

**WORKING DRAFT**

**SCHEME PROPOSAL AND SCHEME PROPOSAL MAP**

**AS OF 28/09/2021**

**1. Introduction**

**1.1** A scheme to provide financial support for eligible survivors of non-recent abuse suffered whilst placed by LBI in LBI run care homes.

**1.2** It forms part of a wider support scheme which encompasses counselling, care support and specialist advice in certain fields.

**1.3** 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.

**1.4** 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 in the way that a claim for civil compensation would

**1.5** LBI wishes to make a fixed payment available to eligible applicants who satisfy the criteria of the scheme without the level of investigation and analysis, or evidential standard of proof, required in a civil compensation claim. The scheme does not involve the same process of investigation and analysis as civil compensation claims and it does not seek to and will not determine any issue of fault, negligence or legal liability.

**1.6** The scheme's focus is determining if the applicant is a survivor of abuse that falls within the parameters of the scheme, rather than an analysis of the intimate details of the abuse.

**1.7** It does not require survivors to undergo expert medical examination, provide lengthy statements, or 'face to face' meeting with the 're-living' that may result from these. Survivors may, however, provide a 'face to face' account at the appeal stage, should they wish to .

**1.8** The scheme is not an alternative, but a supplement, to any civil compensation claim. LBI has substantial insurance cover *and the scheme has to operate within the context of this and not prejudice this or LBI's position* in relation to, or its ability to defend, any civil compensation claims in the future or already in progress.

**1.9** LBI has limited financial resources and in order to ensure fairness and compliance with its constitutional requirements:

- a) An applicant will be required to give credit for any civil compensation claim payment already received, or agreed, against a payment under the scheme, with the fixed scheme payment being reduced by the amount of any such civil compensation claim payment(s).
- b) An applicant will be required to agree contractually that a payment made under the scheme will be offset against, and deducted from, any related future civil compensation claim payment or agreement to make such a payment.

**1.10** The comparatively straightforward nature of the scheme and the fact of the fixed payment mean survivors can access it without the need for legal representation. The scheme does not, therefore, allow for payments of fees to survivors' legal or other representatives or applicant's assistants [see 10 below]..

1.11 It is agreed that there should be a facility to review the scheme and to revise aspects, such as its scope and duration, once and whilst it is operational.

## **2. DWP**

**2.1** The receipt of a support payment may affect a survivor's entitlement to social security benefits. LBI is therefore 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.

## **3. Independent identity**

**3.1** To ensure its independence and fairness, the scheme will have an identity independent from LBI generally, in all its correspondence and dealings. Any external organisations or individuals that may be involved in the administration of the scheme will share and operate under this independent identity.

## **4. Hidden and historic**

**4.1** The scheme acknowledges and seeks to address the particular features of information or material - or the lack of - relating to abuse, summed up by the phrase 'hidden and historic'. Whilst contemporaneous information or material may establish that a survivor was, for example, at a given children's home, it will seldom contain any indication or record of abuse. The survivor's own account will be the key material in relation to this.

## **5. Duration**

**5.1** The scheme will initially be open for applications for a period of 2 years. This period may be extended if appropriate.

## **6. Scope**

**6.1** The scheme is to facilitate a support payment to a survivor who:

- was placed by LBI in a LBI run children's home
- between 1966 and 1995
- suffered sexual, physical, emotional abuse or neglect whilst in that placement.

**6.2** A list of children's homes run by LBI has been compiled. It may be necessary in the course of running the scheme to add homes into, or exclude them from, this list.

**6.3** Ongoing review of the scheme may determine that the agreed time period 1966 to 1995 be varied.

## **7. Information and Material**

**7.1** 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'.

**7.2** The scheme wishes to facilitate support payments through a non adversarial process rather than present 'obstacles to be overcome'. 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. The scheme does not prescribe in any way the form that this credible information or material may take to facilitate maximum flexibility and discretion in the assessment process

## **8. Application threshold**

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

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

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

**8.3** These are the threshold criteria.

## **9. Adverse issues**

**9.1** The scheme acknowledges a link between abuse and subsequent criminality on the part of survivors and subsequent criminality of itself does not prevent a survivor applying or a payment being made. At the same time, however, a link to extreme criminality, such as a terrorist organisation, organised crime, or sexual crimes, which are defined within the scheme as 'adverse issues', could be of such a severe nature that to make a payment under the scheme would be something that should not, in all good conscience, be done.. An application may, therefore, be declined on this basis, but only after it has progressed automatically to the appeal stage and the applicant has had an opportunity to address this issue in writing and/or in a face to face meeting with the independent appeal panel [IAP].

