



Neil Bateman

Expertise in welfare rights and social policy

Sian Lockwood
Chief Executive
NAAPS

By Email

3 September 2008

Dear Sian

CHARGING POLICY FOR SHARED LIVES – CAPITAL DISREGARD

Many thanks for sending me the correspondence between the London Borough of Kingston and the Department of Health.

I spoke to Sheilagh Sollis at Kingston to clarify the context of their enquiry and it appears that the problem applies to a very small number of older service users (perhaps one or two per local authority where adult placements are provided to older people on a permanent basis).

The issue is that when a service user enters an adult placement on a long-term/permanent basis their former owner/occupied home is not being sold. The situation is different for temporary stays and my comments do not cover that situation.

The Department of Health's advice that "...unoccupied property of which the claimant is the sole owner and has no intention of selling will be treated as part of his capital for Housing Benefit purposes" is not entirely correct.

What the law actually states is that the value of a property (occupied or unoccupied) will be ignored where "...the claimant is taking reasonable steps to dispose of those premises". This clearly would include instructing an estate agent. However, "reasonable steps to dispose of" could include, for example, resolving a family dispute about who is to dispose of the property, doing up a property to make it fit enough to sell, clearing a property of unwanted items to make it sellable, resolving ownership disputes with a view to selling, etc.

The value of the property is then ignored for up to 26 weeks from the date when the person first took such steps or for "such longer period as is reasonable in the circumstances to enable him to dispose of those premises" (paragraph 26, schedule 6 to the Housing Benefit Regulations 2006).

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Obviously, once the property has been sold and any liabilities associated with it paid off, the person is likely to have excess capital for Housing Benefit (and Income Support and Pension Credit for someone under 65). At that point the person would have to pay the rent/licence fee for their adult placement out of their own resources (bearing in mind that if they were in a residential care home they would pay a lot more in care home fees) and it would then be open to the local authority to take the capital into account if that is what they do under their Fairer Charging policy.

While you did not ask me to advise on the question of charges, having discussed this with Sheilagh my view is that a sensible and practical way forward is for work to be done with a service user who is an owner/occupier and a long-term resident to help them make a decision to start to take steps to dispose of their property and then to do so after a trial period, in the same way that such work should be done when someone moves into residential care. The alternatives of trying to levy charges on property and the questionable legislative basis for doing so in adult placement in my view are not only potentially challengeable but strike me as being a case of going through legalistic acrobatics for a very small number of service users.

It is of course important from both a legal and moral perspective that service users in adult placements are assessed no differently under Fairer Charging principles to anyone else living in the community.

Finally, I think this problem shows that there will always be exceptions and unusual scenarios which do not fit well into the benefits or charges systems and there is a danger of making those systems even more complicated and cumbersome when the solution lies in some interpersonal work with the service user to help them reach a decision which is best for all. The solution is as much a social work one as a legal one.

I hope this is helpful. Please do get back to me if you have any queries.

Yours faithfully

A handwritten signature in black ink on a light yellow background. The signature is written in a cursive style and appears to read 'Neil'. Below the signature is a horizontal line.

NEIL BATEMAN