

# **ADM Chapter L3: Funeral Payments**

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# Introduction L3001 - L3100

## Introduction

L3001 The guidance in this chapter applies to UC and is to help the DM determine regulated SF payments under the Act<sup>1</sup> which are made for funeral expenses.

**Note:** UC guidance relating to SSMG can be found within ADM chapter L2. UC guidance relating to CWP can be found within ADM Chapter L4.

1 SS A Act 92, s 167

L3002 A DM decides any claim for SFFP. These decisions have the same right of appeal as other DM decisions<sup>1</sup>.

1 SS Act 1998, s 12

## Effect of capital

L3003 Capital has no effect<sup>1</sup> on claims for SFFPs.

1 SFMFE (Gen) Amdt Regs 01, reg 2(3) & 3

L3004 – L3100

## Conditions of entitlement L3101 - L3124

L3101 There are several conditions of entitlement for a SFFP. All the conditions must be satisfied.

L3102 The first condition<sup>1</sup> of entitlement is that, on the date of claim of the SFFP, the claimant or his partner (the responsible person)

**1.** has been awarded UC<sup>2</sup> (see L3132) **or**

**2.** is a prisoner who is in receipt of UC<sup>3</sup>.

1 SFMFE (Gen) Regs, reg 7(3); 2 reg 7(4); 3 3 SSWP v Faith Stewart [2011] EWCA Civ 907

L3103 The second condition<sup>1</sup> is that the deceased was ordinarily resident in the UK at the date of death.

**Note:** the term 'ordinarily resident' is not defined within legislation, so should be given its ordinary and natural meaning. DMs should consider the facts of the case, having regard to relevant case law<sup>2</sup>.

1 SFMFE (Gen) Regs, reg 7(5); 2R v Barnet London Borough Council ex parte Shah [1983] 2 AC 309

L3104 The third condition<sup>1</sup> is that the claim is made within the prescribed time limits (see L3132).

1 SFMFE (Gen) Regs, reg 7(6)

L3105 The fourth condition<sup>1</sup> is that the claimant is the responsible person or the partner of the responsible person.

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

L3106 The fifth condition<sup>1</sup> is that

**1.** the responsible person was the partner of the deceased at the date of death<sup>2</sup> **or**

**2.** where the deceased was a child<sup>3</sup> and there is

**2.1** no absent parent<sup>4</sup> **or**

**2.2** an absent parent or their partner who, at the date of death, has been awarded UC<sup>5</sup>

the responsible person was the person, or the partner of the person, responsible for the child for CHB purposes, at the date of death **or**

**3.** where the deceased was a still-born child, the responsible person was a parent or the partner of a parent of that still-born child at the date when the child was still-born<sup>6</sup> **or**

**4.** where the deceased had no partner and neither **2.** or **3.** applies, the responsible person was an IFM of the deceased and it is reasonable for the responsible person to accept responsibility for those expenses<sup>7</sup> **or**

**5.** where the deceased had no partner and **2.**, **3.** and **4.** does not apply<sup>8</sup>, the responsible person was either

**5.1** a close relative of the deceased<sup>9</sup> **or**

**5.2** a close friend of the deceased<sup>10</sup>

and it is reasonable for the responsible person to accept responsibility for the funeral expenses.

1 SFMFE (Gen) Regs, reg 7(8); 2 reg 7(8)(a); 3 reg 7(8)(b); 4 reg 7(8)(b)(i); 5 reg 7(8)(b)(ii);  
6 reg 7(8)(c); 7 reg 7(8)(d); 8 reg 7(8)(e); 9 reg 7(8)(e)(i); 10 reg 7(8)(e)(ii)

L3107 [\[See Memo ADM 08/21\]](#) The sixth condition is that the funeral is held in

**1.** the UK<sup>1</sup> **or**

**2.** a member State of the EU<sup>2</sup>, Iceland, Liechtenstein, Norway or Switzerland where the responsible person or his partner is

**2.a** a person who is a worker (see [DMG 072810 - 072817](#)) **or**

**2.b** a person who is self-employed, (see [DMG 072841 - 072864](#), **Note 3**) **or**

**2.c** a person who retains a status as in **6.2.a** or **6.2.b** (see [DMG 07281-072831](#)) because they

**2.c.i** are temporarily unable to work as the result of an illness or accident

**2.c.ii** are involuntarily unemployed after being employed for more than a year and have registered as a jobseeker

**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

**2.c.iv** have embarked on vocational training which, unless they are involuntarily unemployed, should be related to the previous employment or

**2.d** a member of the family of a person in **2.a**, **2.b** or **2.c** (see [DMG 072900-072901](#)) **or**

**2.e** a person with a right to reside permanently in the UK under EC provisions<sup>3</sup> (see [DMG 073174](#))

**For claims made on or after 01/01/21 (after the UK has exited the EU, [See Memo DMG 25/20](#), paragraphs 36-39, 92-96) there is a further clause:**

**2.f** a person granted indefinite leave to enter or remain in the UK under the EUSS (EU Settlement Scheme).<sup>4</sup>

#### **Notes on changes following the UK exit from the EU**

**Note 1:** From 01.01.21 onwards claimants who are claiming for a funeral held in a member State of the EU, Iceland, Liechtenstein, Norway or Switzerland must have either the worker status or related status as set out in 2.a to 2.d, a right to reside permanently in the UK (2.e), or must have been granted **indefinite** leave to remain under the EU Settlement Scheme (2.f). Where the claimant has been granted **limited** leave to enter or remain (pre-settled status) under the EUSS or where the claimant falls within the Grace Period SI<sup>5</sup>, the claimant will still need to satisfy the criteria set out in 2.a to 2.e. Where the claimant falls within the Grace Period SI, it should be noted that EUSS must be applied for before the end of the Grace Period, i.e. 30.6.21, otherwise that person will become a person subject to immigration control (see [DMG Memo 26/20](#)).

**Note 2:** People not in the categories listed in 2.a to 2.f above may have a right of equal treatment in respect of funeral payments in certain circumstances. Where a claimant who is outwith those categories claims they have a right to a funeral payment due to EU Law please refer to DMA.

**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 refer to DMA.

1 SFMFE (Gen) Regs, reg 7(9)(b); 2 reg 7(9)(a) & 7(10);

3 reg 7(10)(e); If claim is made prior to 01/01/21 then Council Directive No. 2004/38/EC, Art 17, *If the claim is made on or after 01/01/21 the reference to Council Directive 2004/38/EC is replaced with Immigration (European Economic Area) Rules 2016, as read in conjunction with Schedule 4, The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit)*

*Regulations 2020;*

4 Immigration Rules, Appendix EU; 5 Citizens' Rights (Application Deadline and Temporary Protection) (EU Exit) Regulations 2020

L3109 “Family member” as mentioned in L3107 **2.d** means<sup>1</sup>

- 1.** the spouse (husband or wife) or civil partner
- 2.** direct descendants (e.g. 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

L3110 – L3124

# The funeral L3125 - L3250

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L3125 There is no definition of a funeral for claims made on or after 2.4.18. A payment may be made with respect to the cost of the final disposal of the deceased's body and a single related ceremony which is held at or close in time and place to the disposal. In the case where there is no body or remains of the deceased, a payment may be made for a single commemorative event. In cases where there is more than one ceremony for the deceased, and one of these is distinctly separate from the event of disposing of the deceased's body then a SFFP cannot be awarded for this event that does not encompass the disposal of the body. In these types of cases the funeral should only be classed as the single event which involves the final disposal of the deceased's body.<sup>1</sup>

1 JEC v SSWP [2021] UKUT 243 (AAC)

L3126 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.

