

Department for Work and Pensions

DECISION MAKING AND APPEALS (PART OF STRATEGIC COMMUNICATIONS)

Decision Makers Guide

Volume 7

Amendment 43 – Oct 2018

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://intranet/1/lq/acileeds/guidance/decision%20makers%20guide/index.asp>

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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
 - incorporates Memo DMG 3/18. Affected paragraphs are 39125 & 6, 39169(11), 39271, 39272, 39273, 39274, 39275, 39276, 39329, 39371, 39424 & 39425, 39445 - 39337 (removed) Incorporates Memo DMG 5/18 in paras 39018/9, 39026, 39108(9), 39700
4. 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 (3 pages)
39011 – 39032 (3 pages)
39101 – 39139 (3 pages)
39169 – 39378 (12 pages)
39419 – 39704 (3 pages)

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Chapter 39

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Chapter 39 - Social Fund payments

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Placed for adoption

39011 Placed for adoption means a child placed for adoption as defined in specified legislation¹.

1 SFMFE (Gen) Regs, reg 3(1); Adoption and Children Act 2002, s 18

Qualifying order

39012 A qualifying order is¹

1. an adoption order
2. a parental order
3. a residence order.

1 SFMFE (Gen) Regs, reg 3(1) & reg 3A(6)

Residence order

39013 Residence order means an order settling the arrangements to be made as to the person with whom a child is to live¹.

1 SFMFE (Gen) Regs, reg 3(1); Children Act 1989, s 8 & 10

Meaning of “responsible for”

39014 A person is to be treated as responsible for

1. a child if the person is receiving CHB for the child¹ **or**
2. a child where CHB is not in payment if they are the person who the child normally lives with² **or**
3. both children where a person is receiving CHB for a child who is in receipt of CHB for another child³.

1 SFMFE (Gen) Regs, reg 4A(2)(a); 2 4A(2)(b); 3 reg 4A(3)

Not treated as “responsible for”

39015 A person is not to be treated as responsible for a child at the date of claim if the child is

1. being looked after by a LA under specified legislation¹ (which includes children in foster care) **or**
2. being held in custody pending trial or sentencing² **or**
3. in custody serving a sentence imposed by a court³.

1 SFMFE (Gen) Regs, reg 4A(4)(a); Children Act 1989, s 22; Children (Scotland) Act 1995, s 93; Social Services and Well-being (Wales) Act 2014, s.74; 2 SFMFE (Gen) Regs, reg 4A(4)(b); 3 reg 4A(4)(b)

Equivalent provisions

39016 Reference to

1. definitions in DMG 39007 to 39015¹ **and**
2. the adoption of children under specified legislation²

also includes any analogous provision of equivalent effect in Scotland, Northern Ireland, the Channel Islands or the Isle of Man³.

Note: If a claim is made and it is not clear if it is made under an analogous order, refer the case to DMA Leeds for advice.

1 Children Act 1989, s 5, 8, 10, & 14A; Adoption and Children Act 2002, s 2, 18 & 46;

2 Adoption and Children Act 2002, s 66; 3 SFMFE (Gen) Regs, reg 3(1A)

Meaning of C

39017 C means the child or still-born child in respect of whom a SSMG is claimed¹.

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

Meaning of Existing Member of the family

39018 Existing member of the family means

1. where a parent of C is under the age of 20 and a member of the claimant's family, any member of the claimant's family who is also a child of that parent, apart from
 - 1.1 C **or**
 - 1.2 any other child born as a result of the same pregnancy as C¹ **or**
2. in any other case, any member of the claimant's family apart from
 - 2.1 C **or**
 - 2.2 any other child born as a result of the same pregnancy as C **or**
 - 2.3 any child whose parent is
 - 2.3.a under the age of 20 **and**
 - 2.3.b a member of the claimant's family² **or**
 - 2.4 any child
 - 2.4.a who was not, at the time of the child's birth, a child of the claimant (or, where the claimant has a partner at the date of claim, the claimant's partner); **and**
 - 2.4.b whose age, at the time that the claimant (or, where the claimant has a partner at the date of claim, the claimant's partner) first became responsible for that child, was more than 12 months³.