## **10. Applicant's assistant and independent advocacy service**

**10.1** The scheme allows for an applicant, at any stage of the application process, to nominate one other person of their choice, the 'applicant's assistant', to assist with their application. This other person may either act jointly with the applicant or solely on their behalf in the application process, as the applicant chooses. This other person may be affiliated to a survivor support group or similar organisation but is to be nominated only and directly by the applicant.

**10.2** There will be an independent advocacy service to assist an applicant where this is reasonably required.

## **11. 4 Stages**

**11.1** The proposed scheme has 4 stages:

- A. completion and submission of an application form by the survivor, with support;
- B. confirmation checks to corroborate the identity of the survivor and to check for forgery and any adverse issues;
- C. assessment of the application;
- D. automatic review by an independent appeal panel ['IAP'] in the event that the threshold to make a support payment has not been met at stage 3 or that adverse issues are identified.

## **12. Administration**

**12.1** An independent service provider ['ISP'] which has with the necessary professional and other expertise will administer parts of the scheme.

**12.2** The IAP will comprise barristers/judges, senior or expert social workers and individuals from relevant charitable organisations with appropriate expertise.

**12.3** The administration of the scheme will also require input from LBI staff in relation to the processing of application forms, the provision of information and records and confirmation checks.

**12.4** It is proposed, therefore, that a team comprising an ISP, an IAP and LBI staff administer the scheme. It is proposed that the collective team be known as the 'SPS team'.

**12.5** The SPS team will receive all training necessary and will have the requisite knowledge and expertise in order to perform their role. They will have a full appreciation and understanding of issues relating to child abuse and its impact on survivors including dissociation, minimisation and child sexual abuse accommodation syndrome.

## **13. Data protection**

**13.1** The ISP will have rigorous data protection systems that meet the requirements of LBI. An internal 'lock-down' with only specific agreed individuals having access to scheme data would be required.

**13.2** The transfer of all scheme data between LBI, the ISP and the IAP/IAP members must be by secure, encrypted means.

## **14. Support for the SPS team**

**14.1** It is recognised that working within the SPS team could have adverse health consequences. Counselling and support services will in turn, therefore, be provided for the SPS team.

## **15. The 4 stages**

### **Stage A completion and submission of an application form by the survivor/applicant**

**15.1** The applicant applies for the support payment by submitting, or having their applicant's assistant submit, an application form together with specified documents. Details of the children's home(s) and abuse are specified in the form.

**15.2** The application form will be available online or in paper form. Assistance in completing the form will be offered by independent, trained staff.

**15.3** The application form will explain that the applicant may nominate an applicant's assistant and will signpost the applicant to any survivors' support groups that LBI has knowledge of. The SPS team will also signpost the applicant to survivors' support groups when application forms are obtained and being completed. The application form will also contain a section where applicants may confirm if they have any long term health conditions or life limiting conditions, for such applications to be expedited.

**15.4** On receipt of an application LBI staff will check for/obtain any social services records relating to the survivor.

### **Stage B confirmatory checks**

**15.5** Confirmatory checks will be carried solely to corroborate the identity of the applicant and to check for forgery and any adverse issues. They will be limited to these three issues and the results will not be used for any other purpose whatsoever and will not be communicated or shared beyond the SPS team in any way.

**15.6** These will be carried out in part by LBI staff, in part by the ISP: see scheme map.

**15.7** Findings from checks are then forwarded to/collated by the ISP.

### **Stage C assessment**

**15.8** This is carried out by the ISP.

**15.9** The application form/material, any records found and the confirmatory checks will be assessed by the ISP.

**15.10** The ISP will consider any adverse confirmation checks and their impact on the application.

**15.11** The ISP will consider and assess if the children's home(s) identified are covered by the scheme, if the applicant can be placed there within the relevant time period and if the applicant suffered qualifying abuse in the placement(s).

**15.12** The ISP will request further information or material if this is considered necessary to assess the application.

**15.13** The ISP will consider if there are any adverse issues. If any are identified, the application will be referred to the **IAP** to assess.

**15.14** If the ISP concludes the threshold is satisfied, a support payment will be made.

### **Stage D automatic appeal**

**15.15** If the ISP concludes the threshold is not satisfied, the ISP will refer the application, information and material to the IAP who will consider it.

**15.16** If the ISP identifies any adverse issues, the ISP will automatically refer the application to the IAP to consider these and if the application should be declined due to these.

**15.17** The ISP will notify the applicant or applicant's assistant of a referral to the IAP and of any threshold criteria not met or adverse issues identified. The ISP will 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 56 days, for the IAP to consider. The applicant/applicant's assistant may request further time in which to do this, if required. The ISP will also invite the applicant/applicant's assistant to attend a 'face to face' meeting with the IAP, should they wish, and the applicant/applicant's assistant will have 56 days, or however long may be agreed for the submission of written representations, information or material, to request a 'face to face' meeting. The applicant/applicant's assistant may choose either to have an 'in person' meeting or to do this via a video link such as Zoom.

