

Department for Work and Pensions

DECISION MAKING AND APPEALS (PART OF STRATEGIC COMMUNICATIONS)

Decision Makers Guide

Volume 7 Amendment 43 – June 2017

1. This letter provides details on Amendment 43; the changes have already been incorporated in to the Intranet and Internet versions of the DMG.
2. PDF amendment packages are also available. These can be printed with the amended pages being reproduced in full. Each page will contain the amendment number in the footer

PDF amendment packages can be found on the **Intranet** at:

<http://intraLink/1/lq/acileeds/guidance/decision%20makers%20guide/index.asp>

or on the **Internet** at the 'Amdt Packages' tab on the following link:

<http://www.dwp.gov.uk/publications/specialist-guides/decision-makers-guide/>

Note: When printing PDF packages set the print properties to Duplex/Long Edge in order to produce double sided prints.

3. Amendment 43 affects chapter 39; The changes make amendments to
 - para. 39026 deletion of DMG Memo ref + incorporation of guidance as per Memo DMG 12/17 (Memo can now be cancelled)
 - para. 39039 amended guidance as per Memo DMG 12/17
 - para. 39042 amended guidance as per Memo DMG 12/17
 - para. 39102 amended cross-refs and clarification of family member at 5.2.d
 - para. 39108 deletion of DMG Memo ref + incorporation of guidance as per Memo DMG 12/17
 - para. 39128 amended cross-refs + clarification of family member at 4.
 - para. 39173 amended cross-ref
 - para. 39174 clarification of note
 - para. 39180 note added to guidance to clarify the award of a QB for a close relative or close friend
 - para. 39181 amendment to example in line with DMG Memo 12/17
 - para. 39184 amendment to example 1 in line with DMG Memo 12/17
 - para. 39273 note and example added for clarification of when there is more than one "place of rest"
 - para. 39275 note added – cross referencing 39273
 - para. 39322 note added – cross referencing 39273
 - para. 39327 note added – cross referencing 39273
 - para. 39329 note added – cross referencing 39273
 - para. 39408 deletion of DMG Memo 11/17 reference
 - para. 39700 deletion of refs to DMG Memo 6/17 & DMG Memo 12/17 + incorporation of guidance from those Memos
 - para. 39471 new definition – member of support group
 - para. 39472 new definition – member of the work-related activity group

- para. 39473 Met Office definition – para renumbered (was 39472)
 - para. 39903 amendment to cross ref
 - para. 39904 amendment to cross ref
 - Appendix 7 “BA” replaced with “BSP” + deletion of ref to DMG Memo 11/17.
4. The last two amendment packages amending Volume 7 were
- Amendment 41 [February 2017]
- Amendment 40 [October 2016]
5. Using a PDF amendment package remove the sheets as stated in the left hand column of the Remove and Insert table below and insert the new sheets as stated in the right hand column (note the record of amendments at the back of the Volume).

Remove

Chapter 39

Conts 39165 – conts apndx 7 (2 pages)
 39025 – 39128 (5 pages)
 39169 – 39250 (3 pages)
 39272 – 39280 (1 page)
 39314 – 39357 (2 pages)
 39404 – 39409 (1 page)
 39700 – 39912 (6 pages)
 Appendix 7 (1 page)

Insert

Chapter 39

Conts 39165 – conts apndx 7 (2 pages)
 39025 – 39128 (5 pages)
 39169 – 39250 (3 pages)
 39272 – 39280 (1 page)
 39314 – 39357 (2 pages)
 39404 – 39409 (1 page)
 39700 – 39912 (6 pages)
 Appendix 7 (1 page)

Meaning of a close friend	39165
Immediate family member test	39168
Meaning of estranged	39170
Conditions of IFMs, close relatives or close friends.....	39173
Reasonable to accept responsibility	39174
Close relative test.....	39178
Contact with the deceased.....	39180
Comparison of contact	39183
Amount of funeral payment.....	39251
Allowable funeral expenses	39255
Reasonable and necessary costs	39261
Specific items and services for burial and cremation.....	39271
Transport costs	39281
Any other funeral expenses	39282
Burial plot for the deceased	39287
Reclaimed burial plot.....	39289
Burial outside the deceased's home area.....	39290
Necessary documentation.....	39293
Religious requirement	39301
Journey to arrange or attend a funeral.....	39312
Transport of the deceased in excess of 80 kilometres to the funeral director's premises	39321
Deceased buried in home area and transport from the funeral director's premises to the funeral in excess of 80 kilometres	39325
Deceased buried outside home area and transport from the funeral director's premises to the funeral in excess of 80 kilometres	39329
Items and services provided under a prepaid funeral plan	39336
Estimates.....	39346
Value added tax	39349
Discount	39355
Prevention of duplicate payment.....	39361
Deductions	39371

Assets of the deceased.....	39372
Cheques cleared after death.....	39391
Electronic transfers cleared after death	39396
Jointly held savings	39401
Joint tenancy	39404
Not a joint tenancy	39406
Arrears of benefit.....	39408
Arrears of benefit paid into bank account	39410
Overpaid benefit.....	39413
Lump sum payments due on death.....	39416
Contributions towards funeral expenses.....	39425
Loan or contribution	39428
Deductions from an award of a funeral payment – Crowdfunding.....	39432
Funeral grant from public funds	39433
Prepaid funeral plans	39434
Plan includes an allowance for items or services outside the funeral director's control	39435
Funeral plan not paid in full	39438
Payments from specified trusts not to be deducted from allowable expenses.....	39445
Cold weather payments	39700
Period of cold weather	39703
The designated Meteorological Office station.....	39705
Amendments to CWP Scheme – from winter 2016/17	39740
Definitions	
Member of the support group.....	39741
Member of the work-related activity group.....	39742
Met Office	39743
Primary station	39744
Secondary station	39746
Alternative station.....	39748

Revocation of Schedule 1 and Schedule 2	39750
Secondary and Alternative stations	39752
Home of the claimant	39755
Designation of primary and secondary stations	39757
Publication of designations	39760
Review and variation of designations	39762
Amount of Cold Weather Payment.....	39710
Overlap period.....	39711
Winter fuel payments	39900
Entitlement	39903
Alternative payee	39905
Defective claims	39906
Persons not entitled to a winter fuel payment	39910
Amount payable	39920
Additional amounts for people aged 80 or over	39921
Revision or supersession	39930
Identification of stations and postcode districts	Appendix 1
Specified alternative stations	Appendix 2
Amount of Sure Start Maternity Grant.....	Appendix 3
Amount of Winter Fuel Payment	Appendix 4
Phasing table for Winter Fuel Payments.....	Appendix 5
Transitional Provisions prior to 29.10.12.....	Appendix 6
Benefits excluded as assets of the deceased as at date of death.....	Appendix 7

Transitional arrangements

39025 For conditions of entitlement before 13.08.12 and transitional arrangements see Appendix 6.

Qualifying benefits

39026 The claimant or partner must, in respect of the date of claim for an SSMG, have been awarded¹

1. IS **or**
2. SPC **or**
3. JSA(IB) **or**
4. WTC, where the disability or severe disability element is included in the award **or**
5. CTC which includes an individual element or a disability element referred to in specified legislation² **or**
6. ESA(IR).

Note 1: IS and JSA(IB) include UCPs. Special rules apply if the claimant or partner is affected by a TD (see DMG 39039).

Note 2: Where UC is the QB – see ADM Chapter L2.

1 SFMFE (Gen) Regs, reg 5(2); 2 Tax Credits Act 2002, s.9(3)

39027 A person is not awarded JSA(IB) for the first three days of any JSP or ESA(IR) for the first three days of a period of LCW. These are known as waiting days¹.

1 JSA Regs, reg 46; ESA Regs, reg 144

Prescribed time for claiming

39028 See DMG 02543 - 02545 for guidance on the time for claiming an SSMG.

Late award of qualifying benefit

39029 See DMG 02260 - 02267 for guidance on special rules for determining the date of claim and DMG 03065 for guidance on revision of disallowance where there is a late award of a QB.