Note: The term “partner” means the claimant’s partner at the date of the SSMG claim. The claimant’s partner at the date of the child’s birth or at the date the claimant became responsible for the child is not relevant.

1 SFMFE (Gen) Regs, reg 5A(1)(b) & 5A(2); 2 reg 5A(1)(b) & 5A(3); 3 reg 5A(3)(d)

Example

Mary receives JSA(IB) and also claims CTC in respect of her daughter, Diane, aged 17. Diane has a son James aged 2. Diane receives CHB for James. Diane is now expecting twins. As Diane is a dependant member of Mary’s family who is under the age of 20 and already has a child under 16, James, a SSMG would not ordinarily be payable. However as Diane is expecting twins, one SSMG is payable.

Prevention of award

39019 A SSMG cannot be awarded, if at the date of claim, there is an existing member of the claimant’s family, apart from C, who is under the age of 16, except in the case of multiple births¹.

1 SFMFE (Gen) Regs, reg 5A(4)

Subsequent Multiple births

39020 A further exception to DMG 39019 provides for payment of a SSMG in circumstances where there is already a child or children under the age of 16 in the family, but there has been a subsequent multiple birth. The number of SSMGs to be awarded when there is a multiple birth is set out in DMG 39021 - 39023.

Award of SSMG

39021 Where at the date of claim, no existing member of the family is under the age of 16, a SSMG is to be awarded for each child where C is one of two or more children who is

1. born or still-born as a result of the same pregnancy **or**
2. expected to be born as a result of the same pregnancy¹.

1 SFMFE (Gen) Regs, reg 5A(5) & reg 5A(6)

Example:

Marjorie claims JSA(IB). She has a dependent 18 year old, Edwina, who is expecting her first child. Marjorie has no other children, however she is now expecting twins herself. Marjorie can claim a SSMG for each of her expected children. However, a SSMG will also be payable for Edwina’s child, Marjorie’s grandchild. Therefore three SSMGs will be payable in total. This is because Marjorie and Edwina are treated as separate family units for the purpose of determining the number of SSMGs payable.

39022 Where at the date of claim, any existing member of the family is under the age of 16, then where each of those existing members of the family under the age of 16 was born as a result of separate pregnancies, a SSMG is to be awarded for all but one of the children born or expected to be born as a result of the multiple birth¹.

1 SFMFE (Gen) Regs, reg 5A(7)(a)

Example:

Mohinder and Jaswinder are in receipt of JSA(IB). There are 2 children in the family, Amarjit who is 6 years old and Gurdeep who is 3 years old. Jaswinder has recently had twins and now claims a SSMG. As Amarjit and Gurdeep were born as a result of separate pregnancies, one SSMG is payable.

39023 Where at the date of claim any existing member of the family is under the age of 16, then where two or more of those existing members of the family under the age of 16 were born as a result of a single pregnancy, the number of SSMGs to be awarded in respect of children born or expected to be born as a result of the multiple birth is

1. the number of children born or expected to be born as a result of the multiple birth, **minus**
2. the maximum number of existing members of the family born as a result of a single pregnancy¹.

1 SFMFE (Gen) Regs, reg 5A(7)(b)

Example

Alan and Beatrice are in receipt of ESA(IR). They have 4 year old twins (Charlie and Daniel) and a 2 year old (Edward). It has been confirmed that Beatrice is now expecting triplets. As she is now within 11 weeks of her expected date of confinement, she has made a claim for a SSMG. As three children are expected to be born as a result of this multiple birth and there are two children (Charlie and Daniel) who are existing members of the claimant's family born as a result of a previous single pregnancy, one SSMG is payable.

Claims made on or after 13.08.12

39024 Where a claim for a SSMG is based on an expected date of confinement of 28.10.12 or earlier, the rules in force before 12.08.12 will continue to apply. The restrictions in DMG 39019- 39023 apply to

1. births expected or (where the claim is made after the birth) taking place on or after 13.08.12 **and**
2. adoption, residence or parental orders and other analogous arrangements made on or after 13.08.12¹.

1 SFMG Amdt Regs 2012, reg 3

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) or
7. owner-occupier loan payments and be treated as entitled to IS, JSA(IB), ESA(IR) or SPC³.

