

# **PROPOSED ISLINGTON SUPPORT PAYMENT SCHEME**

## **Terms and Conditions**

**G1.** Islington Council ['LBI'] offers a comprehensive support network for survivors of non-recent abuse. This includes counselling, care support and specialist advice in certain fields.

**G2.** The Islington Support Payment Scheme ['the scheme'] is part of this support network. It has been set up to provide financial support to eligible survivors of non-recent abuse suffered when in the care of LBI children's services.

**G3.** The scheme's objective is to facilitate a support payment to eligible survivors through a process that is as straightforward and quick to access as possible, and minimises the need to re-live past trauma, or the risk of further trauma or harm.

**G4.** The scheme offers a fixed payment to eligible survivors. It is not a compensation scheme and does not seek to evaluate in financial terms the consequences of abuse suffered.

**G5.** The scheme's focus is determining if the applicant is a survivor of abuse who satisfies the criteria of the scheme, rather than an analysis of the intimate details of the abuse. It thus avoids the need for survivors to undergo expert medical examinations or provide lengthy statements, with the 're-living' that would result from this.

**G6.** The standard of proof applied in civil litigation is that of 'the balance of probabilities'. This can also be described as 'more likely than not' or '51%+ likely'. The scheme wishes to facilitate support payments rather than present 'obstacles to be overcome' through a non adversarial process. It does not require or adopt such a standard of proof. It requires only that there be credible information and/or material of an applicant's eligibility.

**G7.** The scheme does not seek to determine any issue of fault, negligence or legal liability. It operates wholly independently to and without any bearing on any civil compensation claims save to the extent that credit is required to be given in accordance with sections 7 and 8 below. Nothing done, nor any communication or representation made, in the course of the administration of the scheme or a scheme application has any bearing on, or amounts to any form of admission, waiver or acceptance or any fact or matter of law, in respect of any civil compensation claim.

**G8.** The comparatively straightforward nature of the scheme and the fact that the payment is fixed means survivors can access it without the need for legal representation.

### **1. Key terminology**

#### **1.1 'LBI'**

The London Borough of Islington or Islington Council.

#### **1.2 'The scheme'**

The Islington Support Payment Scheme to provide financial support to eligible survivors of non-recent abuse suffered when in the care of LBI children's services.

**1.3 'Support payment'**

A fixed payment of £ ].

**1.4 'Applicant'**

Survivor of non-recent abuse who applies for a support payment under the scheme.

**1.5 'Placed in a LBI children's home'**

Resident in a LBI children's home, having been placed there by LBI.

**1.6 'LBI children's home'**

A home contained within the list of scheme homes at Appendix 1. The list may be amended during the operation of the scheme, should this prove appropriate.

**1.7 'Relevant period'**

The relevant period is currently 1966 to 1995. The relevant period may be amended during the operation of the scheme, should this prove appropriate.

**1.8 'Qualifying abuse'**

Emotional (sometimes referred to as psychological), physical and/or sexual abuse committed by, or aided, abetted, counselled or deliberately procured by a person who was at the time employed by LBI or was providing child care services to children on behalf of LBI on a voluntary basis.

**1.9 'Emotional (psychological) abuse'**

The persistent emotional maltreatment of a child such as to cause severe and persistent effects on the child's emotional development, and may involve humiliating or constantly criticising a child or young person, threatening, shouting at them or calling them names, making them the subject of jokes, using sarcasm to hurt them, blaming or scapegoating them, making them perform degrading acts, not recognising their individuality or trying to control their lives, pushing them too far or not recognising their limitations, exposing them to upsetting events or situations such as drug taking, failing to promote their social development, not allowing them to have friends, persistently ignoring them, manipulating them, or emotionally neglecting them.

**1.10 'Physical abuse'**

When someone intentionally hurts or harms a child or young person, including hitting with hands or objects, slapping or punching, kicking, shaking, throwing, poisoning, burning and scalding, biting and scratching, breaking bones, drowning, making up the symptoms of an illness or causing a child to become unwell.