Advice from health professional

- 39030 The claimant or partner must, by the date of claim for an SSMG, have
1. received advice from a health professional (registered medical practitioner, midwife or nurse) on health and welfare matters relating to the child¹ (but this condition does not apply where the claim is made after the birth of a still-born child)² **and**
 2. received advice from a health professional (as defined above) on health and welfare matters relating to maternal health, where the claim is made before the child is born³.

1 SFMFE (Gen) Regs, reg 5(1)(c)(i), reg 3(1); 2 reg 5(3); 3 reg 5(1)(c)(ii)

Definition of couple

- 39031 Couple means¹
1. two people who are married to, or civil partners of, each other and are members of the same household, **or**
 2. two people who are not married to, or civil partners of, each other but are living together as a married couple.

1 SFMFE (Gen) Regs, reg 3(1)

Definition of family

- 39032 The definition of family is¹
1. a couple **or**
 2. a single person **or**
 3. except where the claimant is in receipt of UC, people living in the same household who are members of a polygamous marriage
- together with any dependent children who are members of the same household and for whom at least one of the couple or member of the polygamous marriage is responsible.

1 SFMFE (Gen) Regs, reg 3(1)

Definition of partner

39033 A partner is

1. the other member of a couple **or**
2. where the person is married polygamously to two or more members in the household, any such member, except where the claimant is in receipt of UC.

Evidence

39034 See DMG Chapter 01 for guidance on what evidence is acceptable.

Amount of sure start maternity grant

39035 The amount of a SSMG, as shown at Appendix 3 to this Chapter, is paid in respect of each child or still-born child¹

1 SFMFE (Gen) Regs, reg 5(2)

Prevention of duplicate payment

39036 The DM should not award a SSMG if a payment has already been made for the child in question. Exceptions to that rule are met if the conditions in DMG 39037 - 39038 are satisfied¹.

1 SFMFE (Gen) Regs, reg 3A

39037 The first condition is that

1. the claimant alone or together with another person, has been granted a qualifying order¹ **or**
2. at the date of claim the claimant is the parent (but not the mother) of a child under the age of 12 months **and**
 - 2.1 responsible for the child **and**
 - 2.2 the child's parents are not partners² **or**
3. the claimant or the claimant's partner is responsible for a child under the age of 12 months at the date of claim and the claimant or claimant's partner
 - 3.1 has been appointed the guardian of the child³ **or**
 - 3.2 has a child that has been placed for adoption by an adoption agency⁴
or
 - 3.3 has adopted a child under specified legislation⁵.

1 SFMFE (Gen) Regs, reg 3A(4)(a); 2 reg 3A(4)(b) & reg 5(3)(b); 3 reg 3A(4)(b) & reg 5(3)(d); 4 reg 3A(4)(b) & 5(3)(e); 5 reg 3A(4)(b) & 5(3)(f) & Adoption and Children Act 2002, s 66(1)(c) to (e)

- 39038 The second condition is that the claimant
1. has not already received a first grant **or**
 2. was not, at the time the first grant was claimed, a member of the family of a person to whom the first grant was paid¹.

1 SFMFE (Gen) Regs, reg 3A(5)

Claimant or partner affected by a trade dispute

- 39039 If the claimant or the claimant's partner is affected by a TD¹ entitlement to a SSMG can only exist when certain conditions are satisfied. These are where
1. IS or JSA(IB) is in payment and at the date of the SSMG claim, the TD has continued for six weeks or more² **or**
 2. WTC, where the disability or severe disability element is included in the award is in payment and the claim for WTC was made before the beginning of the TD³ **or**
 3. CTC which includes an individual element or a disability element referred to in specified legislation⁴ is in payment and the claim for CTC was made before the beginning of the TD⁵.

*1 SS CB Act 92, s 126; 2 SFMFE (Gen) Regs, reg 6(1)(a); 3 reg 6(1)(b);
4 Tax Credits Act 2002, s.9(3); 5 SFMFE (Gen) Regs, reg 6(1)(b)*

- 39040 A person is affected by a TD¹ when the claimant or partner
1. is entitled to JSA(IB) but is disentitled because of a TD² **or**
 2. is not entitled to JSA(IB) but if they were, would be disentitled because of a TD³ **or**
 3. would be entitled to an applicable amount which would be affected because of a TD⁴ if they made a claim to IS.

1 SFMFE (Gen) Regs, reg 3(1); 2 JS Act 95, s 14; 3 s 14; 4 SS CB Act 92, s 126(3)

People not affected

- 39041 The DM should **not** treat a person as affected by a TD who is
1. incapable of work because of disease or bodily or mental disablement¹ **or**
 2. within the maternity period, that is the period
 - 2.1 from the beginning of the sixth week before the EWC
 - 2.2 to the end of the seventh week after the week in which confinement takes place².

1 SS CB Act 92, s 126(1); 2 s 126(2)

Treatment of the claim

39042 If it is decided that the TD provisions

1. **do not** apply, the DM should decide entitlement to a SSMG
2. **do** apply, the DM should find out when the TD began. If
 - 2.1 IS or JSA(IB) is in payment and the TD has, at the date of the SSMG claim, continued for
 - 2.1.a less than six weeks before the date of claim - the DM should not award a SSMG
 - 2.1.b six weeks or more before the date of claim - the DM should decide entitlement to a SSMG **or**
 - 2.2 IS or JSA(IB) is not in payment but WTC (where the disability or severe disability element is included in the award), or CTC (which includes an individual element or a disability element referred to in specified legislation¹) is in payment and the claim for WTC or CTC was made
 - 2.2.a on or after the date the TD began - the DM should not award a SSMG **or**
 - 2.2.b before the date the TD began - the DM should decide entitlement to a SSMG **or**
 - 2.3 both IS or JSA(IB) and WTC (including the disability or severe disability element) or CTC (which includes an individual element or a disability element referred to in specified legislation¹) are in payment - the DM should apply whichever of **2.1** or **2.2** is more beneficial to the claimant.

1 Tax Credits Act 2002, s.9(3)

39043 - 39100

Funeral payments

Conditions of entitlement

- 39101 There are several conditions of entitlement for an SFFP. All the conditions must be satisfied.
- 39102 The conditions of entitlement are¹
1. the claimant or his partner (the responsible person)
 - 1.1 has an award of a QB in respect of the date of claim² for an SFFP (see DMG 39132) **or**
 - 1.2 is a prisoner who is in receipt of a QB³ **and**
 2. the deceased was ordinarily resident in the UK at the date of death⁴ (see DMG 070769 et seq) **and**
 3. the claim is made within the prescribed time limits⁵ (see DMG 02260 - 02267 and 02543 - 02545) **and**
 4. the claimant or their partner accepts responsibility for the funeral expenses and satisfies the additional conditions⁶ (See DMG 39134) **and**
 5. the funeral is held in
 - 5.1 the UK⁷ **or**
 - 5.2 another member State of the EU⁸, Iceland, Liechtenstein, Norway or Switzerland if the responsible person or his partner is
 - 5.2.a a person who is a worker (see DMG 072810 - 072900) **or**
 - 5.2.b a person who is self-employed, (see Note 3 below) **or**
 - 5.2.c a person who retains a status as in 5.2.a or 5.2.b because they
 - 5.2.c.i are temporarily unable to work as the result of an illness or accident
 - 5.2.c.ii are involuntarily unemployed after being employed for more than a year and have registered as a jobseeker
 - 5.2.c.iii are involuntarily unemployed after completing a fixed-term employment contract of less than a year or within the first year of an employment contract and are registered as a jobseeker
 - 5.2.c.iv have embarked on vocational training which, unless they are involuntarily unemployed, should be related to the previous employment **or**

5.2.d a member of the family of a person in **5.2.a, 5.2.b or 5.2.c or**

5.2.e a person with a right to reside permanently in the UK under EC provisions⁹ (see DMG 073350 et seq).

Note 1: From 30.4.06, there is a right to reside permanently in the UK for EEA nationals and their family members who have resided in the UK on the basis of particular provisions of the Immigration (European Economic Area) Regulations 2006 or the Immigration (European Economic Area) Regulations 2000¹⁰.