L3127 - L3131

## **Prescribed time for claiming**

L3132 The prescribed time for claiming a SFFP is the period beginning with the date of death and ending six months after the date of the funeral<sup>1</sup>.

1 SS (C&P) Regs, reg 19(1) & Sch 4(9)

## **Advance claim**

L3133 The DM should accept that an advance claim has been made where the evidence shows that all of the conditions for entitlement will be satisfied on a day (the relevant day) not more than three months after the date on which the claim is made, and treat the claim as made on the relevant day<sup>1</sup>, subject to the condition that they do become satisfied on that day<sup>2</sup>.



## Example

Adele makes a SFFP claim on 9.8.19. The DM considers the claim on 19.8.19 and establishes that although the QB condition was not satisfied on 9.8.19, a QB was awarded from 12.8.19. All of the other conditions of entitlement are satisfied on 12.8.19 so the DM treats the claim as made on 12.8.19 under the advance claim provision and awards a SFFP.

L3134 - L3135

## Time limit for claiming UC

L3136 See ADM Chapter A2043 et seq for guidance on time limit for claiming UC.

## Meaning of responsible person

L3137 Responsible person means the person who accepts responsibility for the funeral expenses<sup>1</sup>.

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

L3138

## Contracts and estimates

L3139 An invoice in the claimant or their partner's name, or a contract or estimate signed by the claimant or their partner is evidence that they have accepted responsibility for the funeral costs and entered into a contract with a funeral director. An unsigned estimate is not evidence of a contract because it can be obtained without entering into a contract with a funeral director.

## Agents

L3140 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 behalf<sup>1</sup>.

1 R(IS) 6/98

L3141 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.

L3142 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 son makes the payment. The funeral account is in the son's name but his mother makes a SFFP claim. The mother is responsible for all the funeral expenses. The interment fee is included in the allowable expenses.

L3143 – L3145

## **Novation**

L3146 Novation means the legal transfer of a contract<sup>1</sup>. It can take place at any time until the conditions of the contract are completed.

1 R(IS) 9/93

L3147 A part payment can be made before the contract is complete. A completed contract cannot be novated. A contract is complete when all contracted goods and services are provided and there is full and final settlement of the account.

L3148 If the account is not in the claimant's or partner's name and there is no evidence that the person named on the account is the claimant's agent (see L3140) evidence of the legal transfer of the contract is needed from

- 1.** the funeral director **and**
- 2.** the person who entered into the original contract with the funeral director **and**
- 3.** the person who has taken over responsibility for the contract.

L3149 The DM must be satisfied that the person at L3148 **2.** is released from all contractual responsibility and that the person at L3148 **3.** has agreed to accept contractual responsibility. The new

contract does not have to be identical to the original contract. The evidence need not be in writing.

### **Example 1**

A daughter makes the arrangements for her father's funeral. The account is in her name and there is no evidence that she was acting as her mother's agent when the arrangements were made. Her mother makes a SFFP claim and is disallowed because she is not the responsible person. The bill is not paid. The mother and daughter agree with the funeral director that the mother is responsible for the funeral expenses and an account is issued in the mother's name. The contract can be novated because it is not complete. The mother reclaims. She is now the responsible person.

### **Example 2**

A son makes the arrangements for his father's funeral. The account is in his name and he pays the bill in full. His mother feels a moral obligation to repay her son and claims a SFFP. The contract cannot be novated because it is complete. The claimant is not the responsible person and is not entitled to a SFFP.

### **Example 3**

A son makes arrangements for his father's funeral. The account is in his name and he pays £250 advance payment to the funeral director for crematorium fees. The deceased's partner claims a SFFP. She is not entitled because she is not the responsible person. The balance remains outstanding and the contract between the son and the funeral director is novated to the partner. The new contract includes the crematorium fee. The partner reclaims and is the responsible person. She has accepted responsibility for all the funeral expenses. The advance payment is treated as made on her behalf.

**Note:** The partner would not be responsible for the crematorium fee if it was not included in the new contract. The responsible person is responsible only for the items included in the new contract.

### **Example 4**

A single girl has a stillborn child. Her parents take responsibility for the funeral and pay the funeral account. Later the parents realise help is available from the SF and the girl claims a SFFP. Her parents send a supporting letter explaining that the payment was a loan. Novation cannot take place because the contract is complete. The claimant is not the responsible person and she is not entitled to a SFFP.

L3150 – L3154

## **Responsible person**

L3155 The claimant or their partner 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.

L3156 A SFFP can be awarded where the claimant or their partner (known as the responsible person), accepts responsibility for the funeral expenses<sup>1</sup> **and**

**1.** was the partner of the deceased at the date of death<sup>2</sup> (but see L3160) **or**

**2.** where the deceased is a child<sup>3</sup>, the responsible person is the person responsible for the child for CHB purposes and there is

**2.1** no absent parent **or**

**2.2** an absent parent who has been awarded UC as at the date of death **or**

**3.** where the deceased is a stillborn child<sup>4</sup> the responsible person

**3.1** is the parent **or**

**3.2** was, at the date of stillbirth, the partner of a parent of the stillborn child **or**

**4.** where

**4.1** there is no surviving partner **or**

**4.2** the deceased is a child and the responsible person is not the person responsible for the child for CHB purposes

the responsible person is an IFM of the deceased and it is reasonable for them to accept responsibility for the funeral expenses<sup>5</sup> (see L3178 – L3179) **or**

**5.** where

**5.1** there is no surviving partner **or**

**5.2** the deceased is a child and the responsible person is not the person responsible for the child for CHB purposes

the responsible person is a close relative or close friend of the deceased and it is reasonable for them to accept responsibility for the funeral expenses<sup>6</sup> (see L3178 – L3179).

