognise and value the members of our staff team for the contribution each makes in delivering efficient and effective services

# Welfare Reform

The Discretionary Support Regulations  
(Northern Ireland) 2016

## PART 3 Eligibility

### Basic eligibility conditions

10. (1) A discretionary support award  
may be made where

- (a) an extreme, exceptional or crisis situation presents a significant risk to the health, safety or well-being of the claimant or a member of the claimant's immediate family
- (b) the need for discretionary support occurs in Northern Ireland
- (c) the claimant's income does not exceed the annual income threshold
- (d) the claimant is
  - (i) at least 18 years old, except where child benefit is payable in respect of the claimant; or
  - (ii) a minimum of 16 years old in the case of a young person who is without parental support; and
- (e) the need must be satisfied in Northern Ireland

(2) For the purposes of this regulation a person is not entitled to a discretionary support award unless the person

- (a) is ordinarily resident in Northern Ireland; and
- (b) is present in Northern Ireland

(3) Except in the case of a disaster, discretionary support shall not be awarded in respect of

- (a) living expenses for which a discretionary support award has already been made
- (b) a claim for the same or other items made within any rolling 12 month period from the date an award is made by the same claimant; or
- (c) any loan in relation to regulation 11(1)(c) or (d) which exceeds the 3 loan maximum as set out in sub-paragraph (d)
- (d) Subject to regulation 12 a claimant is not eligible to be awarded more than three loans or one grant in a rolling 12 month period

- (4) In this regulation “a young person is without parental support” means, where that person is not being looked after by an authority and
- (a) has no parents
  - (b) has parents, but cannot live with those parents because
    - (i) the person is estranged from them; or
    - (ii) there is a serious risk to the person’s physical or mental health, or that person would suffer significant harm if the person lived with them; or
  - (c) is living away from those parents, and neither parent is able to support the person financially because that parent
    - (i) has a physical or mental impairment; or
    - (ii) is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court

### **Loan eligibility**

11. (1) Discretionary support may be awarded in the form of a loan as follows
- (a) by the provision of immediate assistance with short term living expenses
  - (b) by the provision of household items, or assistance with the repair or replacement of household items that have been stolen, broken or destroyed
  - (c) by the provision of travelling expenses, to the claimant or one or more members of their immediate family, or an escort, including any reasonable charges for overnight accommodation in order to
    - (i) visit a close relative who is ill
    - (ii) attend a close relative’s funeral
    - (iii) ease a domestic crisis
    - (iv) visit a child who is with the other parent pending a family court decision

- (v) move to suitable accommodation; or
- (d) by providing rent in advance to a landlord other than the Northern Ireland Housing Executive
- (2) A loan shall not be awarded for any of the items and services specified in Schedule 1
- (3) Where paragraph (1)(a) applies short term living expenses shall be limited to those expenses deemed, by a discretionary support officer, as necessary to support a basic standard of living
- (4) Any award to which paragraphs (1)(c), (3), or (5) applies shall not in any case exceed the difference between any sum already repayable by the claimant and the claimant's partner and an assessment of their ability to repay and a level of debt for the time being acceptable to the Department
- (5) Where paragraph (1)(d) applies the amount of rent to be provided shall not exceed a sum calculated in accordance with paragraph (4)(1) of Schedule 2 of the Housing Benefit Regulations (Northern Ireland) 2006(a)

(a) S.R. 2006 No. 405

- (6) In this regulation "escort" means a person, who is not an immediate family member, who is permitted to accompany an individual

### **Grant eligibility**

- 12. (1) Discretionary support may be awarded in the form of a grant where the conditions in paragraph (2) are satisfied
- (2) A grant will only be awarded where
  - (a) the grant is to provide assistance for a claimant or their immediate family to remain or begin living independently in the community; or
  - (b) the claimant or their immediate family are prevented from remaining in their home; or
  - (c) the grant is to provide assistance in the form of living expenses where the claimant is over the acceptable debt threshold; or
  - (d) where the claimant is eligible for a loan for living expenses and cannot afford to make repayment

