

TERMS AND CONDITIONS



SECTION 1: DEFINITIONS AND INTERPRETATION

1.1 When the following words with capital letters are used in these Terms, this is what they mean:

Bank Holiday: means a public bank holiday in either England or Wales.

Care Agreement: the agreement between Us and You for the provision of the Services which includes these Terms, the Support Plan and the Price List.

Charges: the charges payable by You to Us for the supply of the Services, as set out in the Price List or as otherwise agreed between You and Us from time to time.

Client: the individual receiving the Services (rather than any applicable Power of Attorney or Court Appointed Deputy).

Price List: Our standard charges for the provision of the Services as set out in Schedule 1 to these Terms, which form part of the Care Agreement.

Services: the care activity provided to the Client by Us, as detailed in the Support Plan.

Services Start Date: the date from which We shall start providing the Services to the Client, being the Start Date or such later date (if any) as set out in the Support Plan.

Start Date: the date on which the Support Plan is signed by You.

Support Plan: the care plan which details the Services We have agreed to deliver to the Client) and which forms part of the Care Agreement.

Terms: the terms and conditions of business set out in this document (including the Price List at Schedule 1), which form part of the Care Agreement.

Us, We and Our: Brighter Horizons, registered in England and Wales with charity number 1186053 whose registered office is at 2 Shroffold Road, Bromley, BR1 5PE (and any successor organisation).

You and Your: the Client or if applicable, the Client's Power of Attorney or Court Appointed Deputy.

1.2 When We use the words "writing" or "written" in these Terms, this will include e-mail unless We specify otherwise.

1.3 Clause, Schedule and paragraph headings shall not affect the interpretation of these Terms.

1.4 The Schedule forms part of these Terms and shall have effect as if set out in full in the body of these Terms. Any reference to these Terms includes the Schedule.

- 1.5 Unless the context otherwise requires**, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 A reference to these Terms** or to any other agreement or document referred to in these Terms is a reference of these Terms or such other agreement or document, in each case as varied from time to time.
- 1.7 Any words following the terms** ‘including’, ‘include’, ‘in particular’, ‘for example’ or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2 OUR AGREEMENT WITH YOU

- 2.1 This Care Agreement will** become binding on You and Us, and the Support Plan will come into existence on the Start Date.
- 2.2 The advertising and marketing materials** in any brochures, on Our website or on Our social media platforms are produced for the sole purpose of giving an approximate idea of the general services We can make available. These are provided for illustrative purposes only and do not form part of the Care Agreement We have with You. The Care Agreement constitutes the entire agreement between You and Us and supersedes all previous agreements and understandings between You and Us whether written or oral, relating to its subject matter.
- 2.3 The Services provided to You** by Us can be found in the Support Plan. If You think that there is a mistake or require any changes, please contact Us to discuss. To avoid any confusion between You and Us, any agreed changes to the Support Plan will be confirmed in writing by Us and shall become effective once signed by You and Us.
- 2.4 We will review the provision of Services** from time to time and if We reasonably believe that the Client’s needs or requirements have increased or reduced, We will discuss with You whether the provision of Services needs to be changed and how this may impact Your Charges. To avoid any confusion between You and Us, any resulting changes to the Support Plan will be confirmed in writing by Us and shall become effective once signed by You and Us.

3 PROVIDING THE SERVICES

- 3.1 We will provide the Services** to the Client from the Services Start Date and with reasonable care and skill in accordance with the Support Plan. If no end date is set out in the Support Plan, the Care Agreement will continue until it is terminated in accordance with these Terms.
- 3.2 We will ensure that** We have appropriately vetted Our staff before the Services begin.
- 3.3 We will not provide**, and You will not be charged for, any Services on a Bank Holiday. Where a Bank Holiday falls on a day that the Client would usually receive a Service, You may request an alternative day in lieu of this (which You and Us will agree in writing). You will be

charged for the agreed alternative day(s) (but not the original day that falls on a Bank Holiday) in accordance with the agreed Charges.

- 3.4 We will not provide**, and You will not be charged for, any Services on or between 27 and 31 December for each year in which we provide the Services to the Client.
- 3.5 You agree to Us** not providing Services on up to three staff training days each year. We will provide You with at least 1 month's written notice of each staff training day.
- 3.6 The Care Agreement will** come to an automatic end in the event of the Client's death. No further Charges will be made by Us from this date.

4 PRICES

- 4.1 Charges for the Services** are set out in Our Price list and include our Charges for attending the day centre and, if applicable, receipt of 1-2-1 additional support. Our Charges are calculated at either a half day or a full day rate.
- 4.2 Additional charges apply** where We agree to provide You with transport to and from the day centre as outlined in your Support Plan.
- 4.3 We will review Our Price List** from time to time and at least once a year in April. We may also review Our Price List in response to unexpected changes which were not anticipated at the time of Our annual review.
- 4.4 We will give You written notice** of any increase to Your Charges at least 1 month before the proposed changes take effect. If You do not agree to the increase, You can cancel this Care Agreement by providing 1 months' notice in accordance with clause 9.4 and the Charges that apply before the proposed increase will continue to be payable during the notice period.
- 4.5 A list of what is not** included in the Charges is included in the Price List.