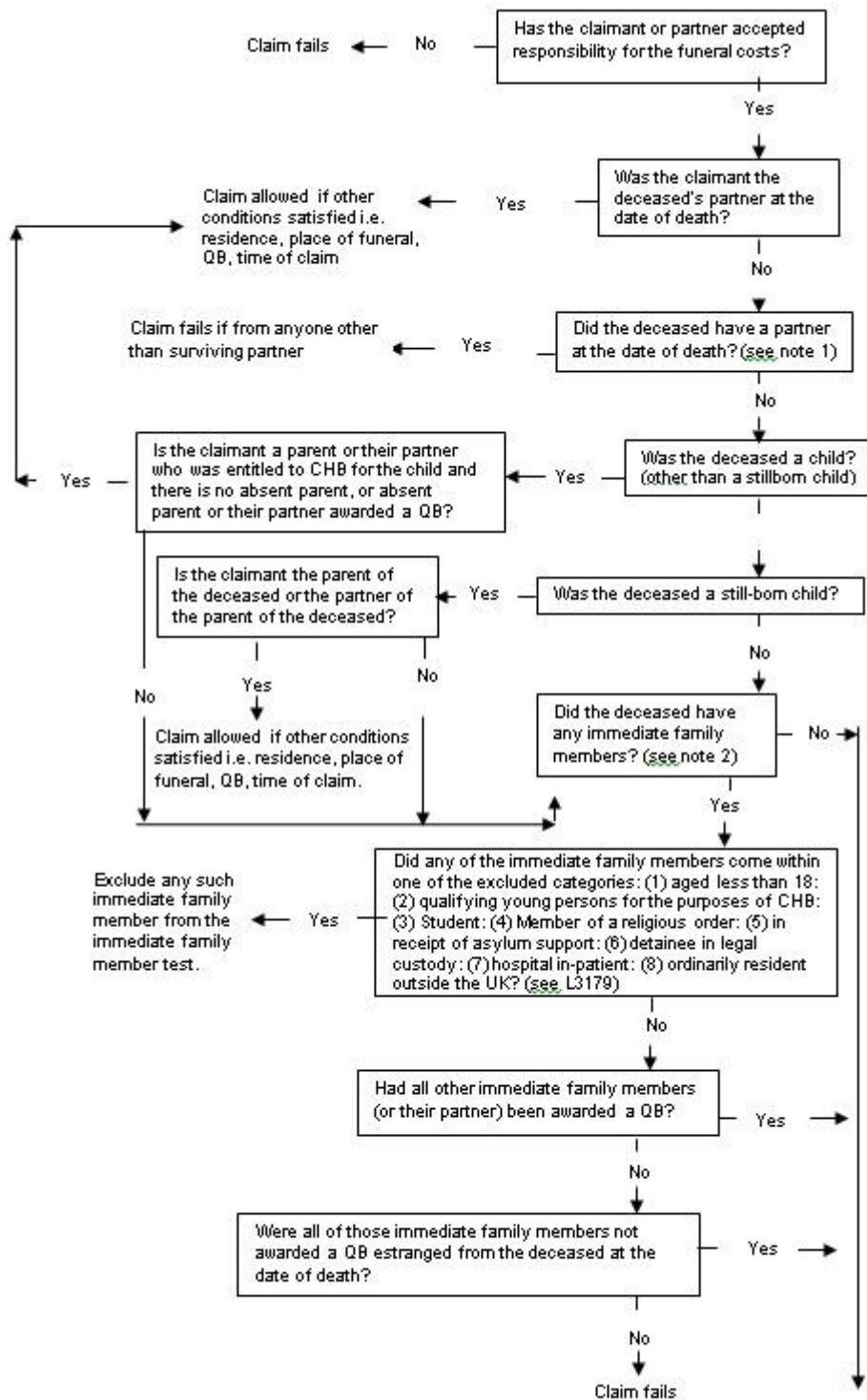
**Note:** In the circumstances described at **1.**, **2.** or **3.** above, the IFM or close relative tests (see L3178 and L3200) should not be considered.

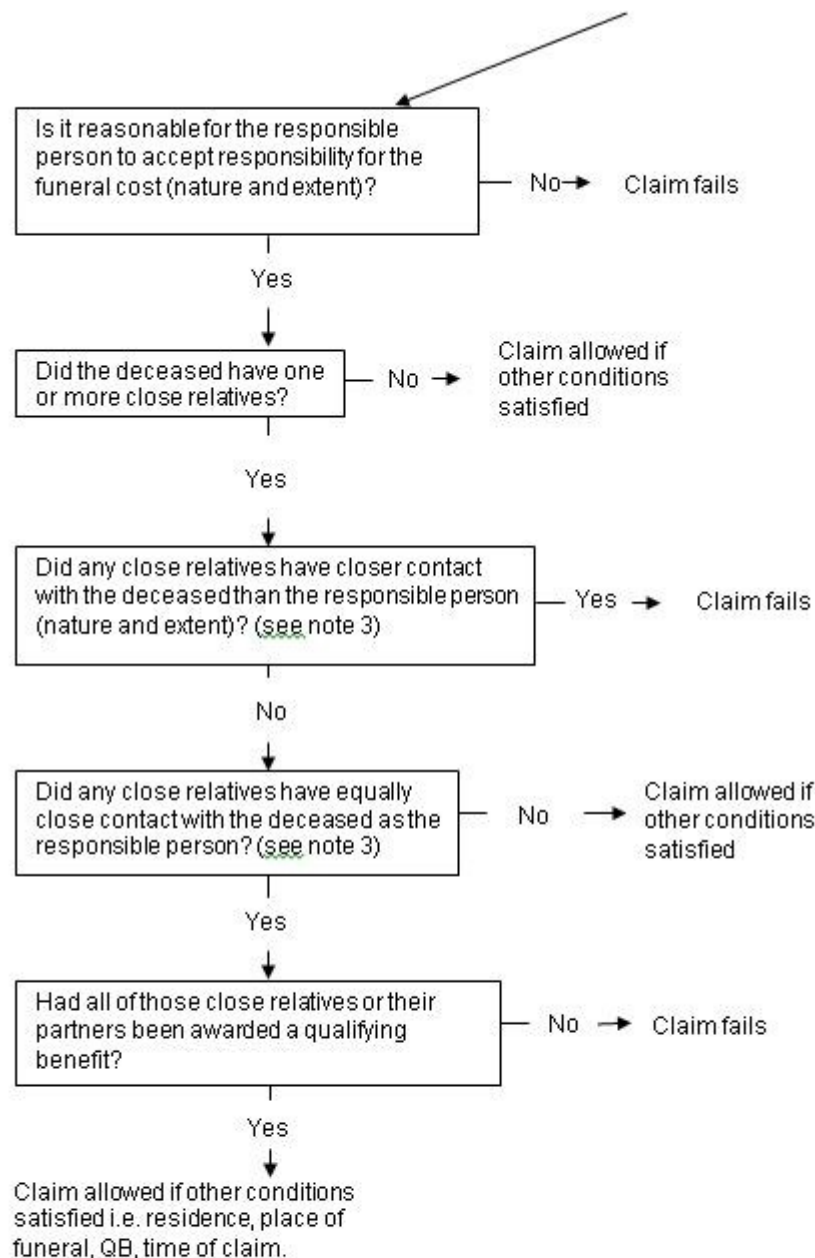
1 SFMFE (Gen) Regs, reg 7(7); 2 reg 7(8)(a); 3 reg 7 (8)(b); 4 reg 7(8)(c); 5 reg 7(8)(d); 6 reg 7(8)(e).

The following flowchart may be useful when deciding if the responsible person is entitled to a SFFP.

## **Identifying if the responsible person is entitled to a funeral payment**

### **L3156 (flowchart)**





Note 1 - See L3160 if surviving partner dies shortly after death of first partner

Note 2 - See L3168 for definition of immediate family member

Note 3 - Exclusions from nature and extent of contact test are the same as those excluded from IFM test (see L3205)

## Meaning of the partner of the deceased

L3157 The definition of 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 same household, any such member, except where the claimant is in receipt of UC<sup>1</sup>. The rules apply to couples, unless L3161 applies.

### Example 1

A husband and wife are estranged and living apart. The husband dies. The wife was not the partner of the deceased.

### Example 2

A man is temporarily working abroad. His cohabitee remains at home with their children. The man dies. The cohabitee was the partner of the deceased.

## Surviving partner unable to act on their own behalf

L3158 Where the surviving partner of the deceased is unable to act on their own behalf, and no other legal appointment exists, the DM may consider appointee action<sup>1</sup> in line with guidance found at ADM A2138. This inability to act on their own behalf may be, for example, where the person has suffered a stroke which renders them incapable of making a claim for a funeral payment. The procedural guidance relating to appointee action can be found in the [Agents, appointees, attorneys, deputies and third parties: staff guide](#).

