

Bath & North East Somerset Supporting People Charging Policy

Introduction

“Supporting People” is regime for funding, co-ordinating and regulating housing related support services (such as sheltered housing for older people and a variety of supported accommodation for other vulnerable groups) which came into effect on 1st April 2003.

Bath & North East Somerset Commissions these services which include Supported Housing, Floating Support and Home Improvement Agencies. These services are all designed to prevent homelessness, support independent living and intervene early before people’s support needs become more serious.

Many of these services are free at the point of delivery in particular services designed to be used for up to 2 years incur no cost to the client. Services that are longer term (designed to be used for more than 2 years) are “chargeable” and client’s financial circumstances are taken into consideration.

1. This paper sets out in detail for service users living in Bath & North East Somerset:

- Circumstances in which there will be no charge for Supporting People services
- The process for applying for relief from Supporting People charges
- Rules for determining the date from which relief may be granted
- Rules for the recovery of overpayments
- Details of how appeals may be made

2 Main Principles – Services for which Bath & North East Somerset Council will charge

- Service users of short term services which aim to bring about independent living within two years will not be charged.
- Service users in receipt of Housing Benefit will not be charged.

- Service users who are chargeable must have a disposable income which fully exceeds the SP charge in order for any charge to be levied.
- Service users of longer term services will be able to apply for a Supporting People Financial Assessment (SPFA). A single financial assessment will cover Supporting People services.
- Those who have been assessed as liable for a nil charge following a Supporting People Financial Assessment (SPFA) will not be charged.
- Those on higher incomes or those who have capital of more than £23,250 will be asked to pay the full cost of the Supporting People service.
- Bath & North East Somerset reserves the right to refuse to pay support costs in respect of any service users who refuse to sign up to a support plan in line with the aims of the programme.

3 Short Term or Long Term Services?

In Bath & North East Somerset we are continuing to use the ODPM definition:

“Services or individual support packages will be designated short-term or long-term according to the intended duration of the specific support.”

For example:

*Does the service aim to bring about independent living within **two years** following resolution of a specific need or needs which the supported service aims to remedy, or following completion of a time-limited programme of support of under two years intended duration?*

Does the support aim 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, with an intended timescale of under two years?

If neither of these points describes the service, is it long term?

For example:

Does the support aim 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?

Services in Bath & North East Somerset which are considered to offer support on a short term basis include services relating to:

- Domestic violence
- Single homelessness
- Homeless families
- Drugs / alcohol
- Mental health
- Young vulnerable people
- Ex-offenders

Services in Bath & North East Somerset which are considered to offer support on a longer term basis include services relating to:

- Older people
- Learning difficulties
- Physical and sensory disability
- Mental health
- HIV/AIDS

NB: Some services are delivered on a long term and a short term basis e.g. mental health

4 Process for Applying for Relief from Supporting People Charges

Any user of a chargeable Supporting People service who is asked to pay towards the cost of their support can apply to the Supporting People & Communities Team. This can be done by completing a short application form, attached as Appendix B.

NB: Service providers are responsible for ensuring that new service users entering their services complete an application form where appropriate.

Where required a home visit may be arranged. Service users will be asked to authorise enquiries to their landlord/service provider(s), and benefit agencies including Housing Benefit.

The result of the assessment will be advised to the service user, landlord/service provider(s) and the Supporting People & Communities Team will be advised of the outcome of financial assessments.

It is anticipated that Supporting People Financial Assessment's should be completed within four to six weeks of application however this is subject to all the relevant information being supplied promptly.

Any relief from Supporting People charges will be granted from the date of application (date on form found at Appendix B). Payments for deceased tenants will be paid for one week after the individual's death.

Supporting People payments will be paid directly to support service providers.

5 Treatment of Disability Related Benefits

All disability related benefits shall be disregarded for the purpose of financial assessment under this policy.