Note 2: People not in the categories listed above may have a right of equal treatment under EC law in respect of funeral payments (this could, for example, include non-EU family members of EU citizens) so please contact DMA Leeds if anyone who does not come within one of the categories listed above claims a funeral payment in reliance on Community law.

Note 3: This is a person who has exercised a Community right to establish himself in order to pursue activity as a self-employed person. This may, in some cases include a UK national who has become established in another EEA State and has returned to the UK. Where a claim is received from such a person please contact DMA Leeds.

1 SFMFE (Gen) Regs, reg 7(2); 2 reg 7(3) & (4); 3 SSWP v Faith Stewart [2011] EWCA Civ 907; 4 reg 7(5); 5 reg (6); 6 reg 7(7); 7 reg 7(9)(b); 8 reg 7(9)(a) & 7(10); 9 reg 7(10)(e); Council Directive No. 2004/38/EC, Art 17; 10 Art 17; Immigration (European Economic Area) Regulations 2006, reg 15(1)(c), (d) or (e) & Sch 4(6)

39103 “Member of the family” as mentioned in DMG 39102 **5.2.d** means¹

1. the spouse or civil partner
2. direct descendants (eg children, grandchildren and great-grandchildren) under the age of 21, and dependent descendants over 21, of the EEA national, their spouse or civil partner
3. direct ascendant relatives of the EEA national, their spouse or civil partner who are dependent on the EEA national, their spouse or civil partner.

1 SFMFE (Gen) Regs, reg 7(10); Council Directive No. 2004/38/EC, Art 2

39104 - 39107

Qualifying benefits

39108 In respect of the date of claim for an SFFP (see DMG 39132) the claimant or partner must have been awarded¹

1. IS (UCPs are IS) **or**
2. SPC **or**
3. JSA(IB) (UCPs are JSA(IB)) **or**
4. WTC where the disability or severe disability element is included in the award **or**
5. CTC which includes an individual element or a disability element referred to in specified legislation² **or**
6. HB **or**
7. ESA(IR) **or**
8. UC.

1 SFMFE (Gen) Regs, reg 7(4)(a); 2 Tax Credits Act 2002, s.9(3)

39109 - 39116

IS award

39117 A person with an IS applicable amount of nil is not entitled to IS and is not awarded a QB¹.

1 R(IS) 1/94

Example

A claimant is a PFA with no entitlement to UCPs. The IS applicable amount is nil. She is not awarded IS and is not entitled to an SFFP.

39118 A person with an applicable amount equal to income is not entitled to IS.

Example

A claimant has an applicable amount of £166.25. His weekly income (after disregards) is £166.25. He is not awarded IS and is not entitled to an SFFP.

39119 IS entitlement of less than 10p is not payable unless the claimant is awarded another benefit which can be paid with IS¹. If IS is not payable an award cannot be made. The claimant is not awarded a QB.

1 SS (C&P) Regs, reg 26(4)

Example

A claimant's entitlement is 9p a week. Her only income is employer's pension. She is not awarded another benefit which can be paid with IS. IS is not payable and is not awarded. The claimant is not awarded a QB and is not entitled to an SFFP.

JSA(IB)

39120 A person is not awarded JSA(IB) for the first three days of any JSP. These are known as waiting days¹.

1 JSA Regs, reg 46

39121 - 39125

The funeral

39126 "Funeral" means a burial or a cremation¹ of human remains including those of stillborn children. A stillborn child is one which is born after the 24th week of pregnancy and which does not breathe or show any other signs of life. A memorial service which is not part of a burial or cremation is not a funeral.

1 SFMFE (Gen) Regs, reg 3(1)

39127 A funeral payment can be made for a funeral which takes place¹

1. in a case described in DMG 39128, in another member state of the EU, Iceland, Liechtenstein, Norway or Switzerland **or**
2. in the UK.

1 SFMFE (Gen) Regs, reg 7(9), reg 7(10)

39128 Where the funeral takes place in another member state of the EU, Iceland, Liechtenstein, Norway or Switzerland the responsible person or his partner must be

1. a person who is a worker (see DMG 072810 - 072900) **or**
2. a person who is self-employed (see Note 3 below) **or**
3. a person who retains a status as in 1. or 2. because they
 - 3.1 are temporarily unable to work as the result of an illness or accident
 - 3.2 are involuntarily unemployed after being employed for more than a year and have registered as a jobseeker
 - 3.3 are involuntarily unemployed after completing a fixed-term employment contract of less than a year or within the first year of an employment contract and are registered as a jobseeker
 - 3.4 have embarked on vocational training which, unless they are involuntarily unemployed, should be related to the previous employment **or**
4. a member of the family of a person in 1., 2. or 3. **or**
5. a person with a right to reside permanently in the UK under EC provisions¹ (see DMG 073350 et seq).

39169 But DMG 39168 does not apply¹ where the other IFM, is a person

1. aged less than 18 **or**
2. who is a qualifying young person for the purposes of CHB² **or**
3. who is a qualifying young person under specified legislation³ (see ADM E2092)
4. aged 18 years and under 19, and who is attending a F/T course of advanced education **or**
5. aged 19 or over but under pension age, who is attending a F/T course of study at an educational establishment **or**
6. in receipt of asylum support under relevant legislation⁴ **or**
7. who is a fully maintained member of a religious order **or**
8. detained in prison, remand centre or youth custody institution **and**
 - 8.1 that IFM **or**
 - 8.2 their partnerhad an award of a QB immediately before the period of detention started **or**
9. who is regarded as receiving free hospital in-patient treatment **and**
 - 9.1 that IFM **or**
 - 9.2 their partnerhad an award of a QB immediately before first being regarded as receiving that treatment.
10. who is ordinarily resident outside the UK⁵ (see DMG 070769 et seq)

*1 SFMFE (Gen) Regs, reg (8)(2); 2 SS CB Act 92, s 142; 3 WR Act 12, s 10(5);
4 Immigration and Asylum Act 1999, s 95; 5 SFMFE (Gen) Regs, reg 8(2)(h)*

Example

The mother of a deceased six month old child is 17 years old. The funeral director will not enter into a contract with her because of her age and she cannot therefore accept responsibility for the funeral expenses. The child's grandmother who is in receipt of a QB accepts responsibility for her granddaughter's funeral and makes a claim for SFFP. The claim is allowed because the DM decides that the responsible person is a close friend of the deceased and that it was reasonable for her to accept responsibility for the funeral expenses. Although there is an IFM (the child's mother), she does not need to be considered when looking at the IFM test because she is under 18¹.

1 R(IS) 7/04

Meaning of estranged

39170 The word estranged is not defined in legislation. The DM should give the word its ordinary meaning¹ of “alienated in feeling or affection”.

1 R(SB) 19/82; R(SB) 38/85

39171 Estrangement has connotations of emotional disharmony¹. Disharmony can arise from one person’s attitude towards another, even though the other party may not wish the situation to be as it is. The legislative² test is whether the surviving IFM is estranged from the deceased at the date of death. Estrangement should be viewed from the point of view of the surviving person, rather than the deceased. In circumstances where there has been estrangement between the surviving person and the deceased, but the relationship was reconciled prior to the date of the deceased’s death, the previous estrangement would be said to no longer exist.

1 R(SB)2/87; 2 SFMFE Regs, reg 8(i)(c)

Example

The claimant has taken responsibility for her father’s funeral and declared that there had been estrangement for over 20 years between herself and her deceased father. The claimant’s 3 brothers were still estranged from the deceased at the time of his death. However, when the claimant received news of her father’s hospitalisation and imminent demise, she decided to reconcile the relationship with her father, making regular visits to the hospital prior to his death. The DM decided that although the claimant’s brothers were estranged from the deceased at the date of their father’s death, the claimant was no longer estranged from the deceased.

39172

Conditions for IFMs, close relatives or close friends

39173 If the responsible person was an IFM, a close relative or close friend of the deceased they will only be entitled to a SFFP if¹

1. the deceased did not have a partner at the date of death (see DMG 39148 - 39156) **and**
2. it is reasonable for the responsible person to accept responsibility for the funeral costs (see DMG 39174) **and**
3. the conditions in DMG 39176 - 39180 are satisfied.

