

Appendix 1

London Borough of Haringey

Service User Choice and Third Party Top-up policy for Accommodation-based services

Introduction

In the Care Act 2014, there is increased emphasis on the right of Service Users to be given choice and control over the setting in which their care needs are met. The Act also places duties on local authorities to manage their local marketplaces in accommodation-based care and support services and to commission services against considerations of quality and best value. There is guidance on what local authorities can do when Service Users choose care settings which are more expensive than the usual rates a local authority pays for a given care setting.

Haringey Council is committed to offering Service Users choice and control over how their care and support needs are met. The Council recognises however that this commitment needs to be underpinned by considerations of quality and the appropriateness of services to meet needs, and to best value.

In line with the Care Act, this policy outlines Haringey Council's approach to offering Service Users choice of how their needs are met, and what happens when Service Users choose care settings which are more expensive than the usual rates the Council pays for given care settings, and a 'Third Party top-up' need apply.

1. Purpose of the policy

- 1.1 To provide clarity on how choice of accommodation-based care setting will be incorporated into decisions around how a Service User's needs are met.
- 1.2 To set out the circumstances whereby a third party top-up may apply to funding arrangements for accommodation-based care settings, and how these arrangements will be put in place.

2. Definitions

2.1 Service User: A service user is someone who receives care and support to meet their health and/or social care needs. This could be due to age, physical or mental illness, addiction or disability.

2.2 Provider: A provider is an organisation that provides care and support services on a chargeable basis to the Council to meet people's care and support needs.

2.3 Care and Support Plan: This is a detailed plan that tells the Council how an individual wishes to use their Personal Budget to meet their assessed eligible needs and improve or maintain their wellbeing. It also sets out how the Council will fulfil its statutory obligations. It is a complete picture of the hopes and aspirations an individual has for their quality of life and allows them to plan their own route to achieving a better quality of life. Support plans must be agreed by the Council before any payments are made.

2.4 Personal Budget: This is the amount the Council agrees as available to a user to meet their assessed care and support needs. It can be made available as a personal budget managed by the Council on the user's behalf or to the user as a direct payment.

2.5 Direct Payment: This is a method by which the individual (or their agreed representative) may choose to receive the Council's contribution to their Personal Budget. A Direct Payment can either be a cash payment to a bank account or through an E-Card. Direct Payments offer flexibility, choice and control over how the Personal Budget is used to meet a person's assessed eligible care needs.

2.6 Broker: A broker is a Council officer who will arrange the respite care determined as needed in a user's assessment and care and support plan.

2.7 Financial Assessment: A financial assessment is an assessment the Council undertakes of a person's income and assets to determine how much they are able to contribute towards their care and support costs or the care and support costs of a given Service User.

2.8 Third Party Top-up: this is an amount of money paid by a third party towards the cost of a placement in order to top-up the difference between the Service User's contribution, the contribution of the Council and the actual cost of a placement.

2.9 Accommodation-based services: these are care and support services which provide both support and a place to live for Service Users with care and support needs. In this policy this covers care homes and supported accommodation.

3. Choice of accommodation

3.1 Rights to Choice

3.1.1 Service Users have the right to express preference how their care and support needs are met during support planning.

3.1.2 The support planning process will focus on the goals Service Users want to achieve, and what care and support is required to help them achieve these goals. The support planning process will involve a discussion with the Service User about how, and in what care setting, the Service User wants their needs to be met.

3.1.3 Once the care setting by which a Service User's needs will be met has been identified during support planning (e.g. whether needs will be met in residential, supported living or shared lives accommodation), then Service Users also have the right to choose the particular accommodation identifiable by reference to its address or provider. This means for example, that if it is identified in a Service User's support plan that their needs should be met in a residential care home, then the Service User has the right to choose the specific care home that they will live in.

3.2 Conditions placed on Choice in accommodation

The following conditions will apply when offering Service User the choice of accommodation:

3.2.3 Regulatory compliance

3.2.3.1 Service Users will only be able to choose accommodation that meets the regulatory requirements. For example, the Service User will only be able to choose a care home service that is registered with and meets the requirements of the regulatory body, the Care Quality Commission (CQC).