**1.11 'Sexual abuse'**

When a child or young person is forced, tricked or manipulated into contact or non contact sexual activities. Contact abuse is where an abuser makes physical contact with a child or young person and includes sexual touching of any part of their body whether clothed or not, using a body part or object to penetrate or rape a child or young person, kissing, oral sex, forcing a child or young person to take part in sexual activities or making them undress or touch someone else. Non contact abuse can be in person or on-line and includes exposing or flashing, making, viewing or distributing images or videos of child/young person abuse, showing pornography, exposing a child or young person to sex acts, making them masturbate, making them make, view or share images or videos of abuse, forcing them to take part in sexual activities or conversations online or through a smart phone.

**1.12 'Placement'**

Period of residency in a LBI children's home.

**1.13 'Civil compensation claim'**

A claim for compensation for personal injury, loss or damage in accordance with the applicable laws of England and Wales.

**1.14 'Compensation payment'**

A damages payment received in the course of a claim for compensation for personal injury, loss or damages in accordance with the applicable laws of England and Wales.

**1.15 'Application form'**

The application form to access a support payment under the scheme at Appendix 2.

**1.16 'Support team'**

The LBI support team that administers the scheme. It comprises a service provider, an independent review panel and LBI staff who assist with the provision of information, records and confirmation checks.

**1.17 'Independent service provider'**

An independent organisation with legal expertise.

**1.18 'Independent review panel'**

A review panel that comprises independent individuals who possess either legal, social work or applicable charity work expertise.

**1.19 'Adverse issues'**

Terrorism, links to a terrorist organisation, organised crime, murder, manslaughter and paedophilia.

**2. Who can apply**

**2.1** Any living survivor of non-recent abuse can apply for a support payment if they were placed by LBI in a LBI children's home during the relevant period. An application may not be made in respect of a survivor who is deceased.

**3. Criteria to qualify for a support payment**

**3.1** An applicant will qualify for a support payment under the scheme if they:

- were placed in a LBI children's home by LBI
- during the relevant period and
- suffered qualifying abuse during the placement.

**3.2** These are the threshold criteria.

**4. Information and material**

**4.1** The scheme requires that there be credible information and/or material satisfying the threshold criteria.

**5. Payment threshold**

**5.1** Where there is credible information and /or material that the applicant was

- placed in a LBI home by LBI
- during the relevant period and
- suffered qualifying abuse during the placement

**5.2** then the threshold to make a support payment is met.

**6. Adverse issues**

**6.1** LBI reserves its right to decline an application where there is information and/or material that the applicant has had an involvement in or connection to the adverse issues identified and stated at paragraph 1.19 above and it would in all the circumstances be unconscionable for LBI to make a payment under the scheme.

**6.2** Where any such involvement is identified the application will automatically be referred to the independent review panel to make this decision.

## **7. Prior civil compensation claim**

**7.1** Where an applicant has, prior to qualifying for a support payment under the scheme, received a compensation payment or such a payment has been agreed in the course of a related civil compensation claim against LBI, the amount of any such payment or agreement will be offset against and deducted from any support payment to the applicant under the scheme. In this situation the applicant will receive only the balance of the support payment that exceeds the value of any compensation payment already made or agreed.

## **8. Subsequent civil compensation claim**

**8.1** An applicant is required to agree contractually that a payment made under the scheme will be offset against, and deducted from, any subsequent, related future civil compensation claim payment or agreement to make such a payment.

**8.2** The scheme is intended to provide straightforward and accessible financial support to qualifying applicants. It does not involve the process of investigation and analysis that would be applied in a civil compensation claim. Nothing done or stated in the course of the administration of the scheme or an application constitutes, or may be taken as, an admission or waiver of any matter of fact or law in relation to any civil compensation claim. LBI reserves its rights fully to defend any subsequent civil compensation claim, including to raise a limitation defence.