- (3) For the purposes of paragraph 2, sub-paragraphs (a) and (b) only one grant may be awarded to a claimant in any rolling 12 month period from the date an award is made except in the event of a disaster
- (4) For the purposes of paragraph 2, sub-paragraphs (c) and (d) only one living expenses grant may be awarded to a claimant in any rolling 12 month period from the date an award is made
- (5) A grant shall not be awarded for any of the items and services specified in Schedule 2
- (6) In this regulation “acceptable debt threshold” means the level of debt determined as acceptable to the Department

## Annex 3

# Schedule 1

## Regulation 11(2)

### Discretionary support loans – excluded items and services

1. Any need which occurs outside Northern Ireland
2. An educational or training need including clothing, tools, school uniforms or sports clothes, equipment for use at school, school meals and travel to and from school
3. Work related expenses
4. Expenses in connection with court or legal proceedings (including community service orders) such as legal fees, court fees, fines, costs, damages, subsistence or travelling expenses
5. Domestic assistance and respite care
6. Medical items or services including surgical, optical, aural and dental
7. Mobility needs
8. Funeral and maternity expenses
9. Any expenses which the Trusts or Local Councils have a statutory duty to meet
10. Housing costs, including repairs modifications and improvements to the dwelling occupied as the main home, including any garage, garden and outbuildings, and including deposits to secure accommodation, mortgage payments, rates, water rates, sewerage rates, service charges, rent and all other charges for accommodation except rent payable under regulation 11(1)(d)
11. Removal or storage charges where a claimant is re-housed 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 statutory duty to the homeless under the Housing (Northern Ireland) Order 1988(a)
12. Costs associated with home or personal security measures including locks, bolts for outside doors or windows, door chains, door viewers, installation of closed-circuit television, burglar alarms or security lighting
13. A television or radio and licence, aerial, cable, satellite or rental charges for a television or radio

- 14.** Costs of purchasing, renting, installing or maintaining a computer, telephone, mobile phone or internet including software, call or usage charges
- 15.** Garaging, parking, taxi use, purchase and running costs of any motor vehicle except travelling expenses payable to assist with an urgent crisis or emergency under regulation 11(1)(c)

**16.** Holidays

**17.** Debts to government departments

**18.** Investments

(a) S.I. 1988 No. 1990 (N.I. 23)

# Schedule 2

## Regulation 12(5)

### **Discretionary support grants – excluded items and services**

1. Any need which occurs outside Northern Ireland
2. An educational or training need including clothing, tools, school uniforms or sports clothes, equipment for use at school, school meals and travel to and from school
3. Work related expenses
4. Expenses in connection with court or legal proceedings (including community service orders) such as legal fees, court fees, fines, costs, damages, subsistence or travelling expenses
5. Domestic assistance and respite care
6. Medical items or services including surgical, optical, aural and dental
7. Mobility needs
8. Funeral and maternity expenses
9. Any expenses which the Trusts or Local Government have a statutory duty to meet
10. Housing costs, including repairs modifications and improvements to the dwelling occupied as the main home, including any garage, garden, outbuildings, and including 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 or services except daily living expenses such as food and groceries where such expenses are incurred in caring for a prisoner or young offender on temporary release under Rule 27 of the Prison and Young Offenders Centres Rules (Northern Ireland) 1995(a)
11. Removal or storage charges where a claimant is re-housed 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 statutory duty to the homeless under the Housing (Northern Ireland) Order 1988(b)

- 12.** Costs associated with home or personal security measures including locks, bolts for outside doors or windows, door chains, door viewers, installation of closed-circuit television, burglar alarms or security lighting
- 13.** A television or radio and licence, aerial, cable, satellite or rental charges for a television or radio
- 14.** Costs of purchasing, renting, installing or maintaining a computer telephone, mobile phone or internet including software, call or usage charges
- 15.** Garaging, parking, taxi use, purchase and running costs of any motor vehicle
- 16.** Holidays
- 17.** Debts to government departments
- 18.** Investments
- 19.** Costs of fuel consumption and any associated standing charges.
- 20.** Travel and any associated accommodation expenses required to visit a close relative who is ill, attend a close relative's funeral, ease a domestic crisis, and visit a child who is with the other parent pending a family court decision or to move to other accommodation.

(a) S.R. 1995 No. 8

(b) S.I. 1988 No. 1990 (N.I. 23)







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