Note 1: 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); 3 SFMFE (Gen) Regs, reg 5(2)(h)

39027 A person is not awarded JSA(IB) for the first seven days of any JSP or ESA(IR) for the first seven 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)

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 39108) **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 **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. HB **or**
7. ESA(IR) **or**
8. UC **or**
9. owner-occupier loan payments and be treated as entitled to IS, JSA(IB), ESA(IR) or SPC³

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

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. 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 seven days of any JSP. These are known as waiting days¹.

1 JSA Regs, reg 46

39121 - 39124

The funeral

39125 There is no definition of a funeral for claims made on or after 2.4.18. This means that a SFFP can be made where there is no body or remains of the deceased.

39126 This paragraph only applies to claims made before 2.4.18, "Funeral" means a burial or a cremation 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.

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).

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 2000².

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 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 Council Directive No. 2004/38/EC, Art 17; Immigration (European Economic Area) Regulations 2006, reg 15(1) & Sch 4(6); 2 Council Directive 2004/38/EC, Art 17; Immigration (European Economic Area) Regulations 2006, reg 15(1)(c), (d) or (e) & Sch 4(6)

39129 "Member of the family" as mentioned in DMG 39128 **4.** 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

Ordinarily resident test for the deceased

39130 The deceased must be ordinarily resident in the UK at the date of death¹ (see DMG 070880 for the meaning of UK).

1 SFMFE (Gen) Regs, reg 7(5)

39131 When deciding whether a person is ordinarily resident, DMs should consider the guidance in DMG 070769 et seq.

Prescribed time for claiming

39132 See DMG 02543 - 02545 for guidance on the time for claiming an SFFP.

Late award of a qualifying benefit

39133 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.

Accepts responsibility

39134 The claimant or their partner must have accepted responsibility for the funeral expenses¹.

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

39135 They must have a contractual liability with the funeral director or the person who arranges the funeral. A moral obligation to meet funeral expenses does not count.

Estimates

39136 An estimate is **not** evidence of a contract. An estimate can be obtained without entering into a contract with a funeral director. An account in the responsible person's name is evidence that a contract exists and that the claimant or partner has accepted responsibility for the funeral costs.

Agents

39137 It is not necessary that the funeral arrangements are made by the responsible person. Another person can act as agent for the responsible person. The responsible person does not have to be named on the funeral account and the funeral director does not have to know that the person who is instructing them is an agent. However there should be evidence that the responsible person gave the other person the authority to make the arrangements on their behalf¹.

1 R(IS) 6/98

39138 The account is evidence that a contract exists for

1. the funeral director to provide goods and services **and**
2. the responsible person to pay for those goods and services.

39139 An agent may pay the funeral account in full or part. The agent has not accepted responsibility for the funeral costs, but makes a payment on behalf of the responsible person.

Example

A son acts as agent for his recently widowed mother and arranges his father's funeral. The funeral director wants an advance payment for the interment fee. The

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 **or**
10. who is ordinarily resident outside the UK⁵ (see DMG 070769 et seq) **or**
11. who is a resident of a care establishment (see DMG 39155) whose expenses are met wholly or in part by a local authority⁶.

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); 6 SFMFE (Gen) Regs, reg 8(2)(ff)

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.

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 In line with guidance at 39171, estrangement must be assessed as at the date of death¹. It is an active concept, requiring some alienation in feeling or affection. As disharmony can arise from one person’s attitude towards another, if by a person’s actions they intentionally cause the death of the deceased, estrangement should be viewed as occurring between that person and the deceased, at the date of death. This should also include actions towards the deceased where those actions were violent or dangerous and consequently could reasonably be expected to cause the death of the deceased. Where a death occurs as a result of such actions, the physical and emotional relationship between that person and the deceased can be said to be irretrievably broken down at the date of death, thereby estrangement occurring.

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

Example 1

A husband and wife are separated and living apart. Their child lives with the mother, but has regular contact with the father. Following a fatal attack on the child, the

father is detained in police custody and charged with the child's murder. The child's mother makes an application for a funeral payment.