6 Benefits Advice

ODPM guidance states that Local Authorities should ensure that welfare benefits advice is provided to service users at the same time as the charge assessment. The Visiting Team will offer this advice and providers will also be expected to be able to

direct service users to sources of information and advice. Independent benefits advice is also offered via the Bath & North East Somerset Housing Services Team and the local CAB.

7 Savings and Capital

Savings will be taken into account to calculate a tariff income on the same basis as set out in the Charges for Residential Accommodation Guidance (CRAG). The upper savings limit set in line with CRAG is currently £23,250

Service Users with savings above the upper limit may, of course, choose to buy the service privately if they wish.

8 Outcome of Supporting People Financial Assessment

The possible outcomes of the Supporting People Financial Assessment (SPFA) are set out in Section 2, Main Principles.

Any relief from Supporting People charges will be granted from the date of application (date on form). Payments for deceased tenants will be paid for one week after the individual's death.

Supporting People payments will be paid directly to support service providers.

9 Collection of Supporting People Charges

Block Payment Contracts (Sheltered Accommodation – where the support provider is the landlord)

Supporting People charges will continue to be collected by providers for those service users who have been assessed as liable to pay following a Supporting People Financial Assessment (SPFA), while those who are in receipt of Housing Benefit will have their support charges met through a Supporting People payment made direct to the support provider as set out above.

Block Gross Contracts (Supported Accommodation – where the support provider is not the landlord)

Where service users do not pay rent and service charges to their support provider, Bath & North East Somerset Council will collect Supporting People charges for those service users who have been assessed as liable to pay following a Supporting People Financial Assessment (SPFA).

Service users will be informed by letter of the charge. The Client's Finance team is responsible for all financial assessments relating to the delivery of Supporting People services. There are two Client Finance Officers with responsibility for Supporting People service user applications. These officers can be contacted by telephone on 01225 396488 or 01225 477047.

10 Changes in Service User Circumstance

Service users and providers will be required to advise the Supporting People & Communities team of any change in service(s) received (e.g. end of tenancy, change of address) or in financial circumstances (e.g. end of Housing Benefit or PGC entitlement, increase in savings level above £23,250). This can be done by contacting the Supporting People & Communities Team.

11 Appeals Against Charging Decisions

Initially, appeals should be put in writing to the Team Finance Manager, Bath & North East Somerset Social Services, PO Box 3343, Bath BA1 2ZH. Appeals which cannot be resolved satisfactorily by the Client's Finance Team should be referred to the Complaints Procedure Manager in line with Council policy.

12 Overall Administrative Process

- Service users enter/start receiving a service and engage in a support agreement. This is either through the tenancy or separately with the support provider.
- Service users may apply for relief from Supporting People charges if they wish to. They do this using the Supporting People Application Form attached as Appendix B. Support providers will advise service users of the need to do this.
- Where appropriate a Supporting People Financial Assessment (SPFA) is undertaken for which the Supporting People team usually requires Housing Benefit information. If the user gives authorisation, this may be via data transferred between IT systems. Otherwise the responsibility will remain with the service user to provide information. Service users will be liable to pay Supporting People charges until their Housing Benefit status is confirmed.
- Following a Supporting People Financial Assessment (SPFA), Supporting People payments are assessed on the basis of the full Supporting People service cost and this policy.
- Service users and service providers are informed as soon as the position is known.
- Appeals/reviews are dealt with. Appeals may only be made in relation to the outcome of a Supporting People Financial Assessment (SPFA) or the time taken to process an application. All other appeals/complaints for example those relating to the backdating of payment applications, are covered in Appendix A of this policy.
- Supporting People payments are made on a regular four-weekly cycle.
- Service providers attribute Supporting People payments to individual service user rent or support accounts.

- Changes of circumstances must be notified appropriately. The primary obligation lies with service users however, service providers must inform the Supporting People & Communities team of any service users who join or leave the service or any change in circumstances which may affect the service user's eligibility for Housing Benefit.
- Overpayments, fraud, underpayments, audit and reconciliation are all dealt with.

