

Policy Circular

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Owner: Strategy & Communications Directorate

Subject: Available Income

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1.0 Background

Apart from Group 1 (former Extension Fund) protected candidates there has been a commonly accepted formula for calculating available income since 1993. The Conditions of Grant Agreement (COGA) set out the basis upon which candidates are expected to make a contribution towards their care costs.

Paragraph 6 of the 2011 COGA explains how the contribution is to be calculated and that the contribution will operate by way of a reduction in the value of the gross ILF award.

The COGA preserves the traditional protection given to certain Group 1 (former Extension Fund) candidates. Protected status is preserved indefinitely. Where the rate of DLA is revised this does not change the protected status as long as the user remains eligible for funding.

Trustees are no longer able to take exceptional decisions in specific cases on the grounds of financial hardship. However where a decision has been taken previously to disregard available income it will be honoured for the agreed period.

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2.0 Policy

A candidate (with the exception of Group 1 protected candidates) is usually expected to contribute the aggregate of:

1. $\frac{1}{2}$ higher rate DLA Care Component or $\frac{1}{2}$ Attendance Allowance
2. where the candidate is in receipt of Constant Attendance Allowance $\frac{1}{2}$ CAA received or $\frac{1}{2}$ DLA whichever is the lesser amount
3. any Severe Disability Premium paid with Income Support or Income-related Employment and Support Allowance or any additional amount for severe disability paid with Pension Credit
4. the full amount of any Special Transitional Additions received
5. if the candidate is not in receipt of Income Support, Income Based Jobseekers Allowance, Income-related Employment and Support Allowance or Pension Guarantee Credit the difference between their weekly resources and their weekly needs (calculated in accordance with the provisions of paragraphs 7.4 and 7.5(a) and (b) respectively of the COGA). This is the ILF notional assessment calculation. **See Guidance at Appendix**

Group 1 protected candidates are not expected to contribute 1 and 2 above but will contribute any additional income.

From the aggregate sum that this calculation produces, the amount of any charge paid against a local authority contribution of Qualifying Support and Services, will be deducted. If that produces a nil result then the user contribution is nil. No other charges paid by a candidate to a local authority or other organisation may be deducted.

Where an award is revised on or after 20 August 2010 no account can be taken of increases to local authority charges made in respect to – see Changes to Local Authority Charges Policy for full details.

2.1 Additional principles

A candidate will be permitted to meet the contribution calculated in accordance with the above formula by showing that a third party has agreed to pay the contribution, **provided that the third party is not a local authority, health authority or other Government funded body.** It will not be necessary to demonstrate hardship for this arrangement to be acceptable to ILF.

Payment of available income by a local authority is not acceptable. Although there were occasions when such arrangements were allowed to take place prior to October 2007, any new request to agree to this arrangement should be refused. In any case where it is discovered that a local authority is paying available income without ILF agreement the LA must be advised that this is not acceptable. ILF will continue to permit a local authority to pay available income in those cases where ILF has agreed to this arrangement already.

The provision of unpaid care as a substitute for the contribution of available income is not acceptable. Although there were occasions prior to October 2007 when such arrangements were allowed, any new request should be refused. Existing agreements will however be honoured.

Where previously the Trustees have agreed to a reduced contribution of available income or waived this contribution in entirety that decision will stand for the agreed term or where this was for an unspecified period will remain in place indefinitely unless the users financial circumstances change. The Trustees may review any decision where the candidate's financial circumstances change.

3.0 Procedural considerations

Case holders are likely to receive correspondence from candidates who say they are unable or unwilling to contribute the assessed available income. It is expected that Available Income should be contributed unless previously agreed.

Available Income will always need to be deducted in full from the weekly cost of care or the weekly cost of a retainer. Examples:

- If someone is paid on receipt of invoice rather than automatically, the Available Income will be deducted from the invoice total.
- Where a retainer is paid for part of the usual care plan i.e. for the PA element but not the agency element, the full Available Income must be deducted from the gross retainer amount.
- If a User requires a replacement award for a limited or ongoing period available income should always be deducted. This includes reduced awards that may be put in place at the outset of a package.

The starting point is that there is an expectation that all candidates will make a contribution towards their care costs and the ILF award has been calculated to take that contribution into account. ILF has worked out the expected contribution based on the requirements of the COGA, which apply to all candidates. Where the candidate chooses not to contribute the assessed available income because the care package can be sustained without that contribution, case holders should explain that at the next assessment the actual level of care that has been employed will be taken into account as a factor when assessing the level of need on which any future offer should be based.

At all visits Assessors will be expected to record that candidates have been advised that there is an expectation that available income should be contributed and at revisits should also record whether or not available income has actually been paid. Whilst the level of care actually being employed may be a factor to take into account, the assessment of needs at any visit will remain a matter of judgement for the Assessors.

The procedure for calculating Available Income can be found at the appendix.