1 UC, PIP, JSA & ESA (C&P) Regs, reg 57

### Example

Following the death of her husband, the surviving partner's son makes a claim for a funeral payment in respect of his father. The son has made the claim because his mother suffered a stroke which has left her with restricted mobility and paralysis of her writing hand. She has also suffered speech impairment. These effects of the stroke impede his mother's communication ability, and she is now unable to make written or verbal contact with the department.

Specified legislation<sup>1</sup> identifies the person who may claim a funeral payment on the basis of how closely that person was related to, or connected with, the deceased. Under that specified legislation, the funeral payment claimant must be the deceased's partner (where the deceased has a partner at the date of death), and only where the deceased has no partner at the date of death, can the claim be made by an IFM, or close relative or close friend.

As, within this example, there is a surviving partner of the deceased, the specified legislation requires that person must be the claimant. This results in the funeral payment claim for the surviving partner's son being refused. However in view of the fact that the surviving partner is unable to make written or verbal contact with the department as a result of her stroke, the DM may consider action in line with ADM A2138 to appoint someone to act on her behalf.

1 SFMFE (Gen) Regs, reg 7(8)

L3159 Where the above appointee action is being considered, and the funeral payment claim is being

refused as a result of it being made by someone other than the surviving partner, the DM should advise the person to whom the refusal is being given, of the need for a further funeral payment claim to be made by the appointee. This notification should be given timeously, in order to allow the appointee to make a claim for a funeral payment within the prescribed time limits.

## **Surviving partner dies shortly after the death of the first partner**

L3160 The deceased is treated as having no partner where the deceased had a partner at the date of death and the surviving partner

**1.** does not make a claim to funeral expenses for that death **and**

**2.** dies before the date of the deceased's funeral<sup>1</sup>.

1 SFMFE (Gen) Regs, reg 8(4)

## **People who are in long-term care**

L3161 People should be treated as being members of the same household where they

**1.** are married to each other or in a civil partnership and living in the same care establishment **or**

**2.** were partners immediately before one or both moved permanently into such an establishment

provided that at least one of them is resident in a care establishment when the person, for whom a SFFP is claimed, died<sup>1</sup>.

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

L3162 Care establishment as in L3161 means<sup>1</sup>

**1.** a care home

**2.** an Abbeyfield Home **or**

**3.** an independent hospital

as defined in specified legislation<sup>2</sup>.

1 SFMFE (Gen) Regs, reg 3(3); 2 ISGR reg 2(1); ESA Regs, reg 2(1)

L3163 An Independent hospital in L3162 means in

**1.** England, a hospital that is not a health service hospital as defined in legislation<sup>1</sup> **or**



**2.** Wales, a hospital which is not a health service hospital as defined in legislation<sup>2</sup> **or**

**3.** Scotland, an independent healthcare service as defined in legislation<sup>3</sup>.

1 National Health Service Act 2006, s 275; 2 Care standards Act 2000, s 2;

3 National Health Service (Scotland) Act 1978, s 10F(1)(a) & (b)

L3164 The provisions in L3161 apply to people in a polygamous marriage<sup>1</sup>.

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

## Polygamy

L3165 Under UC, polygamous marriages are not recognised when calculating entitlement to a SFFP. Second and subsequent wives have to make separate claims for UC either as a single person or a lone parent where a child or children are involved (see ADM Chapter E2040 – E2041).

### Example

Jonas has a polygamous marriage with his 2 wives, Ruth and Miriam. Jonas receives UC for himself and his first wife Ruth. Jonas' second wife, Miriam receives UC as a single person. If Ruth dies, Jonas can make a claim for a SFFP as he is her surviving partner.

However if Miriam dies, Jonas cannot be treated as Miriam's surviving partner. He may be able to claim a SFFP on the basis of being a close friend, but there is a possibility that his claim may fall, if there are other immediate family members who are not in receipt of a qualifying benefit.

## Meaning of absent parent

L3166 Absent parent means a parent of a child who has died where

- 1.** the parent was not living in the same household as the child at the date of the child's death **and**
- 2.** the child's home, at the date of death, was with the person who was responsible for that child for CHB purposes<sup>1</sup>.

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

## Meaning of child

L3167 A child is anyone aged under 16 or a qualifying young person aged 16 or over but under 20 who is treated as a child for the purposes of CHB, (generally because they are in FTE or approved training)<sup>1</sup>.

1 SFMFE (Gen) Regs, reg 3(1); SS CB Act 92, s 142

## Meaning of immediate family member

L3168 IFM means<sup>1</sup> a

**1.** parent **or**

**2.** son **or**

**3.** daughter.

1 SFMFE (Gen) Regs reg 3(1), reg 7(8)(d)

L3169

## Meaning of a close relative

L3170 Close relative means<sup>1</sup>

**1.** parent

**2.** parent-in-law

**3.** son

**4.** son-in-law

**5.** daughter

**6.** daughter-in-law

**7.** step-parent

**8.** step-son

**9.** step-son-in-law

**10.** step-daughter

**11.** step-daughter-in-law

**12.** brother

**13.** brother-in-law

**14.** sister

**15.** sister-in-law.

L3171 “Brother” and “sister” includes half-brother and half-sister.

L3172 Whether an adopted person is a close relative of another person depends on the legal relationship and not the blood relationship. Upon adoption a child becomes

- 1.** a child of the adoptive parents **and**
- 2.** the brother or sister of any child of those parents.

The child is no longer the child of, or the brother or sister of any children of, the natural parents.

L3173 All close relatives have equal status. For example

- 1.** the deceased’s mother does not have priority over the siblings of the deceased
- 2.** the deceased’s eldest child does not have priority over other children
- 3.** the deceased’s dependant child is included with non-dependant children.

L3174

## **Meaning of a close friend**

L3175 A “close friend” is not defined in the legislation. The relationship with the deceased did not necessarily have to last for a long period - the depth of the relationship is more important than the duration.

L3176 A relative of the deceased who was not a close relative could be a close friend. For example this includes

- 1.** a spouse or civil partner of the deceased who was not the partner at the date of death
- 2.** a grandchild
- 3.** a niece or nephew
- 4.** an aunt or uncle
- 5.** a cousin
- 6.** a great-grandparent.

L3177

## Immediate family member test

L3178 The responsible person is not entitled to a SFFP<sup>1</sup> where they are

- 1.** an IFM **or**
- 2.** a close relative **or**
- 3.** a close friend of the deceased **and**
- 4.** there are one or more IFMs of the deceased **and**
- 5.** those IFMs or their partners

**5.1** have not been awarded a QB (see **Note 1** below) **and**

**5.2** any of the IFMs in **5.1** was not estranged from the deceased at the date of death.

**Note 1:** For the purposes of **5.1** a QB is IS, SPC, JSA(IB), WTC, CTC, HB, ESA(IR) or UC.

**Note 2:** The responsible person may not have knowledge of the benefit circumstances of IFMs or their partners. In addition to asking the responsible person appropriate questions, the DM should use the information resources of the department, such as its computer systems, to find out whether IFMs or their partners are in receipt of QBs<sup>2</sup>.