1 SFMFE (Gen) Regs, reg 7(8)(b), reg 7(8)(c), reg 7(8)(d), reg 7(8)(e)

Reasonable to accept responsibility

39174 The DM will decide whether it is reasonable for the responsible person to accept responsibility for the funeral costs by considering

1. the nature **and**
2. the extent

of that person's contact with the deceased¹.

Note: Where a person who accepts responsibility for the funeral expenses has a partner who is the close relative, IFM or close friend of the deceased, it is the partner's circumstances that are taken into account when considering if **1.** and **2.** above and the test at DMG 39178 - 39182 is satisfied².

1 SFMFE (Gen) Regs, reg 8(5); 2 reg 7(8)(d) & (e) & 8(9)

39175 This test does not apply where

1. the responsible person is the surviving partner **or**
2. the deceased is a child and the responsible person or partner is the person responsible for that child for CHB purposes **or**
3. the deceased is a stillborn child and the responsible person is the parent or their partner.

39176 This test is separate from the comparison with close relatives at DMG 39178. The claim should be disallowed if the DM decides it is not reasonable for the responsible person to accept responsibility for the funeral costs. This applies even if there is no one else to take responsibility.

39177 Whether it is reasonable for a person to accept responsibility for the funeral costs is a question of fact¹. Although there are no set criteria in determining the nature and extent of a person's contact, the DM should take into account that

1. the bond between blood relations tends to be stronger than those who are not **and**
2. estrangement does not automatically erase the time a person spent with the deceased in previous years.

1 R(IS) 3/98

Example 1

The daughter of the deceased is the responsible person. She is 54 years old and the only surviving relative. She has not seen her father for 24 years. She wishes to pay her last respects to her father by taking responsibility for the funeral. Considering the nature and extent of the daughter's contact over the previous 30 years it is reasonable for her to accept responsibility for the funeral costs.

Example 2

The daughter of the deceased is the responsible person. She and her family live 100 kms away. She saw the deceased only occasionally, but kept in touch by telephone. Considering the personal and domestic circumstances of the daughter it is reasonable for her to accept responsibility for the funeral costs.

Example 3

A fellow resident of a care home is the responsible person. He met the deceased since living at the care home. Occasionally they played cards together and accompanied each other on outings. It would not be reasonable for the responsible person to accept responsibility for the funeral costs.

Example 4

The responsible person is a close friend of the deceased. They were next door neighbours for several years and went on social outings and holidays together. They cared for each other when either was ill. It would be reasonable for the close friend to accept responsibility for the funeral costs.

Close relative test

- 39178 If the test in DMG 39168 (read with DMG 39169) and the conditions in DMG 39171 **1.** and **2.** are satisfied and if the deceased had one or more close relatives the DM compares¹
1. the nature and extent of the responsible person's contact with the deceased **with**
 2. the nature and extent of **each** close relative's contact with the deceased, except any close relatives who² fall within the exceptions listed at DMG 39169

1 SFMFE (Gen) Regs, reg 8(6) & (7); 2 reg 8(8)

- 39179 The comparison should be carried out whether the responsible person was an IFM, a close relative or a close friend of the deceased.

Contact with the deceased

- 39180 A SFFP¹ is not payable if there are one or more close relatives of the deceased and the responsible person is
1. an IFM or a close relative or a close friend of the deceased **and**
 2. comparing the nature and extent of the contact with the deceased of any of those close relatives and the responsible person any of those close relatives were
 - 2.1 in closer contact² with the deceased **or**

2.2 in equally close contact and any of those close relatives, or their partners, have not been awarded a QB³.

Note 1: If a close relative lives in Northern Ireland and has been awarded the Northern Ireland equivalent of a QB, this will **not** prevent the responsible person from being entitled to a SFFP if they had equally close contact with the deceased. The Northern Ireland equivalent of a QB is treated in the same way as entitlement to a QB in GB⁴.

Note 2: The award of a QB for a close relative or close friend in **2.2** is at the date of claim.

*1 SFMFE (Gen) Regs, reg 8(6) & (7); 2 reg 8(7)(a); 3 reg 8(7)(b);
4 SS (Northern Ireland Reciprocal Arrangements) Regs 1976, Sch 1*

39181 This test does not apply where

1. the responsible person is the surviving partner **or**
2. the deceased is a child and the responsible person or their partner is the person responsible for that child for CHB purposes **or**
3. the deceased was a stillborn child and the responsible person is the parent or their partner.

Example

The responsible person was a daughter of the deceased. The deceased was in a care home and was visited regularly by the responsible person and a son. The son's wife had little contact with the deceased. Another daughter lived away and only kept in touch by letter. The DM decides the responsible person and the son had equally close contact. The responsible person has been awarded CTB. The son has a family, is in remunerative work and has been awarded CTC at a rate which includes an individual element. The responsible person satisfies the condition because the son has been awarded a QB.

39182 DMG 39177 does not apply¹ if the only close relative who was in closer or equal contact falls within the exceptions listed at DMG 39169.

1 SFMFE (Gen) Regs, reg 8(8)

Comparison of contact

39183 When comparing the nature and extent of contact with the deceased there are no specific criteria. The DM should consider the overall nature and extent of the contact with the deceased given the circumstances of the individual. For example, domestic or work responsibilities may prevent a close relative from keeping in regular contact with the deceased. But the nature of the contact may be equally as close as a close friend who visited every day.

39184 Facts for consideration for both the responsible person and other close relatives are

1. nature of the relationship (example: girlfriend, fiancé)
2. frequency of contact
3. type of contact (visit, telephone, letter)
4. domestic assistance given to the deceased
5. social outings and holidays
6. caring assistance given to the deceased
7. domestic responsibilities
8. work responsibilities
9. estrangements or arguments with the deceased.

The list is not in priority order and is not a complete list.

Example 1

The responsible person is a daughter of the deceased. She has a family and is in receipt of CTC which includes an individual element. Due to her domestic and work responsibilities she saw the deceased every other week on a social visit. There is a son of the deceased who is in receipt of WTC including the disability element. He called to see the deceased on his way home from work each day and helped with domestic chores. He was the appointee of the deceased and looked after her financial affairs. The son had closer contact with the deceased than the responsible person.

Example 2

The responsible person who was in receipt of IS, had been a close friend of the deceased for 35 years. They shared a home and went on social outings and holidays. The DM decides it was reasonable for the responsible person to accept responsibility for the funeral costs. The deceased had a son in receipt of HB who lived a considerable distance away and kept in touch only at Christmas and birthdays. The responsible person had closer contact than any close relative.

39185 - 39250

1. the necessary costs of buying a new burial plot for the deceased, together with an exclusive right of burial in that plot (see DMG 39287 - 39293) **and**
2. the fees charged for the burial by the authority or person responsible for the provision and maintenance of cemeteries for the area where the burial takes place, or the fees levied by a private grave-digger², where it is necessary to incur them.

1 SFMFE (Gen) Regs, reg 9(3)(a); 2 reg 9(3)(a)(ii)

39272 The DM should allow for a cremation¹

1. the fees charged for the cremation by the authority or person responsible for the provision and maintenance of crematoria for the area where the cremation takes place, where it is necessary to incur them
2. the cost of any medical references
3. the cost of any necessary doctor's certificates
4. where removal of an active implantable medical device (normally pacemaker) is needed before cremation
 - 4.1 a doctor's fee **or**
 - 4.2 a maximum of £20 where an active implantable medical device is removed by someone other than a doctor.

1 SFMFE (Gen) Regs, reg 9(3)(b)

39273 For a burial or cremation the DM can also allow the cost of necessary

1. documentation needed for the release of funds which would result in a deduction from the award¹ **and**
2. reasonable cost of transport, in excess of 80 kilometres (50 miles) within the UK, of the deceased to the funeral director's premises or place of rest² (see DMG 39321 - 39323) **and**
3. reasonable cost of transport, in excess of 80 kilometres (50 miles), from the funeral director's premises or place of rest to the funeral in the deceased's home area (see DMG 39325 - 39328) by
 - 3.1 one vehicle for the coffin and bearers **and**
 - 3.2 one other vehicle³.