3.2.4 Terms and Conditions

3.2.4.1 The Council has an obligation to manage care and support markets through its commissioning arrangements to ensure sufficient good quality provision is available. Linked to this obligation Service Users will only be able to choose accommodation that have signed-up to the Council's terms and conditions, or organisations that have a contract with the local authority they are based within.

3.2.4.2 All accommodation-based services the Council purchases care from are expected to sign-up to the Council's contract. This applies both to homes in Haringey and homes outside of Haringey.

3.2.5 Appropriate settings

3.2.5.1 Once the accommodation setting has been agreed within a Service User's care and support plan, the Service User will not be able to choose to have their needs met in a different setting unless their care and support plan is changed and the Council agrees that the Service User's preferred setting could meet their needs. For example, if it is agreed within a Service User's support plan that their needs will be met in a residential care home setting, the Service User cannot choose to access shared lives accommodation instead unless the support plan is changed. In the event that a Service User wanted to access a different setting to that previously

identified in their support plan, then they will need to request a change to be made to their support plan by contacting Adult Services.

3.2.6 Availability

3.2.6.1 A Service User may not be able to choose accommodation that is not available. If the Service User wishes they may be able to go onto a Provider's waiting list for the preferred accommodation and choose to access another equivalent accommodation until their preferred accommodation becomes available.

3.2.7 Cost

3.2.7.1 When the accommodation setting where a Service User's needs will be met has been identified, then the Council's brokerage service will identify accommodation that meet the criteria above to offer choice to the Service User.

3.2.7.2 The brokerage team, where possible, will commit to offering a minimum of two alternative accommodation-based services (e.g. two care homes etc.) to offer Service Users choice.

3.2.7.3 Service Users have the right to consider other accommodation within the appropriate setting if they wish. However, if the Service User chooses accommodation which is more expensive than the equivalent accommodation identified by the Council's brokerage team and greater than the amount specified in Service Users personal budget that relates to the provision of accommodation of that type, then a Third Party Top-up agreement will need to be arranged for the Service User to be able to access their preferred accommodation. Alternatively, the Service User will need to choose between the accommodation identified by the Council, or other equivalent accommodation at the same cost or that is within their personal budget.

3.2.7.5 A breakdown of how the Third Party top-up will apply to different care settings is included as Appendix 1.

3.3 How will Service Users be given choice?

3.3.1 When an accommodation care setting has been identified to meet a Service User's care and support needs within their support plan, the Council's brokerage team will identify accommodation which meet the different conditions above. The brokerage team will use a variety of approaches depending on the contractual mechanisms used with Provider's within particular settings. For example, the Council operates a Dynamic Purchasing System (DPS) for residential and nursing care and supported living. Where the Council seeks to purchase a service for a Service User within one of these settings the brokerage team will approach Providers on the Council's dynamic purchasing system to receive offers. For other services, the Council will approach providers that accept the Council's terms and conditions.

3.3.2 Service Users and their relatives will be provided with information about the different available accommodation identified by the brokerage team to meet their needs and will have the opportunity to visit and speak to the Providers of these accommodation to help them make their choice.

3.3.3 Once the Service User decides on their preferred accommodation they should inform their allocated social worker who will notify the brokerage team. In turn, the

brokerage team will establish a 'service agreement' with the providers in question which forms the basis of a placement-level contract, setting out the requirements and obligations of the provider to deliver a good quality service.

3.3.4 This agreement is for signing by the Council, the Service User, and the Provider, as it also sets out the obligations of all parties in relation to the financial contributions they need to make.

4. Third Party Top-ups

4.1 Who may be required to make a Third Party top-up?

4.1.1 If a Service User decides they want to access an accommodation which requires a Third Party top-up to be made, this top-up cannot be paid by the Service User in question. This is because all of the Service User's income and savings will be taken into account in their financial assessment to determine their weekly contribution to their care costs. Service Users cannot set aside a proportion of their income or savings for the purpose of paying a top-up.

4.1.2 A third party top-up is usually paid by a friend, relative or family member of the Service User.

4.2 How will a Third Party top-up be established?

4.2.1 Once a Service User has decided on their preferred accommodation and the fee for the accommodation, and subsequently the top-up amount required is known, then the Council will liaise with the third party to determine that they are willing and able to cover the top-up amount.