1 SFMFE (Gen) Regs, reg 8(1); 2 Kerr v Department for Social Development [2004] UKHL 23

## Exceptions to immediate family member test

L3179 But L3178 does not apply<sup>1</sup> where the other IFM, is a person

- 1.** aged less than 18 **or**
- 2.** who is a qualifying young person for the purposes of CHB<sup>2</sup> **or**
- 3.** who is a qualifying young person under specified legislation<sup>3</sup> **or**
- 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 legislation<sup>4</sup> **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 partner

had an award of a QB (see **Note** below) 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 partner

had an award of a QB (see **Note** below) immediately before first being regarded as receiving that treatment or

**10.** who is ordinarily resident outside the UK<sup>5</sup> **or**

**11.** who is a resident of a care establishment (see ADM L3162) whose expenses are met wholly or in part by a local authority<sup>6</sup>.

**Note:** For the purposes of **8.** & **9.** a QB is IS, SPC, JSA(IB), WTC, CTC, HB, ESA(IR) or UC.

1 SFMFE (Gen) Regs, reg (8)(2); 2 SS CB Act 92, s 142; 3 WR Act 12, s10(5);

4 Immigration and Asylum Act 1999, s 95; 5 SFMFE (Gen) Regs, reg 8(2)(h); 6 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 UC 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 18<sup>1</sup>.

1 R(IS) 7/04

L3180 – L3184

### **Meaning of estranged**

L3185 The word estranged is not defined in legislation. The DM should give the word its ordinary meaning<sup>1</sup> of "alienated in feeling or affection".

L3186 Estrangement has connotations of emotional disharmony<sup>1</sup>. 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 legislative<sup>2</sup> 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.

L3187 In line with guidance at L3186, estrangement must be assessed as at the date of death<sup>1</sup>. 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

L3188 If the responsible person was an IFM, a close relative or close friend of the deceased they will only be entitled to a SFFP if<sup>1</sup>

- 1.** the deceased did not have a partner at the date of death (see L3157) **and**
- 2.** it is reasonable for the responsible person to accept responsibility for the funeral costs (see L3190) **and**
- 3.** the conditions in L3200 – L3205 are satisfied.

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

L3189

## Reasonable to accept responsibility

L3190 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 deceased<sup>1</sup>.

**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 L3200 – L3208 is satisfied<sup>2</sup>.

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

L3191 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.

L3192 This test is separate from the comparison with close relatives at L3200. 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.

L3193 Whether it is reasonable for a person to accept responsibility for the funeral costs is a question of fact<sup>1</sup>. 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.

L3194 – L3199

## Close relative test

L3200 If the test in L3178 (read with L3179) and the conditions in L3188 **1.** and **2.** are satisfied and if the deceased had one or more close relatives the DM compares<sup>1</sup>

- 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 relative who<sup>2</sup> falls within the exceptions listed at L3179.

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

L3201 The comparison should be carried out whether the responsible person was an IFM, a close relative or a close friend of the deceased.

L3202

## Contact with the deceased

L3203 A SFFP<sup>1</sup> 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 contact<sup>2</sup> with the deceased **or**

**2.2** in equally close contact and any of those close relatives, or their partners, have not been awarded a QB<sup>3</sup>.

**Note 1:** For the purposes of **2.2** a QB is IS, SPC, JSA(IB), WTC, CTC, HB, ESA(IR) or UC. The award of the QB in **2.2** is at the date of claim.

**Note 2:** 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 GB<sup>4</sup>.

L3204 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 UC. 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.

L3205 Comparison, as in L3201, does not apply<sup>1</sup> if the only close relative who was in closer or equal contact falls within the exceptions listed at L3179.

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

L3206

## **Comparison of contact**

L3207 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.

L3208 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 UC. He called to see the deceased 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 UC, 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.

L3209 – L3250

## **Amount of funeral payment L3251 - L3370**

[Allowable funeral expenses](#) L3255 - L3260

[Reasonable and necessary costs](#) L3261 - L3270

[Specific items and services for burial and cremation](#) L3271 - L3280

[Transport costs](#) L3281

[Any other funeral expenses](#) L3282 - L3286

[Burial plot for the deceased](#) L3287 - L3288

[Reclaimed burial plots](#) L3289

[Burial outside the deceased's home area](#) L3290 - L3292

[Necessary documentation](#) L3293 - L3300

[Religious requirement](#) L3301 - L3311

[Journey to arrange or attend a funeral](#) L3312 - L3320

[Transport of the deceased in excess of 80 kilometres to the funeral director's premises](#) L3321 - L3324

[Deceased buried in home area and transport from the funeral director's premises to the funeral in excess of 80 kilometres](#) L3325 - L3328

[Deceased buried outside home area and transport from the funeral director's premises to the funeral in excess of 80 kilometres](#) L3329 - L3335

[Items and services provided under a prepaid funeral plan](#) L3336 - L3345

[Estimates](#) L3346 - L3348

[Value added tax](#) L3349 - L3354

[Discount](#) L3355 - L3360

[Prevention of duplicate payment](#) L3361 - L3362

[The Children's Funeral Fund for England](#) L3363 - L3370

L3251 The amount of the SFFP is made up of<sup>1</sup>

**1.** the allowable funeral expenses<sup>2</sup> which the claimant, their partner, or a person acting on their behalf, are responsible for (see L3255) **less**

**2.** any deductions<sup>3</sup> (see L3371).

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

L3252 The DM should consider the amount of the SFFP only if all the conditions of entitlement are satisfied<sup>1</sup>.

1 SFMFE (Gen) Regs, reg 7

L3253 The DM should consider deductions after the allowable funeral expenses have been calculated<sup>1</sup>.

1 SFMFE (Gen) Regs, reg 9 & 10

L3254 No SFFP should be made for items and services listed in L3261 – L3293, which have been provided on the death of the deceased under a prepaid funeral plan<sup>1</sup>.

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

## **Allowable funeral expenses**

L3255 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.**<sup>1</sup>.

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

L3256 Allowable funeral expenses are

**1.** the total of the necessary reasonable costs of the specified services and items listed in L3271 – L3276<sup>1</sup> **and**

**2.** any other funeral expenses subject to a maximum of £1000 (or £700 if the death occurred before 8.4.20) (see L3282 – L3286)<sup>2</sup>.

1 SFMFE (Gen) Regs, reg 9(3)(a) - (f); 2 reg 9(3)(g)

## Reasonable and necessary costs

L3261 The DM should support the SFFP decision with evidence where the law says that the expenses allowed for specified items and services (see L3271 – L3276) should be necessary<sup>1</sup> and reasonable.

1 R(IS) 14/92

L3262 This evidence is not needed for items and services allowable under “any other funeral expenses” (see L3282 – L3286).

L3263 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 FtT hearing **and**
- 4.** periodically check that the information still reflects current prices.

L3264 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.

L3265 The necessary cost would be the lowest cost for an item or service that is appropriate 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.

## Specific items and services for burial and cremation

L3271 Subject to L3272 the DM should allow for a burial<sup>1</sup>

- 1.** the necessary costs of buying a new burial plot for the deceased, together with a right of burial in that plot (see L3287 – L3293) **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-digger<sup>2</sup>, where it is necessary to incur them.

**Note 1:** Where the deceased is a child, see ADM L3363 – L3367 on the CFF

**Note 2:** 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)

L3272 The DM should allow for a cremation<sup>1</sup>

- 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)

L3273 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 body of the deceased, whether by burial, cremation or otherwise<sup>1</sup> **and**
- 2.** documentation needed for the release of funds which would result in a deduction from the award<sup>2</sup> **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 rest<sup>3</sup> (see L3321 – L3323) **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 L3325 – L3328) by

**4.1** one vehicle for the coffin and bearers **and**

**4.2** one other vehicle<sup>4</sup>.

**Note 1:** For claims made before 2.4.18, the provision in **1.** only allows 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.