Note: There is no definition within legislation for "place of rest". Where there is more than one place of rest with regard to a particular funeral, the place of rest is deemed to be the final place of rest, just prior to the burial or cremation.

Example

The deceased is an Estonian national who was ordinarily resident in Leeds at the date of his death. He died at home in Leeds, but expressed a wish that he be buried in Estonia. The deceased is collected by a UK funeral director from his home in

Leeds and transported to the funeral director's premises in Croydon, where the deceased remained overnight before being transported to Heathrow. From Heathrow the deceased is flown to Estonia, where the deceased is collected by an Estonian funeral director and transported to their funeral director premises. The deceased remained at the funeral director's premises overnight, prior to burial the following day.

The part of the journey which covers Leeds – Croydon – Heathrow – funeral director's premises/place of rest in Estonia, falls within regulation 9(3)(d), but is restricted to the costs of the journey within the UK (i.e. to the point of departure from the UK (Heathrow)). The part of the journey, from the funeral director's premises / place of rest in Estonia to the burial itself falls within regulation 9(3)(e), as long as the distance travelled exceeds 80 kms,

1 SFMFE (Gen) Regs, reg 9(3)(c); 2 reg 9(3)(d); 3 reg 9(3)(e)(ii)

39274 For a burial or cremation the DM can also allow the necessary costs of one return journey by the responsible person for arranging or attending the funeral. The amount allowed must not exceed the amount that would be allowed for a return journey from the responsible person's home to the location where the necessary cost of the funeral would have been incurred (see DMG 39312 - 39314)¹.

1 SFMFE (Gen) Regs, reg 9(3)(f); reg 9(9)

39275 For a burial¹ the DM can also allow the reasonable cost of transport in excess of 80 kilometres (50 miles) from the funeral director's premises or place of rest by one vehicle for the coffin and bearers and one other vehicle, but only where there are no costs for buying

1. a new burial plot **and**
2. an exclusive right of burial in that plot.

This is usually where the burial is in an existing plot outside the deceased's home area.

Note: See note to 39273 where there is more than one place of rest.

1 SFMFE (Gen) Regs, reg 9(3)(e)(i)

39276 The total amount allowed as in DMG 39275 for transportation and the fees charged for a burial as in DMG 39271 **2.** must not exceed the costs¹ of

1. buying a new plot with an exclusive right of burial **and**
2. the fees charged for a burial (see DMG 39271 **2.**) **and**
3. where appropriate, any necessary transport for more than 80 kilometres (50 miles)

had the funeral taken place in the deceased's home area.

1 SFMFE (Gen) Regs, reg 9(8)

39277 - 39280

- 39314 Overnight stay expenses may be allowed if it is impractical to make the return journey within the same day.
- 39315 Unless DMG 39273 **3.** or DMG 39275 applies, the cost of a limousine journey as part of the cortege or similar, for the responsible person to attend the funeral cannot be allowed. However, it may be allowed under any other funeral expenses (see DMG 39282 - 39286) and subject to the £700 limit.

39316 - 39320

Transport of the deceased in excess of 80 kilometres to the funeral director's premises

- 39321 The cost of collection and transport of the deceased up to a total of 80 kilometres (50 miles) within the UK to the funeral director's premises or place of rest may be allowed under any other funeral expenses (see DMG 39282 - 39286) and subject to the £700 limit.
- 39322 If the deceased died at home or away from home, the DM can allow the reasonable cost of necessary transport, in excess of 80 kilometres (50 miles), to take the deceased to the funeral director's premises or place of rest¹.

Note: See note to 39273 where there is more than one place of rest.

1 SFMFE (Gen) Regs, reg 9(3)(d)

Example 1

The deceased lived with his parents in Sheffield. He died while on holiday in Penzance. The reasonable cost of transport in excess of 80 kilometres (50 miles) from Penzance to the funeral director's premises in Sheffield is necessary and is an allowable expense.

Example 2

The deceased lived and died in the Shetland Isles. The only funeral director is in Lerwick. A claim is made for the return journey of 416 kilometres (260 miles). The reasonable transport costs up to 80 kilometres (50 miles) may be allowed under any other funeral expenses and are subject to the £700 limit. The cost of the additional 336 kilometres (210 miles) is necessary and is an allowable expense.

- 39323 Any element in the transport costs relating to a requirement of the deceased's religious faith is not an allowable expense (see DMG 39301 - 39302)¹.

1 SFMFE (Gen) Regs, reg 9(7)

39324

Deceased buried in home area and transport from the funeral director's premises to the funeral in excess of 80 kilometres

39325 The deceased's home is the place of residence at the date of death¹.

1 R(IS) 11/91

39326 The cost of collection and transport of the deceased up to a total of 50 miles (80 kms) may be allowed under any other funeral expenses (see DMG 39282 - 39286) and subject to the £700 limit.

39327 The DM can allow the reasonable costs of necessary transport, in excess of 50 miles (80 kms) which was necessarily incurred, from the funeral director's premises or place of rest, to the funeral by

1. one vehicle for the coffin and bearers **and**
2. one other vehicle¹.

Note: See note to 39273 where there is more than one place of rest.

1 SFMFE (Gen) Regs, reg 9(3)(e)(ii)

39328 Any element in the transport costs relating to a requirement of the deceased's religious faith is not an allowable expense (see DMG 39301 - 39302)¹.

1 SFMFE (Gen) Regs, reg 9(7)

Deceased buried outside home area and transport from the funeral director's premises to the funeral in excess of 80 kilometres

39329 The DM can allow the reasonable costs of transport, in excess of 80 kilometres (50 miles), from the funeral director's premises or place of rest to the funeral outside the deceased's home area in the following circumstances

1. there are no costs for buying a new burial plot and exclusive right of burial in that plot. This is usually where the plot has already been bought and the burial will take place in an existing plot **and**
2. the total amount allowed for transportation and the fees charged for a burial as in DMG 39271 **2.** must not exceed the total costs of
 - 2.1 buying a new burial plot with an exclusive right of burial **and**
 - 2.2 the fees charged for a burial (see DMG 39271 **2.**) **and**
 - 2.3 where appropriate, any necessary transport in excess of 80 kilometres (50 miles)had the burial taken place in the deceased's home area¹.

Note 1: The DM should allow transportation costs for one vehicle for the coffin bearers and one other vehicle.

Note 2: See note to 39273 where there is more than one place of rest.

1 SFMFE (Gen) Regs, reg 9(3)(e)(ii); reg 9(8)

Example 1

The deceased had lived in Peterborough for the last ten years of his life. He wished to be buried in the same plot as his late wife in the Chapeltown area of Leeds. The return journey is 320 kilometres (200 miles). The funeral director charges £3 a mile and the claim includes £450 for transportation over 80 kilometres (50 miles). The necessary costs of a new plot and burial in Peterborough is £1900. The necessary costs of burial in the Chapeltown area of Leeds are £500. The DM can award the £450 transport costs over 80 kilometres (50 miles) because £950 (£450 plus £500) is less than the costs of a new plot and burial in Peterborough.

Example 2

The deceased lived and died in Newcastle. However he wished to be buried in the same plot as his mother in Middlesborough. The return journey is 105 kilometres (78 miles). The funeral director charges £3 a mile, and the claim includes £84 for transportation over 80 kilometres (50 miles) (£3 x 28 miles). The necessary cost of burial in Middlesborough is £550. The necessary costs of a new plot and burial in Newcastle is £600. The necessary transport costs in excess of 80 kilometres (50 miles) is £45 (24 kilometres (15 miles) at £3 per mile.)

The DM can allow the costs for Middlesborough because the amount - £634 (£84 + £550) - is less than the total costs for burial in Newcastle (£600 + £45).

39330 Any element in the transport costs relating to a requirement of the deceased's religious faith is not an allowable expense DMG 39301 - 39302¹.