4.2.2 As part of this process the Third Party will need to complete a financial assessment so the Council can satisfy itself that this individual has the means to pay the required top-up.

4.2.3 If the Third Party is able and willing to pay the top-up amount then all parties (i.e. the Provider, the Service User, the Third Party and the Council) will sign a service agreement which sets out the obligations of all parties in relation to the placement (including the top up payment). The agreement with the Third Party will include the following:

- the additional amount to be paid
- the amount specified for the accommodation in the person's personal budget
- the frequency of the payments
- to whom the payments are to be made
- provisions for reviewing the agreement
- a statement on the consequences of ceasing to make payments
- a statement on the effect of any increases in charges that a provider may make

a statement on the effect of any changes in the financial circumstances of the person paying the 'top-up'

4.2.4 Before entering into the written agreement, the Third Party will be provided with sufficient information and advice to enable them to understand the terms of the agreement.

4.3 What happens if a Third Party is not able to top-up a Service User's placement costs?

4.3.1 In the event that the Third Party is not able or willing to pay the top-up amount, and the Service User and/or their family or friends cannot identify an alternative, then the Council will not permit the placement in the preferred accommodation.

4.3.2 In those circumstances the Service User will need to choose between one of the accommodation the Council identifies and that is within the Service User personal budget and the usual rates payable.

4.4 What happens if, after a placement is established, the Third Party is no longer able or willing to top-up a Service User's placement costs?

4.4.1 If a Third Party is no longer able or willing to top-up a Service User's placement costs, then the Council will arrange for a needs assessment and support plan review to take place to determine how and if the Service User's needs could be met in an alternative accommodation that is within their personal budget. If it is determined that they could, then the Council will offer the Service User a choice of alternative to choose from based on the conditions above outlined in section 3.2

4.4.2 If it is determined that the Service User cannot move to an alternative accommodation, and indeed whilst this decision is being made, then the Council will cover the additional costs of the placement until such time as an alternative Third Party is identified.

4.5 Where the Council refuse to provide preferred accommodation

4.5.1 The Council will give the Service User its written reasons for a refusal to provide or arrange for the provision of preferred accommodation and should offer suitable alternatives. The Council will also advise of its complaint procedure in the event that the Service User is dissatisfied with the outcome and wish to make a complaint.

Reviews of the Third Party Top up agreement

4.6 The Guidance provides that *"As with any financial arrangement, an agreement to make a 'top-up' payment must be reviewed. A local authority **must** set out in writing details of how the arrangements will be reviewed, what may trigger a review, and circumstances when any party can request a review."*

4.7 Price increases

4.7.1 The Guidance states that *"(section 34) Arrangements will need to be reviewed from time to time, for example in response to any changes in circumstances of the cared for person, the person making the 'top-up' payments (if this is different from the cared for person), local authority commissioning arrangements or a change in*

provider costs. However, these changes may not occur together and a local authority must set out in writing how these changes will be dealt with.”.

4.7.2 35) The local authority must clearly set out in writing to the person or persons concerned its approach to how any increased costs may be shared. This should also include details of how agreement will be reached on the sharing of any price increases. This should also state that there is no guarantee that these increased costs will automatically be shared evenly should the provider’s costs rise more quickly than the amount the local authority would have increased the personal budget and there is an alternative option that would be affordable within that budget.

4.8 Consequences of changes in circumstances of the person making the ‘top-up’ payment

4.8.1 38) The guidance states that the “person making the ‘top-up’ payment could see an unexpected change in their financial circumstances that will impact their ability to continue to pay the ‘top-up’ fee. Where a person is unable to continue making ‘top-up’ payments, the local authority may seek to recover any outstanding debt and has the power to make alternative arrangements to meet a person’s needs, subject to a needs assessment. The local authority must set out in writing how it will respond to such a change and what the responsibilities of the person making the ‘top-up’ payment are in terms of informing the local authority of the change in circumstances.”

Appendix 1 – Process flows – application of Third Party Top-up