L3274 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<sup>1</sup> (see L3312 – L3314).

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

L3275 For a burial<sup>1</sup> 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 L3273 where there is more than one place of rest.

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

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

L3276 The total amount allowed as in L3275 for transportation and the fees charged for a burial as in L3271 **2.** must not exceed the costs<sup>1</sup> of

**1.** buying a new plot with a right of burial **and**

**2.** the fees charged for a burial (see L3271 **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 the plot must be exclusive.

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

L3277 – L3280

## Transport costs

L3281 Transport costs for the distances specified in L3273 **2.** and **3.** and L3275 are for return journeys, not single journeys<sup>1</sup>.

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

## Any other funeral expenses

L3282 Other funeral expenses include

**1.** any items and services not specified in L3271 – L3276 to a maximum of

**1.1** £700 where the death occurred before 8.4.20 **or**

**1.2** £1000<sup>1</sup> where the death occurred on or after 8.4.20

**2.** where items and services have been provided under a pre-paid funeral plan or similar arrangement, £120<sup>2</sup>.

**Note:** Where the deceased is a child, see ADM L3363 – L3367 on the CFF.

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

L3283 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.

L3284 Other funeral expenses may include unmet expenses for specified items and services in L3271 – L3276 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.

L3285 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 expenses<sup>1</sup>.

L3286 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

L3287 The DM should allow the necessary cost of

**1.** a new grave for the deceased<sup>1</sup> **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)

L3288 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

L3289 Some burials take place in a “reclaimed” burial plot. A “reclaimed” burial plot is to be treated as a new burial plot<sup>1</sup> 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

L3290 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. L3291 gives guidance on when the necessary costs may relate to an out of area burial.

L3291 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 L3271) 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 L3329 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 case<sup>1</sup> 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.

L3292 In out of area burials where there is an existing plot and the deceased's partner is buried there, consideration<sup>1</sup> 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

L3293 The DM should award the cost of obtaining any necessary documentation needed for the release of funds deductible from the award<sup>1</sup>.

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

L3294 – L3300

## Religious requirement

L3301 Any element in burial, cremation or transport costs which arise solely from a requirement of the deceased's religious faith is not an allowable expense<sup>1</sup>.

**Note:** The purchase of the burial plot or cremation specific to a religion can be claimed in accordance with the guidance at ADM L3261. However, any additional aspect to that burial or cremation which arises solely from a requirement of the deceased's religious faith, such as a wake or vigil, is not an allowable expense.

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

L3302 Expenses in L3301, disallowed by the DM, may be allowed under any other funeral expenses and subject to the £1000 limit (see L3282 – L3286).

### Example 1

The deceased is of a particular religion and as such needs to be buried in a cemetery which is appropriate to that religion. There are 2 cemeteries within the deceased's local area which have an available plot specific to the deceased's religion. The DM awards the cheaper of the two (in accordance with the guidance at ADM L3261).

### Example 2

The claimant for the deceased's funeral in example 1 also claims £1800 for a vigil in relation to the deceased's religion. This is not an allowable expense in accordance with ADM L3301, however, up to £1000 may be awarded for this following the guidance in ADM L3302.

## **Journey to arrange or attend a funeral**

L3312 The DM can allow the necessary cost of one return journey by the responsible person to arrange or attend the funeral<sup>1</sup>. 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)

L3313 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.

L3314 Overnight stay expenses may be allowed if it is impractical to make the return journey within the same day.

L3315 Unless L3273 **3.** or L3275 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 L3282 – L3286) and subject to the £700 limit.

L3316 – L3320

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

L3321 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 L3282 – L3286) and subject to the £700 limit.

L3322 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 rest<sup>1</sup>.

**Note:** See note to L3273 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.

L3323 Any element in the transport costs relating to a requirement of the deceased's religious faith is not an allowable expense (see L3301 – L3302)<sup>1</sup>.

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

L3324

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

L3325 The deceased's home is the place of residence at the date of death<sup>1</sup>.

1 R(IS) 11/91

L3326 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 L3282 – L3286) and subject to the £700 limit.

L3327 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 vehicle<sup>1</sup>.

**Note:** See note to L3273 where there is more than one place of rest.

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

L3328 Any element in the transport costs relating to a requirement of the deceased's religious faith is not an allowable expense (see L3301 – L3302)<sup>1</sup>.

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**

L3329 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 L3271 **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 L3271 **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 area<sup>1</sup>.

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

**Note 2:** See note to L3273 where there is more than one place of rest.

**Note 3:** For claims made before 2.4.18, the right of burial referred to 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 Middlesbrough. 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 Middlesbrough is £550. The necessary costs of a new plot and burial in Newcastle is £600. The necessary transport cost in excess of 80 kilometres (50 miles) is £45 (24 kilometres (15 miles) at £3 per mile.)



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

L3330 Any element in the transport costs relating to a requirement of the deceased's religious faith is not an allowable expense<sup>1</sup> (see L3301 – L3302).

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

L3331 – L3335

## **Items and services provided under a prepaid funeral plan**

L3336 No SFFP should be made for items and services, listed in L3251 – L3330, which have been provided on the death of the deceased under a prepaid funeral plan<sup>1</sup>.

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

L3337 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.

L3338 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 being provided under the plan, or whether any refund of the plan is repayable in respect of any payments already paid into the plan. Where a refund is repayable, the DM should consider a deduction from the award of the SFFP (see L3416).

L3339 If items or services are provided under a partially paid plan a deduction may need to be made from the allowable funeral expenses (see L3436).

L3340 – L3345

## **Estimates**

L3346 The DM should not use an estimate to decide allowable expenses.

L3347 – L3348

## **Value added tax**

L3349 If VAT is charged against any allowable expense, the DM should allow it as part of the award.

L3350 The DM should not allow VAT charged on items that are not allowable.

L3351 – L3354

## Discount

L3355 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. If it is unclear what the discount applies to this should be clarified with the funeral director. A failure to do this could result in the FEP being paid at an incorrect level, by applying the discount to parts of the bill which were not actually discounted.

L3356 The DM should deduct any discount available pro rata from each aspect of the bill covered by the discount, which could include

1. the necessary cost of each component of the specified items and services (see L3271 – L3276) **and**
2. the total figure for any other funeral expenses (see L3282 – L3286) including any costs added for unmet specified items and services and before any limit is applied on the funeral account<sup>1</sup>.

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

L3357 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.

L3358 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 L3293 – L3314).

L3359 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).

L3360 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 ADM Chapter A1).

## Prevention of duplicate payment

L3361 The DM should not award a SFFP if SFFP or a FSP 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 person<sup>1</sup>

subject to the exception in ADM L3362.

**Note:** See also ADM 3367 for items or services paid from the CFF.

1 SFMFE (Gen) Regs, reg 4(1) & (2)

L3362 A further SFFP may be made where the first SFFP award has been revised<sup>1</sup>, but the total of any further SFFP awarded under that revision and the original award cannot be more than the amount allowable under the legislation<sup>2</sup>.