Appendix A - Recovery of Supporting People Payments and Backdating of Applications

The charging arrangements assume:

- The publication of **schedules** and corrections between the Supporting People team and the provider
- The **provider** informing the Supporting People team regularly of changes in tenancies (including new arrivals, departures etc.)
- The **notification** by the service user that they wish to apply for Supporting People payments, and consequent notification of any changes in circumstances which may affect their income or eligibility to receive Supporting People payments.

In addition, there are two stages to the payment process:

- **Payment** by the Supporting People team to the provider
- **Posting** of payments by the provider to a service user's rent/support account

There will inevitably be errors in this process. These errors can be caused by:

- **Administrative error** for example wrong entries, late actioning of information received, mistaken postings etc.
- **Failure to notify** which would include failure of one party to provide information which it is required to provide at the right time. Note that Housing Benefit teams do not have a duty to notify under this framework, although a local arrangements creating a framework for information exchange has been put in place
- **External error** such as fraud, service user error, or third party error (for example on the part of the Client's Finance Team or as a consequence of mistaken information provided by service users to the Housing Benefit team) or other error external to the normal business of the provider and Supporting People team.

Various possibilities and how to address them are outlined below:

Administrative errors

Generally speaking the burden of administrative errors should be borne by the party committing them. The balancing constraint is whether the other party could be expected to have known about the error. Knowledge, in this case, is divided up as follows:

- Information about the presence or absence of service users is always primarily with the provider
- Information about the financial status of the service user is always primarily with the Supporting People team or Client's Finance team.

Some examples will help:

*Supporting People team are told by the Housing Benefit section that service user Mr A is **not** on Housing Benefit, and Client's Finance Team confirm that no payment is payable. Nevertheless, the Supporting People team pay the provider for Mr A at full rate.*

In this case the provider cannot be expected to know whether Mr A is receiving payment or not, and cannot therefore be held responsible if they accept payment and post it to Mr A's account. It may be that once an error is discovered Mr A may offer to repay, but this would be a discretionary request direct from the Supporting People team to Mr A, if that was considered appropriate on the grounds that he should have known.

Provider tells Supporting People team that a service user Mr A has moved out. In the next schedule Mr A still is being paid for. Supporting People team has made an error.

In this case we would expect that the provider would correct this error as there would be no rent account to post the payment to. Supporting People team could reasonably expect the provider to correct this error in the response to the monthly schedule following Mr A's departure.

Provider receives payment for Mr A whom they know is not on Housing Benefit. Nevertheless they post the payment. It turns out this was an error on the part of Supporting People team to include Mr A in the schedule.

Here the responsibility lies with the Supporting People team. Mr A may not be on Housing Benefit but may have had a Fairer Charging Financial Assessment, about which the provider has no right to know, so they could not be expected to know this was an error.

Provider receives no payment for Mr A but mistakenly posts a payment to Mr A's account and tells him no payment is due.

Clearly in this case it is a matter for the provider and service user to sort out. There will also be a mis-posting (underpayment of support payment) on someone else's account, which the provider must fund.

The principle here is therefore:

For overpaid amounts by the Supporting People team, where the decision to pay is based on financial assessment then the Supporting People team must take primary responsibility. Where the payment is for an individual who is no longer a service user, or relates to dates of occupancy, the provider must take responsibility.

NB: Here there is an issue about death of tenants. Normally landlords will continue tenancies for a short period after the death of a tenant. ODPM recommends that Supporting People teams action withdrawal of payment at the end of the tenancy, not the date of death. Bath & North East Somerset local charging policy is to pay payment for one week from the date of death of the tenant.

Failure to Notify

Generally speaking the burden of “failure to notify” errors should be borne by the party committing them. The balancing constraint is whether the other party could be expected to have known about the error. Knowledge, in this case, is divided up as in the previous section

Further examples will help:

Provider fails to notify Supporting People team of new tenant, Mr A, and does not prompt Mr A to complete a payment application form. Mr A is eligible for Housing Benefit and therefore Supporting People payment under this policy.