The DM decides that the claimant is the responsible person and satisfies all the entitlement conditions for a funeral payment. The DM further decides that at the date of death, as the father has been charged with the child's murder, there was an irretrievable breakdown in their relationship resulting in an alienation in feeling or affection between the father and the deceased child, deciding that estrangement occurred at the date of death.

Example 2

A mother and son are travelling by car. The mother is the passenger, the son is the driver. The car crashes and the mother died as a result of the crash. The son is charged with reckless driving. The deceased's daughter makes a claim for a funeral payment for her mother. The DM decides that there was no physical or emotional breakdown in the son's relationship with his mother and consequently the son was not estranged from the deceased at the date of death.

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

Amount of funeral payment

- 39251 The amount of the SFFP is made up of¹
1. the allowable funeral expenses² which the claimant, their partner, or a person acting on their behalf, are responsible for (see DMG 39255) **less**
 2. any deductions³ (see DMG 39371).
- 1 SFMFE (Gen) Regs, reg 9(1) & (2); 2 reg 9(3); 3 reg 10*
- 39252 The DM should consider the amount of the SFFP only if all the conditions of entitlement are satisfied¹.
- 1 SFMFE (Gen) Regs, reg 7*
- 39253 The DM should consider deductions after the allowable funeral expenses have been calculated¹.
- 1 SFMFE (Gen) Regs, reg 9 & 10*
- 39254 No SFFP should be made for items and services listed in DMG 39261 - 39330, which have been provided on the death of the deceased under a prepaid funeral plan¹.
- 1 SFMFE (Gen) Regs, reg 9(10)*

Allowable funeral expenses

- 39255 The allowable funeral expenses should be enough to meet the cost of the items and services listed in the regulations which are to be paid or have been paid by
1. the claimant **or**
 2. the claimant's partner **or**
 3. a person acting for the person at **1.** or **2.**¹.
- 1 SFMFE (Gen) Regs, reg 9(1) & (2)*
- 39256 Allowable funeral expenses are
1. the total of the necessary reasonable costs of the specified services and items listed in DMG 39271 - 39276¹ **and**
 2. any other funeral expenses subject to a maximum of £700 (see DMG 39282 - 39286)².
- 1 SFMFE (Gen) Regs, reg 9(3)(a) - (f); 2 reg 9(3)(g)*
- 39257 - 39260

Reasonable and necessary costs

39261 The DM should support the SFFP decision with evidence where the law says that the expenses allowed for specified items and services (see DMG 39271 - 39276) should be necessary¹ and reasonable.

1 R(IS) 14/92

39262 This evidence is not needed for items and services allowable under “any other funeral expenses” (see DMG 39282 - 39286).

39263 The DM should

1. gather the evidence by making enquiries in the local area of the range of costs of specified items and services **and**
2. analyse the information collected and decide the necessary reasonable allowable costs for the area **and**
3. record the information and analysis to support the decision, for example at an AT hearing **and**
4. periodically check that the information still reflects current prices.

39264 The DM can use various methods to decide the reasonable cost of an item or service. It is suggested that a range is used.

Example

There are six funeral directors in the local area. The cost per mile of transport over 50 miles (80 kms) is

2 funeral directors	30p
2 funeral directors	40p
1 funeral director	27.5p
1 funeral director	55p.

A range up to 40p is reasonable.

39265 The necessary cost would be the lowest cost for an item or service for that individual. For example the cost of a double plot may be necessary if the deceased is too large to bury in a single plot.

39266 - 39270

Specific items and services for burial and cremation

39271 Subject to DMG 39272 the DM should allow for a burial¹

1. the necessary costs of buying a new burial plot for the deceased, together with a 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.

Note: For claims made before 2.4.18, the right of burial in the plot must be exclusive.

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. where removal of an active implantable medical device (normally pacemaker) is needed before cremation
 - 2.1 a doctor's fee **or**
 - 2.2 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 all funerals, the DM can also allow the cost of necessary

1. medical references, reports or other documentation required in connection with the disposal of the deceased, whether by burial, cremation or other approved method of disposal¹ **and**
2. documentation needed for the release of funds which would result in a deduction from the award² **and**
3. 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 rest³ (see DMG 39321 - 39323) **and**
4. 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
 - 4.1 one vehicle for the coffin and bearers **and**
 - 4.2 one other vehicle⁴.