1 SFMFE (Gen) Regs, reg 4(2)(a); 2 reg 4(2)(b); reg 9

## The Children's Funeral Fund for England

L3363 The CFF can pay the fees charged by burial and cremation authorities<sup>1</sup> plus certain associated expenses<sup>2</sup>, where

- 1.** the funeral is for a child below the age of 18 or a still-born child born after the 24th week of pregnancy<sup>3</sup> and
- 2.** the funeral takes place in England on or after 23.07.19<sup>4</sup> and
- 3.** were it not for the regulations, those fees or expenses would be chargeable to the person who arranged the funeral<sup>5</sup>.

1 SF (CFFfE) Regs, reg 4; 2 reg 5; 3 reg 3(1)(a); 4 reg 3(1)(b); 5 reg 3(1)(c)

L3364 Associated expenses that may be claimed under the CFF are

- 1.** where the deceased is buried, the fees levied by a private grave-digger, including fees for the removal and replacement of headstones and kerbing<sup>1</sup>
- 2.** where the deceased is cremated,
  - 2.1** the fees payable for the removal of any implantable medical device<sup>2</sup>
  - 2.2** the fees charged for the completion of any cremation certificate<sup>3</sup>
- 3.** the price of a coffin, shroud or casket in which the deceased is buried or cremated<sup>4</sup>
- 4.** the price of an appropriate receptacle for storage of cremated remains, where the one in which the remains are returned is unsuitable for storage<sup>5</sup>.

Associated expenses are limited to what the Secretary of State considers to be reasonable in the circumstances<sup>6</sup>.

1 SF (CFFfE) Regs, reg 5(1)(a); 2 reg 5(1)(b)(i);  
3 reg 5(1)(b)(ii); 4 reg 5(1)(c); 5 reg 5(1)(d); 6 reg 5(2)

L3365 The CFF is administered on behalf of the Secretary of State by staff in the Ministry of Justice (MOJ). A CFF payment is not means-tested and there are no nationality or residence requirements. A CFF payment may be claimed by<sup>1</sup>

- 1.** a burial authority, in respect of fees charged for a burial
- 2.** a cremation authority, in respect of fees charged for a cremation
- 3.** a burial authority, cremation authority, funeral director or the person responsible for the purchase of a listed item, in respect of any of the listed associated expenses.

1 SF(CFFfE) Regs, reg 2

L3366 More than one CFF claim may be made in respect of the same funeral. For example, a cremation authority may make a claim for the cremation fees and a funeral director may make a claim for a coffin.

### **Prevention of double payment**

L3367 A SFFP payment cannot include any item or service for which a payment has already been made from the CFF unless the amount paid from the CFF in respect of it was less than the total amount charged for it. In that case, an amount not exceeding the remainder of the amount charged for that item or service may be paid under the SFFP scheme<sup>1</sup>.

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

#### **Example 1**

Mary makes a claim for a SFFP in respect of her 16-year-old daughter's funeral and satisfies the conditions of entitlement. Her claim is for transport costs, the funeral director's professional fees, coffin and flowers. The cremation authority has not asked Mary to pay the fees charged by that authority and has instead claimed them from the CFF. The funeral director's invoice includes the sum of £200 in respect of a coffin in addition to their other professional fees. The DM establishes that the full cost of the coffin was £500 and that £300 has already been received by the funeral director from the CFF in respect of the coffin.

The DM decides the claim in the normal way. They award the travelling costs as an allowable funeral expense, and allow the balance of £200 for the coffin plus the funeral director's fees and the flowers under the "any other funeral expenses" provision, subject to the normal £700 limit.

#### **Example 2**

John makes a claim for a SFFP in respect of his 12-year-old son's funeral and satisfies the conditions of entitlement. His claim is for a private grave-digger's fee, a coffin, a memorial and flowers. The burial authority has not asked him to pay the fees charged for burial and has instead claimed them from the CFF. John has not used a funeral director and has purchased a coffin himself at a cost of £250. The DM establishes that John has not made a claim for the private grave-digger's fee or coffin from the CFF.

The DM decides the SFFP claim in the normal way. They award the private grave-digger's fee as an allowable funeral expense, and allow £250 for the coffin, the cost of the memorial and the cost of the flowers under the "any other funeral expenses" provision, subject to the normal £700 limit.

L3368 – L3370

# Deductions L3371 - Appendix 1

[Assets of the deceased](#) L3372 - L3400

[Jointly held savings](#) L3401 - L3407

[Arrears of benefit](#) L3408 - L3412

[Overpaid benefit](#) L3413 - L3415

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[Contributions towards funeral expenses - claims made before 2.4.18](#) L3424 - L3432

[Funeral grant from public funds](#) L3433

[Prepaid funeral plans](#) L3434

[Plan includes an allowance for items or services outside the funeral director's control](#) L3435 - L3437

[Funeral plan not paid in full](#) L3438 - L3999

[Appendix 1](#) - Benefits excluded as assets of the deceased (see L3408)

L3371 The DM should deduct from the allowable funeral expenses<sup>1</sup>

- 1.** the value of any available assets of the deceased (see L3372) **and**
- 2.** any lump sum due on the death of the deceased (see L3416) **and**
- 3.** the amount of any funeral grant made from public funds if the deceased was entitled to a WDisP (see L3433) **and**
- 4.** the amount of any sum payable under a prepaid funeral plan (see L3434).

**Note:** For claims made before 2.4.18, the DM should also deduct any sum received from a charity or a relative (see L3425).

## Assets of the deceased

L3372 The DM should deduct from the allowable expenses any assets of the deceased that, subject to L3408 to L3409, 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 granted<sup>1</sup>.

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

L3373 Assets do not have to be received. The DM can take them into account if they are available on application.

L3374 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 household<sup>1</sup>.

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 a 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 a 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.

L3375 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 distributed<sup>1</sup>.



**Example**

A mother dies and leaves £1300 in a building society account. Her daughter claims a 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.

L3376 Funeral expenses are the first charge on an estate<sup>1</sup>. A bank or building society may pay the funeral costs direct to the funeral director.

1 R(SB) 18/84

L3377 If the available assets are not enough to meet the allowable funeral expenses, a SFFP may be made for the balance, subject to any other deductions<sup>1</sup>.

1 SFMFE (Gen) Regs, reg 10

L3378 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 has £3000 in a bank account. The responsible person is the son of the deceased. He applies to the bank and is told his sister has already made an application. The bank will not release the monies until letters of administration are granted. The bank refuses to pay the funeral costs direct to the funeral director. The monies are not available and cannot be deducted from the SFFP. Urgent recovery action is needed.

L3379 – L3390

**Cheques cleared after death**

L3391 The DM should not include in the assets of the deceased the value of cheques

**1.** written by the deceased **and**

**2.** cleared from the bank or building society account after death.

L3392 A bank is bound to pay cheques drawn on the bank by a customer. A bank is acting within its authority if it did not know the customer has died. Such monies cannot be recovered from a bank.

L3393 A bank is acting without authority if cheques are cleared after they have been informed of the death. If the cheques were for payment of debts the monies cannot be recovered from a bank by the deceased's estate.

L3394 If there is a dispute with a bank the monies from the bank account are not available and cannot be deducted.

### **Example**

On 19.10.13 a man wrote a cheque for £150 for electricity charges. He died on 21.10.13. The bank balance at the date of death was £1576. The bank cleared the cheque on 24.10.13. The balance is available to the responsible person on application without probate. The amount to be deducted is £1426 (£1576 less £150).