4.0 Source

Trustees' Meeting 10 October 2007

Conditions of Grant Agreement 2011

5.0 History Date Reviewed

19 February 2008
3 April 2008
30 September 2008
23 January 2009
15 April 2009
19 April 2010
23 August 2010
17 March 2011
11 August 2012

Appendix

Notional Assessment Guide – October 07

Introduction

The Conditions of Grant Agreement (COGA) that is effective from August 2011 requires ILF to calculate capital, income and applicable amounts in accordance with the relevant sections of the Social Security Act 1992 and relevant Regulations – except where the COGA allows special treatment e.g. earnings. This means that we have to calculate income and capital as Income Support would, apart from where the COGA allows us to do otherwise.

SECTION A – Allowances and Premiums (IS/JSA Rates)

1. **Personal Allowances:** Select according to client/partner's/child benefit recipient's age.
2. **Group Premium:** Select according to client's status. Please note that where the income of the child benefit recipient (parent or guardian) is being assessed, disability premiums are only applicable where the parent/guardian is disabled.
3. **Standard Minimum Guarantee:** Select according to status if client or partner is aged 60 or over

4. **Carer Premium:** allow if Carers Allowance is received by user's partner (or if there is an underlying entitlement but CA is not being paid because of benefit rules)
5. **Dependants:** Child, Family and Disabled Child Premiums **no longer included** in Section A in line with IS practice and in parallel with this change Child Tax Credit and Child Benefit are no longer treated as income (see Section D below).

SECTION B - Allowable Costs:

Rent: Allow for this after deduction of any housing benefit.

Mortgage: 1st mortgage only: Allow all aspects of repayment (interest, endowment, etc). If 2nd property exists it may count as capital. Minute to EO for decision - **see Mortgage Payments policy**

Mortgage protection plan: Allow cost of mortgage protection payments, however if policy activated our treatment of mortgage payments will be affected – **see Mortgage Payments policy**

Weekly water rates

Weekly Council Tax The Funds will take the full amount of the client and their partner's council tax, net of any benefit, into account within the notional assessment.

*In Scotland and Northern Ireland Water and Council taxes are combined.

Weekly Loan Interest: Disability related home improvement/adaptation loans only. **see Loan Interest policy**

Weekly School Meals: Applies to children 5 –16 years old; up to 18 if in full time education. **see School Meals Allowance policy**

Weekly child maintenance payments: all child maintenance payments – CSA, court order and voluntary – are allowable.

Board and lodging payments by the user. See board and lodging policy.

SECTION C – Applicable Amount = A + B

SECTION D - Income

Income type: Income (excluding earnings and payments in lieu of earnings made under an Income Protection Insurance Policy), benefits, New Deal payments, pensions e.g. retirement and occupational pensions, Incapacity Benefit

Paid to: Client and / or partner. Where the user is a young person and Child Benefit is in payment the means of the person receiving the Child Benefit (normally parents) are assessed

Income from people living in the client's home. This policy is being reviewed. In the interim refer to the DMG for guidance. Guidance may also be sought from the policy team if necessary.

Disregards: Please see table at Appendix 1 for details of incomes that can be disregarded in full or in part

NOTE additional new disregards from 1/10/07

- Student Loans (Administered by the Student Loans Company Limited. SLC administers government funded student loans. Confirmation that the loan is administered by SLC should be obtained and noted on file)
- Student grants or bursaries
- Any form of child maintenance

Treatment of capital: Tariff of £1.00 for each £250.00 between £14,250.00 and £23,250.00

Net weekly D = Income after/subject to appropriate disregards.

Assessed available income = Total net weekly **D**–applicable amount **C**

If the resulting amount is positive this amount is to be treated as available towards the cost of care (QSS). Transfer the figure to the Assessment / change of circumstance sheet as EIOR.

POINTS TO CONSIDER:

Client's Age: Where the user is a young person and child benefit is in payment the means of the person receiving the Child benefit (normally parents) are assessed

APPENDIX 1 - INCOME DISREGARDS

DISREGARDED UNDER COGA PARA 7.4	DISREGARD
Earnings	FULL
Payments in lieu of earnings under an Income Protection Insurance Policy	
Statutory Sick, Maternity, Adoption, Paternity Pay	
Working Tax Credit	
Pension Savings Credit	
Constant Attendance Allowance, Exceptionally Severe Disablement Allowance, Severe Disablement Occupational allowance (paid with War or Industrial Disablement Pensions)	
War pensioners mobility supplement	
Student Loans (if administered by the Student Loan Company Ltd.)	
Student grants or bursaries	
Child Maintenance	
DISREGARDED UNDER INCOME SUPPORT (GEN) REGS SCHEDULE 9	
Child benefit	FULL
Child tax credit	
Education Maintenance Allowance	
Macfarlane Trust, Eileen Trust, Social Fund	
Regular charitable and voluntary payments	
Income from personal injury trust funds or PI lump sums held in Court	
Widowed parent's allowance	£10
Widowed mother's allowance	
War disablement pension (basic) (See above for components disregarded in full)	
War widow / widower's pension	
Socialist persecution payments	
Guarantee income payment	
Board and lodging / income from subletting	See DMG

IMPORTANT NOTE :

The disregards listed above for the COGA is a full list.

The list of disregards under Schedule 9 is not a complete list but consists of those that staff at ILF are most likely to come across. Income not listed above should normally be taken fully into account. Any queries as to whether an income not listed above may qualify for a full or partial disregard should be referred to the Policy Development Team.