Note 1: For claims made before 2.4.18, the provision in 1 is for any medical references and necessary registered medical practitioner's certificates required for a cremation.

Note 2: 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.

1 SFMFE (Gen) Regs, reg 9(3)(ba); 2 reg 9(3)(c); 3 reg 9(3)(d); 4 reg 9(3)(e)(ii)

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,

- 39274 For all funerals, 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. a right of burial in that plot.

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

Note 1: See note to 39273 where there is more than one place of rest.

Note 2: For claims made before 2.4.18, the right of burial in **2.** must be exclusive.

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 a 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.

Note: For claims made before 2.4.18, the right of burial in 1. must be exclusive.

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

39277 - 39280

Transport costs

- 39281 Transport costs for the distances specified in DMG 39273 2. and 3. and DMG 39275 are for return journeys, not single journeys¹.

1 SFMFE (Gen) Regs, reg 9(6)

Any other funeral expenses

- 39282 Other funeral expenses include

1. any items and services not specified in DMG 39271 - 39276 to a maximum of £700¹ **or**
2. where items and services have been provided under a pre-paid funeral plan or similar arrangement, £120².

1 SFMFE (Gen) Regs, reg 9(3)(g); 2 reg 9(10)(b)

- 39283 These expenses cover

1. the fees of a funeral director, or any other person acting in the place of a funeral director **and**
2. any other items and services that the responsible person wishes to pay for.

- 39284 Other funeral expenses may include unmet expenses for specified items and services in DMG 39271 - 39276 for which the responsible person claims.

Example

The deceased had lived with his wife and was buried in York. His wife claims £800 for the burial costs. The DM decides that £600 is the reasonable cost of a burial. The SFFP claim includes the unmet expenses of £200 for the burial costs which could be met from within the provision for other funeral expenses.

- 39285 There is no definition of funeral expenses. The responsible person may claim for items and services such as

1. the funeral director's fees
2. church fee or minister's fee
3. organist's fee

4. flowers
5. cost of an urn
6. hygienic treatment.

This is not a complete list of items and services that may be claimed under any other funeral expenses. The DM should decide that the item or service claimed is a funeral expense.

Example

Michael submitted a claim for a SFFP and the funeral director's bill included £300 for the cost of a coffin. This could not be allowed as a specified item but the DM decides that the cost could be met from within the provision for other funeral expenses¹.

1 R(IS) 10/04

39286 The DM should calculate the total of the items and services claimed under other funeral expenses and award the lower of

1. the total amount claimed **or**
2. £700.

Burial plot for the deceased

39287 The DM should allow the necessary cost of

1. a new grave for the deceased¹ **or**
2. where the deceased has been buried in an existing shared grave, the cost of re-opening that grave, including the cost of replacing any existing headstone and kerbing.

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

39288 A double or family plot should not be allowed unless

1. an extra wide plot is needed because of the deceased's size **or**
2. a single plot is not available **or**
3. the cost of a double plot is cheaper than the cost of a single plot.

Reclaimed burial plots

39289 Some burials take place in a "reclaimed" burial plot. A "reclaimed" burial plot is to be treated as a new burial plot¹ where

1. the previous exclusive right of burial has expired, **and**
2. a new exclusive right of burial must be purchased, **and**

3. the “new” burial will be on top of the earlier burial, and will not disturb the earlier one.

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

Burial outside the deceased’s home area

39290 Burial outside the deceased’s home area may be more costly, for example the LA may make an extra charge for the plot and burial if the deceased did not live in its area. DMG 39291 gives guidance on when the necessary costs may relate to an out of area burial.

39291 If the burial is outside the deceased’s home area the DM should allow

1. the lower amount of the necessary cost of a plot and burial (see DMG 39271) in either
 - 1.1 the area where the deceased lived **or**
 - 1.2 the area where the deceased has been buried **or**
2. the actual costs of burial incurred if DMG 39329 applies.

If there is more than one level of charges within the same area, the necessary cost is the lowest charge. The DM must, however, have regard to the circumstances of each individual case¹ as in some cases the costs in **2.** may be paid even if they are higher.