1 SFMFE (Gen) Regs, reg 9(7)

39331 - 39335

Items and services provided under a prepaid funeral plan

39336 No SFFP should be made for items and services, listed in DMG 39251 - 39330, which have been provided on the death of the deceased under a prepaid funeral plan¹.

1 SFMFE (Gen) Regs, reg 9(10)

39337 If the responsible person says that the costs of the funeral expenses are covered by a plan, the DM should ask to see a copy to decide the scope of the cover provided.

39338 If the funeral plan had not been paid in full before the death of the deceased, the DM should find out whether any items or services are provided.

39339 If items or services are provided under a partially paid plan a deduction may need to be made from the allowable funeral expenses (see DMG 39436).

39340 - 39345

Estimates

39346 The DM should not use an estimate to decide allowable expenses.

39347 - 39348

Value added tax

39349 If VAT is charged against any allowable expense, the DM should allow it as part of the award.

39350 The DM should not allow VAT charged on items that are not allowable.

39351 - 39354

Discount

39355 Discounts may be offered as a percentage or a cash amount and may apply to the whole or part of the funeral director's bill.

39356 The DM should deduct any discount available, for example, for early payment of the full account pro rata from

1. the necessary cost of each component of the specified items and services (see DMG 39271 - 39276) **and**
2. the total figure for any other funeral expenses (see DMG 39282 - 39286) including any costs added for unmet specified items and services and before any limit is applied on the funeral account¹.

1 SFMFE (Gen) Regs, reg 9(2)

39357 The discount should be deducted

1. if the award
 - 1.1 is made before the expiry of the time limit for obtaining the discount

2. why was the joint account set up?
3. who contributed the money in the account - was it only one party or all parties?
4. were there any restrictions on the amounts withdrawn or purpose?
5. did the restrictions apply to all account holders?

Example 1

A mother and daughter have a joint account for holidays and outings.

Both contribute to the account, but the mother contributes most.

There are no restrictions on withdrawals.

The DM should treat this account as a joint tenancy.

Example 2

A man and his partner have a joint account.

Both incomes are credited to this account.

Both parties can draw on the account without restriction.

The DM should treat this account as a joint tenancy.

Example 3

A man and his partner have a joint savings investment account.

The man contributes all the monies.

The account was set up in case anything adverse happens to the man.

The man does not allow the partner to draw on the account.

The DM should **not** treat this as a joint tenancy.

Joint tenancy

- 39404 If the account is a joint tenancy and one party to the account dies the whole balance of the account is transferred to the remaining party or parties. The balance of the account is not an asset of the deceased and cannot be deducted.

Example

A couple have £1600 in the joint tenancy account. The man dies and the balance of the account transfers to the woman. The woman claims an SFFP. There are no monies available from the assets of the deceased.

39405

Not a joint tenancy

- 39406 If the account is not a joint tenancy and one party to the account dies the balance is divided among the parties to the account.

39407 The DM must decide how much of the account is the assets of the deceased¹.

Note: Do not assume that equal shares are appropriate. Consider how much money each party contributed to the account.

1 SFMFE (Gen) Regs, reg 10(1)(a)

Example

A mother and daughter have a joint account for convenience. The account is not a joint tenancy and the mother contributed the whole balance of £1600. The mother dies. The daughter claims an SFFP and is the responsible person. The balance of the account is an asset of the deceased. £1600 is deducted from the SFFP as an asset of the deceased.

Arrears of benefit

39408 From 1.4.13, arrears of benefit payable to the deceased on or after the date of death will no longer count as being assets of the deceased¹. Relevant specified benefits are listed in Appendix 7. The term 'arrears of benefit' is not defined within legislation, but for the purposes of SFFPs R(IS) 12/93 and other decisions hold that arrears of benefit fall to be deducted from a SFFP award. From 1.4.13 the principle in R(IS) 12/93 should no longer be followed.

1 SFMFE (Gen) Regs, reg 10(1A)

Example

Eric's date of death is 9.10.13. He made a claim for AA which, up to his death, had not been processed. On 15.10.13, arrears of AA were paid to Eric's daughter Martha, as his next of kin. Martha claims a SFFP on 22.10.13 stating that she still has Eric's arrears of AA. When calculating the amount of the SFFP, the DM disregards these arrears as being an asset of Eric as they represent benefit to which Eric was properly entitled for the period up to the date of his death.

39409 Circumstances when arrears of benefit (due to the deceased or discovered on the death of the deceased and paid on or after the date of death) will no longer count as assets of the deceased may include

1. arrears that arise from final payment of benefit due for the period up to the date of death, which are paid on or after the date of death **or**
2. arrears of benefit that have not yet been paid, for example where a new claim to benefit has not been processed until after the deceased's date of death, and benefit due is paid to the next of kin **or**
3. arrears of benefit which are due where
 - 3.1 an error has occurred in the calculation of benefit **or**

Cold weather payments

39700 A SF CWP is normally paid automatically by IS Computer System or JSA Payment System when

1. a cold weather period is recorded or forecasted at an authorized Met Office station¹
2. the claimant's home²
 - 2.1 is situated in a PO postcode district covered by the specified or specified alternative weather station **or**
 - 2.2 is treated as situated in a PO postcode district covered by the nearest weather station where no alternative station is specified
3. the claimant has been awarded
 - 3.1 SPC for at least one day during the recorded or forecasted cold weather period³ **or**
 - 3.2 IS, JSA(IB) or ESA(IR) for at least one day during the recorded or forecasted cold weather period **and**
 - 3.2.a whose family includes a child under age five **or**
 - 3.2.b the IS or JSA(IB) applicable amount includes one of the following premiums - PP, EPP, HPP, DP, SDP, DCP, EDP **or**
 - 3.2.c they also receive CTC which includes a disability element⁴ **or**
 - 3.2.d the ESA(IR) applicable amount includes one of the following premiums - PP, SDP or EDP **or**
 - 3.2.e they receive ESA(IR) and the claimant is a member of the work-related activity group (see 39742) or member of the support group (see 39741)⁵.

Note 1: A claimant is a person who is claiming or has claimed IS, SPC, JSA(IB) or ESA(IR).

Note 2: From 1.11.16⁶, see guidance at 39740 et seq.

1 SFCWP (Gen) Regs, reg 2(1)(a); 2 reg 2(1)(b); 3 reg 1A(1)(b);

4 Tax Credits Act 2002, s.9(3); 5 SFCWP (Gen) Regs, reg 1A(3)(e)(ii);

6 Social Fund Cold Weather Payments (General)(Amendment) Regulations 2016, reg 1(2)

39701 DMG 39700 **3.2**, **3.4** and **3.5** do not apply to a person who lives in a care home, independent hospital, Abbeyfield Home or the Ilford Park Polish Home¹.

Note 1: Care home means² an establishment which provides accommodation, together with nursing or personal care for people who

1. are or have been ill
2. have or who have had a mental disorder
3. are disabled or infirm
4. are or have been dependent on alcohol or drugs

other than a hospital, independent clinic, children's home or other establishment excepted by regulations.

Note 2: For the meaning of an independent hospital³ please see DMG 39156

1 SFCWP (Gen) Regs, reg 1A(4); 2 Care Standards Act 2000, s 3; Public Services Reform (Scotland) Act 2010, Sch 12 para 2; 3 National Health Service Act 2006, s 275; Care Standards Act 2000, s 2; National Health Service (Scotland) Act 1978, s 10F(1)(a) & (b)

39702 If a CWP has not been paid automatically or clerically by IS Computer System or JSA Payment System, the DM should treat any representations about entitlement as a claim and decide whether there is any entitlement¹. The claimant has the right of appeal against the DM's decision². However, a CWP cannot be made more than 26 weeks from and including the last day of the winter period in which the relevant period of cold weather falls³. This allows time for a claimant to report a change if they feel they may have qualified after receiving their winter fuel bills in association with the winter season for which help with heating expenses is provided.