### **Electronic transfers cleared after death**

L3395 Electronic transfers should be treated as analogous to cheque payments that are cleared after death (see L3391 – L3394). The DM should not include in the assets of the deceased, the value of the electronic transfer where

**1.** the transfer was ordered by the deceased prior to their death **and**

**2.** the transaction does not clear until after their death.

L3396 Where a bank or building society has been instructed to make such a transfer, in most circumstances, it will be under an obligation to make that transfer. As a result, the value of that transfer is not an asset of the deceased that is available to the responsible person.

### **Example 1**

The deceased's date of death is 12.4.15. Prior to their death, the deceased makes an electronic bank transfer of £650 on 11.4.15, for the payment of the balance of a forthcoming holiday. Their bank balance at the date of death is £1974. The bank clears the transfer on 13.4.15. The amount of the deceased's asset that is available to the responsible person is £1324 (£1974 less £650).

### **Example 2**

The deceased's date of death is 15.2.15. Prior to their death, the deceased makes an electronic bank transfer of £1600 on 14.2.15, to a family member for the repayment of a debt. Their bank balance at the

date of death is £3468. The bank clears the transfer on 16.2.15. The amount of the deceased's asset that is available to the responsible person is £1868 (£3468 less £1600).

L3397 – L3400

## Jointly held savings

L3401 Whether the DM treats any jointly held savings as assets of the deceased depends on the type of account.

L3402 The two types of account are

**1.** a joint tenancy where

**1.1** monies are pooled, but not necessarily equally **and**

**1.2** each party is able to draw from the account without restriction **and**

**2.** not a joint tenancy where

**2.1** the account is set up for the administrative convenience of one party **and**

**2.2** monies are not pooled **and**

**2.3** there are restrictions on the purpose or amounts of withdrawals.

**Note:** In the majority of cases an account held jointly by a couple will be a joint tenancy.

L3403 When deciding the type of account the DM should consider

**1.** when was the account set up?

**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

L3404 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 a SFFP. There are no monies available from the assets of the deceased.

L3405

## Not a joint tenancy

L3406 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.

L3407 The DM must decide how much of the account is the assets of the deceased<sup>1</sup>.

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

<sup>1</sup> 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 a 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

### Arrears of benefit paid on or after date of death

L3408 [[See Memo ADM 02/25](#)] Arrears of specified benefit (listed in Appendix 1) payable to the deceased **on or after** the date of death are excluded from the assets of the deceased<sup>1</sup>. As a result of this change, the principles in R(IS)12/93 should no longer be followed.

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

L3409 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 the 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**
  - 3.2** a change of circumstances has not been actioned timeouslyand the change is discovered on the death of the deceased.

In each of these situations, arrears of benefit should be disregarded when considering the available assets of the deceased.

### Example

Eric's date of death is 9.10.13. He has made a claim for UC which, up to his death, had not been processed. On 15.10.13, arrears of UC are 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 UC. 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.

### Arrears of benefit paid before date of death

L3410 Arrears of benefit due to the deceased may be paid into a bank account prior to the date of death. Whether such arrears are assets of the deceased, which are available to the responsible person, will depend upon the type of account they were paid into.

L3411 Where arrears of benefit are paid **before** the date of death, into an account which is owned jointly as a joint tenancy between the deceased and the responsible person, the arrears will not form part of the estate of the deceased because the money in that account becomes the capital of the responsible person upon the death of the deceased (see L3404).

L3412 Where the arrears are paid **before** the date of death, into an account which is owned

**1.** solely by the deceased **or**

**2.** jointly between the deceased and the responsible person, but which is not a joint tenancy account

the arrears of benefit form part of the assets of the deceased, and should be deducted from the award if they are available to the responsible person without probate or letters of administration being granted.

### **Example**

Matilda's date of death is 12.11.13. On 11.11.13, UC of £311.55 is paid into an account owned jointly by Matilda and her daughter, Cassie. The DM determines that this account was opened in both names for convenience only, and is therefore not a joint tenancy account between Matilda and Cassie. As Matilda was the only contributor to the account, the DM decides that the entire contents of the account were Matilda's sole possession at the date of her death and should be treated as part of her assets.

## **Overpaid benefit**

L3413 Any benefit paid into the deceased's account on or after the date of death is not included in the assets of the deceased and does not reduce the award of a funeral payment.

L3414 For guidance on effective dates for supersession and time limits for notifications of a change of circumstance, see ADM Chapter A4200 et seq. Where there is an overpayment of UC as a result of late notification of the death, the awarding decision must be superseded before the DM can consider whether the overpayment is recoverable (see ADM Chapter A4132).

**Note 1:** See ADM Chapter D1 for guidance on overpayment decision making.

**Note 2:** See ADM Chapter A2040 regarding how death impacts awards of UC in certain circumstances.

L3415

## **Lump sum payments due on death**

L3416 The DM should deduct from the allowable funeral expenses any lump sum due to the responsible person or any other member of the family on the death of the deceased from any

**1.** insurance policy **or**

**2. occupational pension scheme or**

**3. burial club or**

**4. similar analogous arrangement such as death benefits from a trade union or prepayment funeral plan<sup>1</sup>.**

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

L3417 The lump sum does not have to be received.

L3418 Family means people living in the **same household<sup>1</sup>**. If another person receives a lump sum payment for the deceased the DM should make enquiries as it may indicate this person was closer to the deceased than the responsible person.

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

### **Example 1**

The deceased's son is the responsible person. A life assurance policy is redeemed by the deceased's sister who is named on the policy. The monies cannot be deducted.

### **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.

L3419 – L3423

## **Contributions towards funeral expenses - claims made before 2.4.18**

L3424 Paragraphs L3425 to L3432 only apply to claims made before 2.4.18.

L3425 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 deceased<sup>1</sup>.**

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

L3426 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.

L3427 Funeral expenses are not defined. Include any expenses reasonably connected with the funeral, for example, flowers, organist's fees (see L3282).

## **Loan or contribution**

L3428 The DM decides on the available evidence whether monies received are a

**1. loan or**

**2. contribution.**

L3429 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.

L3430 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.**

L3431 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 has 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 this 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 has 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 not able to provide documentary evidence of the change to the status of this £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**

L3432 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 deductions<sup>1</sup> from an award of a funeral payment.

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

## **Funeral grant from public funds**

L3433 The DM deducts from the allowable funeral expenses the amount of any funeral grant if<sup>1</sup>

- 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**

L3434 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 L3336)<sup>1</sup>.

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

## **Plan includes an allowance for items or services outside the funeral director’s control**

L3435 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.

L3436 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 resource<sup>1</sup>.

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

## **Example**

A funeral plan provides for the funeral director's fees (see L3282 – L3286), 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.

L3437

## **Funeral plan not paid in full**

L3438 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.

L3439 The DM should take account of any money repaid from the plan as a resource<sup>1</sup>.

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

L3440 – L3999

## **Appendix 1**

### **Benefits excluded as assets of the deceased (see L3408)**

**[See Memo ADM 02/25]**

AA    JSA

AFIP   MA

BSP    PIP

CA     CSP

CHB    RP

CTC    SDA

CTB    SP

DLA    SPC

ESA    UC

ESDA WDisP

GA WFP

HB WWP

IB WMA

IS WPA

IDB WP

IIDB WTC

REA

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