5 PAYMENT

- 5.1 In consideration for** the provision of the Services, You shall pay Us the Charges in accordance with this clause 5.
- 5.2 We accept payment** by bank transfer and cheque to the bank account specified by Us in writing.
- 5.3 We will invoice You** (or the Client's local authority if You instruct Us to), every 4 weeks in arrears. Payment is due within 28 days of the date of invoice. If You believe there is an error in Your invoice, You must contact Us without delay.
- 5.4 If Our invoice is not paid** in full within 28 days of the date of the invoice, We reserve the right to:
 - 5.4.1 suspend the Services until any outstanding amounts are paid. We will contact You in advance if We intend to suspend the Services;
 - 5.4.2 terminate the Care Agreement with immediate effect under clause 10.4.2d;

5.4.3 take legal action to recover the Charges.

6 EXPENSES

6.1 If agreed between you and us in writing from time to time, We will hold and apply funds on behalf of Clients during the term of the Care Agreement for the purpose of meeting expenses (such as for the purpose of paying for lunches on trips) and such funds will be held in a separate bank account to our main business bank account with monthly statements sent to You.

7 OUR LIABILITY TO YOU

7.1 We will compensate You for loss or damage You may suffer if We fail to carry out duties imposed on Us by law, but not where that failure is attributable to:

7.1.1 Your own fault (or something You could have avoided by taking reasonable action);

7.1.2 a third party unconnected with the provision of Services under these Terms;

7.1.3 an event which We would not have foreseen or prevented even if We had taken all reasonable care (such as an event outside of our control in clause 11).

7.2 We accept no liability for any losses, costs, damages, claims or expenses in relation to the Client's personal property, unless caused by Us.

7.3 Nothing in these Terms limits any liability which cannot legally be limited, including but not limited to liability for death or personal injury caused by negligence.

8 ABSENCES

8.1 Subject to clause 8.3, if You wish to suspend the Services temporarily due to a planned absence or holiday, You must give Us at least 7 days' notice in writing or by phone (using the contact details specified in clause 14):

8.2.1 Where You provide Us with at least 7 days' notice We will charge You for the first 3 days of absence from the Service in accordance with the Support Plan and Our Price List. This is in order to hold the Client's place within Our Service.

8.2.2 Where You fail to provide Us with at least 7 days' notice of a planned absence, We reserve the right to charge You for the first 7 days of absence from the Service, in accordance with the Support Plan and Our Price List.

8.3 If You cannot provide at least 7 days' notice in accordance with clause 8.1 due to urgent circumstances, You must contact us in writing or by phone (using the contact details specified in clause 14) as soon as possible before the next day the Client is due to receive the Services. We will usually charge You for the first 3 days of absence from the Service in accordance with the Support Plan and Our Price List (this is in order to hold the Client's place within Our Service) however We can discuss this further with You depending on the circumstances.

9 YOUR RIGHTS TO CANCEL

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- 9.1 You have the right to cancel** the Care Agreement immediately within the first 14 days of the Start Date without giving a reason. The cancellation period ends at the end of 14 days after the Start Date.
- 9.2 To exercise Your right to cancel** in accordance with clause 9.1 above, You must inform Us of Your decision to cancel the Care Agreement by a clear statement to Us such as a letter sent by post, an email or a phone call (to the details specified in clause 14).
- 9.3 In the event of a cancellation** within the first 14 days of the Start Date, We will provide You with a final invoice detailing the accrued costs which remain payable and We will not charge You for any Services following the date You inform Us of the cancellation.

Cancelling after the first 14 days of the Start Date

- 9.4 If You wish to cancel** the Care Agreement after the first 14 days of the Start Date You must provide us with at least 1 months' notice in writing. You must continue to pay for the Services which were due to be delivered during Your 1 month notice period, calculated on a daily basis in accordance with the Price List
- 9.5 You may cancel the Care Agreement** with immediate effect by giving Us written notice if:
- 9.5.1 We breach the Care Agreement in any material way and We do not correct or fix the situation within 14 days of You asking Us to in writing;
- 9.5.2 We go into liquidation or a receiver or an administrator is appointed over Our assets;
- 9.5.3 We attempt to change these Terms without giving You at least 1 months' notice, unless the change was agreed by You and Us in accordance with clause 3.3, or the change is required immediately to ensure the Client's safety or comply with the law (see clause 13.1);
- 9.5.4 We are unable to provide the Services because of an event outside Our reasonable control.

