

## **Barnet Supporting People Programme**

# **Policy and rules for the charging of service recipients**

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# 1 Introduction and general policy

- 1.1 This Policy and description of the Rules for charging recipients of Supporting People services in Barnet has been prepared in compliance with the requirements of the Office of the Deputy Prime Minister.
- 1.2 The Policy and the Rules are the responsibility of Barnet's Supporting People Commissioning Board, which is a partnership of Barnet Council, Barnet Primary Care Trust and Barnet Area Probation Service
- 1.3 As the local Supporting People Administering Authority, Barnet Council is responsible for implementation of the Policy and Rules approved by Barnet's Supporting People Commissioning Board
- 1.4 The Policy and Rules apply to charges to service users for housing related support services in Barnet that are funded wholly or partly through Supporting People Grant and take effect from 1.4.03.

## General Policy

- 1.5 The Department of Communities and Local Government (DCLG) expects Supporting People commissioning bodies to establish policies that provide for service recipients to be liable to pay charges for certain types of Supporting People services. DCLG will consequently assume that these services will be partly funded from income received from service users when calculating Supporting People Grant requirements. Grant paid to local authorities will be reduced by the amount of assumed income.
- 1.6 DCLG has also advised that the national Supporting People pot for allocation to local authorities will be sufficient only to meet contractual funding commitments for Supporting People services, including approved service developments. There is no expectation that Supporting People Grant resources will be sufficient to provide additional funding for local discretionary use, for example to subsidise a more generous charging policy than DCLG will assume in calculating Supporting People Grant requirements
- 1.7 As a result, the charging policy adopted by Barnet Supporting People Commissioning Board and set out in this paper reflects the criteria that DCLG will use in calculating assumed income from charges for deduction from Barnet's Supporting People Grant.
- 1.8 The DCLG's charging policy is based on two mandatory principles:
  - (1) recipients of short term services must be exempted from charges
  - (2) recipients of long term services must be granted relief from charging if they are also Housing Benefit recipients
- 1.9 The distinction between short term and long term services is set out in Sections 2 and 3, and the grounds for relief from charges in Section 4

1.10 Providers of services that are subject to charges are responsible for making appropriate arrangements for charges to be levied. Barnet Council will pay Supporting People Grant as subsidy to providers on behalf of service recipients entitled to relief under the Policy and Rules set out in this paper. Providers will be responsible for the collection of charge income from non-qualifying recipients.

## **2 Exemption from charges - short term services**

2.1 The DCLG's charging assumptions are based on distinguishing between short term and long term services. Services or individual support packages are designated short-term or long-term according to the intended duration of the specific support under consideration.

2.2 People receiving services that are designated as short term services are exempt from charging.

2.3 In line with DCLG guidance, the criteria for determination of short term services are as follows:

(1) The intention of the service is to bring about independent living within two years (disregarding practical delays in securing move-on accommodation) following resolution of a specific need or needs which the supported living arrangement aims to remedy, or following completion of a time-limited programme of support of under two years intended duration.

or

(2) the intention of the service is to increase the capacity for independent living (even if fully independent living may not be likely) through a package of time limited housing related support under these directions, which package has an intended timescale of under two years

and

(3) a service that offers 'short term' support (under either of the two definitions above) which provides accommodation-based support and follow on out reach support that could extend beyond two years will be considered as two separate 'short term' support packages.

and

(4) Fluctuating support will generally be treated as short term provision. Support will be treated as fluctuating if there are periods (4 weeks) during the past year where no support has been needed or received, or if this is an assumption or aspiration in the support package provided.

2.4 In each case, the application of the criteria given above should be considered in relation to the specific support under consideration for charging, not the client group

2.5 Nevertheless, services will generally be taken to offer support on a short term basis where the service primarily meets the following needs:

- Domestic violence
- Single homeless people
- Homeless families
- Drugs / alcohol
- Young vulnerable people
- Ex-offenders
- Refugees / asylum seekers

2.6 In determining whether or not a service is short term, Barnet Supporting People Commissioning Board will normally accept service providers' assessment, subject to further consideration within the service review process.

### **3 Liabilities for charges - long term services**

3.1 Recipients of services that are designated as long term services are liable for payment of charges, although most people will qualify for relief from charges under the rules set out in Section 4.

3.2 Services are designated as long term if they do not fall within the definitions of short term services set out in Section 3 and subject to the following further criteria:

(1) The intention of the service is to maintain a limited degree of independent living which is not expected to increase, and may diminish over time, as part of a permanent or open-ended arrangement.