1 R(IS) 18/98

Example 1

The deceased had lived with his wife in York until her death. She was buried in York in a family plot. After her death he moved to live with his daughter in Shrewsbury.

He expressed a wish to be buried with his wife. The necessary cost of a plot and burial in Shrewsbury is £1000; the necessary cost of burial in York is £400. The DM allows the lower amount.

Example 2

The deceased lived in Exeter and his family lived in Bristol. The deceased never lived in Bristol. The family choose to bury the deceased in Bristol. The necessary cost of a plot and burial in Bristol is £1400; the necessary cost of a plot and burial in Exeter is £1200. The DM allows the lower amount.

Example 3

The deceased lived in a suburb of Manchester. The nearest cemetery to his home is in the next street, but outside the deceased’s local authority area. The nearest cemetery in the deceased’s LA area is 10 kilometres away. The cost of a non-resident’s plot and burial is more than the cost of a plot and burial in the deceased’s

LA area. The DM allows the lower amount. This applies even if the deceased's family say that it is inconvenient to travel to the cemetery within the LA area.

- 39292 In out of area burials where there is an existing plot and the deceased's partner is buried there consideration¹ should be given as to whether the necessary costs (including travel) will be those that are related to the out of area burial.

1 R(IS) 18/98

Example

The deceased had lived in London for the majority of her life however when she needed to be looked after she moved to Wiltshire so her daughter could care for her. When her husband died she purchased a double grave in a cemetery in London with the intention that when she died she would be buried in the same plot. On her death the daughter made arrangements for her mother to be buried in the existing plot but this incurred fees of £1,500 for reopening the grave. The DM, having considered the circumstances, may allow the fees as necessary costs in this case as the deceased had already purchased a grave in which her spouse was already buried.

Necessary documentation

- 39293 The DM should award the cost of obtaining any necessary documentation needed for the release of funds deductible from the award¹.

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

39294 - 39300

Religious requirement

- 39301 Any element in burial, cremation or transport costs which arise solely from a requirement of the deceased's religious faith is not an allowable expense¹.

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

- 39302 Expenses in DMG 39301, disallowed by the DM, may be allowed under any other funeral expenses and subject to the £700 limit (see DMG 39282 - 39286).

39303 - 39311

Journey to arrange or attend a funeral

- 39312 The DM can allow the necessary cost of one return journey by the responsible person to arrange or attend the funeral¹. 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 costs of the funeral would have been incurred.

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

- 39313 Each claim is decided individually. It may be reasonable to travel by air if it significantly reduced the journey time and it is necessary to travel as soon as possible.
- 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 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 a 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.

Note 3: For claims made before 2.4.18, the right of burial in **1.** and **2.1** must be exclusive.

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
 - 1.2 will be paid out sufficiently in advance of the time limit to give the claimant time to pay the bill
2. if the claimant has already benefited from the discount.

39358 No discount should be deducted from items or services not included on the funeral director's account. For example responsible person's transport costs to arrange or attend the funeral or the cost of documentation to release assets of the deceased deductible from the award (see DMG 39293 - 39314).

39359 The SFFP is the total of **A** + either **B** or **C** (whichever is the lesser) where

A is the necessary costs of the specified items and services less the discount on that amount

B is the amount claimed for other funeral expenses less the discount plus any amount not allowed under **A** **and**

C is £700, the limit on the amount allowed for other funeral expenses

Example

The funeral bill, with 10% discount available, is made up of

new burial plot£600 (£540 after discount)

burial£150 (£135 after discount)

other funeral expenses £550 (£495 after discount).

The necessary cost of the burial plot is £400 (£360 after discount).

A = £495 (£360 + £135)

B = £675 (£495 + £180) (£180 is the difference between the necessary cost of the burial plot less discount (£360) and the actual cost less discount (£540))

C = £700

The SFFP awarded is £1,170 (£495 + £675).

39360 If the amount awarded is not enough to meet the allowable expenses because the claimant did not benefit from the discount, the DM should consider whether the award can be revised (see DMG Volume 01).

Prevention of duplicate payment

39361 The DM should not award an SFFP if a payment has already been made for

1. the same funeral expenses **or**
2. any other funeral expenses arising from the death of the same person¹

except where the first award has been revised². But the total of any further SFFP awarded under that revision and the original award cannot be more than the amount allowable under the legislation³.