10 OUR RIGHT TO SUSPEND THE SERVICES OR CANCEL THE CARE AGREEMENT

- 10.1 We may suspend the Services** in accordance with clause 5.4.1 if Our invoice is not paid in full within 28 days of the date of the invoice.
- 10.2 We may suspend the Services** (in accordance with clause 11) due to an event outside Our reasonable control, or if You fail to provide Us with accurate and sufficiently detailed information about the Client's needs, requirements or health (see clause 12).
- 10.3 We may cancel the Care Agreement** (for any reason) by providing You with at least 1 months' notice in writing.
- 10.4 We may cancel the Care Agreement** at any time with immediate effect by giving You notice in writing if:
- 10.4.1 We reasonably believe that there is a significant risk of harm to Our staff or other clients;

- 10.4.2 You breach the Care Agreement in any material way and, if the breach can be corrected or fixed, You do not correct or fix it within 14 days of Us asking You to do so in writing. Such circumstances would include:
- a. failure to provide Us with accurate and sufficiently detailed information about the Client's needs, requirements or health in accordance with clause 12 below;
 - b. the physical or verbal assault of Our staff by You (including the Client) or the Client's parent/carer;
 - c. sexual or racial harassment or unreasonable behaviour by You (including the Client) or the Client's parent/carer;
 - d. if Our invoice to You is not paid in full within 28 days of the date of the invoice.
- 10.4.3 You fail to give Us notice in accordance with clause 8 of any absence lasting longer than 28 days.

11 EVENTS OUTSIDE OF OUR CONTROL

11.1 If an event outside Our reasonable control affects Our provision of Services:

11.1.1 We will contact You as soon as reasonably possible to notify You.

11.1.2 Our provision of Services will be suspended for the duration of the event outside Our control. No Charges will apply during the period when Our Services are suspended. We will restart the Services as soon as reasonably possible after the event outside Our control is over.

11.2 We will not be liable or responsible for any failure to perform, or delay in performance of, any of Our obligations under the Agreement that is caused by an event outside Our control.

12 CONFIDENTIALITY & YOUR PERSONAL DATA

12.1 We will need certain information from You to provide the Services. If You do not, after being asked by Us, provide Us with this information, or You provide Us with incomplete or incorrect information, We may not be able to provide the Services to the Client. In such circumstances, We may suspend the Services or terminate the Care Agreement in accordance with clause 10 above.

12.2 We will hold information about You (including the Client), including contact details, health, and physical or mental wellbeing, in accordance with the Data Protection Act 2018 and the UK GDPR (as those laws are updated or amended from time to time). We will never sell Your (including the Client's) personal data.

12.3 We will only use Your (including the Client's) personal data as set out in Our Privacy Policy. Our Privacy Policy explains what personal data We collect, how and why We use that data, as well as letting You know whether We will need to share Your (including the Client's) personal data with other parties (for example doctors or social workers). We are happy to provide a copy of Our Privacy Policy upon request.

13. CHANGES TO THESE TERMS

13.1 We may revise these Terms from time to time. We will give You at least 1 month's notice of any changes to these Terms, unless the change is required immediately to ensure the Client's safety or comply with the law or the change was agreed by us in accordance with clause 3.3 above. If You do not agree to the proposed change, You can cancel the Care Agreement in accordance with clause 9.

14 INFORMATION ABOUT US AND HOW TO CONTACT US

14.1 We are a charity registered in England and Wales. Our charity registration number is 1186053 and Our registered office is at Brighter Horizons, 2 Shroffold Road, Bromley, BR1 5PE.

14.2 If You have any questions, in the first instance You should address these to the Client's dedicated key worker. In the event that You are unable to get a response, please contact the Day Services Manger on 020 8698 8858 or by email to info@brighterhorizonslewisham.org.

14.3 In the unlikely event that there is any problem with the Services please contact Us and tell Us as soon as reasonably possible so that We may have a reasonable opportunity to remedy any potential problems.

14.4 If You are not satisfied with Our remedy to Your problem with the Services You can make a complaint through Our complaint's procedure. You can request a copy from Us at any time.

14.5 If You wish to contact Us in writing, or if any clause in these Terms requires You to give Us notice in writing (for example, to cancel the Care Agreement), You can send this to Us by e-mail, by hand, or by post using the details set out at clauses 14.1 (postal address) and 14.2 (e-mail). We will confirm receipt of this by contacting You in writing. If We have to contact You or give You notice in writing, We will do so by e-mail, by hand, or by post to the addresses You provide to Us in the Support Plan.

15 CONSUMER RIGHTS

15.1 Care has been taken to use plain language in these Terms and to explain its provisions. If any words alone or in combination infringe consumer rights laws or any other provision of law, they shall be treated as severable and shall be replaced with words which give as near the original meaning as may be fair. Nothing in these Terms affects Your statutory rights.