(2) Services which offer support on both a temporary and long-term basis will be decided on a case-by-case basis, according to how the support offered relates to the criterion above.

3.3 In each case, the application of the criterion given above should be considered in relation to the specific support under consideration for charging, not the client group

3.4 Nevertheless, it is more likely that services for the following client groups will be considered long term:

- Physical disability
- Learning disability
- HIV / AIDS
- Mental health
- Sheltered housing

- 3.5 In determining whether or not a service is long term or a service recipient should be considered liable for charges, Barnet Supporting People Commissioning Board will normally accept service providers' assessment, subject to further consideration within the service review process.

### **Protection for Tenants receiving Rent Pooled Support Services**

- 3.6 In accordance with DCLG assumptions, Barnet Supporting People Commissioning Board will assume that charges will not be levied in respect of long term support services funded by rent pooling in Barnet Council's Housing Revenue Account.

## **4 Grounds for relief from charges**

### **Housing Benefit Recipients**

- 4.1 In compliance with DCLG requirements, long term service recipients who are liable to charging are nevertheless entitled to relief from charges if they are also Housing Benefit recipients. Full relief from charges will be given to persons in receipt of both full and partial Housing Benefits.

### ***Fairer Charging Policy***

- 4.2 Service recipients who are not in receipt of Housing Benefits are entitled to apply for rebated charges under Barnet Council's *Fairer Charging Policy*. The *Fairer Charging Policy* provides for social care service recipients including Supporting People service recipients to be granted full or partial relief from charges subject to means testing. A copy of the Policy is attached at Appendix 1

## **5 Applications for relief from charges**

- 5.1 As the Supporting People Administering Authority, Barnet Council will pay Supporting People Grant as subsidy to providers in respect of service recipients who qualify for relief from charges under the criteria set out in Section 4 above. Subsidy will be paid direct to service providers. Service providers will be responsible for collection of charges from service recipients not entitled to relief for whom subsidy will not be payable.
- 5.2 In order to assess and calculate the amount of subsidy due to service providers, Barnet Council will require satisfactory evidence of service recipients' qualification for relief from charges. The following Section sets out the rules to be followed by service recipients for claiming relief.

## **Form of Application for Relief**

5.3 Each application for relief must normally be made by service recipients:

- In the case of Housing Benefit recipients, by completing a written authorisation of disclosure of information about entitlement to Housing Benefits
- In all other cases, by completing an application for a Fairer Charging rebate

5.4 Further information about each of these procedures is set out below

## **Relief for Housing Benefit Recipients**

5.5 Persons who are service recipients on 1.4.03 or who become service recipients after 1.4.03 will be requested to authorise the disclosure of Housing Benefits information to the Supporting People Team of Barnet Council if they are in receipt of Housing Benefits or make an application for Housing Benefits

5.6 Applications for Housing Benefits must be made on the prescribed form and applicants must provide such information as is necessary to enable the Council's Housing Benefit Service to assess their entitlement to Housing Benefits.

5.7 Authorisation of disclosure of Housing Benefits information to the Supporting People Team must be made in writing on the prescribed form

5.8 Service recipients who authorise disclosure of Housing Benefits information do not need to take any further action to enable the Supporting Team to assess their entitlement to relief and to pay subsidy to service providers in respect of qualifying service recipients.

5.9 Subject to authorisation of disclosure, the Council's Housing Benefit Service will inform the Supporting People Team of each service recipient's qualification for Housing Benefits. The Supporting People Team will use this information to calculate the amount of relief payable as subsidy to providers, and will make payments and notify providers and recipients.

5.10 Service recipients who wish to claim relief from Supporting People charges but who do not authorise disclosure of Housing Benefits information will be responsible for personally contacting the Supporting People Team to provide satisfactory confirmation of their qualification for Housing Benefits and entitlement to relief from Supporting People charges. Alternatively and subject to appropriate authorisation, service providers may provide the confirmation to the Supporting People Team on service recipients' behalf.

## **Relief through *Fairer Charging Rebates***

5.11 Service recipients who do not qualify Housing Benefits may chose to apply to the Council's Finance Service for a *Fairer Charging* rebate. Applications must be made on the prescribed form and applicants must provide such information as is necessary to enable the Council's Finance Service to assess their entitlement to rebate.

5.12 Service recipients who have applied for a *Fairer Charging* rebate do not need to take any further action to enable the Supporting Team to assess their entitlement to relief and to pay subsidy to service providers in respect of qualifying service recipients.