1 SFMFE (Gen) Regs, reg 4(1) & (2); 2 4(4); 3 reg 9

39362 - 39370

Deductions

- 39371 The DM should deduct from the allowable funeral expenses¹
1. the value of any available assets of the deceased (see DMG 39372) **and**
 2. any lump sum due on the death of the deceased (see DMG 39416) **and**
 3. the amount of any funeral grant made from public funds if the deceased was entitled to a WDisP (see DMG 39433) **and**
 4. the amount of any sum payable under a prepaid funeral plan (see DMG 39434).

Note: For claims made before 2.4.18, the DM should also deduct any sum received from a charity or a relative (see DMG 39425).

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

Assets of the deceased

- 39372 The DM should deduct from the allowable expenses any assets of the deceased that are available to
1. the responsible person **or**
 2. any other member of the responsible person's family
- without probate or letters of administration or in Scotland, confirmation, having been granted¹.

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

- 39373 Assets do not have to be received. The DM can take them into account if they are available on application. However, for arrears of benefit see DMG 39408 et seq.

- 39374 The assets of the deceased must be available to the responsible person or any member of the responsible person's family. Family means people living in the same household¹. The IS membership of the household rules apply when deciding if a person is a member of the family (see DMG Chapter 22).

1 SFMFE (Gen) Regs, reg 3(1) & (4)

Example 1

A son and daughter of the deceased live in the same house. The son of the deceased makes an SFFP claim and has accepted responsibility for the costs of the funeral. It is accepted that it was reasonable for the son to accept responsibility for the funeral expenses. The son also satisfied the IFM and comparison of nature and extent of contact (or close relative) tests. The daughter claims and receives the assets of the deceased. The son and daughter do not live in the same **household**. The daughter is **not** a member of the son's family. The assets are not available to the responsible person or any member of his family. A deduction cannot be made from the SFFP.

Example 2

A son-in-law of the deceased claims an SFFP and it is accepted that it was reasonable for him to have accepted responsibility. His wife claims and receives £2500, the assets of the deceased. The son-in-law and wife are members of the same household. The assets of the deceased are available to a member of the responsible person's family and the whole of the assets should be deducted from the SFFP (£2500).

Example 3

The deceased's mother is the responsible person. The assets of the deceased are claimed by the deceased's estranged wife. The assets cannot be deducted.

- 39375 Whether monies are available is a question of fact. Monies are available if they have been received by the responsible person. This applies even if the monies have been spent or distributed¹.

1 R(IS) 14/91

Example

A mother dies and leaves £1300 in a building society account. Her daughter claims an SFFP and it is accepted that it was reasonable for her to have accepted responsibility. The daughter receives and spends some of the £1300. The remainder is given to other relatives of the deceased. £1300 is available from the assets of the deceased and is deducted from the SFFP.

- 39376 Funeral expenses are the first charge on an estate¹. A bank or building society may pay the funeral costs direct to the funeral director.

1 R(SB) 18/84

- 39377 If the available assets are not enough to meet the allowable funeral expenses, an SFFP may be made for the balance, subject to any other deductions¹.

1 SFMFE (Gen) Regs, reg 10

- 39378 If there is a dispute about ownership, the bank or building society may refuse to release monies until probate or letters of administration or, in Scotland, confirmation are granted. The DM **cannot**

1. treat these monies as available **or**
2. deduct the monies from the SFFP.

Example 1

The deceased had £4500 in a building society account. The responsible person chooses not to apply for the money. The amount is below the limit for probate and is available on application. The money is the assets of the deceased and can be deducted from the SFFP.

Example 2

The deceased's son-in-law is the responsible person. The deceased's daughter (the responsible person's wife) redeems a life assurance policy in respect of the deceased. The monies can be deducted because the responsible person and his wife live in the same household.

39419 - 39423

Contributions towards funeral expenses - claims made before 2.4.18

39424 Paragraphs 39425 - 39432 only apply to claims made before 2.4.18.

39425 The DM should deduct from the allowable funeral expenses any payment received by the responsible person or any other member of the family if given by a

1. charity **or**
2. relative of the responsible person **or**
3. relative of the deceased¹.