In this example the provider has clearly failed in their responsibility to provide up to date information to the Supporting People team and has also failed to inform Mr A of the need to submit a payment application form. Mr A cannot be expected to know and should not therefore be penalised if his rent account goes into arrears. The provider should fund any deficit.

Provider notifies Supporting People team of new tenant, Mr A, and prompts him to complete a payment application form. Mr A is eligible for Housing Benefit but does not submit a payment application form. Since the provider has fulfilled their responsibilities under the contract, Mr A should be liable for any rent arrears which may have accrued as a result of a delayed payment application form.

Supporting People team receives notification from provider and payment application from tenant but fails to process claim.

The Supporting People team is clearly at fault in this scenario so any arrears will be paid in full from the date of payment application.

In summary, the same principle as the previous section applies here. Providers are required, under the contract, to notify the Supporting People team as soon as practical about changes which will affect the schedule. This includes service users moving in to or out of the service. The principle here is:

Where the provider has a duty to notify, any failure to do so may be dealt with by means of repayment of any overpayment by the provider to the Supporting People team. Where the provider fails to notify the Supporting People team of new tenants entering the service, or fails to instruct new tenants of the requirement to submit a payment application form, payment will only be paid from the date of application.

If a service user identifies an error and notifies the service provider then the service provider should then inform the Supporting People team as soon as possible.

There is also an obligation to notify on the part of the service user. Generally speaking service users have an obligation to notify Housing Benefit about changes in circumstances affecting Housing Benefit, and the Supporting People team of changes to their Housing Benefit status. Additional internal information exchange links may be in place but this primary obligation remains.

Service users also have an obligation to inform the Client's Finance team and the Supporting People Team of any changes in circumstance affecting their financial assessment including if their savings increase above the upper savings limit set in line with CRAG is currently £23,250

This does lead to more detailed questions about the impact of changes in Housing Benefit or Fairer Charging status, dealt with under "external error" next.

External error

There are two main possibilities here for error

- Housing Benefit or Client's Finance team make an error in assessing a service user's financial circumstances. This error is deemed by Housing Benefit or Client's Finance team to be non-recoverable.
- There is an error which Housing Benefit or the Client's Finance team unit deem to be service user error which is recoverable (which include in some cases what might be described as fraud) Note that there are cases where simple administrative error on the part of a Housing Benefit section may be considered recoverable on the basis that the person receiving the money might have been expected to know he was being overpaid.

In each of these cases the Supporting People team should decide how to proceed. It seems reasonable to suggest that such decisions would be based on the evidence provided by the decisions of Housing Benefit or the Supporting People team, and action taken as below.

Non-recoverable errors

In these cases it is unlikely that the error would be passed on to either the provider or the service user. In single tier authorities the responsibility for ensuring the accuracy of financial assessments lies with the authority and it is correct to leave responsibility for such errors as a cost to the authority. The principle here is therefore that:

The responsibility for non-recoverable "third party" errors must lie with the Supporting People team and not the provider or service user

Recoverable errors

When an overpayment (or lack of payment) of Supporting People payment occurs because:

- Housing Benefit was incorrectly assessed due to service user error
- The Fairer Charging Financial Assessment was incorrectly made due to service user error

The decision may well be made to recover (or pay) the Supporting People payment by the Supporting People team. The decision to recover (or pay) amounts overpaid (or due) as a result of the Fairer Charging Financial Assessment process may be made as part of the overall processing of Fairer Charging within the authority. The decision to recover (or pay) as a result of the Housing Benefit assessment must be made independently from the decision to recover (or pay) any Housing Benefit amounts overpaid (or due), but might be expected to follow the same path in most if not all cases.