5.13 The Council's Finance Service will inform the Supporting People Team of the outcome of applications for rebates in respect of Supporting People charges. The Supporting People Team will use this information to calculate the amount of relief payable as subsidy to providers, and will make payments and notify service providers and recipients.

### **The Relevant Date of Application for Relief from Charges**

5.14 The following are the relevant dates from which relief from charges will be granted to qualifying service recipients and from which Supporting People subsidy will be payable to service providers:

- With effect from the date of qualifying application for Housing Benefits
- With effect from the date of qualifying application for Fairer Charging rebate if no Housing Benefit application has been made
- With effect from the date of unsuccessful application for Housing Benefit if as a result a qualifying application is made for a *Fairer Charging* rebate
- With effect from the date of any backdated award of Housing Benefits or *Fairer Charging* rebate
- Providing in all case that subsidy shall not be payable for any period prior to 1.4.03 or prior to the commencement of the service for which relief is claimed

5.15 Service providers are responsible for ensuring that charges are levied and collected as appropriate for any period prior to the dates specified above.

### **Periodic Reviews of Entitlement to Relief from Charges**

5.16 Where a service recipient has been granted relief from charges, the Council will periodically review the recipient's entitlement.

5.17 Reviews will normally be carried out at least every three months after the date on which the Supporting People Team found that the service recipient was entitled to relief.

5.18 Where a service recipient is found either no longer entitled to relief or in the case of Fairer Charging rebate recipients to a reduced level of relief, the Supporting People Team will notify the service recipient and the service provider of the decision. The provider will then be responsible for ensuring that charges are levied and collected from the service recipient with effect from the date of the notification from the Supporting People Team to the service provider.

### **Death of Service Recipient**

5.19 Subsidy in the case of accommodation-based services will normally be withdrawn with effect from the date on which the tenancy is ended or four weeks from the date of death, whichever is the earlier. .

## **Facilitation of Applications for Relief**

5.20 The Supporting People Team will ensure that service providers have access to prescribed application forms for Housing Benefits and *Fairer Charging* rebates, prescribed forms of disclosure of Housing Benefits information, and appropriate written explanatory information for service recipients concerning Housing Benefits, *Fairer Charging* and Supporting People.

5.21 Barnet Council will seek to work in partnership with Supporting People service providers and service recipients to promote:

- The role of service providers in advising, assisting and encouraging service recipients to make informed and timely decisions about applications for Housing Benefits and *Fairer Charging* rebates
- Relief and subsidy processes that are as fair, easy and transparent as possible for service recipients and providers
- Modern methods of communication of Supporting People information that promote the e-government agenda in Barnet

## **6 Overpayments and underpayments**

6.1 This Section sets out the respective liabilities of the Supporting People Team, service providers and service recipients for overpayments and underpayments of Supporting People subsidy in respect of relief from charges.

### **Administrative Context**

6.2 Subsidy administration will require:

- The exchange of schedules and corrections between the Supporting People Team and service provider about service recipients entitled to relief and the amount of such relief
- Notifications from the service provider to the Supporting People Team about changes in tenancies, including new arrivals, departures etc
- Applications for relief from service recipients and their liability to notify changes of circumstances which affect their eligibility for relief

In addition, there are two stages to the payment of subsidy:

- Payment by the Supporting People Team to the service provider
- Posting of payments by the provider to the service recipient's account

### 6.3 Errors may be caused by:

- Administrative error - including incorrect data entry, late actioning of information received, mistaken postings
- Failure to notify - including failure of one party to provide information which it is required to provide at the right time.
- External error - including fraud or error by the service recipient, and error by the Housing Benefit Service or Fairer Charging Team

### **Administrative errors**

- 6.4 The Council will expect liability for administrative errors to be borne by the party committing them, subject to assessment of the extent of involvement in the error by any other party
- 6.5 Information about the commencement or cessation of services subject to charging will normally be considered as primarily the responsibility of the service provider. Recovery of subsidy overpayments will normally be made by reduction of future subsidy payments to providers.
- 6.6 Information about the financial status of the service user will normally be considered as primarily the responsibility of the Supporting People Team and recovery will not normally be sought from providers.

### **Failure to Notify**

- 6.7 Service providers are required, under the Supporting People contract, to notify the Supporting People Team as soon as practicable about changes affecting the schedule of service recipients. Any breach of contractual duty leading to an overpayment of subsidy will therefore normally be dealt with by means of reduction of future subsidy payable to the provider.