1 SS Act 98, s 8(1)(a); 2 s 12(1)(a); SS CS (D&A) Regs 26(b); 3 SFCWP (Gen) Regs, reg 2(6)

Example

A cold weather period is recorded at the Fylingdales Meteorological Station for the period 10.1.11 to 16.1.11. John has been in receipt of IS since September 2010 and lives at an address with a postcode YO62. On 28.6.11 he applies for a backdated payment of a CWP stating his daughter Jane was born on 2.1.11 but he did not notify the Department of the birth at the time. The DM treats this as a claim and decides he is entitled to a CWP as the claim is within 26 weeks of the recorded cold weather period.

Period of cold weather

39703 A cold weather period is a period of seven consecutive days during which the average mean daily temperature is recorded as, or is forecast to be, zero degrees celsius or below¹.

1 SFCWP (Gen) Regs, reg 1(2)

39704 Any day included in one cold weather period cannot be included in any other cold weather period.

The designated Met Office station

39705 PO postcode districts¹ are linked to authorized weather stations. PO postcodes have four parts to them

1. area example **LS14 1NX**
2. district example **LS14 1NX**
3. sector example **LS14 1NX**
4. group of houses/building example **LS14 1NX**.

A postcode district may also include a letter at the end example **SW1A**.

The DM should ignore the letter at the end of the postcode district when deciding which weather station covers the claimant's home. A list of primary weather stations and their linked PO postcode districts is at Appendix 1 to this Chapter.

Note: From 1.11.16, Schedule 1 is revoked². See guidance at 39740 et seq.

*1 SFCWP (Gen) Regs, reg 1(a) & 2 & Sch 1;
2 Social Fund Cold Weather Payments (General) (Amendment) Regulations 2016, reg 2(6)*

39706 A cold weather period is triggered when the weather station

1. records a period of cold weather **or**
2. forecasts¹ that a period of cold weather will occur.

The Met Office notify SF Problem Management, Live Support of cold weather periods, who then notify DOs.

1 SFCWP (Gen) Regs, reg 1(2)

39707 Appendix 2 to this Chapter is a list of specified alternative weather stations¹ for use if information is not available from the primary station.

Note: From 1.11.16, Schedule 2 is revoked². See guidance at 39740 et seq.

*1 SFCWP (Gen) Regs, reg 2(1A)(a), reg 2(1B)(a) & Sch 2;
2 Social Fund Cold Weather Payments (General) (Amendment) Regulations 2016, reg 2(6)*

39708 If the primary (or any specified alternative) station is unable to provide details for any day, the nearest station to the primary station that can provide temperature details for that day will be treated as the linked station¹.

Note: From 1.11.16, see guidance at 39753.

1 SFCWP (Gen) Regs, reg 2(1A)(b), reg 2(1B)(b)

39709 If the claimant's home is not situated in a listed area the DM should

1. check the area defined in Appendix 1 to this Chapter.
2. establish which area covers the claimant's home **and**

3. treat the station appropriate to that area as the claimant's designated station¹.

Note: From 1.11.16, see guidance at 39755.

1 SFCWP (Gen) Regs, reg 2 & Sch 1

39710 - 39739

Amendments to CWP scheme – from winter 2016/17

- 39740 The following guidance highlights changes to the CWP scheme (from winter 2016/17 which runs from 1.11.16 to 31.3.17). Prior to 1.11.16, legislation provided the designated primary weather stations for postcode districts (see 39705) and the designated alternative stations (see 39707). The designations listed within specified Schedules¹ could only be amended by Statutory Instrument. The following changes to the CWP scheme ensure that appropriate changes to weather station designations can be made quickly and without the need for those changes to be effected through secondary legislation. Changes will usually be agreed as part of an annual review of the CWP scheme, having regard to recommendations made by the Met Office. Any changes can then be implemented expediently (see 39762 to 39764). These changes to the CWP scheme come into effect from 1.11.16².

1 SFCWP (Gen) Regs, Sch 1 & Sch 2;

2 Social Fund Cold Weather Payments (General)(Amendment) Regulations 2016 (SI 2016 No.876), reg 1(2)

Definitions

Member of the support group

- 39741 'Member of the support group' means¹ a claimant who has or is treated as having LCWRA and their assessment phase has ended.

1 SFCWP (Gen) Regs, reg 1(2)

Member of the work-related activity group

- 39742 'Member of the work-related activity group' means¹ a claimant who has LCW or is treated as having LCW and their assessment phase has ended.

1 SFCWP (Gen) Regs, reg 1(2)

Met Office

- 39743 Met Office¹ means the Met Office of the Department for Business, Energy and Industrial Strategy.

1 SFCWP (Gen) Regs, reg 1(2)

Primary station

39744 Primary station¹ means a station designated by the Secretary of State as a primary station for a postcode district².

1 SFCWP (Gen) Regs, reg 2(7); 2 reg 2A(1)

39745

Secondary station

39746 Secondary station¹ means a station designated by the Secretary of State as a secondary station for a postcode district²

Note: A secondary station would be used in circumstances where

1. a primary station was unable to provide temperature information in respect of a particular day **or**
2. the Met Office is unable to produce a forecast in respect of a particular period at a primary station (see 39753 to 39754).

1 SFCWP (Gen) Regs, reg 2(7); 2 reg 2A(2)

39747

Alternative station

39748 Alternative station¹ means a station which

1. in the opinion of the Met Office, is the most geographically and climatologically representative for the postcode district in which the home of the claimant is situated and
2. is able to provide the temperature information for the relevant
 - 2.1 recorded period of cold weather **or**
 - 2.2 forecasted period of cold weather.

Note: An alternative station would be used to determine whether there is a recorded or forecasted period of cold weather in circumstances where

1. the primary and secondary station is unable produce the requisite information **or**
2. the primary station is unable to produce the requisite information and there is no secondary station specified (see 39753 to 39754).

1 SFCWP (Gen) Regs, reg 2(7)

39749

Revocation of Schedule 1 & Schedule 2

39750 Schedule 1¹ (39705 and Appendix 1) contains a list of postcode districts and their primary designated weather station. Schedule 2² (39707 and Appendix 2) lists alternative stations which are used when the primary station is unable to provide the temperature information. Schedules 1 and 2 are revoked from 1.11.16³.

1 SFCWP (Gen) Regs, Sch 1; 2 Sch 2

3 Social Fund Cold Weather Payments (General) (Amendment) Regulations 2016, reg 2(6)

39751

Secondary and Alternative Stations

39752 Prior to 1.11.16, legislation¹ does not specify secondary weather stations for every primary station. If the primary (or any specified alternative) station is unable to provide details for any day, the nearest station to the primary station that is able to provide the temperature information is used to determine whether there has been a period of cold weather (see 39708).

1 SFCWP (Gen) Regs, reg 2(1A)(b) & reg 2(1B)(b)

39753 From 1.11.16, where a primary station is unable to provide temperature information in respect of a particular day, the mean daily temperature of that day at

1. the secondary station **or**
2. an alternative station, where
 - 2.1 there is no secondary station designated **or**
 - 2.2 the secondary station is unable to provide temperature information in respect of that day

is to be used to determine whether or not there is a **recorded** period of cold weather at a primary station¹.

1 SFCWP (Gen) Regs, reg 2(1A)

39754 From 1.11.16, where the Met Office is unable to produce a forecast in respect of a particular day at a primary station, the forecast in respect of that period produced at

1. the secondary station **or**
2. the alternative station, where
 - 2.1 there is no secondary station designated **or**
 - 2.2 the secondary station is unable to produce a forecast in respect of that period

is to be used to determine whether or not there is a **forecasted** period of cold weather at the primary station¹.

1 SFCWP (Gen) Regs, reg 2(1B)

Home of the claimant

39755 From 1.11.16, where the home of the claimant is not situated within a postcode district for which a primary station is designated, the home is to be treated as if it were situated within a postcode district

1. which, in the opinion of the Met Office, is the most geographically and climatologically representative of that postcode district **and**
2. for which a primary station is designated¹.

1 SFCWP (Gen) Regs, reg 2(2)

39756

Designation of Primary and Secondary Stations

39757 A primary station must be designated for each postcode district¹.

1 SFCWP (Gen) Regs, reg 2A(1)

39758 A secondary station may be designated for each postcode district¹.

1 SFCWP (Gen) Regs, reg 2A(2)

39759

Publication of designations

39760 Details of designated primary (and where appropriate, secondary) stations must be published. However the publication of those details may be made in the most appropriate manner¹.