**15.18** Each application be considered by 3 IAP members: 1 legal, 1 social worker and 1 charity organisation member.

**15.19** The IAP members will consider the application, information and material and decide whether in their view the threshold criteria are satisfied.

15.20 Where adverse issues have been identified they will also decide whether the application should be declined due to these and they will have an absolute discretion in this regard.

**15.21** In the process of reaching their decision the panel members may request further information or material either from the applicant or the ISP to assist in reaching their decision.

**15.22** If they decide the threshold has been met and any adverse issues are not such that the application should be declined, a support payment will be made.

**15.23** If they decide either that the threshold criteria have not been met, or that the adverse issues are such that they should reach this conclusion, the application will be declined and the applicant/applicant's assistant will be notified of any threshold criteria that have not been met and/or the adverse issues that have led to the application being declined.

15.24 The IAP's decision will be final.

### **Communicating the outcome**

**15.25** 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 **IAP**, or that the application has been declined, and in the latter two cases the reason(s) why.

## **16. Database**

**16.1** It is proposed that a database containing information as to known perpetrators, LBI homes, specific homes where abuse is believed to have taken place, previous allegations and other information relevant to the assessment of applications, as well as prior claimants and applicants, be compiled both during the establishment and duration of the scheme. The prior consent of claimants and applicants will be a prerequisite to their inclusion.

## **17. Referrals**

17.1 Strategies and policies for referring alleged and known perpetrators of abuse to the police and to the LBI LADO will be implemented.

## **Scheme Process Map**

**'LBI': London Borough of Islington**  
**'AP': applicant/applicant's assistant**  
**'ISP': independent service provider**  
**'IAP': independent appeal panel**

1. Application form completed by AP.

2. Face to face/video/telephone\_ meeting between AP and LBI representative offered to assist with completing the application.
3. Application submitted to LBI.
4. Application checked by LBI for any missing mandatory entries, information or material documents or whether information or material required re any change of name. LBI request any missing information/material.
5. LBI locate any files/records for AP. Forward application and any files/records to ISP.
6. Confirmation checks by LBI
  - Council tax base
  - Housing benefits
  - Housing records
  - Electoral role
  - Direct payments
  - LBI sanction check
7. Confirmation checks by ISP
  - Marriage records
  - Address verification
  - Bank account linked to address
  - Bank account not submitted previously
  - Fake/forged material
  - Media checks adverse information
  - HM Treasury Sanctions check
  - Intelligence data base adverse information
  - Representative checks, power of attorney, court order, appointed carer

Findings submitted to/collated by ISP

8. Assessment of application by ISP

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

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

then the threshold is met and a support payment will be made.

- A. Consider if home(s) identified is covered by scheme

- Check list to confirm home(s) identified covered by scheme

- B. Consider if placement(s) are within relevant period
- Check application form details
- C. Consider if AP was placed by LBI in children's home(s) covered by scheme
- Check material/records for evidence of placement(s); if none consider:
  - Medical/other records
  - Corroboration by third parties/other survivors
- D. Consider if AP suffered qualifying abuse in the placement(s)
- Account from AP; consider overall impression; also consider
  - Any record of alleged abuser [databank]
  - Any 'similar fact' accounts from other survivors [databank]
  - Any relevant investigations or prosecutions [databank]
  - Any corroboration third parties
- E. Consider whether any further confirmation checks are appropriate
- Social media
  - Further information/material from AP
- F. Consider whether there are any adverse issues.
- G. Assessment of the information and material, make decision, complete report.
9. Application accepted
- ISP notifies AP that a payment will be made
  - Payment by LBI via ISP [BACS where possible]
  - Capacity issues – payment to trust.
10. Application not accepted by ISP/adverse issues identified
- Automatic referral to **IAP**
  - ISP notifies AP of this
  - ISP notifies AP of any threshold criteria not met and any adverse issues identified.
  - ISP invites AP to make written representations and/or submit further information or material within 56 days for the IAP to consider. ISP invites AP to attend 'face to face' meeting with IAP and to request this within 56 days. ISP confirms that AP may request further time for both if required.
11. IAP review of application.
- Review by 3 members :1 legal, 1 social worker, 1 charity organisation



- Consider all information and material
- Request further information and/or material from AP or ISP if/as appropriate
- Hold 'face tp face' meeting with AP in person or by video link if requested
- Determine if threshold met/consideration of adverse issues and impact on application

12. IAP accepts application

- As 9 above

13. IAP declines application

- ISP notifies AP that application declined
- ISP notifies AP of the threshold criteria that have not been met and/or the adverse issues that have led to the application being declined.
- ISP notifies AP of right to pursue civil claim
- Final decision