### **External error**

- 6.8 Where Housing Benefit Service or Fairer Charging Team deem an overpayment because of incorrect assessment or other reason to be non-recoverable, the Supporting People Team will not normally seek recovery from the provider or user
- 6.9 Where the Housing Benefit Service or Fairer Charging Team deem an overpayment to be recoverable, the Supporting People Team will normally seek to recover overpayment of subsidy
- 6.10 Where subsidy is to be recovered, the Supporting People Team will normally do so by:
- Direct approach to the service recipient requesting repayment of the overpayment
  - Recovery through reduction of future payment of SP subsidy in respect of the service recipient

6.11 Subsidy may be recovered as a single reduction of subsidy or through phased recovery. In deciding the arrangements for recovery the Supporting People Team will consider:

- The wishes of the service recipient
- The size of the overpayment
- Whether the service is continuing to be provided
- The financial circumstances of the service recipient

6.12 The Supporting People Team will notify the service recipient of its decision on recovery and will provide information concerning arrangements for the service recipient to seek a review of the decision.

## **7 Appeals and Reviews**

7.1 The DCLG has advised local authorities that decisions to allow relief from Supporting People charges are discretionary and that service recipients have no right of formal appeal. However, the Barnet Supporting People Commissioning Board share the government's wish to provide service recipients with informal rights of to seek reviews of decisions of the Council in its capacity as Supporting People Administrative Authority.

### **Appeals against Decisions on Entitlement to Housing Benefits or Fairer Charging Rebates**

7.2 The following arrangements for reviews of decisions by the Supporting People Team are separate from rights of appeal or review against decisions by the Housing Benefit Service or the Fairer Charging Team concerning entitlement to Housing Benefits or to a Fairer Charging rebate.

7.3 Where a service recipient has appealed against a Housing Benefit or Fairer Charging decision that is relevant to a service recipient's entitlement to relief from Supporting People charges, it is not necessary for the service recipient to separately request a review of the Supporting People decision. The Council will review its decision on relief when the Housing Benefit or Fairer Charging appeal is determined whether or not the service recipient has requested a Supporting People review.

## **Grounds for Review**

7.4 A service recipient may only request a review of one or more of the following decisions made by Barnet Council:

- Any decision not to allow relief from Supporting People charges
- Any decision about the amount of relief that is granted
- Any decision about the period of time for which relief is granted
- Any decision notified to the service recipient by the Supporting People Team advising that the Council intend to seek recovery of an overpayment of Supporting People subsidy paid on the service recipient's behalf
- Any decision notified to the service recipient by the Supporting People Team as to the method and timescale for recovery of an overpayment of Supporting People subsidy

## **Method of Requesting Review**

7.5 The following Rules concern the arrangements for a service recipient to request a review:

- The request must be made in writing and must be signed by the service recipient
- The request must be addressed to Barnet Council's Supporting People Manager
- The request must state the decision which the service recipient wishes to challenge
- The request must state the reason(s) why the service recipient disagrees with the decision
- The service recipient may request an oral hearing as part of the review
- The service recipient may authorise a representative to provide written information on his/her behalf

## **Review by the Council's Supporting People Manager**

7.6 Following receipt of the request for review, the Supporting People Manager will consider the reasons why the service recipient disagrees with the decision and will make any further enquiries necessary

7.7 The Supporting People Manager will write to the service recipient within two weeks of the date on which the review was requested, either to confirm the original decision or to notify a fresh decision or to advise when s/he expects to complete the review if further enquiries are necessary

7.8 If the Supporting People Manager proposes to confirm the original decision, s/he will invite the service recipient to attend a meeting to discuss the review at a mutually agreed time and place. The service recipient may be represented by another person and/or be accompanied by a friend or colleague

7.9 If the Supporting People Manager upholds the original decision, the notification will explain the reasons and rights of further review as set out below

### **Review by the Council's Head of Adult Social Services**

- 7.10 If the service recipient is dissatisfied with the Supporting People Manager's decision, s/he may request the Council's Head of Adult Social Services to review the decision. The Head of Adult Social Services will write in response either to confirm the original decision or to notify a fresh decision.
- 7.11 If the Head of Adult Social Services upholds the original decision, the notification will explain the reasons and rights of further review as set out below

### **Review by the Council's Chief Executive**

- 7.12 If the service recipient is dissatisfied with the decision, s/he may request the Council's Chief Executive to review the Head of Adult Social Service's decision. The Head of Adult Social Services will write in response either to confirm the original decision or to notify a fresh decision
- 7.13 If the Chief Executive upholds the original decision, the notification will explain the reasons and any further ways in which the service recipient might seek to challenge the decision.