

## **SOCIAL FUND FUNERAL PAYMENT – MEANING OF FUNERAL AND EFFECT OF UPPER TRIBUNAL DECISION**

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### **INTRODUCTION**

1. The purpose of this memo is to inform Decision Makers about a decision of the Upper Tribunal<sup>1</sup> which deals with what a “funeral” entails for the purposes of claims for Social Fund Funeral Payment.

*1 JEC v SSWP (CSIS/256/2020)*

### **BACKGROUND**

2. For claims made prior to 2/4/18, the term “funeral” was defined as a “burial or a cremation” of human remains including those of stillborn children. A memorial service which was not part of a burial or cremation was not classed as a funeral. The legislation was amended in 2018 to revoke this definition to ensure that Social Fund Funeral Payment claims were not refused in cases where the deceased’s body has not been found or their remains cannot be recovered. Therefore, for claims made on or after 2/4/18 there is no definition of a funeral within the Regulations. This means that a Social Fund Funeral Payment can be made where there is no body or remains of the deceased.

### **THE UPPER TRIBUNAL DECISION**

3. The Upper Tribunal appeal concerned a Social Fund Funeral Payment claimant whose wife had passed away. A Christian church service was held in the United Kingdom to allow the attendants to view the deceased’s body and to celebrate her life. The Order of Service referred to this as a “Celebration of the Life” of the deceased. The Order of Service showed that several pastors were present and took part in the service. The deceased’s body was then transported to Zimbabwe for burial. The claimant made a claim for a Social Fund Funeral Payment in respect of the costs incurred in the United Kingdom for the funeral director’s invoice and the Celebration of Life service. The

Decision Maker decided that the claimant was not entitled to a Social Fund Funeral Payment because the funeral took place in Zimbabwe and not in the United Kingdom. The claimant appealed this decision to the Upper Tribunal.

4. The Upper Tribunal held that despite the revocation of the definition of “funeral”, a funeral is an event involving the final disposal of the deceased’s body and ceremonies closely related to that in nature, time and place. It does not envisage a ceremony for the deceased taking place as one event separate from the event of disposing of the deceased’s body. The claimant’s appeal was therefore dismissed.

### **FFECT OF UPPER TRIBUNAL DECISION**

5. For Social Fund Funeral Payment purposes, a payment may be made with respect to the cost of the final disposal of the deceased’s body and a related ceremony which is held at or close in time and place to the disposal.
6. In the case where there is no body or remains of the deceased, a payment may be made for a single commemorative event.
5. 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 Social Fund Funeral Payment 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.

### **ANNOTATIONS**

Please annotate the number of this memo (Vol 7/53) against the following DMG paragraphs: 39125, 39126

### **CONTACTS**

If you have any queries about this memo, please contact:

Decision Making Services  
Section 1  
Level 6  
Causeway Exchange  
1-7 Bedford Street  
Belfast  
BT2 7EG

Telephone: (02890) 819104, 829052, 829388, 829529,829537

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