Having decided to recover (or pay) from the service user the process below will be followed: ,

For service users in receipt of a block gross subsidy service, (e.g. a Sheltered Housing service) :

- We will write to service users informing them of the amount to be recovered and the reason for the decision.
- We will include information on how to appeal against decisions around any amounts due to be recovered.
- Where the decision is contested, ensure that there is a means for undertaking an internal review (**not** a formal appeal as this is not appropriate in these cases – the decision to allow rebate from Supporting People charges is discretionary, and no service user has the right to this. They do, however, have the right to an administrative process which is fair and reasonable in the administration of their affairs). The service user could provide evidence to contest the decision, perhaps that there is a pending appeal against the Housing Benefit decision
- Note that for Fairer Charging Financial Assessment decisions **it is assumed that such a review process is already in place** and suggested that the same process is used to review Supporting People decisions. Consequently it should not be necessary to put new review arrangements in place
- We will reclaim the full amount owed to Supporting People from the service users' rent account. (this is sometimes called a clawback). This is because subsidy is paid direct to the Provider, via the service user's rent account. (NB this will cause the rent account to go into arrears and service users will need to arrange repayment with their housing provider)
- Service users are entitled to reapply for the SP subsidy if their circumstances change, e.g. if their savings decrease below the upper savings limit set in line with CRAG (currently £23,250), or they become eligible for Housing benefit or Pensions Guarantee Credits.

- Where an underpayment has occurred payments due will be made as an additional lump sum in the next four weekly payment run

The process to be followed here might be:

The principle here is, therefore, that subject to the circumstances of each case recoverable overpayments may be reclaimed by a claw back or recovery from the service user's rent account and this will be done at one time, in one lump sum.

Notice of recovery of overpayments

If the decision is made that the overpaid amount should be recovered the authority must write to the service user to notify him or her that an overpayment has occurred, the amount of overpayment offer options as to how the overpaid amount might be repaid (see above). If appropriate, the letter should also make it clear that unless another means of repayment is agreed then the overpayment will be recovered from future Supporting People payments. The letter should also provide details that outline the process for a service user to challenge the decision to recover the overpayment of payment from them.

Review Process

The local authority must have a process in place that allows the service user to request a review of a decision relating to the calculation of Supporting People payment, including the recovery of an overpayment. The service user should have the opportunity to produce evidence against the recovery of payment, for example any decisions that may have been taken by Housing Benefit not recover an overpayment.

Any review would only relate to the details of the recovery of Supporting People payments.

**Appendix B
Supporting People Subsidy Application Form
APPLICATION FOR SUPPORTING PEOPLE PAYMENTS**



Name
 Address

 Postcode
 Telephone Date of Birth
 Landlord
 Date of Tenancy Commencement Tenancy Ref No

National Insurance Number

Is there any other person with whom you wish us to correspond with on your behalf? If so, please give their details here:

Name Address
 Telephone Relationship to you

Do you receive Housing Benefit? Yes – Start date
 No, but I am currently applying for it
 No, and I am not applying for it

Do you receive Pension **Guarantee** Credits or Income Support Yes No

Do you receive Council Tax Benefit? Yes No

Please note that applicants not in receipt of any of the above may need to undergo a Fairer Charging Financial Assessment

Do you have savings of more than £23,250? Yes No

This information is being collected on behalf of Bath & North East Somerset Council. This information will be held by your Support Provider & Bath & North East Somerset Council for the purpose of providing you with support. In signing this application you are agreeing that we may disclose or request information from the following agencies: your Support Provider, Bath & North East Somerset Revenues & Benefits, Bath & North East Somerset Finance Teams and the Department for Work & Pensions.

You are required to inform The Supporting People & Communities Team of any changes in circumstances that may affect your claim.

In any query regarding your personal data or the Data Protection Act please contact the Council Data Protection office on Tel 01225 477657 or email: data_protection_office@bathnes.gov.uk

Signature **Date**

Please send this form to: The Supporting People & Communities Team, St Martins Hospital, PO Box 3343, Bath BA1 2ZH

For queries please ring 01225 477000 and ask for the Supporting People & Communities Team.