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

39426 The DM should deduct in full **any** contribution received, providing the decision on the FP has not already been made. Any contributions made **after** the FP decision has been given cannot be said to have been received by the responsible person.

39427 Funeral expenses are not defined. Include any expenses reasonably connected with the funeral, for example, flowers, organist's fees (see DMG 39282).

Loan or contribution

39428 The DM decides on the available evidence whether monies received are a

1. loan **or**
2. contribution.

39429 Where money is received by the responsible person, or a member of their family, in the form of a loan and there is evidence that the loan is

1. to be repaid **or**
2. a legally enforceable debt,

it should **not** be treated as a contribution and should not be deducted from the funeral payment.

39430 Sometimes a person offers the claimant a loan in the expectation that it will be repaid when a SF payment is granted. **Each case should be decided on the facts.**

39431 Some transactions between relatives are not intended to be legally binding and the lender cannot sue the borrower if the loan is not repaid. However, the fact that the lender may be unwilling to sue is not the same as the obligation not being legally binding. If the lender expected the money to be repaid, it cannot be said to be an outright gift, and would be a loan rather than a contribution.

Example 1

The wife of the deceased is the responsible person. She claims a funeral payment and reports that she borrowed the sum of £2,000 from her relatives in order to help pay the funeral bill. This sum will be repaid to her relatives when the SF Funeral Payment is made. The DM decides that the sum was a loan and should therefore not be deducted when a decision is made on the funeral payment.

Example 2

The wife of the deceased is the responsible person. She claims a funeral payment and reports that she received a contribution of £1,000 towards the cost of the funeral. The DM deducts this contribution from the funeral payment. The claimant requests a revision and now reports that the contribution was a loan, not a contribution and her son expects repayment. The claimant is unable to provide documentary evidence of the change to the status of the £1,000 i.e. that it was in fact a loan and it is unlikely that the son could sue the mother for repayment. The £1,000 is a contribution and is therefore deductible from the funeral payment.

Deductions from an award of a funeral payment – Crowdfunding

39432 There is a means of raising monies through social media which is known as “crowdfunding”. Monies raised through crowdfunding are being used to help with the cost of a funeral. Where monies donated in this manner are received by a person who uses those monies to settle the bill with the funeral director and then makes a claim to the Social Fund for a funeral payment, the question arising is whether the monies donated by crowdfunding can be deducted from the funeral award. Crowdfunding is stated to be a means to raise money for “non-charitable good causes”. So although the monies are received by the responsible person, the contribution is not from a charity. Consequently, monies raised via crowdfunding cannot be treated as deductions¹ from an award of a funeral payment.

1 SFMFE (Gen) reg 10(1)(c)

Funeral grant from public funds

39433 The DM deducts from the allowable funeral expenses the amount of any funeral grant if¹

1. the deceased was entitled to a WDisP **and**
2. the funeral grant is paid out of public funds.

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

Prepaid funeral plans

- 39434 No SFFP should be made for any allowable expense which has been provided on the death of the deceased under a prepaid funeral plan or analogous arrangement (see DMG 39336)¹.

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

Plan includes an allowance for items or services outside the funeral director's control

- 39435 Some pre-paid funeral plans include an allowance towards items or services outside the funeral director's control. For example, an allowance towards burial costs and minister's fees.
- 39436 If the responsible person claims that the pre-paid funeral plan includes an allowance towards these items or services the DM should deduct the allowance included in the plan as a resource¹.

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

Example

A funeral plan provides for the funeral director's fees (see DMG 39282 - 39286), and an allowance towards burial and minister's fees. The value of the cover is £1200 (£800 of which is for the funeral director's fees).

The DM should allow the necessary costs of specified items/services not branded under the plan and up to £120 for any other funeral expenses and deduct the allowance of £400 towards burial and minister's fees as a resource.

39437

Funeral plan not paid in full

- 39438 If a plan had not been paid in full before the death of the deceased ask the claimant to find out from the plan provider whether the money paid into the plan can be repaid.
- 39439 The DM should take account of any money repaid from the plan as a resource¹.

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

39440 - 39699

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.