Note: A CWP Postcode Tool is being made available via the Gov.uk website, where departmental staff and the general public can access weather station information and postcode linkages.

1 SFCWP (Gen) Regs, reg 2B

39761

Review and variation of designations

39762 Each designation must be reviewed every 12 months, in the period beginning 1st November and ending 31st October¹.

1 SFCWP (Gen) Regs, reg 2C(2)

39763 If, on review or at any other time, a designation is no longer appropriate, the Secretary of State must

1. vary the designation expediently **and**

- publish details of the varied designation¹, in an appropriate manner².

Note: When determining whether to vary a designation, regard must be given to any recommendation made by the Met Office³.

1 SFCWP (Gen) Regs, reg 2C(3); 2 reg 2C(4); 3 reg 2C(5)

39764 For the purposes of a review or a variation¹, whether a designation is appropriate includes in particular, whether the station designated

- is geographically and climatologically representative for the relevant postcode district **and**
- provides accurate temperature information.

1 SFCWP (Gen) Regs, reg 2C(6)

39765 - 39770

Amount of Cold Weather Payment

39771 The amount of the payment in respect of each period of cold weather will be £25.00¹.

1 SFCWP (Gen) Reg, reg 3; SFCWP (Gen) Amdt Regs 2011, reg 1(2)

Overlap period

39772 When a forecast period shares one or more days with a recorded period, the shared days will form an overlap period¹.

1 SFCWP (Gen) Regs, reg 1(2)

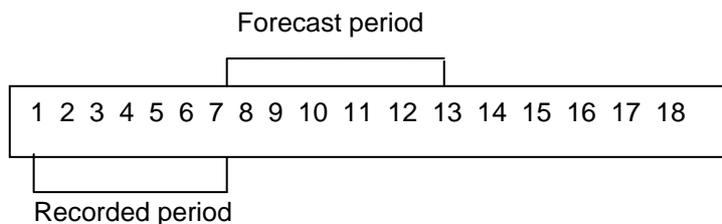
39773 If both a recorded and forecast period of cold weather are linked by an overlap period, the DM should only make payment for the forecast period¹, but see DMG 39714 if the qualifying conditions are not satisfied in the forecast period¹.

1 SFCWP (Gen) Regs, reg 2(3)

Example

No cold weather period triggered before day one

Qualifying conditions satisfied throughout the recorded/forecast periods



Eligible period is days 1-13 inclusive. A CWP is made for the period 7-13.

39774 Payment may be made for the last recorded period of cold weather¹ if

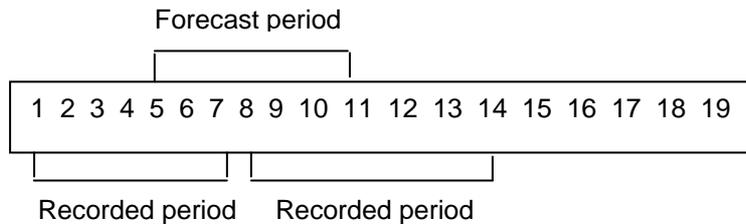
- there is a continuous period of recorded and forecast periods **and**

2. each of those periods is linked by an overlap period **and**
3. the total number of recorded periods exceeds the total number of forecast periods.

1 SFCWP (Gen) Regs, reg 2(4)

Example

Qualifying conditions satisfied throughout the recorded/forecast periods



1. Eligible period 15 days 1-14 inclusive
2. A CWP is made for the forecast period 5-11
3. A CWP is made for the last recorded period 8-14.

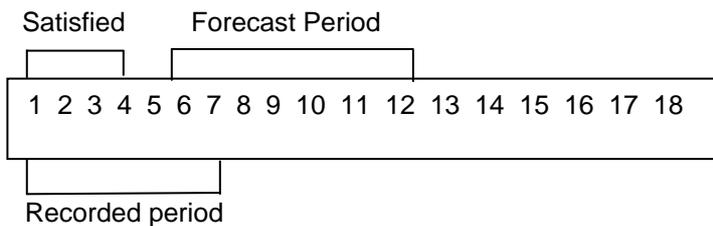
39775 A payment can be made for the recorded period where the claimant

1. would have been entitled to a CWP but for the fact that a forecast period takes priority **and**
2. is unable to satisfy the qualifying conditions for at least one day of the forecast period¹.

1 SFCWP (Gen) Regs, reg 2(5)

Example

Qualifying Conditions



1. Qualifying conditions satisfied in the recorded period up to day 4
2. Qualifying conditions not satisfied in the forecast period
3. Eligible period is days 1-12
4. A CWP is made for the period 1-7.

39776 - 39899

Winter fuel payments

39900 A WFP is a one-off annual payment based on an individual's circumstances during a specified QW. It is payable to those who in or before the QW have reached the qualifying age for SPC. The majority of payments can be made automatically based on information held on Departmental records¹. However, some people who are newly eligible each year and who do not expect to be getting a social security benefit (except HB, CTB or CHB) during the QW must make a claim.

1 SFWFP Regs, reg 4

39901 The QW in any year is the week beginning on the third Monday in the September of that year¹.

1 SFWFP Regs, reg 1(2)

39902 The qualifying age for SPC¹ is for a

1. woman - pensionable age **or**
2. man - the age which is pensionable age for a woman born on the same date as the man.

Note: See Appendix 5 for phasing table for WFPs.

1 SFWFP Regs, reg 1(2)

Entitlement

39903 A WFP is payable to a person who, in or before the QW, has reached the qualifying age for SPC and in respect of any day falling within the QW is

1. ordinarily resident in GB (see DMG 070769) **or**
2. habitually resident (see DMG 073707 et seq) in an EEA state (other than the UK) or Switzerland¹.

However, not every person who fulfils the above conditions will qualify for a WFP (see DMG 39910 - 39915)².

1 SFWFP Regs, reg 2(1); 2 reg 3

39904 For Guidance on the effect of EU law on the residence requirement see DMG 073756 et seq.

Alternative payee

39905 A WFP may be paid to the partner on behalf of the person entitled to the payment even if the partner has not reached the qualifying age¹ (see further guidance in DMG 08306).

1 SS (C&P) Regs, reg 36(2)

Defective claims

39906 See DMG 02106 - 02108 and DMG 02166 for guidance on defective claims.

39907 - 39909

Persons not entitled to a winter fuel payment

39910 From 1.4.12 Persons will not qualify for a WFP if throughout the QW

1. they live with a partner who has reached the qualifying age for SPC and to whom SPC, JSA(IB) or ESA(IR) has been or falls to be paid in respect of the QW **or**
2. they are currently receiving free hospital in-patient treatment and have done so for more than 52 weeks **or**
3. they are detained in custody under a sentence imposed by a court¹ **or**
4. they are subject to Immigration control and not eligible for help from DWP².

1 SFWFP Regs, reg 3(1)(a); 2 I & A Act 99, s 115

Example

Bill and Ethel are a married couple both aged over 80. Bill receives SPC for himself and his wife so he is entitled to a WFP of £400 and Ethel will not be entitled to a WFP.

39911 If persons are in receipt of SPC, ESA(IR) or JSA(IB), in respect of the QW, and are in residential care throughout the QW and the twelve weeks immediately before it, they will not be entitled to a WFP.

39912 Couple means¹

1. two people who are married to, or civil partners of, each other and are members of the same household
2. two people who are not married to, or civil partners of, each other but are living together as a married couple.

1 SFWFP Regs, reg 1(2)

Appendix 7

Benefits excluded from being assets of the deceased as at the date of death (see DMG 39408)

AA	MA
BSP	PIP
CA	REA
CHB	RP
CTC	SDA
CTB	SP
DLA	SPC
ESA	UC
ESDA	WdisbP
GA	WFP
HB	WWP
IB	WMA
IS	WPA
IDB	WP
IIDB	WTC
JSA	

The content of the examples in this document (including use of imagery) is for illustrative purposes only