## **9. Limitation**

**9.1** LBI reserves its rights to raise a limitation defence in any related civil compensation claim.

## **10. DWP**

**10.1** LBI is seeking an agreement with the DWP that a payment made under the scheme is to be disregarded for the purposes of any assessment of a person's eligibility for a social security benefit entitlement that depends on any form of means test.

**10.2** At the date hereof such an agreement has not been reached.

**10.3** Absent such agreement an applicant would be obliged to notify the DWP of a payment received under the scheme.

## **11. Duration**

**11.1** The scheme will operate for a period of 2 years.



threshold criteria have not been met and/or any adverse issues that have been identified, and invite the applicant to make any written representations in relation to this and/or submit any further information or material that they may wish to within 28 days, for the independent review panel to consider.

**15.5** The application will then be reviewed by three independent review panel members, one with legal expertise, one with social work expertise and one with applicable charity work expertise. They will determine collectively whether the threshold criteria have been met. Where adverse issues have been identified they will also determine whether the application should be declined due to these. In the process of reaching their decision the panel members may request further information or material either from the applicant or the independent service provider, to assist in reaching their decision. If they consider the threshold criteria have all been met and any adverse issues are not such that the application should be declined, a support payment will be made. If they consider either that one or more of the threshold criteria have not been met, or that any adverse issues are such that the application should be declined due to them, the application will be declined and the applicant will, as applicable, be notified of the threshold criteria that have not been met and/or the adverse issues that have led to the application being declined.

**15.6** The independent review panel's decision is final.

**15.7** Any and all communication to the applicant confirming the decisions made will be limited to stating either that a support payment will be made, that the application has been referred to the independent review panel, or that the application has been declined, and in the latter two cases the reason(s) why.

## **16. Delay**

**16.1** In the event of significant delay by the applicant in responding to any reasonable request for information or material during the course of the application, the applicant will be notified that a continued failure to correspond may result in the application being declined.

**16.2** In the event of repeated significant delay by the applicant, the support team may decline the application on this basis.

## **17. Right to withdraw application**

**17.1** An application under the scheme can be withdrawn at any time during the application process, prior to the making of a support payment. An applicant does this by notifying the support team in writing that they wish to withdraw their application.

## **18. Confidentiality and Data Protection**

**18.1** The transfer of all scheme data between LBI, the independent service provider and the independent review panel will be by secure, encrypted means.

**18.2** The support team will treat all matters relating to all applications in the strictest confidence.

**18.3** This does not preclude any person from disclosing protected information where required to by law.

## **19. Representatives**

**19.1** The scheme is designed to be accessible without the need for legal representation. It does not, therefore, allow for payment of legal or other representatives' fees. In the event that an applicant obtains legal representation in relation to an application, LBI will not be responsible for any legal costs incurred by

the applicant.

**19.2** The independent service provider is appointed by LBI to represent them regarding the operation of the scheme and applications received into the scheme.

## **20. Capacity**

**20.1** An applicant who lacks the mental capacity required legally to run their personal affairs must have appropriate personal representation.

**20.2** If it appears at any stage to the support team that an applicant lacks this capacity, the support team will facilitate the appointment of an appropriate personal representative for the applicant, referring the matter to the Court of Protection if required. The application will not be progressed further until this is in place.

## **21. Criminal Injuries Compensation Authority Payments**

**21.1** If an applicant has received compensation from the Criminal Injuries Compensation Authority (CICA) in relation to abuse that forms the subject matter of their application, the applicant may have an obligation to repay to the CICA all or part of the compensation received from it and must notify the CICA of the support payment.

**21.2** LBI will notify the CICA of any support payment made under the scheme.

## **22. Advertising**

**22.1** LBI will from time to time advertise and publicise the scheme during the period it is open.

### **APPENDIX 1**

List of scheme homes.

### **APPENDIX 2**

Application form.